

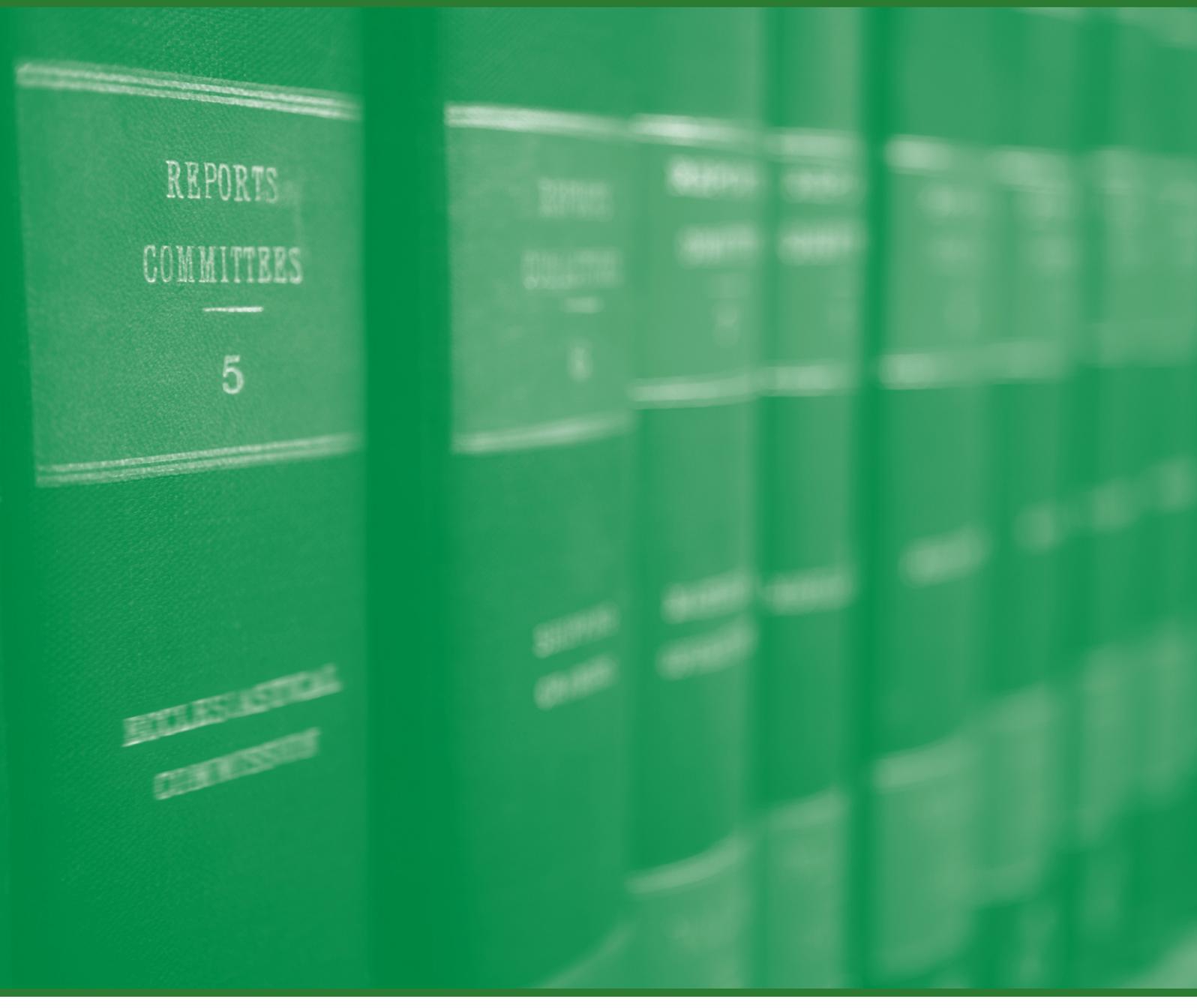


LEGISLATIVE ASSEMBLY OF NEW SOUTH WALES

Legislative Assembly Committee on Law and Safety

REPORT 1/56 – AUGUST 2017

VIOLENCE AGAINST EMERGENCY SERVICES PERSONNEL



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Chair's Foreword

It has been a pleasure to chair the Legislative Assembly Law and Safety Committee's inquiry into violence against emergency services personnel. Our emergency services workers, both paid and voluntary, perform a vital role day in and day out to keep the community safe, and it is essential that they too are safe and secure in the line of duty.

During its inquiry the Committee was very concerned to find that overall there is a significant amount of violence against emergency services personnel in NSW, with officers of the NSW Police Force and NSW Ambulance at the greatest risk. The Committee also heard from a wide range of stakeholders including the NSW Government; interstate Government Ministers and agencies; unions and employee groups; peak bodies; community groups; legal experts and individuals about how best to address this problem.

As a result, the Committee has found a range of valuable work is already taking place in this area, not least of which is the 12 Point Action Plan to improve security in NSW public hospitals. The Committee has also developed a suite of recommendations aimed at further preventing violence from happening, and dealing appropriately with it when it does. The Committee has recommended improved measures within emergency services agencies including in the areas of violence prevention training for staff; interagency procedures to manage aggressive and behaviourally disturbed persons; incident management reporting; and duress response measures.

In addition, to ensure appropriate sentences are handed down for violence against emergency services personnel, the Committee has recommended changes in the sentencing sphere. To increase public oversight of the sentences handed down for these offences, the Committee recommends increased public access to sentencing data. Similarly, the Committee recommends the NSW Government consider a review of the sentencing power of the NSW Local Court, the court that deals with most matters involving violence against emergency services personnel.

Further, it recommends changes to current legislation to clarify that hospital emergency department security staff receive special protection under sentencing law; and to send a strong message about the criminality of any offence that involves violence against emergency services personnel.

During the inquiry, the Committee also heard a proposal from the NSW Police Association for mandatory disease testing of people whose bodily fluids come into contact with emergency services personnel in certain circumstances; and has made a recommendation that this proposal be explored further by the NSW Government in consultation with all affected stakeholders.

Violence against emergency services personnel cannot be tolerated and the Committee is confident that its report contains a comprehensive set of recommendations to complement

work that is already being done, to combat the problem into the future. On behalf of the Committee I would like to thank all stakeholders who gave evidence to the inquiry for their time and expertise. I would also like to thank my fellow Committee members for their valuable contributions to the inquiry process, and the Committee staff for their hard work and professionalism.

A handwritten signature in black ink, appearing to read 'Geoff Provest', with a large, stylized initial 'G'.

Geoff Provest MP
Chair

Summary

On 12 May 2016, the Committee resolved to conduct an inquiry into violence against emergency services personnel and adopted terms of reference for the inquiry. The Committee was required to have regard to all emergency services personnel including police; ambulance officers; firefighters; protective services officers; SES workers; lifesavers; marine rescuers; and nurses, doctors and other hospital staff who provide or support emergency treatment.

Chapter One explores the incidence of, and contributing factors to violence against emergency services personnel. The Committee finds that overall there is a significant amount of violence against emergency services personnel each year in NSW, though amounts vary between emergency services agencies. Officers of the NSW Police Force and NSW Ambulance face the greatest risk while officers of agencies including Fire and Rescue NSW, the Rural Fire Service and the SES, face a lower risk. The Committee also finds the full extent of violence is unknown because of an entrenched culture of underreporting amongst emergency services personnel.

The Committee recommends that emergency services agencies publish data about the number and type of violent incidents against their staff each year, to promote transparency and accountability about how each agency is performing on violence prevention. It also finds that certain factors contribute to violence against emergency services personnel including drug and alcohol use and mental illness.

Chapter Two explores the adequacy of current measures to protect hospital emergency staff from violence. The Committee finds the 12 Point Action Plan to improve security in NSW public hospitals, developed at a roundtable of key stakeholders in February 2016, is a comprehensive plan with great potential to significantly reduce and appropriately respond to violence against hospital emergency department staff. The Committee recommends that NSW Health continue to drive the Plan to timely completion in consultation with key stakeholders; and that it monitor, fine-tune and maintain ongoing elements of the Plan following implementation.

Notwithstanding the wide-ranging nature of the Plan, the Committee also identifies further action that could be taken to address violence against emergency department staff in terms of prevention, response and post-incident measures.

For example, in the area of prevention measures, the Committee finds that emergency department staff require thorough violence prevention training. In response to concerns that some emergency department staff are not receiving such training, the Committee recommends it be made mandatory for new staff. It also recommends that NSW Health examine options for a statewide database to share file flagging information about patients who present a risk to the health and safety of staff, patients and others.

Regarding response measures, the Committee finds it is vital all emergency departments have comprehensive duress response plans. NSW Health is monitoring local health districts'

progress on further developing such plans, and the Committee recommends this continue with a view to completion as a matter of priority. The Committee also finds that, in developing interagency procedures to manage aggressive and behaviourally disturbed persons, collaboration, communication and clear demarcation of responsibilities is essential. The Committee makes a series of recommendations to facilitate this. In addition, it finds that emergency departments must have adequate security staff, identifying those in regional, rural and remote areas as a priority. It recommends the NSW Government consider further funding to increase security staff numbers, based on risk assessments, and that it review its use and training of contractor security staff.

In the area of post-incident measures the Committee notes NSW Health is implementing a new incident management reporting system following complaints that the old system discouraged reporting because it was not user-friendly and did not encourage feedback from management. The Committee recommends NSW Health review the new reporting system following implementation to ensure it has addressed the problems identified with the previous system. It also recommends measures to ensure that hospital management actively encourages incident reporting, given evidence of an entrenched culture of underreporting.

Chapter Three explores the adequacy of current measures to protect other emergency services personnel who provided evidence to the inquiry from violence, including police, ambulance officers, firefighters and SES workers. Again, the Committee has identified action to be taken to address violence against emergency services personnel in terms of prevention, response and post-incident measures.

Regarding prevention, the Committee finds that while there are different levels and types of violence prevention and safety training across NSW emergency services agencies, training is a key violence prevention tool for all. It recommends each agency regularly review its training in consultation with staff to ensure it is comprehensive and responsive to contemporary needs. The Committee also notes evidence that each time there is a community education campaign to prevent violence against emergency services personnel, there is a corresponding dip in violence. It therefore recommends the NSW Government consider ongoing community education.

In the area of response measures, the Chapter addresses concerns raised during the inquiry about the adequacy and currency of the duress alarm system for NSW Ambulance paramedics. The Committee notes NSW Ambulance evidence that a statewide refresh of the system was underway. It recommends the refresh proceed as a priority and that NSW Ambulance continue to monitor and respond to any complaints from paramedics as it proceeds. It also recommends regular and thorough testing and review of NSW Ambulance duress systems, and that every on duty paramedic be supplied with a portable radio capable of duress. In addition, in response to evidence that radio 'blackspots' exist across the State, the Committee recommends the NSW Ambulance blackspot remediation program continue and that independent testing of duress location take place across the State once the equipment refresh is complete.

The Committee also discusses resourcing including a finding that it is not safe for a NSW Ambulance paramedic to be attending jobs alone. It recommends the NSW Government explore resourcing options to eliminate any need for this to happen.

In the area of post-incident measures, the Committee notes that NSW Health's new incident management reporting system will cover NSW Ambulance. It recommends that, like NSW Health, NSW Ambulance review the new reporting system following implementation to ensure it has addressed the problems identified with the previous system. It also recommends measures to ensure NSW Ambulance management actively encourages incident reporting, given the evidence of an entrenched culture of underreporting applies to paramedics too.

Finally, the Chapter addresses concerns raised by the Health Services Union that NSW Ambulance post-incident reviews discourage reporting. Whilst acknowledging agencies must be free to discipline employees in appropriate cases, the Committee recommends that as far as possible, NSW Ambulance post incident reviews should have a non-punitive focus. They should instead focus on improving policies and procedures to prevent a reoccurrence, and on providing all necessary support to staff.

Chapter Four explores the sentencing of people who commit violent offences against emergency services personnel and other legal issues that arose during the Committee's inquiry.

The Committee finds the public has a right to know that the courts are dealing appropriately with offenders who are violent towards emergency services personnel. It is thus concerning that public access to sentencing data for these offences is limited.

To increase public oversight, and understanding of why a court imposed a sentence in a particular case, the Committee recommends increased public access to sentencing data. In particular, it recommends the NSW Government consider requiring Police and the Courts to record where the victim of an offence is an emergency services worker so that all sentencing statistics that relate to violence against emergency services personnel are clearly identifiable. It also recommends the NSW Government consider additional funding so that more Local and District Court judgments can be transcribed and published.

Some stakeholders also argued that the offences that exist in the *Crimes Act 1900* for assault and murder of police officers should extend to other emergency services personnel. However, legal experts warned that were such provisions created, it would over-complicate the law, raising further questions about why other categories of employee were not included. The Committee also heard that it should focus on measures to prevent violence from happening in the first place – not creating new offences and penalties to deal with people after the fact – particularly as new offences and penalties would do little to deter people from committing these types of offences, which are often linked to mental illness and drugs and alcohol.

Given the above, and in the absence of data suggesting a pattern of inadequate sentencing for violence against emergency services personnel, the Committee does not recommend the creation of new offences or penalties. In addition, it does not support the creation of any

further mandatory minimum penalties as sentencing is a complex process and each case should be decided according to its own individual circumstances. In short, the current general provisions of the *Crimes Act 1900* are appropriate to punish offenders for violence against emergency services personnel, and the Committee strongly supports current provisions in the *Crimes (Sentencing Procedure) Act 1999* that provide offences against emergency services personnel are to be treated more seriously by a sentencing court. The focus should now turn to increasing public oversight and understanding of the sentencing process, through increased public access to sentencing data, and to proactively preventing violence from occurring through acting on the recommendations about training, equipment, resources etc discussed earlier in the report.

Still on the subject of ensuring appropriate sentences are handed down for violence against emergency services personnel, the Committee also considers the sentencing power of the NSW Local Court. Most matters involving violence against emergency services personnel are heard in the Local Court and the maximum penalty the Local Court can order is two years imprisonment for a single offence, or five years imprisonment for consecutive sentences. Therefore, a question that arose during the Committee's inquiry is whether the Local Court's jurisdictional limit is sufficient to address these violent offences particularly the ones with significant maximum penalties.

The Committee finds this is a complex policy matter upon which stakeholder opinion is divided. The Committee received insufficient evidence during the inquiry to decide either way on it. The NSW Sentencing Council examined the sentencing power of the Local Court in 2010. Given this is an important issue in ensuring appropriate sentences are handed down for violence against emergency services personnel, and the Sentencing Council's report was some years ago, the Committee recommends the NSW Attorney General consider asking the Sentencing Council to conduct a further review in this area.

Finally, and notwithstanding the fact that the Committee finds no new offences or penalties should be created, it recommends some changes to the law in discrete areas to ensure appropriate sentencing of offenders. The Committee recommends an amendment to the *Crimes (Sentencing Procedure) Act 1999* to clarify that hospital emergency department security staff receive special protection under sentencing law. It also recommends the Government consider whether all existing offences of violence against emergency services personnel should be dealt with under the *Crimes Act 1900*. Some offences are dealt with by other Acts and moving them into the Crimes Act would send a strong message about the criminality of such conduct.

The Chapter finishes by discussing another legal issue raised during the inquiry by the Police Association of NSW (PANSW). PANSW proposed mandatory disease testing of people whose bodily fluids come into contact with police officers and emergency services personnel in certain circumstances. The Committee is concerned about Police and emergency services personnel being exposed to the risk of serious diseases in the course of their duties. However, the proposal raises complex issues and requires further consultation with all affected stakeholders, particularly health, legal and privacy experts. The Committee therefore

recommends the proposal be further considered by the NSW Government. It also finds that if a mandatory testing power were introduced, the relevant legislation would require careful drafting so the power could only be enlivened in cases where there is a real risk of transmission of a listed disease, based on up to date medical evidence.

Findings and Recommendations

Finding 1 _____	2
Overall, there is a significant amount of violence against emergency services personnel each year in NSW, though amounts vary between emergency services agencies.	
Finding 2 _____	5
The full extent of violence against emergency services personnel is unknown because of underreporting.	
Recommendation 1 _____	7
That emergency services agencies publish data about the number and type of violent incidents against their staff each year.	
Recommendation 2 _____	7
That NSW Health consider publishing data concerning violence against its hospital staff, broken down by hospital.	
Recommendation 3 _____	10
That NSW Health continue to drive the 12 Point Action Plan to timely completion in consultation with key stakeholders.	
Recommendation 4 _____	10
That NSW Health monitor, fine-tune and maintain ongoing elements of the 12 Point Action Plan following implementation.	
Finding 3 _____	13
Staff working in hospital emergency departments require thorough violence prevention training	
Recommendation 5 _____	13
That NSW Health consider making its one-day equivalent violence prevention training for emergency department staff, mandatory for new emergency department staff.	
Recommendation 6 _____	15
That NSW Health consider the use of purpose built rooms or areas within emergency departments to assess aggressive and behaviourally disturbed persons, particularly patients affected by mental health issues, drugs and/or alcohol.	
Finding 4 _____	16
Given finite resources and the use of many other violence prevention tools, real-time monitoring of emergency department Closed-Circuit Television (CCTV) cannot be a priority for NSW Health.	
Recommendation 7 _____	16

That NSW Health explore whether further CCTV should be installed in NSW emergency departments, particularly in regional areas.

Recommendation 8 _____ 18

That NSW Health examine options for a state wide database to share file flagging information about patients who present a risk to the health and safety of staff, patients and others.

Recommendation 9 _____ 18

That the NSW Government, in consultation with the Commonwealth and other States and Territories, examine options for a national database to share file flagging information about patients of health facilities who present a risk to the health and safety of staff, patients and others.

Finding 5 _____ 19

The \$11 million security upgrade arising from the 12 Point Plan will assist to improve security at rural and remote health facilities, where file flagging of patients who present a risk to the health and safety of staff, patients and others can be of limited use.

Recommendation 10 _____ 20

That NSW Health continue to monitor local health districts' progress in developing their duress response plans with a view to completion as a matter of priority.

Recommendation 11 _____ 20

That NSW Health update its security manual, *Protecting People and Property*, to provide more detailed Code Black standards for emergency departments, to ensure that a Code Black has the same meaning for all NSW emergency departments.

Recommendation 12 _____ 21

That the revised Memorandum of Understanding between NSW Health and the NSW Police Force clearly delineate agency responsibilities in managing aggressive and behaviourally disturbed persons on hospital premises.

Recommendation 13 _____ 21

That protocols and procedures under the revised Memorandum of Understanding between NSW Health and the NSW Police Force facilitate structured handover of aggressive and behaviourally disturbed patients with a particular focus on thorough interagency communication.

Recommendation 14 _____ 22

That NSW Health and the NSW Police Force conduct ongoing monitoring to ensure that procedures under their revised Memorandum of Understanding are implemented at the local level and are working effectively.

Recommendation 15 _____ 23

That the NSW Government review options to provide a more coordinated response by NSW Health, NSW Ambulance and the NSW Police Force, to the needs of mental health patients.

Recommendation 16 _____ 24

That the NSW Government consider further funding to increase the number of security staff in NSW emergency departments, based on risk assessments.	
Recommendation 17	26
That NSW Health continue to encourage existing staff in its regional, rural and remote emergency departments to undertake security training.	
Recommendation 18	26
That NSW Health implement further strategies to recruit security staff in key regional, rural and remote areas as a priority.	
Recommendation 19	28
That NSW Health conduct a review around its use of contractor security staff including any effects the use of contractors may have on the safety and security of its emergency departments and options to ensure contractors are adequately trained.	
Recommendation 20	29
That NSW Health review its new incident management reporting system, in consultation with staff, 12 months after implementation paying particular regard to whether it is facilitating ease of reporting, and adequate feedback from management.	
Recommendation 21	31
That NSW Health continue equipping management with the knowledge and skills to encourage the reporting of violent incidents in emergency departments.	
Recommendation 22	33
That hospital managers be trained to support and prioritise downtime for staff to report incidents.	
Finding 6	35
Training is a key violence prevention and minimisation tool that is important for all NSW emergency services agencies.	
Finding 7	35
There are different levels and types of violence prevention and safety training across NSW emergency services agencies.	
Recommendation 23	35
That each NSW emergency services agency review its violence prevention and safety training on a regular basis, in consultation with staff, to ensure it is comprehensive, up to date and responsive to contemporary needs.	
Recommendation 24	40
That the NSW Government consider ongoing community education campaigns to prevent violence against emergency services personnel.	
Finding 8	42

It is necessary for NSW Ambulance to take a cautious approach to flagging the addresses of dangerous individuals.

Recommendation 25 _____ 42

That NSW Ambulance decisions about whether to impose a flag on an address take place as soon as possible after a request is made by frontline staff.

Recommendation 26 _____ 42

That where NSW Ambulance makes a decision not to impose a flag on an address, affected frontline staff be provided with feedback concerning the decision as soon as possible.

Finding 9 _____ 42

No paramedic should be required to attend an address without Police, if he or she has reasonable concerns about possible violence at the residence.

Finding 10 _____ 44

NSW Ambulance is refreshing and future-proofing its duress alarm system for paramedics.

Recommendation 27 _____ 44

That the refresh of NSW Ambulance duress alarm systems for metropolitan vehicles be completed as a priority.

Recommendation 28 _____ 44

That NSW Ambulance continue to monitor and respond to any complaints from paramedics concerning the duress alarm system as the refresh proceeds.

Recommendation 29 _____ 46

That any NSW Ambulance vehicle equipped to respond should be fitted with a mobile data terminal for duress.

Recommendation 30 _____ 46

That NSW Ambulance institute procedures so that every on duty paramedic has a portable radio capable of duress.

Recommendation 31 _____ 47

That NSW Ambulance institute a procedure for regular and thorough testing and review of its duress systems, against up to date benchmarks.

Recommendation 32 _____ 48

That the NSW Government continue to allocate funding for NSW Ambulance's blackspot remediation program.

Recommendation 33 _____ 48

That NSW Ambulance commission further independent testing of the accuracy of duress location across the State after the refresh of its current equipment is complete.

Recommendation 34 _____ 48

That all NSW Ambulance paramedics who work in areas of the State where radio blackspots exist be provided with communication alternatives such as satellite or mobile telephones.

Recommendation 35 _____ 50

That NSW Ambulance management ensure that the records allowing its control centre staff to identify staff who activate a duress alarm, are kept up to date at all times.

Recommendation 36 _____ 50

That the NSW Government explore resourcing options to eliminate the need for any NSW Ambulance paramedic to attend a job alone and to increase the number of paramedics, particularly in regional areas of the State.

Recommendation 37 _____ 52

That NSW Ambulance review the resources allocated to control centres to ensure they are sufficient to enable a prompt and appropriate response when a frontline officer activates a duress alarm.

Recommendation 38 _____ 52

That NSW Ambulance review its incident management reporting system, in consultation with staff, 12 months after implementation, paying particular regard to whether it is facilitating ease of reporting and adequate feedback from management; and whether it meets the unique needs of NSW Ambulance staff.

Recommendation 39 _____ 54

That NSW Ambulance management be appropriately trained to actively encourage staff to report violent incidents.

Recommendation 40 _____ 54

That NSW Ambulance managers continue to be trained to support and prioritise downtime for staff to report violent incidents.

Recommendation 41 _____ 56

That as far as possible, NSW Ambulance post incident reviews should have a non-punitive focus.

Finding 11 _____ 65

Sentencing data for some court cases involving violence against emergency services personnel is not available.

Recommendation 42 _____ 68

That the NSW Government consider changes to require the NSW Police Force and the Courts to record where the victim of an offence is an emergency services worker, so that all sentencing statistics that relate to violence against emergency services personnel are clearly identifiable.

Recommendation 43 _____ 68

That the NSW Government consider additional funding so that a greater number of judgments of the Local and District Courts of NSW can be transcribed and published on the NSW Caselaw website.

Finding 12 _____ 71

It is not necessary to create new offences or penalties to appropriately punish offenders for violence against emergency services personnel.

Recommendation 44 _____ 74

That the NSW Attorney General consider asking the NSW Sentencing Council to conduct a further review of the sentencing power of the NSW Local Court.

Recommendation 45 _____ 79

That the NSW Government consider changes so that all existing offences for violence against emergency services personnel are dealt with under the *Crimes Act 1900*.

Recommendation 46 _____ 80

That the NSW Government amend the *Crimes (Sentencing Procedure) Act 1999* to clarify that hospital emergency department security staff are covered by provisions that state it is an aggravating factor in determining sentence if the offence has been committed against a 'health worker'.

Recommendation 47 _____ 81

That the NSW Government consider introducing legislation to allow mandatory disease testing of people whose bodily fluids come into contact with police and emergency services personnel, in consultation with all affected stakeholders.

Finding 13 _____ 81

Under any legislative scheme, the power to conduct mandatory testing should only be able to be enlivened in circumstances where there is a risk of transmission of listed diseases. The legislation should clearly define the factual circumstances in which there is a risk of transmission of listed disease and this definition should be based on up to date medical evidence.

Chapter One – Violence Against Emergency Services Personnel in NSW – Incidence and Contributing Factors

Composition of the emergency services sector – who is covered by the inquiry?

1.1 In conducting this inquiry into violence against emergency services personnel, the terms of reference the Committee adopted on 12 May 2016 stated the Committee should have regard to:

all emergency services personnel, including police; ambulance officers; firefighters; protective services officers; SES workers; lifesavers; marine rescuers; and nurses, doctors and other hospital staff who provide or support emergency treatment.

1.2 The full terms of reference can be found at Appendix One.

1.3 An emergency is defined as a ‘sudden state of danger...condition needing immediate treatment’¹ something that those groups covered by the terms of reference experience regularly in the course of their employment. In its submission to the inquiry, the Public Service Association stated that:

Many workers have roles not defined as Emergency Service roles but face similar risks to emergency service personnel during hazardous situations or declared emergencies. Many public servants perform roles that expose them to high risk situations and potential violence on a daily basis.²

1.4 The Committee acknowledges the unfortunate fact that workers in all sectors and industries can experience danger in the course of their employment. For the purposes of its current inquiry, however, the Committee has focussed on emergency services personnel, as required by the terms of reference. In doing so, the Committee aims to shed light on the particular issues facing these workers, and to tailor its recommendations accordingly.

1.5 One of the issues that arose during the inquiry was how broadly to define emergency services personnel for the purposes of sentencing law and collecting sentencing data regarding this category of worker. For example, while doctors and nurses working in a hospital emergency department are clearly covered, other workers for consideration are emergency department security staff, and support staff like cleaners and administrative staff. These issues are discussed in Chapter Four of the report.

1.6 In terms of emergency services groups that provided evidence to the inquiry, after calling for written submissions, the Committee received a submission from

¹ Turner, G. (ed), *The Australian Concise Oxford Dictionary of Current English*, 7th edn, Oxford University Press, Melbourne, 1987.

² Submission 31, Public Service Association, p3.

the NSW Government which included input from the NSW Police Force, Fire and Rescue NSW, the NSW Rural Fire Service, the NSW State Emergency Service (SES) and NSW Ambulance.

- 1.7 At its public hearings in November 2016 and February 2017, the Committee also heard evidence from the NSW Police Force, NSW Health, Fire and Rescue NSW, the NSW Rural Fire Service, the NSW SES and NSW Ambulance. In addition, it received written submissions and heard evidence from unions and employee groups representing police, paramedics, doctors, nurses, health workers and firefighters.

Incidence of violence against emergency services personnel

There is a significant amount of violence against emergency services personnel

Finding 1

Overall, there is a significant amount of violence against emergency services personnel each year in NSW, though amounts vary between emergency services agencies.

- 1.8 SafeWork NSW defines workplace violence as ‘generally any incident in which someone is abused, threatened or assaulted in circumstances relating to their work’.³
- 1.9 Overall, there is a significant amount of violence against emergency services personnel each year in NSW. However, the amount of violence appears to vary across emergency services agencies. The Committee received evidence that officers of the NSW Police Force and NSW Ambulance face the greatest risk, while those of some other agencies face a lower risk. The NSW Government’s submission to the inquiry stated:
- ...each of the emergency services agencies have had varied experiences involving violence against emergency services personnel. In absolute terms, officers from the NSW Police Force and NSW Ambulance face a greater level of risk in the execution of their duties. This can be attributed to the nature of their work; officers from these agencies are frequently first responders in fatal and serious injury incidents involving domestic violence, crime and drug and alcohol abuse. Comparatively, agencies such as Fire & Rescue NSW, NSW Rural Fire Service and the NSW State Emergency Service reported a lower rate of violence against their officers...⁴
- 1.10 This accords with the evidence of Mr Leighton Drury, State Secretary of the Fire Brigade Employees Union who told the Committee:
- I have been a serving firefighter...since 1999...During my time as a firefighter it is my observation that assaults on firefighters by members of the public are rare. This may be a result of us spending the bulk of our time engaged in work with a limited scope for interaction with members of the public. In part it may also be because of the union’s long-held position that firefighters are not used as an alternative police force...I suspect the general public knows what our role is and what it’s not. We are

³ SafeWork NSW, <http://www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/violence>, viewed 4 April 2017.

⁴ Submission 33, NSW Government, p1.

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rarely placed in positions of conflict with members of the public, for example, the issuing of fines and infringement notices.⁵

- 1.11 With regard to official statistics, the NSW Police Force indicated that over a three year period from 2013 to 2015, an average of 2,236 police officers per year were assaulted during the course of their duties. The following tables provide further information.⁶

Table 1: Assaults on police officers 2013-15

	2013	2014	2015
Officers assaulted	2,302	2,185	2,221
Incidents of assault police	2,657	2,519	2,473
Total number of police officers	16,343	16,457	16,676

Table 2: Police officers injured owing to physical assault 2013-15

	2013	2014	2015
Number of officers injured owing to physical assault	1,205	1,185	1,191
Total number of police officers	16,343	16,457	16,676
Percentage	7.4	7.2	7.1

Table 3: Types of injuries sustained by police 2013-15

Injury	2013	2014	2015	Total
Bruises/swelling	446	423	419	1,288
Abrasions/superficial injuries	310	292	307	909
Sprains/strains	266	303	283	852
Laceration/open wound	111	99	86	296
Other	71	60	81	212
Fracture/dislocation	31	36	27	94
Internal injury	15	23	22	60
Infections/diseases	9	14	16	39
Concussions/cranial	7	7	10	24
Foreign bodies	6	8	6	20

- 1.12 Since 2011, there have also been two murders of police officers in NSW.⁷

- 1.13 NSW Ambulance indicated that from 1 January to 31 December 2014, 175 separate incidents of physical or verbal assaults or threats on NSW paramedics were reported to the NSW Police Force. This compares to 142 for the same period in 2015, and 165 for the same period in 2016.⁸

⁵ Mr Leighton Drury, State Secretary, Fire Brigade Employees Union, *Transcript of Evidence*, 18 November 2016, p2.

⁶ These tables were provided as part of submission 33, NSW Government, pp4-5.

⁷ Submission 33, NSW Government, p5.

⁸ Submission 33, NSW Government, p5 and NSW Ambulance, answers to questions taken on notice, 20 February 2017, p3.

- 1.14 Regarding violence against the emergency department staff in hospitals, Ms Karen Crawshaw, Deputy Secretary, Governance, Workforce and Corporate, NSW Ministry of Health, told the Committee that there were not many serious physical assaults but verbal aggression was very common:

We have...looked at the breakdown of violent incidents and where they occur. Day to day, staff put up with verbal aggression. I do not know whether it is a symptom of our society, but like staff in any service industry, our staff put up with a level of verbal aggression. Just to be clear, about 40 per cent of incidents involving physical aggression over the last three or four years are in mental health areas – you can understand that – and 40 per cent are in our general wards...About 10 per cent of those incidents are in emergency departments and about 10 per cent occur elsewhere...So, if you put that into perspective, a lot of these incidents happen on the wards, not in the emergency departments.

With respect to serious incidents – a notifiable incident to SafeWork NSW, where there has been a need for overnight attendance or attendance at a hospital for an injury, we have had about 13 notifiable incidents in the last four years across NSW Health. Of those 13, I think six have occurred in the last four years in emergency departments, involving various categories of staff. I think there were three nurses, two security staff and one doctor.⁹

- 1.15 With regard to violence against firefighters, Fire and Rescue NSW advised that from 2011 to 2016, 24 incidents were reported on its Notification of Injury, Illness, Exposure and Near Miss System. These ranged from physical assaults to bottles being thrown at firefighter crews, and occurred at fire scenes and motor vehicle accidents. Fire and Rescue NSW further advised that firefighters occasionally also encounter verbal abuse when responding to fires or emergency calls, and that firefighters responding to a grass fire in a rural area were recently faced with threats and abuse from a group nearby.¹⁰

- 1.16 Similarly, between 2010 and 2016, there were 14 reported incidents of violence against Rural Fire Service volunteer members undertaking operational activities. Of these, one incident involved an assault causing minor injury, while the other 13 involved verbal abuse.

- 1.17 Finally, Mr Gary Zuiderwyk of the NSW SES told the Committee:

...our volunteers...are...out there dealing with the community in a whole variety of situations from...road crash rescue to doorknocking. Generally speaking doorknocking is a low-level risk for the majority of the community because they are very supportive of the SES and like to do the right thing for an evacuation. However, from time to time we do have threats of violence. We have had a number of instances where our volunteers have been assaulted...when people are not too happy about having to evacuate...I do have three reports in the last four years that we do have acts of violence. The verbal abuse is something that our members do not report...so we do not have any data around that side of it.¹¹

⁹ Ms Karen Crawshaw, Deputy Secretary, Governance, Workforce and Corporate, NSW Ministry of Health, *Transcript of Evidence*, 20 February 2017, pp19-20.

¹⁰ Submission 33, NSW Government, p9.

¹¹ Mr Gary Zuiderwyk, Manager, Work Health and Safety, NSW SES, *Transcript of Evidence*, 14 November 2016, p16.

The full extent of violence against emergency services personnel is unknown

Finding 2

The full extent of violence against emergency services personnel is unknown because of underreporting.

- 1.18 Notwithstanding the above figures, the Committee also received evidence of an entrenched culture of under-reporting amongst nurses, doctors and paramedics which makes obtaining a clear picture of the extent of workplace violence against these groups impossible. The NSW Nurses and Midwives Association provided figures from a survey of its members suggesting rates of violence in NSW hospitals may be greater than those reflected in the official figures:

A survey of Nurses in Emergency Departments across NSW demonstrated that 53% of respondents experience workplace violence and aggression daily or more than once daily while 79% experienced violence weekly or more often. 85% of incidents from the survey related to client/ patient aggression whilst 12% to clients family or visitors.¹²

- 1.19 Mr Leslie Gibbs, Work Health and Safety Professional Officer, NSW Nurses and Midwives' Association also told the Committee that much of the violence reported to the union by members was of a serious nature, and that the violence is a rising trend:

People have spoken of being grabbed and thrown across the room, being grabbed by the throat, being struck by a person or with objects, being thrown against walls or furniture, being threatened with weapons—knives or other things—by visitors or clients. People have been struck with chairs or IV poles. There was even a case where someone was hit by a guy with a walking stick. Staff are exposed to patients or visitors who are intoxicated and there is verbal and physical intimidation and aggression. They make death threats and put things on Facebook...¹³

- 1.20 In response to a question about whether he considers this to be a rising trend, Mr Gibbs confirmed that he does.¹⁴

- 1.21 Similarly, Mr Gary Wilson, Secretary of the Australian Paramedics Association (NSW) provided figures from a survey of that union's members suggesting rates of violence against paramedics may be greater than those reflected in the official figures:

A survey we did of our members recently showed that 71 per cent of those who responded indicated that they had been physically assaulted in some form. The average number of assaults per respondent was five, but 32 per cent of those who responded said they have never reported any physical abuse. Indeed, 72 per cent of people reported that they never bothered to report verbal abuse. This culture of underreporting or not reporting at all is well entrenched.¹⁵

¹² Submission 28, NSW Nurses and Midwives' Association, p1.

¹³ *Transcript of Evidence*, 14 November 2016, p43.

¹⁴ *Transcript of Evidence*, 14 November 2016, p43.

¹⁵ Mr Gary Wilson, Secretary, Australian Paramedics Association, *Transcript of Evidence*, 14 November 2017, p58.

- 1.22 This accords with the evidence of Mr Greg Golds, an intensive care paramedic with Ambulance NSW who has started a social media campaign against violence towards emergency services personnel on Facebook called ‘Triple Zero Tolerance’:

Mr EDMOND ATALLA: Do you believe that there is a culture in the NSW Ambulance Service of reporting or not reporting incidents?

Mr GOLDS: More often than not, not reporting.

Mr EDMOND ATALLA: Why?

Mr GOLDS: I do not know. I can only speak for myself. I have been the victim of assaults in the past, but I had never reported them until we commenced this social media drive...I have realised that someone has to stand up, so I am speaking up now.¹⁶

- 1.23 In addition, the Australasian College of Emergency Medicine, the Australian Medical Association (AMA) and the Australian Salaried Medical Officers’ Federation (ASMOF) stated that underreporting is a problem in hospitals. Dr Kate Porges of the AMA stated:

I do not think we have a clear concept of how widespread [the violence] is because there is so little reporting.¹⁷

- 1.24 When questioned about underreporting, both NSW Health and NSW Ambulance agreed the problem exists. Ms Crawshaw of NSW Health provided the following evidence:

There is no question there is that effect of becoming inured to a low level of violence. I do not think that anybody ever accepts significant violent incidents, where people are seriously injured.¹⁸

- 1.25 Similarly, Mr Allan Loudfoot, Executive Director, Clinical Service, NSW Ambulance, gave the following evidence to the Committee:

I think [underreporting]... is a potential problem, but we really do not know. My instinct as a former paramedic is that serious incidents are reported. However, I do not know how much tolerance is built into the paramedic workforce with regard to lower-level incidents.¹⁹

- 1.26 Underreporting of workplace violence may also be a problem amongst firefighters and the SES. Mr Rob Rogers, Deputy Commissioner and Executive Director, Operations, NSW Rural Fire Service told the Committee:

It is my belief that, particularly historically, many incidences such as verbal assault were significantly under-reported. By that, I mean they occur in the midst of an incident and we carry on with the incident and do not bother to report those

¹⁶ Mr Greg Golds, *Transcript of Evidence*, p23.

¹⁷ Dr Kate Porges, Member, Australian Medical Association Council, *Transcript of Evidence*, 18 November 2017, p35.

¹⁸ *Transcript of Evidence*, 20 February 2017, p19.

¹⁹ Mr Allan Loudfoot, Executive Director, Clinical Service, NSW Ambulance, *Transcript of Evidence*, 20 February 2017, p9.

things...it is only in the last few years that we have got a lot better at trying to encourage the recording of those statistics.²⁰

- 1.27 As above, Mr Zuiderwyk of the SES also stated that ‘...verbal abuse is something that our members do not report...so we do not have any data around that side of it’.²¹
- 1.28 Underreporting, and the reasons for it, are discussed further in Chapters Two and Three.

Data concerning violence against emergency services personnel should be published

Recommendation 1

That emergency services agencies publish data about the number and type of violent incidents against their staff each year.

Recommendation 2

That NSW Health consider publishing data concerning violence against its hospital staff, broken down by hospital.

- 1.29 While NSW Government agencies covered by the inquiry provided the Committee with the above statistics concerning violence against their staff, it is unclear whether these agencies publish the data as a matter of course. The staff of these agencies may benefit if there were a formal requirement to publish data about these incidents on a regular basis, as this would promote transparency and accountability.
- 1.30 Similarly, were NSW Health required to publish incident data broken down by hospital, it would increase transparency and accountability about how each hospital is performing on violence prevention.
- 1.31 A comparison can be made with the NSW Department of Education (DET), which publishes reports concerning incidents in NSW public schools on its website every six months. Incidents reported on include those relating to violence and weapons.
- 1.32 Each report contains the number of incidents that have occurred within the relevant period, broken down according to the 66 Principals Networks across the State. DET advises that this comparative exercise allows it to identify the areas it can target with additional support. Individual incident reports are also published, minus identifying details.²² This richer data means it is possible to examine the reports to glean particular information, for example, the number of assaults against teachers in any given Principal’s Network.

²⁰ Mr Rob Rogers, Deputy Commissioner and Executive Director, Operations, NSW Rural Fire Service, *Transcript of Evidence*, 20 February 2017, pp25&28.

²¹ Mr Zuiderwyk, *Transcript of Evidence*, 14 November 2016, p16.

²² NSW Department of Education, *Incident Reporting in Schools – Release 1 2016 (1 January 2016-30 June 2016)* <https://education.nsw.gov.au/media/office-secretary/incident-reports-biannual-release-1-2016.pdf>, viewed 7 April 2017. See also NSW Department of Education, <http://www.dec.nsw.gov.au/about-us/plans-reports-and-statistics/key-statistics-and-reports>, viewed 7 April 2017.

1.33 At its public hearing on 20 February 2017, the Committee discussed with NSW Health the idea of publishing the number of violent incidents at particular hospitals across the State:

Mr EDMOND ATALLA: Will the quarterly Health report that is issued that shows waiting times in hospitals and so forth incorporate the number of incidents at particular hospitals?...

Ms CRAWSHAW: The NSW Bureau of Crime Statistics and Research does reports by hospital and local government area of assaults and crime do they not?

Ms OWENS: Yes, they do and that includes public and private hospitals.²³

1.34 While the NSW Bureau of Crime Statistics and Research does publish the number of police-recorded assaults on hospital premises in NSW on its website, this information is not broken down by hospital.²⁴ Were NSW Health to publish data by hospital, it would increase transparency and accountability about how each hospital is performing on violence prevention.

Factors contributing to violence against emergency services personnel

Certain factors contribute to violence against emergency services personnel

1.35 In its evidence to the inquiry, the Australasian College for emergency medicine set out various factors that contribute to violence against emergency services personnel including:

- Patient factors: drug and alcohol use; distressed and frustrated patients and family members of patients; and confused, disoriented or mentally ill patients.
- Environmental factors: long waiting times and emergency department design.
- Institutional factors: insufficient security; staff working alone; inadequate handover of violent patients from law enforcement officers or other health providers; lack of staff training in managing aggressive patients.²⁵

1.36 This accords with evidence from the Health Services Union which stated:

Hospitals, particularly emergency departments, are stressful places. People are under pressure, they're tired and tempers can fray even without the contribution of alcohol. The combination of this stressful environment with substance abuse and the mental health issues that often accompany it can create a potentially explosive situation.²⁶

1.37 It also accords with data provided to the Committee. For example, NSW Ambulance stated that data for the 2015/16 financial year indicates

²³ *Transcript of Evidence*, 20 February 2017, p27.

²⁴ See http://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Assaults-on-hospital-premises.aspx, viewed 7 April 2017.

²⁵ Submission 27, Australasian College of Emergency Medicine, pp2-3.

²⁶ Submission 32, Health Services Union, p4.

approximately 51 per cent of incidents were attributed to mental illness, 22 per cent to alcohol, 15 per cent to drugs.²⁷ Similarly, statistics provided by the NSW Bureau of Crime Statistics and Research (BOCSAR) concerning violence against Police from July 2006 to June 2016 suggest alcohol is a factor in many incidents. The BOCSAR statistics are reproduced on the following page.

- 1.38 Evidence presented to the Committee also indicated that the number of people presenting to hospitals under the influence of drugs is increasing. The Health Services Union stated:

Statistics from the Australian Institute of Health and Welfare show that amphetamine use in NSW more than doubled over the period from 2010-11 to 2014-15. Over roughly the same period, amphetamine-related hospitalisations more than doubled from 136 per million persons to 341 per million persons.²⁸

- 1.39 Similarly, Ms Crawshaw of NSW Health indicated to the Committee that in 2009 there were 419 presentations to NSW emergency departments that were identified as drug-related. In contrast, in 2016, 4,500 such presentations were identified as drug-related.²⁹ Ms Crawshaw stated:

That is a twelvefold increase; we have gone from 419 to 4,500 presentations in seven years. That may account for the perception that even though it is still not an enormous prevalence it is still a big increase. That does create the perception that our emergency departments have an ice epidemic on their hands because there has been a significant increase.³⁰

- 1.40 Ms Crawshaw also indicated this increase in drug-related presentations is probably proportional, not just numeric as emergency department presentations overall for 2008-09 were 2,416,774 while in 2015-16 they were 2,733,853.³¹

- 1.41 In addition, Ms Crawshaw stated that many hospital presentations are related to alcohol and mental health:

Anecdotally if you talked to our emergency staff they would still say the preponderance of intoxication that presents problems for them remains alcohol...we had 2,733,853 presentations in 2015-16 and of those, 81,355 were mental health presentations...Mental health presentations represent about 3 per cent...³²

- 1.42 All the above factors that have been identified as contributing to violence against emergency services personnel are discussed throughout the report.

²⁷ NSW Ambulance, Answers to Questions Taken on Notice, 14 November 2016, p1.

²⁸ Submission 32, Health Services Union, p5.

²⁹ Ms Crawshaw also indicated to the Committee that in 2008-09 there were 2,416,774 presentations to emergency departments overall, while in 2015-16 there were 2,733,853 presentations, see *Transcript of Evidence*, 20 February 2017, pp22-23.

³⁰ *Transcript of Evidence*, 20 February 2017, p22.

³¹ See *Transcript of Evidence*, 20 February 2017, pp22&23.

³² *Transcript of Evidence*, 20 February 2017, pp21-22.

Chapter Two – Adequacy of Current Measures to Protect Hospital Emergency Department Staff from Violence

Hospital Emergency Department Staff

- 2.1 This chapter focusses specifically on the adequacy of current measures to protect emergency department staff from violence in NSW public hospitals, making findings and recommendations for improvements.

12 Point Action Plan to Improve Security in NSW Public Hospitals

The 12 Point Action Plan is a comprehensive plan to improve security in NSW public hospitals

Recommendation 3

That NSW Health continue to drive the 12 Point Action Plan to timely completion in consultation with key stakeholders.

Recommendation 4

That NSW Health monitor, fine-tune and maintain ongoing elements of the 12 Point Action Plan following implementation.

- 2.2 The 12 Point Action Plan to improve security in NSW Public Hospitals is a comprehensive plan. It has great potential to significantly reduce and appropriately respond to violence against staff in NSW emergency departments, and hospitals more generally.
- 2.3 NSW Health has made significant progress in implementing the Plan and should continue to drive it to timely completion in consultation with key stakeholders including local health districts and relevant unions. Following implementation, ongoing elements (for example, improved staff training) should be monitored, fine-tuned, and maintained to include all hospitals within NSW Health.
- 2.4 Ms Crawshaw of NSW Health provided an account of the key elements of the Plan at the Committee's hearing on 20 February 2017. They are:
- Providing multidisciplinary training to staff who work in emergency departments to better manage workplace aggression.
 - Improving workplace safety culture.
 - Undertaking a detailed security audit of 20 emergency departments across the State.
 - Developing strategies to professional the NSW Health security workforce.

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- Providing training to security staff to give them the skills for working in the Health environment.
- Employing an additional 30 security staff at hospitals across the State.
- Developing patient management and treatment pathways for patients presenting to emergency departments under the influence of psycho-stimulants.
- Broadening the scope of the memorandum of understanding between NSW Health and the NSW Police Force beyond mental health to improve handover and responsive procedures for aggressive and behaviourally disturbed persons more generally.
- Providing legal protections to security staff where health professionals require assistance to render lawful medical treatment or care of patient.
- Clarifying the circumstances in which security staff are lawfully able to remove individuals from hospital premises.
- Improving NSW Health's incident management reporting system.³³

2.5 Ms Crawshaw also provided background to the Plan:

The background of the plan was a round table on hospital security in February 2016 with key stakeholders including expert clinicians, representatives from local health districts, ambulance and health industrial associations. This followed growing concern about the increased prevalence of methamphetamines, such as ice, in the community and increasing violence. In particular, a trigger event was the shooting that occurred at Nepean Hospital in January 2016 when a patient managed to obtain the weapon of a police officer who was attending the emergency department. That resulted in the shooting of a police officer and one of the security staff. We came up with a 12-point action plan endorsed by Government that our health unions have signed up to as well.³⁴

2.6 Dr Tony Sara, President of ASMOF, told the Committee that, if implemented, the Plan would significantly improve security for emergency department staff:

Mr DAMIEN TUDEHOPE: Just to be clear, your position is this: If in fact this 12 point plan is implemented you would say it would create a significant improvement in the security of emergency workers in hospitals?

Dr SARA: Yes, because it is everything. It is organisational, the facilities, the training and the security. It is a comprehensive plan.³⁵

2.7 The Committee understands that NSW Health has made significant progress implementing the Plan. At the 20 February hearing, Ms Crawshaw indicated the following:

³³Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, pp17-18.

³⁴Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, p17.

³⁵Dr Sara, *Transcript of Evidence*, 18 November 2016, p37.

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- \$2.5 Million was received as part of the 2016-17 NSW Budget to recruit 30 additional security staff across the State. All of these staff are now in place and working within hospital security teams.
- \$600,000 was allocated to roll out a three day TAFE training program for the NSW Health security workforce to build their skills and capabilities to work in the health environment, a very different environment from that worked in by a security bouncer at a hotel or club. This includes communication skills, knowing how to effectively de-escalate situations, and ensuring security staff have a solid understanding of what their role entails.
- \$1.5 Million was provided to support a work health and safety training culture and training of staff. A new one-day equivalent course designed specifically to meet the needs of staff working in emergency departments is soon to be rolled out across NSW, with train the trainer underway and a range of online training modules and resources being developed. Training modules have also been developed for managers to build their understanding of their work health and safety responsibilities.
- Following the external security audit of 20 emergency departments and a self-assessment of all other 24/7 emergency departments across NSW, NSW Health identified a priority package of \$11 Million worth of remedial security works to address issues identified. These works include:
 - improving perimeter protection, particularly in smaller facilities in rural and remote areas by providing remote locking capacity on the main public entry access entry doors where this is not already available, about 130 facilities;
 - CCTV to monitor access of persons coming to the hospital after hours;
 - improving access controls between public and staff-only areas;
 - separate adult and paediatric treatment areas;
 - ensuring that there are no places of concealment.
- Changes have been made to legislation to:
 - Provide legal protections to security staff where health professionals require assistance to render lawful medical treatment or care of patient.
 - Clarify the circumstances under which security staff are lawfully able to remove individuals from hospital premises.³⁶

2.8 At the hearing on 20 February, Mr Gerard Hayes, State Secretary of the Health Services Union, raised some concerns about the ongoing roundtable process to drive the 12 Point Plan (involving NSW Health, relevant unions and other stakeholders). Mr Hayes indicated the roundtable had 'contracted

³⁶Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, pp18-19.

dramatically'.³⁷ In response, Ms Crawshaw indicated that NSW Health continues to drive the Plan in consultation with relevant unions:

I meet three or four times a year with the unions to update them on how we are going with the plan...the Health Services Union is an attendee, along with the Australian Salaried Medical Officers' Federation of NSW, the Australian Medical Association, the Nurses and Midwives Association, and Unions NSW if my recollection is correct.³⁸

- 2.9 Mr Hayes' concerns are discussed further below in the context of hospital security. However, the Committee commends NSW Health on its progress to date in driving the Plan and confirms its support for a robust roundtable process. The Plan should continue to be driven to completion and this should occur in close consultation with key stakeholders, including relevant unions.

Prevention Measures

Training for emergency department staff

Staff working in emergency departments should receive thorough violence prevention training

Finding 3

Staff working in hospital emergency departments require thorough violence prevention training

Recommendation 5

That NSW Health consider making its one-day equivalent violence prevention training for emergency department staff, mandatory for new emergency department staff.

- 2.10 While the 12 Point Action Plan is a comprehensive plan to improve security in NSW public hospitals, and should be a priority for NSW Health, the Committee identified further action that could be taken by NSW Health in a number of areas. Discussion of this forms the remainder of this chapter.
- 2.11 One such area is violence prevention training. The Committee considers training is a vital violence prevention tool for emergency department staff, especially inexperienced staff, and that it should be mandatory for all new staff.
- 2.12 As above, the 12 Point Plan deals extensively with training. However, during its inquiry the Committee heard ongoing concerns that some emergency department staff are not receiving violence prevention training. The NSW Nurses and Midwives' Association stated:

Emergency Department workers are often faced with competing workplace demands and priorities which prevent staff from attending training especially if this training is for any extended length of time due to inability to backfill staff in order to maintain adequate staffing levels and associated skill mix.³⁹

³⁷ Mr Gerard Hayes, State Secretary, Health Services Union, *Transcript of Evidence*, 20 February 2017, p5.

³⁸ Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, p23.

³⁹ Submission 28, NSW Nurses and Midwives' Association, p2.

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- 2.13 ASMOF emphasised the importance of such training, particularly for junior, frontline staff:
- the interns, residents and registrars, those doctors who are fresh out of medical school and their first four or five years, form the bulk of the medical staff who deal with these [violent] patients on a day-to-day basis. We submit that the education and training about how to prevent and respond to aggression and violence should begin as early as possible. It needs to continue throughout a health worker's career from the moment they enter the workforce through to when they become a consultant.⁴⁰
- 2.14 As detailed above, as part of the 12 Point Plan, NSW Health has designed a one-day equivalent violence prevention course specifically for staff working in emergency departments. At the Committee's hearing on 20 February 2017, Ms Crawshaw explained the background to this training, acknowledging it is hard to release emergency department staff for an extended, continuous period:
- ...We have had violence prevention training for a long time. It is extremely excellent violence prevention training but it is for four days...it occurs when they are on duty. It is very well attended by the mental health staff, but it is perhaps not as practical as it could be for... emergency departments. It is quite hard to get staff released from emergency departments for four continuous days. So we have picked the eyes out of the training and looked at the main issues...and we have turned that into a one-day equivalent course that can be done in chunks of a couple of hours.⁴¹
- 2.15 The Committee heard that the training will cover de-escalation techniques and vigilance with personal safety⁴² and will be very useful and practical for emergency department staff. Ms Annie Owens, Director, Workplace Relations, NSW Ministry of Health told the Committee:
- One of the practical things about the proposal for taking that ED-specific training of one day and being able to break it into two-hour blocks, is that it is much more likely that all the populations will be able to access it. Further, when you have that population who have done that training in an ED it is easy to build that into the range of day-to-day events they are involved with. So they can practise together, they have all got the common knowledge of it.⁴³
- 2.16 However, Ms Crawshaw indicated that the new training will not be mandatory, including for new staff. While new staff to NSW Health do receive mandatory work health and safety training as part of their induction, this is general training and there is no specific focus on violence prevention. Ms Crawshaw stated that there is a lot of mandatory training for new staff and that NSW Health has concerns that if it bombards staff with too much new information it may have less impact.⁴⁴
- 2.17 While the Committee understands these concerns, it considers that thorough violence prevention training is essential for staff working in emergency

⁴⁰Dr Alan Pham, Chair State Medical Officers Group, ASMOF, *Transcript of Evidence*, 18 November 2016, p33.

⁴¹*Transcript of Evidence*, 20 February 2017, p20.

⁴²Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, p20.

⁴³*Transcript of Evidence*, 20 February 2017, p21.

⁴⁴*Transcript of Evidence*, 20 February 2017, pp20-21.

departments, particularly new staff who may have had little training to date in this area. Given tailor-made, shorter violence prevention training now exists for emergency department staff, NSW Health should consider making this mandatory for new staff to emergency departments. This could be staggered with other mandatory induction training over a period of weeks or months to ensure maximum impact.

Emergency department design

NSW Health should consider using behavioural assessment units

Recommendation 6

That NSW Health consider the use of purpose built rooms or areas within emergency departments to assess aggressive and behaviourally disturbed persons, particularly patients affected by mental health issues, drugs and/or alcohol.

2.18 Another violence prevention measure NSW Health should consider as new emergency departments are built, is the use of purpose built rooms in which to assess aggressive and behaviourally disturbed patients, away from other patients.

2.19 Dr Roderick Bishop, NSW Fellow of the Australasian College for Emergency Medicine, told the Committee that currently such patients are brought to emergency departments that are poorly designed to treat them:

... we need to think about the design of the facilities and the way we manage those patients. Those patients should not be in with all the other patients...They are now brought into a big, open ED like mine, and all the other patients are exposed to them. Also, it is for their own privacy. Some of these people are affected by drugs or mental health. In a way, they are being seen behaving badly, which they could subsequently find embarrassing...Having some way of containing and separating those within new designs would be helpful...⁴⁵

2.20 Mr Brett Holmes, General Secretary of the NSW Nurses and Midwives Association also raised emergency department design:

The overall environment of hospitals is that hospitals are large, often open public access areas. I think at some point we need to make the decision about just how open and public they are and, if so, what security risk prevention do we need to have for people coming into our health facilities...⁴⁶

2.21 In December 2011, the Parliament of Victoria's Drugs and Crime Prevention Committee tabled a report concerning its Inquiry into Violence and Security Arrangements in Victorian Hospitals. Following a successful trial at St Vincent's Hospital Melbourne, the Victorian Committee recommended that hospital management consider establishing purpose built rooms or areas for isolating or assessing violent or potentially violent persons, particularly patients with mental health and drug and alcohol behavioural disturbance attending their hospitals.

⁴⁵Dr Bishop, *Transcript of Evidence*, 14 November 2016, p52.

⁴⁶*Transcript of Evidence*, 14 November 2016, p47.

- 2.22 The Victorian Committee noted evidence that these specialist rooms are particularly useful for safe and appropriate care for aggressive and violent patients whilst protecting the health and safety of other patients, staff and visitors. It noted further evidence that the rooms calm aggressive patients and that separating potential aggressors and sources of provocation has the potential to reduce violence.⁴⁷
- 2.23 As discussed in Chapter One, there is a significant amount of violence against emergency services personnel in NSW, and contributing factors include mental illness, alcohol and drugs. In particular, NSW Health has provided evidence that the number and proportion of people presenting to NSW emergency departments under the influence of drugs has increased somewhat since 2009.
- 2.24 In these circumstances, it is important that emergency departments are designed to assist in the appropriate management of aggressive and behaviourally disturbed patients. The Committee commends NSW Health for carrying out \$11 million worth of remedial security works following the security audit of emergency departments under the 12 Point Plan. As discussed earlier in the chapter, these include improving access controls between public and staff-only areas in emergency departments; separate adult and paediatric treatment areas; and ensuring that there are no places of concealment. The Committee considers NSW Health should give serious thought to further options, including purpose-built rooms to assess aggressive patients, to improve emergency department design into the future.

Closed-Circuit Television (CCTV)

CCTV is a useful violence prevention tool for emergency departments

Finding 4

Given finite resources and the use of many other violence prevention tools, real-time monitoring of emergency department Closed-Circuit Television (CCTV) cannot be a priority for NSW Health.

Recommendation 7

That NSW Health explore whether further CCTV should be installed in NSW emergency departments, particularly in regional areas.

- 2.25 CCTV is a useful tool that is employed to prevent violence in emergency departments. NSW Health should explore whether further CCTV needs to be installed in NSW emergency departments across the State as a risk management tool. However, given finite resources in NSW hospitals, and the fact that CCTV is complemented by other violence prevention tools (e.g. training, security staff, duress alarms etc), the Committee does not consider that real-time monitoring of emergency department CCTV should be a priority.

⁴⁷ Parliament of Victoria Drugs and Crime Prevention Committee, *Inquiry into Violence and Security Arrangements in Victorian Hospitals*, December 2011, pxvii, available at: https://www.parliament.vic.gov.au/images/stories/committees/dpcp/ivsah/Inq_Violence_and_Security_Arrangements_in_Victorian_Hospitals.pdf, viewed 15 June 2017.

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- 2.26 At the Committee's public hearing on 14 November 2016, Mr Hayes of the Health Services Union complained about the lack of real-time monitoring of CCTV:

There are places like Bathurst Base Hospital, which has a whole room with a bank of CCTV monitors that no-one monitors until someone is attacked. It is a recording process that is used to deal with the matter after the fact.⁴⁸

- 2.27 Mr Hayes stated that he would support more monitoring of CCTV footage in NSW hospitals.⁴⁹

- 2.28 When asked about CCTV at the Committee's hearing on 20 February 2017, Ms Crawshaw stated that CCTV is monitored constantly in NSW hospitals, but only where a risk assessment has indicated this is necessary. Another use of CCTV is for perimeter security – where the front door to a small emergency department can be remotely locked after hours, and staff can look at the perimeter CCTV to assess whether to let somebody in or out. In addition, CCTV is used as a deterrent and as evidence if an incident does occur.⁵⁰ Ms Crawshaw said in relation to constant monitoring of CCTV:

I am not, in any way, suggesting that it would be a good use of resources to have banks of CCTV and banks of security staff monitoring. It would not be. The best response is to have good duress alarms that the staff have on them and can let go as soon as there is an incident. That is the best response. So yes, we put CCTV in, in these different ways, as the need arises, but duress alarms are the primary emergency response.⁵¹

- 2.29 Dr Bishop of the Australasian College for Emergency Medicine agreed that while CCTV is a useful violence prevention tool, real-time monitoring cannot always be a priority and must be risk-based:

The challenge, again, is that you need to have someone sitting in front of the camera. That is another person who could be doing something else. They could be out attending to other security issues. That is how it is...in our hospital...when you have a certain number of staff and you dedicate one person to sit and watch a camera. It is a challenge within a limited resource and we are all dealing with an environment with limited resources and thinking about where best to put the resource. I certainly think in high-risk ED...having 24-hour security within the department would be essential because we see violence, really, on every shift...The risk assessment would say that you need security there whereas places with much less frequent episodes, you would have to work out what the best way is to use those resources...⁵²

- 2.30 Mr Hayes also raised concerns on 14 November, that there may be regional hospitals in NSW that lack CCTV altogether.⁵³ There have been improvements to CCTV as part of the 12 Point Plan. As above, the \$11 million package of remedial security works includes CCTV to monitor access of persons coming to hospitals

⁴⁸*Transcript of Evidence*, 14 November 2017, p30.

⁴⁹*Transcript of Evidence*, 14 November 2017, p34.

⁵⁰*Transcript of Evidence*, 20 February 2017, p29.

⁵¹*Transcript of Evidence*, 20 February 2017, p29.

⁵²*Transcript of Evidence*, 14 November 2016, p54.

⁵³*Transcript of Evidence*, 14 November 2016, p34.

after hours. Ms Crawshaw also told the Committee that some CCTV is being upgraded as part of this package.⁵⁴ Given CCTV's usefulness as a violence prevention measure, NSW Health should explore whether further CCTV is needed across the State, particularly in regional areas.

File flagging of dangerous patients

Systems for flagging the files of dangerous patients need to be improved

Recommendation 8

That NSW Health examine options for a state wide database to share file flagging information about patients who present a risk to the health and safety of staff, patients and others.

Recommendation 9

That the NSW Government, in consultation with the Commonwealth and other States and Territories, examine options for a national database to share file flagging information about patients of health facilities who present a risk to the health and safety of staff, patients and others.

- 2.31 Patient file flagging can be used under NSW Health's Zero Tolerance to Violence Policy to identify patients who present a risk to the health and safety of staff and other patients. Under the policy, information on the patient must be kept up to date to enable those managing the patient to do so in a safe and appropriate way.⁵⁵ However, NSW Health should take steps so this information can be shared between health services state wide. The NSW Government should also examine options so this information can be shared nationally between health services.
- 2.32 In calling for a national database to share file flagging information, the Australasian College of Emergency Medicine stated it is a helpful violence prevention measure and that while it is currently used, the file flagging information cannot be easily shared between local health districts. Dr Bishop explained:
- ...One of the troubles at the moment is the computer systems are not really fabulous in the way that they are flagged, but it certainly exists. Most of us, I know in my hospital, have a list of people who are flagged and that is regularly reviewed and kept current...[however] I cannot easily look at health records at St George Hospital from Nepean Hospital. I can look at records from within my own local health district [LHD] but I cannot look at records across the LHDs and certainly not across the States...⁵⁶
- 2.33 Dr Bishop acknowledged the privacy concerns that might arise through national file-flagging but indicated that the limitation on privacy was reasonable in the circumstances:

⁵⁴ *Transcript of Evidence*, 14 November 2016, p29.

⁵⁵ NSW Health, *Preventing and Managing Violence in the NSW Health Workplace – A Zero Tolerance Approach*, p15, available at: http://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2015_001.pdf, viewed 11 April 2017.

⁵⁶ *Transcript of Evidence*, 14 November 2017, pp55-56. See also Submission 27, Australasian College for Emergency Medicine, p11.

...there are privacy issues, but as a health practitioner I rarely see patients who object to having their medical history available to any doctor who needs to see it, yet we put barriers in the way. It is not unreasonable for healthcare workers to have access to information about a person they are about to treat that might be relevant to how they treat them. That would include any history of violence towards healthcare professionals...

...[it is relevant to] the way they approach the patient – how they talk to them, what staff they have around when they are doing that interview and also what expectation they may have of the patient agreeing to any treatment.⁵⁷

File flagging can present problems in rural and remote areas

Finding 5

The \$11 million security upgrade arising from the 12 Point Plan will assist to improve security at rural and remote health facilities, where file flagging of patients who present a risk to the health and safety of staff, patients and others can be of limited use.

- 2.34 The Committee heard that file flagging can be of limited use in rural and remote areas where staff numbers are lower and health services more sparsely distributed. In such cases, a dangerous patient may re-present at a health facility, where the only person on duty to treat him/her is a staff member who has initiated a file flag regarding the patient, or taken out an apprehended violence order (AVO) against him/her. In these cases, the staff member may be reluctant to deny treatment despite the flag or AVO.⁵⁸
- 2.35 When asked about this at the Committee's hearing on 20 February, Ms Crawshaw confirmed it is a problem for NSW Health. Ms Crawshaw did, however, indicate that the \$11 million security upgrade under the 12 Point Plan, which, as above, includes improved perimeter protection and CCTV, will assist in such situations:

...you could not say that the possibility would not exist were somebody who has been a perpetrator of violence in the past in an ED, arrives at the perimeter, at a locked front door – locked now after our capital works program – and the staff member who perhaps in the past has been subjected to their violence is the one on duty in that small ED.

At the moment because of the changes we are making they will be able to look at CCTV. They will know who is there and they will be able to determine whether to open the door and let them in or not. That is an important extra piece of security we can give staff. If it is somebody where it is a situation where an AVO is out on that person or they have a previous history with the person and are fearful they would be able to contact police or other assistance before they decided to open the door and let them in. Some of the physical safeguards and improvements are going to help.⁵⁹

⁵⁷*Transcript of Evidence*, 14 November 2017, pp55-56.

⁵⁸ Mr Brett Holmes, General Secretary, NSW Nurses and Midwives Association, *Transcript of Evidence*, 14 November 2016, p45.

⁵⁹*Transcript of Evidence*, 20 February 2017, p25.

Response Measures

Duress Response

Every local health district should have a comprehensive duress response plan

Recommendation 10

That NSW Health continue to monitor local health districts' progress in developing their duress response plans with a view to completion as a matter of priority.

Recommendation 11

That NSW Health update its security manual, *Protecting People and Property*, to provide more detailed Code Black standards for emergency departments, to ensure that a Code Black has the same meaning for all NSW emergency departments.

- 2.36 It is vital that all NSW emergency departments have comprehensive duress response plans and that 'Code Black' has the same meaning across the State.
- 2.37 At the Committee's hearing on 18 November, Dr Alan Pham, Chair of the State Medical Officers Group, ASMOF, raised concerns about duress responses in NSW hospitals. Dr Pham stated that codes to indicate potential violence are not standardised across hospitals:
- ...hospitals have standardised codes to indicate the potential risks of violence. A code grey indicates a violent emergency. A code black can be activated in the event of an armed threat. However, these codes are not standardised between hospitals. The responses to the codes are not well known to all the emergency department and security staff.⁶⁰
- 2.38 NSW Health has indicated in response that it has adopted the standard emergency code system set out in Australian Standard 4083-2010: *Planning for Emergencies – Health Care Facilities*. This means that all incidents where a person is threatening to injure themselves or others are referred to as a 'Code Black' regardless of whether the person is armed.
- 2.39 NSW Health does not use a 'Code Grey' category, which is a Code used by Victoria Health to identify a subset of incidents relating to aggression from patients. NSW Health does not consider it necessary to introduce this additional Code as a response to a Code Black and Code Grey would involve the same personnel.⁶¹
- 2.40 NSW Health has further advised that its security manual *Protecting People and Property* sets out its standards for duress response plans (Code Black responses), that must be reflected in all facility plans. It is NSW Health policy that:
- Duress response plans must exist for all workplaces and community/outreach services.

⁶⁰ *Transcript of Evidence*, 18 November 2016, p33.

⁶¹ NSW Health, Answers to Questions Taken on Notice, 20 February 2017, p1.

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- Plans must encourage staff to call for a duress response/back-up early in the event, preferably before escalation.
- The response must be standardised as far as possible to reduce confusion.
- The response must be tested.
- Each shift must have a designated duress response team that must be able to cease their duties to respond when needed.
- The duress response must involve a multidisciplinary team response with enough clinical and security or other personnel to allow the safe management and restraint, if necessary, for a patient or another individual.
- The plan must be regularly evaluated and reviewed with the input of all parties who may be involved in a duress response.⁶²

2.41 The recent security audit and self-assessments of public hospitals under the 12 point plan identified sites where duress response plans need to be further developed. NSW Health is monitoring local health districts' progress on this and the Committee considers such monitoring should continue, with a view to completion as a matter of priority.⁶³

2.42 Security auditors also recommended that NSW Health update its security manual, *Protecting People and Property*, to provide more detailed emergency department Code Black Standards to ensure Code Black has the same meaning for all emergency departments. NSW Health has provided an implementation plan to the Committee which indicates the update will occur mid-2017, which the Committee supports.⁶⁴

Interagency procedures to manage aggressive and behaviourally disturbed persons

Collaboration, communication and clear demarcation of responsibilities is essential

Recommendation 12

That the revised Memorandum of Understanding between NSW Health and the NSW Police Force clearly delineate agency responsibilities in managing aggressive and behaviourally disturbed persons on hospital premises.

Recommendation 13

That protocols and procedures under the revised Memorandum of Understanding between NSW Health and the NSW Police Force facilitate structured handover of aggressive and behaviourally disturbed patients with a particular focus on thorough interagency communication.

⁶² NSW Health, Answers to Questions Taken on Notice, 20 February 2017, p2.

⁶³ NSW Health, Answers to Questions Taken on Notice, 20 February 2017, p2.

⁶⁴ NSW Health, *NSW Health Implementation Plan – ED Security Audits (November 2016)*, p8.

Recommendation 14

That NSW Health and the NSW Police Force conduct ongoing monitoring to ensure that procedures under their revised Memorandum of Understanding are implemented at the local level and are working effectively.

- 2.43 In providing an interagency response to aggressive and behaviourally disturbed persons, collaboration, communication, and clear demarcation of agency responsibilities is essential. This applies in respect of the management of mental health patients, Police handover of aggressive and behaviourally disturbed persons to emergency departments, and to the management of public safety incidents at hospitals.
- 2.44 At the Committee's hearing on 14 November 2016, Mr Hayes of the Health Services Union raised concerns about Police handover to emergency departments:
- In terms of security in hospitals and other health workplaces, we consistently see a simple scenario. Police officers will bring in people in handcuffs and hand them over. The patient will then be with one security officer and that officer will then try to manage a very unmanageable situation. That is not meant to be disrespectful of the police; their time is constrained.⁶⁵
- 2.45 On the subject of management and handover of mental health patients, Mr Hayes also stated:
- We are of the view that there is probably pushback between Health and Police about resourcing and so forth, and whose responsibility it is at the door of the hospital. We had an opportunity to address the Memorandum of Understanding between Health and Police to clearly identify whose responsibilities are in play.⁶⁶
- 2.46 Dr Bishop of the Australasian College for Emergency Medicine stressed the importance of a structured Police handover of aggressive and behaviourally disturbed persons and clear communication between agencies:
- ... we work pretty closely with the ambulance people...We have a fairly protocolised approach to handover...It is a very structured handover.
- We have not developed that with police. We often do not know a lot about the real circumstances under which the person was detained. How much force was required? Some people in police custody arc up but others get very quiet. When they present to the emergency department they can seem quite settled but when the police go away their behaviour re-escalates. So we need to have a better understanding of what happened, the triggers, the environment, just like the ambulance people give us a run-down of what was going on at the scene, the treatment given and the history.⁶⁷
- 2.47 As noted above, a key element of the 12 Point Plan is to broaden the scope of the Memorandum of Understanding (MoU) between NSW Health and the NSW Police

⁶⁵*Transcript of Evidence*, 14 November 2016, p31.

⁶⁶*Transcript of Evidence*, 14 November 2016, pp31-32.

⁶⁷*Transcript of Evidence*, 14 November 2016, p53.

Force beyond mental health, to improve handover and responsive procedures for aggressive and behaviourally disturbed persons more generally. NSW Health has advised work is underway with Police to do this:

...An important enhancement to the MoU is the need to ensure there are comprehensive handover procedures in place for patients brought to hospital by police. The revised MoU will include requirements for joint risk assessments and decision making by attending agencies at each handover point, that patients brought to hospital are not to be handed over to security staff and that no agency leaves the hospital until the handover process is complete.

The primary responsibility of NSW Police is to ensure public safety and this is reflected in the MoU...

While there are operational challenges, particularly in rural locations where there are finite resources and large geographical distances, processes are in place to escalate and resolve situations that arise. Generally, these work well, particularly where local interagency committees are in place and are working collaboratively...to ensure there is good communication between agencies with clear escalation paths and problem solving. There is however, room for improvement, and the revised MoU will enhance the governance requirements to ensure effective collaboration occurs at a local level between emergency departments, Police and Ambulance...⁶⁸

2.48 The Committee is pleased work is underway to revise the MoU, and to improve handover procedures and the response to public safety incidents. To facilitate the appropriate interagency management of aggressive and behaviourally disturbed persons, the Committee considers the revised MoU must:

- Clearly delineate the responsibilities of Police and NSW Health staff.
- Provide for structured handover so that NSW Health staff fully understand the background to a patient's presentation before the patient is transferred into their custody. Handover procedures currently followed by NSW Ambulance may provide some guidance in this regard.

2.49 The Committee further notes that for the revised MoU to work effectively, collaboration must occur at the local level. NSW Health and the NSW Police Force should therefore conduct ongoing monitoring to ensure procedures under their MoU are implemented at the local level and are working effectively.

A coordinated interagency response to the needs of mental health patients is essential

Recommendation 15

That the NSW Government review options to provide a more coordinated response by NSW Health, NSW Ambulance and the NSW Police Force, to the needs of mental health patients.

2.50 While work is proceeding to broaden the Health and Police MoU beyond mental health, this should not distract from the need for continued work to provide a more coordinated response to the needs of mental health patients. In particular,

⁶⁸ NSW Health, Answers to Questions Taken on Notice, 20 February 2017, pp3-4.

the NSW Police Association has highlighted the need for greater resourcing in affected agencies:

What ends up happening is, because of the availability of services, the police officers will be the only ones available to be the first arrivals and then they will have to make a decision about whether they utilise the powers under section 22 of the Mental Health Act. They then have the unfortunate situation where they have to decide do we in effect criminalise mental illness by putting this person in the back of a police vehicle or do we risk our own safety by utilising some other form of transport or waiting with them by the side of the road or at a house or whatever? Because an ambulance service is not available they will end up transporting them often great distances to a declared mental health facility...

There is a problem where each service keeps handing the person over. The problem will not be fixed until there is sufficient resources in all the involved agencies to have a coordinated response where ideally Health staff would attend and it would be them that are providing any treatment or support, transport would occur in a Health vehicle and, if needed, because of the circumstances, perhaps police will be required to be there for escort or protection. That is obviously the ideal but at the moment it just cannot occur.⁶⁹

- 2.51 The Committee notes that the evidence of the Police Association, that Police are dealing with more mental health interventions than ever before, accords with the evidence of NSW Health, discussed in Chapter One, that there were a large number of mental health presentations in NSW hospitals in 2015-16 (81,355 out of 2,733,853, which is about 3 per cent).⁷⁰
- 2.52 While the Committee understands resources are limited, given these significant numbers it is important that interagency responses to mental health patients are optimal. For this reason, the Committee recommends that the NSW Government review options to provide a more coordinated response by affected agencies to the needs of mental health patients.

Security staff

Emergency departments must have adequate security staff

Recommendation 16

That the NSW Government consider further funding to increase the number of security staff in NSW emergency departments, based on risk assessments.

- 2.53 The Committee accepts that security staff increases are but one element to prevent and respond appropriately to violence in NSW hospitals under NSW Health's 12 Point Plan. Nonetheless, adequate numbers of appropriately trained security staff are essential.
- 2.54 This is especially so given the recent significant number of drug-related and mental health presentations to NSW hospitals, and the dire consequences that can result from a violent incident in an emergency department. In short, the NSW Government should consider further funding to increase the number of

⁶⁹Transcript of Evidence, 18 November 2016, p14.

⁷⁰Transcript of Evidence, 20 February 2017, p22.

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security staff in emergency departments, based on risk assessments that take the expected, as well as the unexpected, into account.

2.55 As discussed earlier in the chapter, a number of security staff-related measures have been implemented under the 12 Point Plan including employing an additional 30 security staff at hospitals across the State. NSW Health has also advised that determining a facility's need for security staff is based on a risk assessment in line with its security manual *Protecting People and Property*.⁷¹

2.56 However, at the Committee's hearing on 20 February 2017, Mr Hayes of the Health Services Union raised concerns that the recent additional security staff fell well short of what was needed:

Instead of what we would suggest is at least 200 security officers, a grand total of 15, which would not deal with attrition. It is disappointing...Hospitals are not places where you just get injured; you can get killed and this is continuing to occur. Security at hospitals is a most important issue. We are seeing that it is the end of the food chain...We see time and time again when contractors are not orientated to the particular health campus.⁷²

2.57 The Australasian College for Emergency Medicine agreed that all emergency departments should have sufficient security staff at all times but stressed that this must be based on a risk assessment:

...risk assessment is the first step. We cannot have...security officers on every ward, everywhere. That clearly is never going to work, so it is I guess trying to assess the risk at different locations. The smaller the emergency department, I guess the less likelihood of something happening; but when it does happen, it is much more difficult to manage.⁷³

2.58 The Nurses and Midwives Association also emphasised the need for sufficient security staff at hospitals and whilst agreeing numbers need to be based on risk assessments, it noted the risk assessment must take the unexpected into account:

I would support the contention by the Health Services Union that you...need to make sure those security guards are safe. Just one lone security guard trying to deal with a critical incident is a recipe for disaster for them as well. It needs to be a team effort, but you need minimum numbers...I think there needs to be a proper needs and risk assessment that the unexpected is going to occur...⁷⁴

2.59 However, Ms Crawshaw of NSW Health indicated that there is more to violence prevention than increasing the number of security staff, and that the additional 30 security staff were but one measure under the 12 Point Plan to prevent violence in NSW hospitals:

I have taken the Committee through the 12-point action plan and our response to the security audit. We also have an \$11 million capital works program underway as

⁷¹ NSW Health, *Answers to Questions Taken on Notice*, 20 February 2017, p2.

⁷² *Transcript of Evidence*, 20 February 2017, p5.

⁷³ Dr Bishop, *Transcript of Evidence*, 14 November 2016, p54.

⁷⁴ Mr Holmes, *Transcript of Evidence*, 14 November 2016, p41.

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we speak. Preventing violence in our hospitals is not all about more security staff. We have been focussing on improving the professionalisation of our security staff... We have developed a policy and are ready to issue it dealing with authorising appropriate security staff to be able to eject troublesome people from our hospitals...we have also responded to the Health Service Union's concerns about protecting staff under the Health Services Act, which mirrors the Mental health Act...we have conducted a three-day training module over and above the class 1 security licence training for health-specific environments. We are putting every security staff member or security staff-related member through that course.⁷⁵

- 2.60 The Committee notes that the recent security audit of emergency departments under the 12 Point Plan recommended that, in order to meet existing standards in *Protecting People and Property*:

all sites must immediately implement a risk based review of existing security staffing levels and staffing mix. Factors to be considered...should include reviewing the days and times of day when security staff would be most effectively deployed at every location where security staff are required...⁷⁶

- 2.61 The Committee understands work on these risk-based reviews is ongoing.⁷⁷
- 2.62 In considering further funding to increase the number of security staff in emergency departments, the NSW Government could possibly use the results of these risk-based reviews to inform its views about any locations that may be in need of increased security staffing.

Security staff for regional, rural and remote emergency departments should be a priority

Recommendation 17

That NSW Health continue to encourage existing staff in its regional, rural and remote emergency departments to undertake security training.

Recommendation 18

That NSW Health implement further strategies to recruit security staff in key regional, rural and remote areas as a priority.

- 2.63 Security staffing is a particular issue for emergency departments in regional, rural and remote areas of the State. NSW Health has strategies to address gaps in security staffing in these areas and is considering further ones. This work should proceed as a priority and feasible options should be implemented as soon as possible.
- 2.64 At the Committee's hearing on 14 November 2017, Mr Gibbs of the Nurses and Midwives Association provided evidence about inadequate numbers of security staff in rural areas:

I am seeing in our rural areas that there is inadequate staffing to cover incidents. Many of the incidents have occurred where there is not adequate staffing to

⁷⁵Transcript of Evidence, 20 February 2017, pp22-23.

⁷⁶NSW Health, *NSW Health Implementation Plan – ED Security Audits (November 2016)*, p10.

⁷⁷NSW Health, *NSW Health Implementation Plan – ED Security Audits (November 2016)*, p10.

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maintain normal care, let alone manage such an incident. We have reasonably good systems in place for bigger facilities such as Liverpool Hospital and Royal North Shore Hospital, but if you go out to little places like Narrandera and a little place called Quirindi outside Tamworth, you see that it is totally uncontrolled. We talked about pagers that go back to a base which rings up to see if everything is okay, but people are not going to answer the phone if something is happening. Then there would be an hour to get police response because there is no security.⁷⁸

- 2.65 This accords with evidence from the Australasian College for Emergency Medicine:

ACEM members working in rural or non-tertiary hospitals have reported that they must rely on police assistance when issues of workplace violence arise. This response can be variable and problematic, particularly if police are occupied with other community emergencies. The reliance on police assistance is often due to the lack of availability of security personnel in general, or after midnight particularly. Emergency department staff, particularly nurses, can often be left without security during these hours. This is also a time when police resources are at a lower level.⁷⁹

- 2.66 One strategy NSW Health uses to ensure sufficient security staff in its regional, rural and remote facilities is to employ health and security assistants (HASAs). HASAs may spend much of their time doing non-security work, for example, cleaning. However, like security staff, they hold a security licence and they respond to security-related incidents, for which they are paid more than a normal cleaner.⁸⁰ Ms Owens of NSW Health told the Committee:

Where the risk profile indicates the need for a security presence, in many cases rural and remote facilities use the Health and Security Assistant (HASA) classification. The HASA role provides flexibility, particularly where there is not a need for a full time security presence. These HASAs work closely with the clinical team and are highly respected by colleagues.⁸¹

- 2.67 However, in raising the issue of security staff numbers in remote areas, Western NSW Local Health District stated that even where the HASA positions exist, it is hard to attract people to work in them:

A large number of our remote Health sites do not have onsite security or the availability of private security as a resource. Mostly, they rely on police attending from other towns (which could be up to 1 to 2 hours away)...A program of new recruitment initiatives has been run for licensed Health Security Assistants to help them manage violent and aggressive persons presenting to our Health Services. This program is ongoing but is proving to be a difficult exercise due to the lack of licensed security operatives and persons wishing to obtain such qualifications within remote communities.⁸²

- 2.68 NSW Health has confirmed that it is challenging to attract suitable candidates to undertake security roles in some rural and remote areas, and provided the

⁷⁸ *Transcript of Evidence*, 14 November 2016, pp43-44.

⁷⁹ Submission 27, Australasian College for Emergency Medicine, p5.

⁸⁰ *Transcript of Evidence*, 20 February 2017, p28.

⁸¹ NSW Health, Answers to Questions Taken on Notice, 20 February 2017, p2.

⁸² Submission 11, Western NSW Local Health District, pp1-2.

Committee with information about strategies it is using and considering to address this:

In 2016, the Ministry supported a new model for recruiting security staff where an intake of 13 trainees were selected without the requirement to hold a security licence, but were assessed as having the skills and potential capability to work in a security role. This cohort of staff completed a 'Health only' Certificate in Security Operations (Certificate II) program run by TAFE. While this program delivered the competencies required for eligibility to hold a NSW security licence, TAFE was also able to incorporate additional content within the program, relevant to delivering security services in a health environment.

The Ministry will consider the feasibility of sponsoring this program in key regional areas to establish a potential candidacy pool of security staff who have been provided with the necessary vocational competencies and, in addition, competencies relevant to delivering security in a health environment.⁸³

NSW Health should review its use and training of contractor security staff

Recommendation 19

That NSW Health conduct a review around its use of contractor security staff including any effects the use of contractors may have on the safety and security of its emergency departments and options to ensure contractors are adequately trained.

- 2.69 The Committee also considers NSW Health should conduct a review around its use of contractor security staff, any effects the use of contractors may have on the safety and security of its emergency departments, and options to ensure contractors are adequately trained.
- 2.70 This follows from further concerns raised by Mr Hayes of the Health Services Union at the hearing on 20 February about the use of contractor security staff who may have insufficient familiarity with the Health facility they are working at:
- Indeed, Liverpool has a batch of 40 [security] contractors trained at one time. Those contractors may not ever be used so when they are called in they will not have a working knowledge of the geographical outlay of the facility let alone that understanding of the emotional and clinical aspect of the facility, which is so important.⁸⁴
- 2.71 In its answers to questions taken on notice, the Health Services Union provided further information about inadequate training, stating that it affects the type of duties that can be assigned to contractor security staff:
- Orientation sessions include the use of radio equipment, duress protocols and hospital layout. At the end of the two-hour orientation they are presented with a white card to say that they are orientated and they must provide this upon sign-on at the facility...

⁸³NSW Health, Answers to Questions Taken on Notice, 20 February 2017, p2.

⁸⁴*Transcript of Evidence*, 20 February 2017, p6.

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Even where the contractor has a white card, the duties that can be assigned to them are limited by the absence of further training. Hospital-employed security officers are required to have completed violence prevention and management training, which contract security are not. This lack restricts contractors' ability to respond and assist in violent incidents. As a result, contractors are regularly placed in the control room as they cannot be tasked to any particular area...

Our members report that due to these training issues they do not complete rounds, respond to duress/code calls, back-up or restraint situations with contract security due to fears that it would escalate the situation to the point where someone is injured.⁸⁵

- 2.72 The Health Services Union also provided some details of particular complaints it has received from members:

[A security officer] from [Western Sydney Local Health District] says, 'With regards to E-Group the guards that have been sent to my hospital lately have not been orientated to the site they don't know their way around the hospital and grounds. We have to carry them. Some of the guards can't even use a radio. If we have a problem, we have to deal with it and try to tell them what to do which puts out lives and those of staff and visitors at risk.'⁸⁶

- 2.73 Another member complaint was reported by the Health Services Union as follows:

At 8:41 hours we received a code red fire alarm from childcare. My supervisor and I were first to arrive on scene. At no time while the incident was taking place did the contractor attend. When we returned to the office I asked him where he was and he said he got lost and could not find the location. He was looking for childcare in the wrong place even after looking at a map in the office.⁸⁷

- 2.74 In response to a question about the number of its security staff who are contracted versus the number that are employed, NSW Health indicated a significant portion of its security staff are contractors:

The number of contracted security staff is not available as they are paid through goods and services and are not paid through the payroll system. It is estimated that the use of contracted security staff can be up to around 10 per cent of the total security workforce.⁸⁸

Post Incident Measures

Incident reporting

NSW Health's incident management reporting system needs improvement

Recommendation 20

That NSW Health review its new incident management reporting system, in consultation with staff, 12 months after implementation paying particular

⁸⁵ Health Services Union, Answers to Question Taken on Notice, 14 November 2016, p2.

⁸⁶ Health Services Union, Answers to Question Taken on Notice, 14 November 2016, p3.

⁸⁷ Health Services Union, Answers to Question Taken on Notice, 14 November 2016, p4.

⁸⁸ NSW Health, Answers to Questions Taken on Notice, 20 February 2017, p1.

regard to whether it is facilitating ease of reporting, and adequate feedback from management.

- 2.75 As discussed in Chapter One, the Committee heard that underreporting of violent incidents is very common amongst emergency department staff. One of the factors discouraging reporting is a cumbersome incident management reporting system that does not encourage feedback from management. As above, as part of the 12 Point Plan, NSW Health is implementing a new incident management reporting system. NSW Health should review this following implementation, in consultation with its staff, to ensure it is addressing identified problems.
- 2.76 At the Committee's hearing on 14 November 2016, Dr Bishop of the Australasian College for Emergency Medicine discussed underreporting:
- ...underreporting...is ubiquitous...Why is this the case?...Our current reporting system is rather cumbersome and...we get no feedback. So there is not a lot of incentive to report...It is clearly underreported. There is plenty of evidence for that, not only in New South Wales but elsewhere as well.⁸⁹
- 2.77 The Australian Medical Association and ASMOF gave detailed evidence about the shortcomings of NSW Health's current incident management reporting system. Dr Pham noted that:
- ... the IMS system – which is the institutional system for reporting violent incidents – involves entering information online. It is easily accessible from any work computer, but it takes on average about 35 minutes to 40 minutes to fill out.⁹⁰
- 2.78 Dr Pham further indicated that the system does not facilitate feedback from management:
- ...When the form is submitted you get a number that you can record. Then it disappears. To find out what has happened, you have to pass a request up the chain of command. Even then it must go to a committee that reviews it. As far as the outcome is concerned [there is no feedback]...⁹¹
- 2.79 Dr Pham further identified that the reporting of incidents is:
- ...Only in very extreme circumstances. For example, there have been a couple of incidents at Sydney Children's Hospital over the past 12 months where parents have made threats of armed violence – saying they would come back with a weapon and kill someone. Those incidents were notified. However, the day-to-day being punched, kicked, spat on, and threats of non-weapon related violence are not reported.⁹²
- 2.80 The Nurses and Midwives Association agreed that lack of feedback from management discourages staff from reporting. Mr Holmes told the Committee '...reporting mechanisms are inadequate and people stop reporting when they

⁸⁹ *Transcript of Evidence*, 14 November 2017, pp51-52.

⁹⁰ *Transcript of Evidence*, 18 November 2016, p35.

⁹¹ *Transcript of Evidence*, 18 November 2016, p35.

⁹² *Transcript of Evidence*, 18 November 2016, p35.

find that they do not get feedback about anything happening'.⁹³ Mr Gibbs stated 'One of the complaints we get is that the incident response is often inadequate. There is no feedback to the staff as to what happened...This is one of the things that people get upset about'.⁹⁴

- 2.81 Indeed, the Association has developed its own app to encourage incident reporting, management follow-up and build data surrounding violent incidents:

Mr HOLMES: ...We are advertising it regularly in our journal. We obviously promote it every opportunity we can and the uptake is growing...

Mr GIBBS: ...it is just a tick and flick to say different things about where it actually occurred. Did it occur in aged care, ED, mental health? Was it in a public or private facility? Was there an injury or damage? It then gives a space at the bottom for a descriptor. It also asks: Have you reported on your system?...Do you want follow-up?...the thought process in designing it was to build some statistics of where things did happen...⁹⁵

- 2.82 When questioned about underreporting at the Committee's hearing on 20 February 2017, Ms Crawshaw of NSW Health indicated some incidents, particularly those that do not involve physical violence, go unreported. She also conceded that NSW Health's incident reporting system is unsatisfactory and that the new system will encourage feedback:

It is an old, clunky system and we are replacing it...the new systems in this class will provide much better feedback loops. We are in the throes of implementing that...

One thing is to let staff know that when they report they will get feedback. I think that encourages a greater level of rigour around reporting...[the new system] will really put the onus back on managers to make sure that they are feeding back. At the moment there is nothing there that jogs a manager to feed back to staff – some managers do, some managers don't.⁹⁶

- 2.83 Ms Crawshaw also indicated the new reporting system, which is likely to be fully implemented by the end of 2017, will be more user-friendly:

It will be a more intuitive system so there will be much more help in drop-down boxes, less filling in manually depictions of what the incident was about, you will be able to choose something and click on it.⁹⁷

Hospital management must encourage reporting

Recommendation 21

That NSW Health continue equipping management with the knowledge and skills to encourage the reporting of violent incidents in emergency departments.

⁹³ *Transcript of Evidence*, 14 November 2016, p45.

⁹⁴ *Transcript of Evidence*, 14 November 2016, p43.

⁹⁵ *Transcript of Evidence*, 14 November 2016, pp47-48.

⁹⁶ *Transcript of Evidence*, 20 February 2017, pp19,21&24.

⁹⁷ *Transcript of Evidence*, 20 February 2017, p26.

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2.84 Another factor discouraging reporting is that emergency department staff tend to see violent incidents as part of the job. Hospital management must challenge this culture and encourage reporting. NSW Health has put policies and training in place to assist managers to achieve this, and these initiatives should continue.

2.85 Speaking of the normalisation of violence in emergency departments, Dr Bishop of the Australasian College for Emergency Medicine stated:

... violence is so frequent that it is not an incident; it is just part of the daily activity. When something unusual happens we will think to report it but when we are dealing with something on a daily basis we do not think to put it into the system. The system could be made simpler, and more support could be given for that reporting process.⁹⁸

2.86 Dr Sara of ASMOF emphasised the role of hospital management in changing attitudes:

The reluctance to report violent and aggressive behaviour stems from...the perception – which verges on reality in many cases – that there is no real benefit from reporting incidents. Hospital management has not really had an interest in this for a very long time. There are some indications that the non-reporting of a violent incident is due to concerns about the perpetrator's condition...If someone is clearly mentally unwell...then reporting it as an incident for the purposes of prosecution is clearly not appropriate. Nevertheless, the incident should still be reported, to make the workplace safer...

the normalisation of occupational violence is something that we as a health system need to address. It should not be seen as part of the job. Without accurate reporting of incidents of violence it is very difficult to quantify and understand the extent of the problem. In order to assess progress in strategies to reduce the violence, again we need to have monitored reporting systems in place so that we can make things better over time.⁹⁹

2.87 Ms Bernadette Compton, stated that management *and* staff must challenge the culture that gives rise to underreporting. Ms Compton is an Enrolled Endorsed Nurse who shared her experience of being assaulted by a patient at Ryde Hospital. Ms Compton told the Committee:

Unfortunately, I think more and more serious assaults on nurses will happen and that will force, to some degree, management to take stock and re-evaluate everything from reporting, to acting, to supporting to changing. As far as the culture of nurses is concerned, there is a culture to downgrade and get on with things. Everything is on a time constraint in nursing. However, I feel that because there are more and more incidences of nurses being assaulted in the workforce, they are being forced to redirect things and really look at how everything is managed.¹⁰⁰

2.88 At the Committee's hearing on 20 February 2017, NSW Health agreed hospital management has a vital role to play in changing the culture in emergency departments to encourage reporting.

⁹⁸ *Transcript of Evidence*, 14 November 2017, pp51-52.

⁹⁹ *Transcript of Evidence*, 18 November 2016, p32.

¹⁰⁰ *Transcript of Evidence*, 14 November 2016, p46.

- 2.89 NSW Health's Zero Tolerance to Violence Policy outlines what local health districts, specialty health networks, ambulance and other organisations of NSW Health need to do to identify, assess and eliminate or control violence-related risks.¹⁰¹ It sets out NSW Health's policies and procedures around incident reporting and makes clear that all violence, including verbal threats and intimidation, should be reported.¹⁰² However, Ms Owens stressed it is a management responsibility to ensure this policy is implemented day-to-day in NSW Health workplaces, particularly in cultures where violence can become normalised:

[it] goes to the environment in which people feel it is an appropriate activity to make the report. A lot of the work is about shifting that culture in a number of different ways to say your safety is as important as clinical safety. Some of the responsibilities...are managerial responsibilities. Who is responsible for everyone wearing their duress alarm? Management is. When EDs are well staffed in terms of the management function the manager makes sure, firstly, that they are wearing the device. It sends the message that it is important, that it matters as much as anything else you are doing. It is part of changing the landscape so it is easier to make the report and people are more likely to do it. Some of these things take longer than others, but you have to shift the culture to say it is important.¹⁰³

- 2.90 To assist management in this area, as discussed earlier in the chapter, NSW Health has developed training modules under the 12 Point Plan for managers to build understanding of their work health and safety responsibilities. This is intended to change the culture in NSW hospitals, encourage reporting and encourage management to make reporting a priority. Ms Crawshaw told the Committee:

One of the things when we put in the 12-point plan, and I felt we needed to really lift the culture and get over any laissez-faire approach to personal safety – we have an organisation called the Health, Education and Training Institute [HETI] which is where we do a lot of our statewide training...I asked, and they...have...built into various management training a beefed-up component around really pressing the workplace health and safety responsibilities including managing aggression...really beefing it up and reminding managers that they are actually officers under the workplace health and safety legislation and they have statutory responsibilities.¹⁰⁴

Emergency department staff require downtime to report violent incidents

Recommendation 22

That hospital managers be trained to support and prioritise downtime for staff to report incidents.

- 2.91 The management workplace health and safety training discussed above has great potential to encourage incident reporting in emergency departments by changing workplace attitudes about violence and reporting from the top down. The new incident management reporting system has similar potential by cutting down

¹⁰¹ Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, p17.

¹⁰² Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, p25.

¹⁰³ *Transcript of Evidence*, 20 February 2017, p25.

¹⁰⁴ *Transcript of Evidence*, 20 February 2017, p26.

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reporting time and facilitating feedback. However, regardless of the workplace culture or the reporting system, emergency department staff must be allocated time to fill out a report following an incident, and management should be trained to support and prioritise this.

- 2.92 At the Committee's hearing on 20 February, NSW Health indicated specific time is not necessarily allocated for emergency department staff to fill out a report following an incident. Ms Crawshaw told the Committee:

...implied in the staffing that you build in is a responsibility to fill in the required records. For example, it is the same as filling in the patient record. People do not see it as "Well, if we get around to filling in the patient record we will". You fill in a patient record. It is part of the job. When you put staff on, you put them on on that understanding that there is a level of record-keeping in that role and you staff accordingly.¹⁰⁵

- 2.93 Ms Crawshaw also stated:

If you are on an incredibly busy shift – but there are peaks and troughs and obviously when you are going through a trough you take the opportunity to do some of the other jobs like any job...So I cannot say to you there is dedicated time on every shift It does not work like that.¹⁰⁶

- 2.94 The Committee accepts the need for the staff of busy emergency departments to fit in with workflows. Consistent with this, however, staff must be allocated work time to fill out a report following an incident and managers should be trained to support and prioritise this. If this does not occur, as a matter of practical reality, NSW Health's other measures to encourage reporting will be less effective.

¹⁰⁵ *Transcript of Evidence*, 20 February 2017, p24.

¹⁰⁶ *Transcript of Evidence*, 20 February 2017, pp23-24.

Chapter Three – Adequacy of Current Measures to Protect Other Emergency Services Personnel from Violence

Other Emergency Services Personnel

- 3.1 While the last chapter focussed on hospital emergency department staff, this chapter focusses on the adequacy of current measures to protect other emergency services personnel covered by the terms of reference who provided evidence to the inquiry. This includes police, ambulance officers, firefighters, and SES workers. Again, the Committee makes findings and recommendations for improvement.

Prevention Measures

Training

Training is a key violence prevention and minimisation tool

Finding 6

Training is a key violence prevention and minimisation tool that is important for all NSW emergency services agencies.

Finding 7

There are different levels and types of violence prevention and safety training across NSW emergency services agencies.

Recommendation 23

That each NSW emergency services agency review its violence prevention and safety training on a regular basis, in consultation with staff, to ensure it is comprehensive, up to date and responsive to contemporary needs.

- 3.2 As discussed in Chapter One, while there is a significant amount of violence against emergency services personnel each year, the amount of violence appears to vary across emergency services agencies. The Committee received evidence that officers of the NSW Police Force and NSW Ambulance face the greatest risk, while those of some other agencies such as NSW Fire and Rescue, the NSW Rural Fire Service and the NSW SES, face a lower risk.
- 3.3 This is reflected in the level and types of training that officers in each of these agencies receive. While police and paramedics receive more extensive training to prevent and respond to violent incidents, the Committee heard that other officers receive more generalised training.
- 3.4 Notwithstanding the variance in risk, the Committee considers that staff training is a key violence prevention and minimisation tool that is important for all NSW emergency service agencies. Often specialised skills are needed because, as

discussed in Chapter One, many incidents are related to mental health or drugs and alcohol. In addition, the current terrorism alert level has been assessed as 'probable' for Australia and agencies must monitor any possible emerging issues. This too represents an ongoing element of risk and complexity for police and emergency services personnel in performing their duties.¹⁰⁷ For these reasons, each NSW emergency services agency should review its violence prevention training on a regular basis, in consultation with staff, to ensure it is comprehensive, up to date and responsive to contemporary needs.

- 3.5 At the Committee's hearing on 14 November 2017, Assistant Commissioner Carlene York gave evidence about the training that Police receive to prevent and respond to violence, including where drugs or mental illness are a factor:

Obviously, the issue of drugs in the community is a big issue for the NSW Police Force...It has certainly been an issue that has been raised in many forums in the country areas, with the increase in crystal methamphetamine – ice – and other drugs in the community. We try to prevent incidents by providing the right equipment for police officers to respond and the right training. There is certainly mental health training for all our officers across the organisation. We have a unit solely dedicated to the training of police officers in how to respond to mental health patients, so that they recognise that it is also a medical issue and not just a policing issue.¹⁰⁸

- 3.6 Ms York also stated that Police focus on de-escalation and work in concert with NSW Ambulance to ensure the medical side of an incident is covered. Police are also trained in the use of equipment such as tasers and are required to follow set procedures in using it:

The use of force, I suppose, is more towards the last resort, but we provide the tasers and their use is videoed. We have taser reviews to make sure they are appropriately used – not that I am saying they should be used but they are a way to handle a situation if a patient or an offender cannot be calmed down. There is a balance between what damage they can do to officers in emergency services and the damage to the offender or patient. Any incidents are reviewed and we have formal processes in place to do the reviews, and then we take strategies to make sure that we are using them appropriately. We are guided by ambulance officers for those, and we would call upon medical assistance if we are the first responders, so we work in partnership together.¹⁰⁹

- 3.7 NSW Ambulance confirmed that paramedics are highly trained to prevent and respond to violent incidents including those related to mental illness, drugs and alcohol. Mr Dominic Morgan, Chief Executive, NSW Ambulance, told the Committee: "Everything that paramedics are trained to do relates to the de-escalation of any situation".¹¹⁰ At the Committee's hearing on 20 February 2017, Mr Loudfoot of NSW Ambulance stated:

We have undertaken an extensive training program for staff dealing with people with mental health issues. We have also run a pilot scheme in the Hunter area looking at an alternative and additional training...it is something that can be

¹⁰⁷Submission 33, NSW Government, p1.

¹⁰⁸*Transcript of Evidence*, 14 November 2016, p4.

¹⁰⁹*Transcript of Evidence*, 14 November 2016, p4.

¹¹⁰*Transcript of Evidence*, 14 November 2016, p10.

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considered...We work with the mental health and drug and alcohol agencies...We also have full-time managers who look at mental health issues and training. Clearly, a significant number of our patients have some form of mental illness. It is a key area. From my perspective, training is a major prevention tool.¹¹¹

- 3.8 NSW Ambulance also confirmed paramedics work closely with police to manage incidents and they are trained to conduct an environmental and scene risk assessment and call for police backup where necessary.¹¹² The Committee heard that Police deal with the violent nature of any incident while paramedics focus on the underlying medical issues. Consequently, paramedics do not have equipment such as tasers though they are trained in the use of certain chemical and physical restraints. Mr Morgan explained:

Where there is serious risk to an individual and they are actively violent, we will call for the assistance of the NSW Police Force to restrain them. We will usually then use a combination of chemical and physical restraint. The physical restraint is a Velcro suit that they cannot get out of. Ultimately, that is far more dignified for the patient because we can treat them as a patient again. It is also safer for police and paramedics.¹¹³

- 3.9 Mr Loudfoot also gave an idea of the high level training, skills and judgment needed by paramedics to deal with an instance of acute behavioural disturbance that may be caused by drugs, alcohol or mental illness:

This is obviously a complex issue in terms of what confronts the paramedic...The reality is that a significant number of those patients will be mental health patients, and a smaller subset will be mental health patients who have consumed alcohol and/or some form of illicit substance...we look at all of the symptoms displayed by the individual to determine how each element is contributing to the acute disturbance. We then put in place the appropriate care pathway for that patient. It is a complex issue that we face literally thousands of times.¹¹⁴

- 3.10 In response to questions, Mr Loudfoot elaborated on the care pathway adopted, including de-escalation, restraint, and possible use of a chemical restraint – Droperidol.¹¹⁵

- 3.11 In his evidence to the Committee, Mr Wilson of the Australian Paramedics Association, acknowledged the violence prevention training that NSW Ambulance offers. However, he indicated more is needed:

...at this time...we do not believe that there is adequate training. We believe there are a number of training options that are available to be considered, ranging from threat perception and management to defensive training to allow us to extricate ourselves.¹¹⁶

¹¹¹Mr Loudfoot, *Transcript of Evidence*, 20 February 2017, p15.

¹¹²Mr Morgan, *Transcript of Evidence*, 14 November 2016, p10. See also Submission 33, NSW Government, p7.

¹¹³*Transcript of Evidence*, 14 November 2017, p10.

¹¹⁴*Transcript of Evidence*, 14 November 2017, p11.

¹¹⁵*Transcript of Evidence*, 14 November 2017, p11.

¹¹⁶*Transcript of Evidence*, 14 November 2016, p58.

- 3.12 Given these comments, the Committee considers that, in conducting the review of violence prevention training as recommended by it, NSW Ambulance should specifically consider whether further training is needed in particular areas. This is especially the case given paramedics are at a higher risk of violence than most other emergency services workers.
- 3.13 The SES gave evidence that rather than specialised training in violence prevention or how to deal with people affected by alcohol, drugs or mental illness, it provides more generic 'Take 5' training to its volunteers in the safety risk assessments they are required to undertake prior to starting any job. Mr Gary Zuiderwyk, Manager, Work Health and Safety explained:
- That Take 5 is a simple process: stop, think, identify, assess and control, and continually monitor the risks. In addition to that, in each training package that they go through to improve their skills as a volunteer, that is reinforced. In any situation they approach, we as a service mandate that they do a Take 5 to look after themselves and those around them.¹¹⁷
- 3.14 Ms Kathleen Iacurto, Director, People and Culture, NSW SES told the Committee how the 'Take 5' training is applied to violent, or potentially violent, situations:
- In one of the examples...there was more than one occasion where our volunteer members were given to appreciate the fact that there may be violence at a particular location and at a particular address from an individual. Once that is known, then that is built into their Take 5 and their risk assessments prior to going out to a job at that address or nearby...
- ...Our volunteers are very clear that where they are required to wait for potential police assistance or other emergency services support they will, particularly in rural and regional areas, as part of their risk assessment, and generally not go alone to an address to deal with a situation; they will go at least in pairs. Where they are not confident of the circumstances, they will actually not necessarily attend. We do specify in our training up front...that it is okay to say no where you feel that you yourself are at risk, and that is embedded in our training from beginning to end. They do make that assessment at the beginning.¹¹⁸
- 3.15 The SES also indicated, given the current potential terror threat, and the fact that SES volunteers may be involved in the response to a major event, counterterrorism is factored into SES training.¹¹⁹
- 3.16 Similarly, witnesses from Fire and Rescue NSW indicated that while its officers do not have the sort of violence prevention training of police and paramedics, commanding officers are highly trained to protect their crew's health and safety, including in respect of violent incidents. At the Committee's hearing on 14 November 2016, Fire and Rescue NSW witnesses provided the following evidence:

¹¹⁷*Transcript of Evidence*, 14 November 2016, p16.

¹¹⁸*Transcript of Evidence*, 14 November 2016, pp17-18.

¹¹⁹*Transcript of Evidence*, 14 November 2016, p18.

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Mr EDMOND ATALLA:...In relation to training provided to front-line fireys, is any aspect or element of that training related to how to deal with a violent situation when it arises? Is it formalised in the training process?...

Mr BYRNE: I would answer that in this way. Basically, when a crew arrives at an incident, you have a station officer and a station commander in charge of the crew and the...truck. That person undergoes promotional programs to get to that position. Part of that is understanding how the legislation is applied in reality from a practical point of view. Also, during that experience – we are talking probably eight to 10 years for that to occur – there would be a number of instances where they have experience along those lines. The promotional programs...cover the responsibilities of the officer and advise around the standard operational guidelines of when to withdraw and ask for police support and what is safe or not safe.

At the end of the day, health and safety provisions apply as a priority. A station commander would not put his personnel into any situation. If on arrival someone is violent, it would be withdrawn unless, as I said previously, you are advised there was a risk to life and you needed to take action to save a life. On every other occasion it would be: withdraw, call for the police, and wait for the police to deal with the law and order issue.

Mr CONNELLAN: Could I just add to that? The officers undergo scenario training: realistic simulations where they use interjects, because it is one thing to put out a fire but it could be a reporter is an interjector or an owner/occupier; it could be that a person is upset with the stress. It is practised...as part of the practical training program to be promoted to officer ranks.¹²⁰

- 3.17 NSW Fire and Rescue also told the Committee that while there is not a great deal of violence against its officers, it has instituted training and procedures should civil unrest of the type experienced in parts of the United States of America ever become an issue in NSW. Mr Malcolm Connellan, Executive Director, People and Culture explained:

If we look overseas for experiences and tried to align our experience to that, you would have to say that the civil unrest that is happening in the United States probably would not occur here to that degree. However, there is also an underlying issue in the United States where emergency service is seen as part of an arm of government and there is, hopefully, a small growing trend where emergency service ambushes are occurring...random shooters are calling emergency services to locations to make a point. We hope that never crosses to this country here, but we would always have an eye on what happens in other jurisdictions...because it is quite possible someone would pick that up as a possibility in this jurisdiction.¹²¹

- 3.18 Mr Connellan confirmed that in response to these risks, NSW Fire and Rescue has circulated active shooter guides to its commanders and that it has an officer who works closely with the police counterterrorism command to examine emerging trends and provide input into the plans, procedures and guidelines of NSW Fire and Rescue.¹²²

¹²⁰*Transcript of Evidence*, 14 November 2016, p22.

¹²¹*Transcript of Evidence*, 14 November 2016, p21.

¹²²*Transcript of Evidence*, 14 November 2016, p22.

- 3.19 The NSW Rural Fire Service provided similar evidence to the Committee, indicating it targets the officers who are in charge of the crews for safety training and that it is these officers who make the decision to withdraw and call the police in the face of a violent incident:

Mr ROGERS: ...As soon as there is a suggestion that a situation is escalating into potential violence...our standard operating procedure is to send in police. If there is a concern for safety, we withdraw until police arrive and then let police stabilise the situation before the firefighters re-engage...

Mr EDMOND ATALLA: If dealing with violent situations were specifically included in the training module, do you believe that would frighten away volunteers?...

Mr ROGERS: I guess depending on how it was done. It could be aimed more at awareness and more targeted towards our officers as opposed to every single firefighter, because obviously the officers are responsible for the crew and they are the one who would make the decisions about withdrawing. I would suggest if we do something specifically, it would be at officer level...¹²³

- 3.20 In answers to questions taken on notice, the Rural Fire Service also clarified that its staff and volunteers are provided with information and training to assist them to deal with members of the community in a variety of situations:

Presentations on mental health issues have been provided to the NSW RFS staff and mental health first aid training has been provided to the Service's Peer Support Officers.

The NSW RFS works collaboratively with the NSW Mental Health Commission and other emergency services agencies to develop an over-arching mental health strategy for first responders' framework and a communication strategy to enhance and promote effective mental health support services to emergency services workers. This initiative has been promoted throughout the NSW RFS.

The NSW RFS also addresses how to deal with members of the community in various situations in a number of our volunteer training programmes such as Crew Leader and Community Safety Facilitator.¹²⁴

Community education

Community education is a useful violence prevention tool

Recommendation 24

That the NSW Government consider ongoing community education campaigns to prevent violence against emergency services personnel.

- 3.21 The Committee considers that the NSW Government should consider ongoing community education campaigns to prevent violence against emergency services personnel, particularly those most at risk of violence such as paramedics. NSW Ambulance told the Committee that each time there is a community education campaign there is a corresponding dip in violence against its officers but it is

¹²³ *Transcript of Evidence*, 14 November 2016, p26.

¹²⁴ NSW Rural Fire Service, Answers to Questions Taken on Notice, 14 November 2016, pp1-2.

relatively short-lived, meaning there is a need for ongoing education. Mr Loudfoot stated:

Within the organisation we have been tracking the trend in occupational violence for more than 10 years. As each major initiative is undertaken we can see that there is a corresponding dip in occupational violence. That is relatively short-lived. Nevertheless, it is an absolute benefit. My view is that there is a need for ongoing education. To what degree and how often would need to be clearly identified and explored. It is something that I am sure the service would support.¹²⁵

- 3.22 Mr Morgan also provided evidence about why community education is so important. He indicated that the bystanders at a violent or aggressive incident often have the power to either de-escalate or contribute to it:

In my experience, it is very uncommon to have an isolated, single individual who is truly angry and determined. There will usually be other people present who have either contributed to the situation, or are trying to de-escalate it. That is the target audience that we need to really challenge, to say that there is no such thing as an innocent bystander. People have influence over other people. They will usually be family or friends...the community has a role to play in standing up and saying that violence against emergency services workers is completely unacceptable.¹²⁶

- 3.23 NSW Ambulance has had various community education campaigns in recent years including the “Zero Tolerance” Campaign in November 2008; the “If You Hurt a Paramedic” public education campaign in December 2013; and the “No Excuse for Call Taker Abuse” public education campaign in 2016.¹²⁷

- 3.24 In its evidence to the Committee, the Rural Fire Service also emphasised the importance of community education. Mr Rogers stated:

I think that not only the laws have to be in place but also it has to be advertised that it is clearly not an acceptable behaviour to do this and it is viewed very dimly...there needs to be some public awareness...¹²⁸

- 3.25 However, intensive care paramedic Mr Greg Golds told the Committee he does not consider community education to be an effective violence prevention tool:

...NSW Health has invested a great deal of money in NSW Ambulance for advertising that will not work. There are posters in ambulances and in triage rooms in hospitals saying that it is not okay to assault us. The people who are armed, cocked and loaded to hit, spit and kick us, will not sit back in the ambulance, read a sign and change their mind. It is not those people who have their mind changed; it is the good people who would never have done it in the first place.¹²⁹

- 3.26 While the Committee acknowledges the unfortunate fact that community education will not prevent all violent incidents, it considers the NSW Ambulance data that shows a dip in violence following a campaign to be very encouraging.

¹²⁵*Transcript of Evidence*, 14 November 2016, p12.

¹²⁶*Transcript of Evidence*, 14 November 2017, pp11-12.

¹²⁷Submission 33, NSW Government, p7.

¹²⁸*Transcript of Evidence*, 14 November 2016, p26.

¹²⁹*Transcript of Evidence*, 18 November 2016, p22.

Given this, and NSW Ambulance evidence that bystanders (not just perpetrators) are a target for education, ongoing public education should be seriously considered.

Flagging the addresses of dangerous individuals

Flagging decisions should be made promptly

Finding 8

It is necessary for NSW Ambulance to take a cautious approach to flagging the addresses of dangerous individuals.

Recommendation 25

That NSW Ambulance decisions about whether to impose a flag on an address take place as soon as possible after a request is made by frontline staff.

Recommendation 26

That where NSW Ambulance makes a decision not to impose a flag on an address, affected frontline staff be provided with feedback concerning the decision as soon as possible.

Finding 9

No paramedic should be required to attend an address without Police, if he or she has reasonable concerns about possible violence at the residence.

- 3.27 NSW Ambulance has a process to flag the addresses of violent or aggressive individuals so that paramedics do not attend without Police. The Committee appreciates that the process relates to addresses, not individuals, and that decisions must receive adequate consideration. However, they should be made promptly.
- 3.28 In addition, where NSW Ambulance decides not to impose a flag, communication is essential to prevent any confusion about the decision and the frontline staff who have requested the flag should receive feedback about the decision. More generally, no paramedic should be required to attend an address without Police if he or she has reasonable concerns about possible violence at the residence.
- 3.29 At the Committee's hearing on 18 November 2016, Mr Greg Golds stated the flagging process is long and drawn out and needs to be improved. Mr Golds provided the following evidence:

Mr GOLDS: Something that we have the ability to do or would like to have the ability to do is to flag previous addresses that have been known to harbour violent patients.

Mr DAMIEN TUDEHOPE: Do you not do that already?

Mr GOLDS: It is a long, drawn-out process and we have been told via ambulance management that it has been particularly ineffective historically when we have expressed concern that there is a violent patient.

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Ms JENNY LEONG: Do you think it would be worthwhile for the Committee to look into that flagging process in a bit more detail to see whether there could be improvements?

Mr GOLDS: Yes, and if those areas that are flagged are acknowledged then certainly we are not to respond without police presence. Sometimes ambulance officers are pressured into attending locations that are considered to be violent, certainly those that have people with mental health issues. If we are forced...by our communications team to attend those scenes without police there are a lot of people who have not got the experience or the ability to stand up to the communications team and who would continue to attend those scenes. That is not on.¹³⁰

3.30 As mentioned earlier in this chapter, the Committee received evidence that NSW Ambulance paramedics are trained to conduct risk assessments and call for police backup where necessary and the Committee supports this process. In response to the Committee's questions about the flagging process, NSW Ambulance provided the following evidence:

The CHAIR: The Committee has heard evidence that the NSW Ambulance process for flagging the addresses of violent patients is long and drawn out and it may not be effective in preventing violence. Do you have any comments to make about that, or could any improvements be made to make it more effective?

Mr LOUDFOOT: Flagging relates to a residence rather than to a potentially violent individual. Should the individual change their place of residence, unfortunately the flag would potentially apply to an innocent individual. We have to take a reasonably cautious approach to imposing flags.

The CHAIR: How do I get a flag? Must I commit two or more assaults? Is there a benchmark?

Mr LOUDFOOT: There are various reasons for applying a flag. Sometimes the flag is applied for a very good reason. The system notifies staff of pre-existing medical conditions and individuals in our palliative care programs. That is the positive aspect of the process. The slightly less positive aspect relates to potential violence. That occurs when paramedics have experienced first-hand potential or actual violence. That is put in the system and reviewed after a period of time.

The CHAIR: Is the process long and drawn-out?...

Mr LOUDFOOT: I am fairly certain that it is not very long and drawn out. I will take that question on notice. I think it is relatively simple in terms of providing an address.¹³¹

3.31 In answers to Questions Taken on Notice, NSW Ambulance provided more detail about the flagging process. NSW Ambulance stated:

There is a standard operating policy regarding [the] procedure for issuing a caution note, medical note and / or access note:

¹³⁰*Transcript of Evidence*, 18 November 2017, p24.

¹³¹*Transcript of Evidence*, 20 February 2017, p14.

1. Operational staff identify the need to create a caution note.
2. An interim manual process allows the creation of a caution note to occur within a short...period of time (**hours**).
3. On notification of a request to create a caution note, our System Support Unit staff are expected to have it entered into our Computer Aided Dispatch system within **2 business days**.¹³²

Response Measures

Adequacy and currency of duress alarm system for NSW Ambulance paramedics

NSW Ambulance is refreshing its duress alarm system for paramedics

Finding 10

NSW Ambulance is refreshing and future-proofing its duress alarm system for paramedics.

Recommendation 27

That the refresh of NSW Ambulance duress alarm systems for metropolitan vehicles be completed as a priority.

Recommendation 28

That NSW Ambulance continue to monitor and respond to any complaints from paramedics concerning the duress alarm system as the refresh proceeds.

- 3.32 The Committee was concerned at evidence given by the Australian Paramedics Association during the inquiry about the adequacy and currency of the duress alarm system for NSW Ambulance paramedics. The functionality of this system is essential should paramedics need backup where a violent incident occurs. Given this, the Committee was pleased at NSW Ambulance evidence that a statewide refresh of this system was underway with an estimated completion date of 30 June 2017.
- 3.33 Importantly, the Committee understands the newly refreshed system will be future-proofed and NSW Ambulance is monitoring technological developments. This is essential if the refreshed system is to remain up to date into the future. It is also important that NSW Ambulance continue to monitor and respond to any complaints from paramedics about the system so that any issues can be resolved, and the new system optimised.
- 3.34 At the Committee's hearing on 14 November 2016, Mr Wilson of the Australian Paramedics Association stated '...our duress procedures and systems have not significantly changed in the 15 years that I have been in the job and they have fallen far behind other jurisdictions'.¹³³ Mr Wilson also stated '...without

¹³² NSW Ambulance, *Answers to Questions Taken on Notice*, 20 February 2017, p5, emphasis in original.

¹³³ *Transcript of Evidence*, 14 November 2016, p58.

significant changes in our infrastructure and resources it is unlikely that any significant practical improvements can be made'.¹³⁴

- 3.35 Following this evidence, the Committee sought the views of the Health Services Union about NSW Ambulance's duress and communication systems, at its 20 February 2017 hearing. Mr Hayes told the Committee:

The technical issues of communication are complex, as they always are given the size of this State, and I think that is something that can be focussed on a lot more. We are certainly of the view that the Ambulance Service is prepared to do that, and we are prepared to work with them. In answer to your question generally, I think the Ambulance Service is doing everything it can with what it has but it is not as cut and dry as to be able to provide full security of a paramedic in a fluid environment.¹³⁵

- 3.36 The Committee also raised the issue with NSW Ambulance at the 20 February hearing. Mr Geoffrey Waterhouse, Senior Project Manager, Radio Telecommunications Capital Works Program acknowledged the systems were in need of an update and indicated a refresh was underway, with rural fleets already complete:

Mr WATERHOUSE: ...the current refresh of our rural fleet has happened in the last 12 months. That has promoted old technology into current technology. We have also been able to look at current technology by way of using Telstra priority services, which is especially there for emergency service organisations. So we get the top tier of the priority tree within the bearer. We work closely with the NSW Telco Authority, which is rolling out a statewide Critical Communications Enhancement Program, which is a consolidation of all New South Wales Government agency radio networks. That will give us the next stepping stone for future paths of technology...

Mr EDMOND ATALLA: You spoke about the regional ones being refreshed in the last 12 months. How old is the technology for the areas that have not been refreshed?

Mr WATERHOUSE: The technology that remains, which is in our metro vehicles, is currently between seven and eight years old. We are currently looking at having a refresh completed by 30 June this year. That will give us one platform of technology and interoperability between metropolitan and regional areas.¹³⁶

- 3.37 In relation to duress-related incidents reported by paramedics, NSW Ambulance stated that there were six reported incidents from January 2016 to February 2017 and that all related to lack of radio coverage in regional areas, not hardware or software.¹³⁷ Mr Loudfoot also told the Committee that he is not aware of any critical incident that has escalated because of a failure of NSW Ambulance's communications equipment.¹³⁸
- 3.38 NSW Ambulance also indicated the refreshed system is turnkey and future-proofed and that NSW Ambulance monitors technological developments to keep its systems up to date. Mr Waterhouse stated at the hearing:

¹³⁴*Transcript of Evidence*, 14 November 2016, p58.

¹³⁵*Transcript of Evidence*, 20 February 2017, p2.

¹³⁶*Transcript of Evidence*, 20 February 2017, p10.

¹³⁷NSW Ambulance, Answers to Questions Taken on Notice, 20 February 2017, pp1-2.

¹³⁸*Transcript of Evidence*, 20 February 2017, p12.

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...It is the complete backend infrastructure – links network management centres and also the equipment and kits that sits with the paramedic or within the vehicle itself...What we are putting into the ambulance vehicles now will give them a strong, concrete foundation for the next steps. It is what we call future-proofing.¹³⁹

- 3.39 In answers to a written question that the Committee asked about whether NSW Ambulance proactively monitors developments in duress systems to facilitate continuous improvements as new technology becomes available, NSW Ambulance stated:

NSW Ambulance has an internal technology group that provides independent reviews with all types of technology advancements. NSW Ambulance also relies on the NSW Telco Authority as the Telecommunications Industry SME [small medium enterprise] for whole of Government agencies for telecommunications enhancements and innovations.¹⁴⁰

Any NSW Ambulance vehicle equipped to respond should be fitted with a mobile data terminal for duress

Recommendation 29

That any NSW Ambulance vehicle equipped to respond should be fitted with a mobile data terminal for duress.

- 3.40 Any NSW Ambulance vehicle that is equipped to respond to an incident should be fitted with a mobile data terminal for duress. This is essential should staff come across a violent situation and need to call for backup.
- 3.41 Following its 20 February 2017 hearing, the Committee asked NSW Ambulance whether every NSW Ambulance vehicle equipped to respond has a mobile data terminal for duress and received the following answer:

Currently, every emergency stretcher ambulance vehicle is fitted with a mobile data terminal (MDT). Frontline supervisor vehicles (Duty Operations Managers) and single response vehicles (e.g. Extended Care Paramedics and Paramedic Immediate Care Units) are also equipped with mobile data terminals. Some management and administrative vehicles are not currently equipped with MDTs. In total, there are currently 1188 vehicles fitted with an MDT.¹⁴¹

Every on duty paramedic should have a portable radio capable of duress

Recommendation 30

That NSW Ambulance institute procedures so that every on duty paramedic has a portable radio capable of duress.

- 3.42 It is also essential that every on duty paramedic has a portable radio capable of duress, so they can call for assistance if they become involved in a violent incident. NSW Ambulance told the Committee that, while it is the intention, it cannot currently give a 100 per cent guarantee that every on duty paramedic has this equipment:

¹³⁹ *Transcript of Evidence*, 20 February 2017, pp10-11.

¹⁴⁰ NSW Ambulance, Answers to Additional Questions, March 2017, p1.

¹⁴¹ NSW Ambulance, Answers to Additional Questions, March 2017, p1.

Due to unforeseen circumstances we cannot give a 100% guarantee that every on duty paramedic has a hand portable radio capable of duress. We can however be confident that due to the number available there is a very strong possibility that they will indeed have one. We have approximately 1000 ambulance vehicles and if we then assume two persons on every vehicle, the maximum number of hand portables required would be 2000.¹⁴²

- 3.43 NSW Ambulance further advised the Committee that it has approximately 2,200 hand portable radios and the 'future forecast' is approximately 2,850.¹⁴³ In addition, Mr Loudfoot told the Committee it is his understanding that every vehicle has a hand portable and that if an individual was by themselves they would have that hand portable.¹⁴⁴

There should be regular and thorough testing and review of NSW Ambulance duress systems

Recommendation 31

That NSW Ambulance institute a procedure for regular and thorough testing and review of its duress systems, against up to date benchmarks.

- 3.44 To ensure duress systems are operational, NSW Ambulance should institute a procedure for regular and thorough testing of its duress systems. A performance review of its duress systems should also take place following any activation to determine if there were any issues. Any benchmarks set for testing and review should keep pace with current technology.

- 3.45 When asked about this subject, the Health Services Union provided the following evidence:

It is difficult for us to determine the efficacy of the testing and review. Our expectation is that testing be regular and held against tight bench marks. One of our concerns is that these benchmarks are based, in some cases on out of date technology.¹⁴⁵

- 3.46 NSW Ambulance told the Committee that there is currently no schedule to test duress systems in its Control Centres. However, as part of the review of Business Continuity Plans for the Control Division, the testing of duress systems will be included.¹⁴⁶ NSW Ambulance also stated there is currently no technical review routinely undertaken following the activation of a duress system but there is an incident review system more generally.¹⁴⁷

¹⁴² NSW Ambulance, Answers to Questions Taken on Notice, 20 February 2017, pp2-3. See also Mr Loudfoot, *Transcript of Evidence*, 20 February 2017, p11.

¹⁴³ NSW Ambulance, Answers to Questions Taken on Notice, 20 February 2017, p3.

¹⁴⁴ *Transcript of Evidence*, 20 February 2017, p11.

¹⁴⁵ Health Services Union, Answers to Questions Taken on Notice, 20 February 2017, p2.

¹⁴⁶ NSW Ambulance, Answers to Additional Questions, March 2017, p2.

¹⁴⁷ NSW Ambulance, Answers to Additional Questions, March 2017, p2.

Geolocation of ambulances and radio blackspots

Radio blackspots exist in parts of NSW

Recommendation 32

That the NSW Government continue to allocate funding for NSW Ambulance's blackspot remediation program.

Recommendation 33

That NSW Ambulance commission further independent testing of the accuracy of duress location across the State after the refresh of its current equipment is complete.

Recommendation 34

That all NSW Ambulance paramedics who work in areas of the State where radio blackspots exist be provided with communication alternatives such as satellite or mobile telephones.

- 3.47 During the inquiry, the Committee heard concerns that radio blackspots exist in parts of NSW. This is a problem if a violent incident occurs in one of these areas and paramedics need to call for backup using a radio. It can also prevent authorities from locating an ambulance where paramedics need backup.
- 3.48 For these reasons, the NSW Government must continue to allocate funding for NSW Ambulance's blackspot remediation program. Similarly, those paramedics who work in areas of the State where radio blackspots exist should be provided with communication alternatives such as satellite and mobile telephones. In addition, NSW Ambulance should commission independent testing of the accuracy of duress location across the State after a refresh of its current equipment the Committee was told about is complete. This will ensure the results of any testing are current with remediation to proceed accordingly.
- 3.49 During the inquiry, the Health Services Union indicated it has concerns about radio blackspots in remote areas of NSW and NSW Ambulance's vehicle location system. The Health Services Union stated:
- There are radio blackspots where there is no radio and/or data (3G/4G/Mobitex) coverage. Obviously they are mostly in western NSW. To fix these black spots would require significant capital expenditure by...NSW Ambulance, NSW Telecommunications Authority and/or the telco companies (Telstra and Optus)...
- ...the HSU has concerns about the Ambulance Vehicle Location System. The Sydney Metro equipment is 12 to 15 years old and replacement parts are hard to obtain. They are well beyond their design life so of course they will become less reliable.¹⁴⁸
- 3.50 Similarly, the Secretary of the Australian Paramedics Association told the Committee: "...we have issues where police have been unable to attend because of our vehicle location systems: they do not know where we are".¹⁴⁹

¹⁴⁸ Health Services Union, Answers to Questions Taken on Notice, 14 November 2016, pp1-2.

¹⁴⁹ Mr Wilson, *Transcript of Evidence*, 14 November 2016, p59.

- 3.51 At the Committee's hearing on 20 February 2017, Mr Loudfoot of NSW Ambulance told the Committee that in the last 12 months there has been significant independent testing of currently installed equipment for accuracy of duress location with good results. Mr Loudfoot also stated a significant upgrade of the equipment is underway:

In terms of identifying the accuracy of the duress location, we undertook a significant amount of work on independent testing in regional and metro locations. We went to Dubbo, Newcastle, Wollongong and Sydney. We chose those locations because they had specific characteristics that we could try to map. One was open field, minimal horizontal obstruction – this is the kind of regional areas – remote location, the metrocentric which has its issues around buildings and all that, and then natural terrain shadowing. On those four sites we did multiple tests around those sites. Whilst I say Newcastle, there would be potentially a dozen locations around that area that we tested...

In open field conditions we got within five metres of the actual location...Within the metro areas and areas where there is shadowing, that was between 20 and 50 metres, so pretty close in terms of where the actual incident was. As a caveat, that is with our current installed equipment which is going through a very significant upgrade as we currently speak...¹⁵⁰

- 3.52 Mr Loudfoot also confirmed that blackspots exist in some areas of the State and that NSW Ambulance has a blackspot remediation program:

...we do know that there are some existing black spots and...we do have a remediation program. We spent nearly \$500,000 last year and we are spending \$400,000 this year. Those black spots are generally identified by the operational paramedics who go to every nook and cranny within the State. We have a process that they can record that concern to us and that goes into a register and then we remediate against that particular black spot.¹⁵¹

- 3.53 The Committee also asked NSW Ambulance about the standard communication alternatives that are provided to paramedics for situations where they cannot access their vehicle duress system and are in a black spot where their portable radio does not work. NSW Ambulance stated:

Paramedics in various locations have access to satellite phones which enable them to contact Control Centres or managers as required. Paramedics also have access to a mobile phone that is issued for communication with cardiologists regarding out of hospital treatment of cardiac patients.¹⁵²

¹⁵⁰ *Transcript of Evidence*, 20 February 2017, p9.

¹⁵¹ *Transcript of Evidence*, 20 February 2017, p10.

¹⁵² NSW Ambulance, Answers to Questions Taken on Notice, 20 February 2017, p1.

Identifying NSW Ambulance staff when a duress alarm is activated

Records to identify NSW Ambulance staff who activate duress must be kept up to date

Recommendation 35

That NSW Ambulance management ensure that the records allowing its control centre staff to identify staff who activate a duress alarm, are kept up to date at all times.

- 3.54 It is important that NSW Ambulance has procedures in place to enable control centres to identify staff should they activate a duress alarm and that these procedures are enforced by management.
- 3.55 NSW Ambulance confirmed that it does have such procedures, stating that duress systems located in a vehicle are allocated to that vehicle and the vehicle is assigned to a station. If vehicles are relocated to another station, there is an agreed work practice to update this information.¹⁵³ It is essential that these details are updated promptly so that staff activating duress can be accurately identified.
- 3.56 For the same reason, it is essential that paramedics' portable radios are tracked properly. NSW Ambulance told the Committee that portable radios are assigned to individual officers on a shift by shift basis. At the start of a shift, paramedics are required to sign on to the mobile data terminal in the ambulance with their portable radio details. Then, if duress is activated, the control centre can identify the officer.¹⁵⁴
- 3.57 NSW Ambulance also indicated it has a backup procedure to cover cases where paramedics have not entered portable radio details into the mobile data terminal as required. Control centres can search a 'Government Radio Network' spreadsheet which contains a list of all portable radio numbers and identifies the station to which the radios are assigned. NSW Ambulance stated that 'This method does not pinpoint the officers however significantly refines the search to a few vehicles'.¹⁵⁵ Again, it is essential that details on this spreadsheet are kept up to date.

Resourcing – frontline staff

No NSW Ambulance paramedic should be attending a job alone

Recommendation 36

That the NSW Government explore resourcing options to eliminate the need for any NSW Ambulance paramedic to attend a job alone and to increase the number of paramedics, particularly in regional areas of the State.

- 3.58 The Committee considers that no paramedic should be responding singularly to a job. Jobs can be unpredictable and it is not safe for paramedics to be attending alone. This is of particular concern in regional areas where it can be difficult for

¹⁵³ NSW Ambulance, Answers to Additional Questions, March 2017, p1.

¹⁵⁴ NSW Ambulance, Answers to Additional Questions, March 2017, pp1-2.

¹⁵⁵ NSW Ambulance, Answers to Additional Questions, March 2017, p2.

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paramedics to secure backup where necessary. The NSW Government should explore options to eliminate the need for paramedics to attend jobs alone, and to increase the number of paramedics in regional areas.

- 3.59 At the Committee's hearing on 14 November 2016, Mr Hayes of the Health Services Union emphasised that paramedics work in a fluid environment and it is not safe for them to attend jobs alone:

...we must have appropriate resources. We are short 800 ambulance paramedics at the moment, and that is a conservative figure. There are ambulance paramedics in the country who respond singly. About two years ago a paramedic responded singly to what turned out to be a murder. We must ensure that we provide support, such as having two people in the vehicle, and they must have backup...We must understand that paramedics in particular work in a very fluid environment. A person can be stable one minute and very unstable the next minute.¹⁵⁶

- 3.60 At the Committee's 20 February 2017 hearing, Mr Hayes also stressed that appropriate resources are not only important to the safety of paramedics but also of patients:

...Sometimes...situations are volatile and they occur very quickly...the only way to deal with that is by having the appropriate resources to ensure there is appropriate backup and appropriate crewing in the first instance...paramedics now have the ability to administer drugs that will relax a patient. Speaking from experience, it is very hard to relax a patient when you are fighting them on the ground and trying to get a line into a vein. Again, having appropriate resources to protect not only the paramedic but also the patient is important. If there are four people to hold down the patient safely and securely so that an IV line can be inserted to administer medication it is a successful outcome. If there are two paramedics, that will not be achieved. If there is only one paramedic, that person simply has to get out of there.¹⁵⁷

- 3.61 In similar vein, Mr Wilson of the Australian Paramedics Association stated:

Our organisation believes we need at least 500 new paramedics... This resourcing is a really significant problem for us. It has been something that has been building for years, ever since I have been in the job – and I have been in the job 15 years. Resourcing has been an increasing problem and unless something is done about it, the problems are not going to go away – they will only get worse.¹⁵⁸

- 3.62 Mr Morgan, of NSW Ambulance also told the Committee that it can be difficult for paramedics working in regional areas to secure backup where it is needed:

...in rural areas our service delivery is largely based on cover simply because there is a smaller population base and greater distances to travel. If the question is whether the risk is higher, distance travelled and backup assistance are the issue. Within a metropolitan area we can be reasonably assured that backup, whether it be another paramedic crew or the police, would be within reasonable proximity. The challenges of remote service delivery for our regional staff mean that we must be cognisant of just how far away their backup might be. Therefore, there may be a level of risk

¹⁵⁶*Transcript of Evidence*, 14 November 2016, p31.

¹⁵⁷*Transcript of Evidence*, 20 February 2017, p3.

¹⁵⁸*Transcript of Evidence*, 14 November 2016, p59.

aversion, and we must be very alert to that when dealing with a potentially violent situation in a remote area.¹⁵⁹

Resourcing – ambulance control centres

There must be sufficient resourcing of ambulance control centres

Recommendation 37

That NSW Ambulance review the resources allocated to control centres to ensure they are sufficient to enable a prompt and appropriate response when a frontline officer activates a duress alarm.

- 3.63 Ambulance control centres must be sufficiently resourced to ensure a prompt and appropriate response when a frontline officer activates a duress alarm. There needs to be a dedicated control centre staff member to respond to the duress activation while their routine work is covered by other control centre staff.
- 3.64 Evidence given to the Committee by the Australian Paramedics Association on the adequacy of control centre resourcing contradicted that of NSW Ambulance. NSW Ambulance should conduct a review of its control centre resources to ensure control centre resourcing is adequate.
- 3.65 At the Committee's hearing on 14 November 2016, Mr Wilson of the Australian Paramedics Association stated:
- Our brothers and sisters in the control room are so overwhelmed with work at times that there have been reports of radios where they have just said, "Look, everyone's busy. We can't get to you".¹⁶⁰
- 3.66 When asked about resourcing of control centres, NSW Ambulance told the Committee:
- The Control Centres are sufficiently resourced to respond to duress activation by paramedics. Control Centre Work Instruction WI2016-068 Dispatching – Procedure 9.02 – Code 1 Calls...outlines the procedures that both the relevant Dispatcher and Supervisor are required to complete when a duress is activated.¹⁶¹

Post Incident Measures

Post-incident reporting and review

NSW Ambulance's incident management reporting system needs improvement

Recommendation 38

That NSW Ambulance review its incident management reporting system, in consultation with staff, 12 months after implementation, paying particular regard to whether it is facilitating ease of reporting and adequate feedback

¹⁵⁹ *Transcript of Evidence*, 20 February 2017, p11.

¹⁶⁰ *Transcript of Evidence*, 14 November 2016, p59.

¹⁶¹ NSW Ambulance, Answers to Additional Questions, March 2017, p2.

from management; and whether it meets the unique needs of NSW Ambulance staff.

- 3.67 As discussed in Chapter One, the Committee heard that underreporting of violent incidents is very common amongst NSW Ambulance staff.¹⁶² One of the factors discouraging reporting is a cumbersome incident management reporting system that does not encourage feedback from management.
- 3.68 As discussed in Chapter Two, NSW Health is implementing a new incident management reporting system, and this new system will cover NSW Ambulance. Like NSW Health, NSW Ambulance should review the new system following implementation, in consultation with its staff, to ensure it is addressing identified problems and that the whole-of-Health system is meeting the unique needs of NSW Ambulance staff.
- 3.69 At the Committee's hearing on 14 November 2017, Mr Wilson of the Australian Paramedics Association indicated underreporting is entrenched amongst NSW Ambulance staff and that this is linked with the incident management reporting system:
- A survey we did of our members recently showed that 71 per cent of those who responded indicated that they had been physically assaulted in some form. The average number of assaults per respondent was five, but 32 per cent of those who responded said they have never reported any physical abuse. Indeed, 72 per cent of people reported that they never bothered to report verbal abuse. This culture of underreporting or not reporting at all is well entrenched. The systems that we have in place do not support reporting...The systems that are there to do the reporting are old, outdated...¹⁶³
- 3.70 Mr Wilson also indicated that a whole-of-Health reporting system does not always meet the unique needs of NSW Ambulance staff: "As part of Health, we have to use a whole-of-Health system, not one that is tailored towards emergency services and our environment, which is unique".¹⁶⁴
- 3.71 As discussed in Chapter One, at the Committee's hearing on 20 February 2017, Mr Loudfoot of NSW Ambulance agreed that underreporting is a potential problem amongst paramedics but stated its extent is unknown:
- I think it is a potential problem, but we really do not know. My instinct as a former paramedic is that serious incidents are reported. However, I do not know how much tolerance is built into the paramedic workforce with regard to lower-level incidents.¹⁶⁵
- 3.72 Mr Loudfoot also indicated the new incident management reporting system would encourage reporting:
- ...there is a new reporting management system currently being developed by Health and that is going to potentially allow us to access and use that system from remote

¹⁶² Mr Golds, *Transcript of Evidence*, p23.

¹⁶³ *Transcript of Evidence*, 14 November 2016, p58.

¹⁶⁴ *Transcript of Evidence*, 14 November 2016, p59.

¹⁶⁵ *Transcript of Evidence*, 20 February 2017, p14.

devices so potentially we could do it through mobile phones, tablets or whatever, so again that would greatly assist staff to have ease of access into that system and it is really important that we make it user friendly so that they will be encouraged to potentially use the system.¹⁶⁶

- 3.73 In addition, consistent with the evidence of NSW Health discussed in Chapter Two, Mr Loudfoot stated that unlike the old system, the new system would facilitate feedback from management after a report on a violent incident is lodged:

... [with the old system] you put the report in and that is roughly the end. However, with the new system you will know who is managing that actual incident and you will be able to track it through the system and for more serious incidents we would initiate a root-cause analysis, which is an extremely formal process where recommendations come out and those recommendations have to be actioned and registered.¹⁶⁷

NSW Ambulance management must encourage reporting

Recommendation 39

That NSW Ambulance management be appropriately trained to actively encourage staff to report violent incidents.

- 3.74 As discussed in Chapter Two in the context of hospital emergency departments, management has an important role to play in challenging an entrenched culture of underreporting and normalisation of workplace violence, and this applies equally to NSW Ambulance and its staff.

- 3.75 As covered in that chapter, NSW Health's Zero Tolerance to Violence Policy outlines what local health districts, specialty health networks, ambulance and other organisations of NSW Health need to do to identify, assess and eliminate or control violence-related risks.¹⁶⁸ It sets out NSW Health's policies and procedures around incident reporting and makes clear that all violence, including verbal threats and intimidation, should be reported.¹⁶⁹ It is the responsibility of management to ensure this policy is implemented day-to-day in NSW Health workplaces, including NSW Ambulance, and NSW Ambulance should offer suitable workplace health and safety training to its managers to assist them to achieve this.

NSW Ambulance staff require downtime to report violent incidents

Recommendation 40

That NSW Ambulance managers continue to be trained to support and prioritise downtime for staff to report violent incidents.

- 3.76 To encourage reporting, NSW Ambulance managers should also be trained to support and prioritise downtime for staff during their shift to report violent

¹⁶⁶ *Transcript of Evidence*, 20 February 2017, p15.

¹⁶⁷ *Transcript of Evidence*, 20 February 2017, p16.

¹⁶⁸ Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, p17.

¹⁶⁹ Ms Crawshaw, *Transcript of Evidence*, 20 February 2017, p25.

incidents. Evidence provided by NSW Ambulance indicated that this is currently the case.

- 3.77 At the Committee's hearing on 20 February 2017, NSW Ambulance confirmed that after a violent incident, staff are excused from operational duties to allow a report to be made. Mr Loudfoot outlined the procedures adopted following a violent incident in depth:

...the duty manager would be notified and would then take over the welfare side of the incident. Depending on the severity of the injury, and if you had unfortunately incurred a physical injury, the manager would determine whether medical treatment was required. We would also have to determine whether you were suffering some form of emotional stress as a result of the incident. The duty manager would take you through that process and ensure that the support systems were in place to look after you both physically and mentally. A report would be put into the system electronically...The staff member would do that, but the manager can do that on their behalf...if the staff member is seriously affected by the incident...¹⁷⁰

- 3.78 Mr David Dutton, Executive Director, Service Delivery, NSW Ambulance further stated:

...In my experience the supervisor would effectively take that crew offline for a period of time and that would generally be proportionate to the severity of assault. If we were talking at the end of this spectrum of verbal assault it might be that that crew has a period of time at the hospital to complete their report, gather their thoughts before returning to active duty. In a more serious example where we had physical injury I am certainly aware of circumstances where crews have been taken offline for hours or potentially the remainder of the balance of the shift. It really is a discussion between frontline paramedics and their supervisor that assesses the individual circumstances...to determine the course of action.¹⁷¹

- 3.79 However, the Committee heard that despite these established procedures, there are cases where NSW Ambulance staff do not receive downtime to report because of a lack of resourcing. Mr Wilson of the Australian Paramedics Association told the Committee:

...the resources we have in place do not allow us the opportunity to [report]...Staff are far too busy to spend the time reporting these incidents when there are patients to be treated...we need resources to allow staff the downtime to report the incidents as they happen. At this point in time our staff are running from case to case and just do not have the opportunity.¹⁷²

- 3.80 As above, the Committee has recommended that the NSW Government explore resourcing options to increase the number of paramedics. In doing so, broader issues such as the impact of resourcing on incident reporting should be considered.

¹⁷⁰ Mr Loudfoot, *Transcript of Evidence*, 20 February 2017, p14.

¹⁷¹ Mr David Dutton, Executive Director, Service Delivery, NSW Ambulance *Transcript of Evidence*, 20 February 2017, p15.

¹⁷² *Transcript of Evidence*, 14 November 2016, p58.

NSW Ambulance post incident reviews should not have a punitive focus

Recommendation 41

That as far as possible, NSW Ambulance post incident reviews should have a non-punitive focus.

- 3.81 It is vital that all emergency services agencies have rigorous procedures of review following a violent incident against their staff. While agencies must be free to discipline employees in appropriate cases, wherever possible such reviews should focus on improving policies and procedures to prevent a reoccurrence, and on providing all necessary support to staff. The Committee considers staff could be discouraged from reporting incidents if they are concerned they will be met with an unreasonably punitive response.
- 3.82 During its inquiry, the Committee received a complaint from the Health Services Union that NSW Ambulance's review procedures following a violent incident can have an unnecessarily punitive focus. In particular, the union complained the NSW Ambulance Professional Standards and Conduct Unit exhibits a bias towards instituting disciplinary action. At the Committee's 20 February 2017 hearing, Mr Hayes gave the following evidence:
- ...before this Committee I would say that I am disgusted by the Professional Standards Conduct Unit [PSCU], which is there to hang people out to dry as opposed to going through a process. One of the biggest strains our members have is going through the PSCU, which appears to us to be punitive and appears to hang out to dry as opposed to rehabilitate... There are times where I have seen individuals go through an assault situation. The one I am thinking of is not a physical assault but a violent interaction in the back of the ambulance. Next thing you know it was a matter for the ambulance paramedic to justify the matter.¹⁷³
- 3.83 When asked what he would do to improve NSW Ambulance's review system following a violent incident Mr Hayes gave the following further evidence:
- Yes, there is a review mechanism. Is it adequate? I am not convinced it is, I think it could be more robust...I would do a full review of the PSCU and its function. I would have a clinical review program as a maintenance program where people feel they can raise issues. It has to be brought forward with confidence, that it is a proactive approach, not a reactive approach. To train a paramedic costs thousands of dollars and to have a punitive approach over something that is remedial is a waste of taxpayers' money... We understand that in life there is potential for disciplinary matters for all of us, and we accept that. The bias towards that is what concerns me.¹⁷⁴
- 3.84 When asked about its process for reviewing incidents, NSW Ambulance stated that when an incident has occurred it will be recorded in the Serious Incident Management System. It is then reviewed by managers and given a risk score after which it is addressed according to that score. NSW Ambulance indicated

¹⁷³ *Transcript of Evidence*, 20 February 2017, pp6-7.

¹⁷⁴ *Transcript of Evidence*, 20 February 2017, p7.

that service delivery staff investigate matters and, depending on their severity, briefs are provided to the Ministry of Health to be addressed.¹⁷⁵

- 3.85 The Committee also asked whether the Professional Conduct Standards Unit is preventing officers of NSW Ambulance from reporting incidents because of a bias towards disciplinary proceedings. NSW Ambulance indicated in response that this unit would not ordinarily become involved in such matters. Mr Loudfoot stated:

My view would be that professional standards would not routinely get involved in a complaint matter.¹⁷⁶

- 3.86 NSW Ambulance also indicated the Professional Conduct Standards Unit assists staff following an incident should the matter proceed to court. Mr Dutton stated:

The other thing, referring back to the Professional Standards Unit and some of the evidence you have heard there, any assault that is reported to police is given what they call a computerised operational policing system reference number, which is the NSW Police system for tracking incidents. Then our Professional Standards Unit would be available to assist that officer as that instance moved forward. For example, that might be some assistance in preparing a statement that might go before the court or again at the serious end of the spectrum it might be assisting the officer to prepare to give evidence at a court hearing for an assault.¹⁷⁷

¹⁷⁵ Mr Loudfoot, *Transcript of Evidence*, 20 February 2017, p12.

¹⁷⁶ *Transcript of Evidence*, 20 February 2017, p13.

¹⁷⁷ *Transcript of Evidence*, 20 February 2017, p16.

Chapter Four – Sentencing and Other Legal Issues

Sentencing and Other Legal Issues

- 4.1 This chapter explores the sentencing of people who commit violent offences against emergency services personnel and other legal issues that arose in the course of the Committee’s inquiry. It makes findings and recommendations for improvement where necessary.

Current Sentencing Law

Specific offence and penalty provisions apply to protect emergency service personnel victims

- 4.2 Under current sentencing law, in some cases, there are more severe penalties available to deal with people who commit offences against emergency services personnel while in the execution of their duty, as compared with people who have committed offences against a victim who does not fall into this category.
- 4.3 Police and ‘law enforcement officers’ receive particular protection under the current law.¹⁷⁸ For example, the *Crimes Act 1900* contains the following specific offences and penalties:
- A mandatory minimum penalty of life imprisonment for a person who murders a police officer unless the offender is under 18 years of age or is significantly cognitively impaired (section 19B). There is no such mandatory minimum penalty for a person who murders somebody who is not a police officer though a maximum penalty of life imprisonment applies (section 19A).
 - A maximum penalty of 12 years imprisonment for a person who recklessly wounds or causes grievous bodily harm to a police officer (section 60(3)). In contrast, the maximum penalty for recklessly causing grievous bodily harm to a person who is not a police officer is 10 years imprisonment (section 35(2)), and there is a 7 year maximum penalty for recklessly wounding such a person (section 35(4)).
 - A maximum penalty of 7 years imprisonment for a person who assaults a police officer or law enforcement officer, occasioning actual bodily harm (sections 60(2) and 60A(2)). In contrast, the maximum penalty for assaulting a person who does not fall into one of these categories, where there is actual bodily harm, is 5 years imprisonment (section 59(1)).
 - A maximum penalty of 5 years imprisonment for a person who assaults a police officer or law enforcement officer with no actual bodily harm (sections 60(1) and 60A(1)). In contrast, the maximum penalty for assaulting a person

¹⁷⁸ ‘Law enforcement officers’ are defined by the *Crimes Act 1900* to include officers of the Independent Commission Against Corruption and the Crime Commission; correctional officers; a sheriff’s officer; and a special constable – see section 60AA *Crimes Act 1900 (NSW)* for a full list.

who does not fall into one of these categories, where there is no actual bodily harm, is 2 years imprisonment (section 61).

4.4 Other relevant offences contained in the *Crimes Act 1900* include:

- Section 60(3A) provides that anyone who recklessly wounds or causes grievous bodily harm to a police officer during a public disorder is liable to a maximum penalty of 14 years imprisonment.
- Section 546C provides that any person who resists or hinders, or incites a person to assault, resist or hinder a police officer is liable to a maximum penalty of 12 months imprisonment or a fine of 10 penalty units or both.
- Section 58 provides that anyone who assaults, resists or wilfully obstructs 'any officer' in the execution of his or her duty is liable to a maximum penalty of 5 years imprisonment. 'Any officer' is defined as a constable, or other peace officer, custom-house officer, prison officer, sheriff's officer, or bailiff.
- Section 33(2) provides that a person who wounds or causes grievous bodily harm to any person, with intent to resist or prevent his or her (or another person's) lawful arrest or detention is guilty of an offence for which the maximum penalty is imprisonment for 25 years.
- Section 33B prevents the use or possession of a weapon to resist arrest with a maximum penalty of 12 years imprisonment or 15 years if the offence is committed in company.

4.5 Other emergency services personnel victims who are covered by the terms of reference for the inquiry (including ambulance officers, firefighters, and those who work in hospital emergency departments), are not treated as special victims under the *Crimes Act 1900*. That is, there are no specific offence or penalty provisions in the *Crimes Act* that relate to these categories of victim. If a person is charged with violence against these categories of victim, they are usually charged with the general assault/homicide offences contained in the *Crimes Act 1900*.

4.6 However, the *Crimes (Sentencing Procedure) Act 1999* provides that where a court is determining an appropriate sentence for any offence, it is an aggravating factor if the offence was committed against certain categories of people including emergency services workers. Section 21A(2)(a) of that Act provides:

The aggravating factors to be taken into account in determining the appropriate sentence for an offence are as follows:

(a) the victim was a police officer, emergency services worker, correctional officer, judicial officer, council law enforcement officer, health worker, teacher, community worker, or other public official, exercising public or community functions and the offence arose because of the victim's occupation or voluntary work.

4.7 In addition, while not contained in the *Crimes Act 1900*, there are limited offence and penalty provisions in other legislation that relate specifically to certain emergency services personnel victims. For example:

- Under section 67J of the *Health Services Act 1997*, there is a maximum penalty of 2 years imprisonment or a fine of 50 penalty units, or both, for a person who intentionally obstructs or hinders an ambulance officer when the ambulance officer is providing or attempting to provide ambulance services to another person or person. This maximum penalty rises to 5 years imprisonment where the hindrance or obstruction involves an act of violence.
- Under section 42 of the *Rural Fires Act 1997*, there is a maximum penalty of 2 years imprisonment or a fine of 50 penalty units, or both, for a person who obstructs or hinders, or incites or encourages any person to obstruct or hinder:
 - the Rural Fire Service Commissioner
 - a fire control officer or an officer of a rural fire brigade or
 - a group of rural fire brigades

in the exercise of the Commissioner's or officer's functions under the Act; or any volunteer rural fire fighter or other person acting under the direction of any such person.

- Under section 24 of the *State Emergency Service Act 1989*, there is a maximum penalty of 2 years imprisonment or a fine of 50 penalty units, or both, for a person who obstructs or hinders the SES Commissioner or other emergency officer, or any other person acting with the authority of the Commissioner, in the exercise of a function under the Act.
- Under section 35 of the *Fire Brigades Act 1989*, there is a maximum penalty of 2 years imprisonment, or a fine of 50 penalty units, or both, for a person who obstructs or hinders the Commissioner of Fire and Rescue NSW, any member of its staff, or any member of a fire brigade in the exercise of a function under the Act.

4.8 A table containing the penalties for all relevant crimes against the person in NSW can be found at Appendix Six. The table compares the offence provisions and penalties for relevant crimes against police, law enforcement officers, other emergency services personnel and general members of the public, to see where any differences lie.

Courts have a range of sentencing options

4.9 Notwithstanding maximum penalties, under the *Crimes (Sentencing Procedure) Act 1999*, a court can impose various penalties on a person found guilty of committing an offence against emergency services personnel. As noted in the NSW Government's submission to the inquiry¹⁷⁹ these can be grouped into four categories:

¹⁷⁹ See Submission 33, NSW Government, p10.

Custodial Sentences	Imprisonment (section 5)
Non-custodial Sentences	Community service orders (section 8) Good behaviour bonds (section 9) Non-conviction orders (section 10) Deferred sentence (section 11) Suspended sentence (section 12)
Non-association orders	This order is in addition to another penalty. Where an offender commits a crime punishable by 6 or more months in prison, a court can order the offender not to associate with certain people or go to certain places for up to 12 months (section 17A).
Fines	An offender may be fined as an alternative or in addition to receiving another type of sentence (sections 14 and 15).

- 4.10 Section 3A of the *Crimes (Sentencing Procedure) Act 1999* specifies seven purposes for which a court may impose a sentence. They are:
- a. to ensure that the offender is adequately punished for the offence
 - b. to prevent crime by deterring the offender and other persons from committing similar offences
 - c. to protect the community from the offender
 - d. to promote the rehabilitation of the offender
 - e. to make the offender accountable for his or her actions
 - f. to denounce the conduct of the offender
 - g. to recognise the harm done to victim of the crime and to the community.

4.11 In the matter of *Veen v The Queen (No 2)*, the High Court explained the process a court undertakes to arrive at an appropriate sentence, having regard to the various purposes of sentencing:

...sentencing is not a purely logical exercise, and the troublesome nature of the sentencing discretion arises in large measure from unavoidable difficulty in giving weight to each of the purposes of punishment. The purposes of criminal punishment are various: protection of society, deterrence of the offender and of others who

might be tempted to offend, retribution and reform. The purposes overlap and none of them can be considered in isolation from the others when determining what is an appropriate sentence in a particular case. They are guideposts to the appropriate sentence but sometimes they point in different directions.¹⁸⁰

4.12 In the matter of *R v Engbert*, the then Chief Justice of the NSW Supreme Court explained this process further, highlighting its discretionary nature:

A moment's consideration will show that the interplay of the considerations relevant to sentencing may be complex and on occasion even intricate. ...

It is therefore erroneous in principle to approach the law of sentencing as though automatic consequences follow from the presence or absence of particular factual circumstances. In every case, what is called for is the making of a discretionary decision in the light of the circumstances of the individual case, and in the light of the purposes to be served by the sentencing exercise.¹⁸¹

4.13 Offences of personal violence cover a wide range of behaviour and consequences, and these offences are viewed very seriously by the Courts. There are three factors particularly relevant to assessing the objective gravity of a personal violence offence, and the appropriate sentence:

- The extent and nature of the injuries
- The degree of violence used or ferocity of the attack
- The intention or mental element with which the offender inflicts harm.¹⁸²

Standard non-parole periods exist for certain offences

4.14 For some offences of interest to the inquiry, Part 4, Division 1A of the *Crimes (Sentencing Procedure) Act 1999* sets out standard non-parole periods. These form a guidepost additional to maximum penalties for a court in reaching an appropriate sentence.¹⁸³

4.15 Parole is the conditional release of an offender from custody so that he or she can serve the balance of his or her sentence in the community.¹⁸⁴ A non-parole period is the portion of a prison sentence during which a prisoner cannot be

¹⁸⁰ *Veen v The Queen (No 2)* (1988) 164 CLR 465 at 476 per Mason CJ, Brennan, Dawson and Toohey JJ at 476. See also Judicial Commission of NSW, 'The Purposes of Sentencing', *Sentencing Bench Book*, available at: https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/purposes_of_sentencing.html, viewed 18 May 2017.

¹⁸¹ *R v Engert* (1995) 84 A Crim R 67 at 68. See also Judicial Commission of NSW, 'The Purposes of Sentencing', *Sentencing Bench Book*, available at: https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/purposes_of_sentencing.html, viewed 18 May 2017.

¹⁸² Judicial Commission of NSW, 'Assault, wounding and related offences' *Sentencing Bench Book*, available at: https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/assault_wounding_offences.html#p50-040.

¹⁸³ See Judicial Commission of NSW, 'Standard non-parole period offences – Pt 4 Div 1A' *Sentencing Bench Book*, available at: https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/standard_non-parole_period_offences.html#p7-910, viewed 24 May 2017, and in particular the discussion of *Muldock v The Queen* (2011) 244 CLR 120.

¹⁸⁴ See NSW State Parole Authority, <http://www.paroleauthority.nsw.gov.au/Pages/Release-to-Parole.aspx>, viewed 24 May 2017.

released on parole.¹⁸⁵ For example, a person could be sentenced to a prison term of 18 years with a non-parole period of 13 years.

- 4.16 A standard non-parole period is used to measure the relevant features of a particular offence against an offence in the mid-range of objective seriousness.¹⁸⁶ A court must take it into account in determining an appropriate sentence for an offender, without limiting the matters that are otherwise required or permitted to be taken into account in determining an appropriate sentence.¹⁸⁷
- 4.17 Part 4, Division 1A of the *Crimes (Sentencing Procedure) Act 1999* sets out standard non-parole periods for the following offences of relevance to the inquiry:
- 25 years for the murder of a police officer, emergency services worker, correctional officer, judicial officer, council law enforcement officer, health worker, teacher, community worker, or other public official exercising public or community functions where the offence arose because of the victim's occupation or voluntary work. In contrast, the standard non-parole period for the murder of an adult victim who does not fall into one of these categories is 20 years.
 - 7 years for an offence against section 33 of the *Crimes Act 1900* 'wounding etc with intent to do bodily harm or resist arrest'.
 - 3 years for an offence against section 60(2) of the *Crimes Act 1900* of assaulting a police officer occasioning actual bodily harm.
 - 5 years for an offence against section 60(3) of the *Crimes Act 1900* of wounding or inflicting grievous bodily harm on a police officer.

Current Sentencing Patterns

Sentencing data is available for specific offences against emergency services personnel

- 4.18 Sentencing data provided to the Committee by the Judicial Commission of NSW is reproduced at Appendix Seven. It covers the specific offences identified above in the *Crimes Act 1900*, *Health Services Act 1997* and *Fire Brigades Act 1997*, being offences against emergency services personnel. They are broken down according to the court in which they were heard, and span various dates from 2009 to 2016, depending on the offence.
- 4.19 There is no sentencing data for the specific offences under the *Rural Fires Act 1997* and the *State Emergency Services Act 1989* that are also discussed above, as there were no cases for these offences in any court over the relevant period.

¹⁸⁵ For example, for a legislative definition of 'non-parole period' see *Crimes Act 1914 (Cth)*, s16.

¹⁸⁶ See Judicial Commission of NSW, 'Standard non-parole period offences – Pt 4 Div 1A' *Sentencing Bench Book*, available at: https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/standard_non-parole_period_offences.html#p7-910, viewed 24 May 2017, and in particular the discussion of *R v Campbell* [2104] NSW CCA 102.

¹⁸⁷ *Crimes (Sentencing Procedure) Act 1999 (NSW)*, s54B(2).

- 4.20 The data shows that over the relevant period, NSW courts handed down a variety of custodial and non-custodial sentences to people who had committed the specific offences against emergency services personnel. This is consistent with the wide range of conduct and consequences covered, and the sentencing options and principles discussed above. In considering the sentences handed down, it is also relevant to note the data source, that is, the jurisdiction from which the statistics come. Less serious conduct is dealt with in the Local Court, while more serious conduct is dealt with in the District and Supreme Courts.¹⁸⁸
- 4.21 Further, in examining the data from the Children's Court, it is necessary to note the particular principles that apply in sentencing a young offender. In most such cases, considerations of general deterrence and retribution are less significant and emphasis is placed on the need to provide an opportunity for rehabilitation.¹⁸⁹
- 4.22 During its inquiry, the Committee met twice with representatives of the Judicial Commission to discuss sentencing and other legal issues. The Judicial Commission is an independent statutory corporation established under the *Judicial Officers Act 1986*. It publishes information about the criminal law to assist the courts to achieve consistency in imposing sentences, and more generally in the conduct of criminal proceedings.¹⁹⁰
- 4.23 To assist with the inquiry, the Judicial Commission provided the Committee with access to its Judicial Information Research System (JIRS), and to the above sentencing data extracted from that system. JIRS is an online database for judicial officers, the courts, the legal profession and government agencies that play a role in the justice system. It contains case law, legislation, sentencing principles, sentencing statistics and other reference material.¹⁹¹
- 4.24 The Judicial Commission informed the Committee that it is possible for any relevant sentencing information collected by the courts and the police to be built into JIRS.¹⁹² This means that JIRS is the source of rich sentencing data. Users are not only given information about the jurisdiction a matter was tried in and the sentence handed down, but further details such as the approximate age of each offender and whether they had prior offences.
- 4.25 For matters heard by the Supreme Court (and sometimes matters heard by the District and Local Courts), sentencing remarks are transcribed and published on the NSW CaseLaw website, and JIRS too makes sentencing remarks available.

¹⁸⁸ See *Criminal Procedure Act 1986*, ss5-8 and schedule 1.

¹⁸⁹ See Judicial Commission of NSW, 'Children (Criminal Proceedings) Act 1987' *Sentencing Bench Book*, available at: https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/children_criminal_proceedings_act.html, viewed 29 May 2017; and in particular discussion of McClelland CJ's comments in *KT v R* (2008) 182 A Crime R 571 at [22] and *Children (Criminal Proceedings) Act 1987*, s6.

¹⁹⁰ Judicial Commission of NSW website, <https://www.judcom.nsw.gov.au/about-the-commission/>, viewed 17 May 2017.

¹⁹¹ Judicial Commission of NSW, <https://www.judcom.nsw.gov.au/judicial-information-research-system-jirs/>, viewed 17 May 2017.

¹⁹² Meeting between Committee and Mr Ernest Schmatt PSM and Mr Hugh Donnelly of the Judicial Commission of NSW, 17 February 2017.

- 4.26 These details give users a more complete picture of why an offender received the sentence that he or she did in a particular case.

Sentencing data for some court cases involving violence against emergency services personnel is not available

Finding 11

Sentencing data for some court cases involving violence against emergency services personnel is not available.

- 4.27 Notwithstanding the above, access to information about sentencing patterns for violence against emergency services personnel is limited. While sentencing data is available for the specific offences against particular victims discussed above, there is a lack of sentencing data where a person who has been violent towards emergency services personnel has been charged with a general offence under the *Crimes Act 1900*. This is because any sentencing data that is published about such offences is indistinguishable from the data that relates to offences against general members of the public.
- 4.28 For example, if a person assaults a police officer and is charged and sentenced under one of the specific ‘assault police’ provisions of the *Crimes Act 1900*, it will be clear from the statistics that are published that the victim was a police officer. In contrast, if a person assaults a paramedic and is charged and sentenced under one of the general assault provisions of the *Crimes Act 1900* there will be no way of knowing from the published statistics whether it was a paramedic assault or some other type of assault.
- 4.29 In short, the fact that the victim is emergency services personnel is not recorded for statistical purposes. While the victim’s status as an emergency services worker is taken into account as an aggravating factor in sentencing (see above), aggravating factors are not recorded. In a submission to the inquiry, the Chief Magistrate of the Local Court of NSW put it thus:
- Apart from offences involving assaults against police officers in sections 58 and 60, the *Crimes Act 1900* does not establish assaults against emergency services personnel as a separate category of offences to other assault offences. Where a victim is an emergency services worker, that fact is to be taken into account by a sentencing court as an aggravating factor under section 21A(2) of the *Crimes (Sentencing Procedure) Act 1999*.
- However, as far as I am aware, the various aggravating and mitigating factors that may be relevant to the sentencing process are not recorded for statistical purposes. As a result, assault offences committed against emergency services personnel are not distinguishable from other assault offences.¹⁹³
- 4.30 In addition, most cases of violence against emergency services personnel are heard in the Local Court. As above, unlike the Supreme Court, sentencing remarks in the Local Court and District Court are not routinely transcribed or published. As Ms Penelope Musgrave of the Law Society of NSW told the

¹⁹³ Submission 18, Chief Magistrate of the Local Court of NSW, p1.

Committee, this further limits access to information about sentencing patterns for these offences:

One of the challenges that is faced when the bulk of matters are dealt with in the Local Court is that you have less access to sentencing remarks, which decreases the understanding of why the court imposed the sentence that it did. That problem is compounded in this area because the circumstance of aggravation under section 21A is not going to be captured in any sentencing system. So you can draw down on specific offences, you cannot draw down on whether section 21A was applied – there is simply no field out there to do that.¹⁹⁴

Attitudes Concerning Sentencing

Stakeholder views concerning sentencing are varied

4.31 Some stakeholders who gave evidence to the inquiry considered sentencing for violence against emergency services personnel is too lenient. For example, as mentioned in Chapter One, intensive care paramedic Mr Greg Golds administers a social media campaign on Facebook called Triple Zero Tolerance, and it calls for tougher sentences for those who are violent towards emergency services personnel, including mandatory sentences:

All too often these criminals that are found guilty of assaulting ESP [emergency services personnel] are simply sent back out into the community to reoffend, with nothing other than a slap on the wrist handed down by the presiding magistrates. In my role as administrator of the social media group that I oversee, which currently has over 7500 members, we are seeing first hand the fact that these lenient sentences and suspended sentencing are occurring with monotonous regularity, and these public officers are at the end of their tether, and three and a half thousand of them have signed the attached ePetition calling for both mandatory and tougher sentences for these criminals.¹⁹⁵

4.32 In similar vein, other stakeholders who made submissions to the inquiry called for mandatory minimum sentences for people who assault emergency services personnel. These stakeholders included a paramedic who endured a serious assault.¹⁹⁶

4.33 Other stakeholders urged the Committee to focus on preventing violence against emergency services personnel rather than sentencing after the fact. Given the links between this violence and drugs, alcohol and mental health issues, discussed throughout the report, these stakeholders argued sentencing does little to deter offenders. For example, Mr Hayes of the Health Services Union stated:

I heavily work towards the proactive side, not the reactive. People go to gaol; the gaols are full of people. People who are convicted of these matters probably will not even remember they did it. If people have mental health issues it is very difficult to hold them responsible for their actions.¹⁹⁷

¹⁹⁴ *Transcript of Evidence*, 18 November 2016, p28.

¹⁹⁵ Submission 5, Mr Greg Golds, p1.

¹⁹⁶ See Submission 4, Name Suppressed, p1. See also Submission 1, Ms Natalie Stebbings, p1.

¹⁹⁷ *Transcript of Evidence*, 14 November 2016, p32.

- 4.34 Similarly, Ms Claire Pullen, Senior Industrial Officer of the Fire Brigade Employees Union stated:

...there is very little that legislation can do to prevent assaults from the sort of people that on the rare occasion it happens do assault firefighters. My experience from speaking to the very few members who have discussed this with us is they are not members of the public who are making rational considerations about what might happen after that interaction. I think it is important to talk about prevention being something you do before the incident arises rather than what punishment might come up.¹⁹⁸

- 4.35 When asked whether stricter sentencing is an effective deterrent, Mr Lloyd Babb, NSW Director of Public Prosecutions indicated it may be of limited use for the type of offences the Committee was considering. Mr Babb told the Committee:

I am not an expert in relation to the effectiveness of deterrence. I have read a lot of material in the area that tends to suggest that deterrence varies in relation to different types of crimes and it may have a greater effect in relation to white-collar crime than in does in relation to crimes of violence, particularly crimes of violence that occur where you have a mental illness, are affected by intoxicating substances or where you have a deprived background that has seriously impacted on your ability to control your behaviour as compared to more premeditated crimes like fraud offences committed by people in positions of trust who do not have the sort of deprived background that violent offenders do.¹⁹⁹

- 4.36 This accords with the evidence of the NSW Law Society which stated “...existing evidence does not support the argument that increasing a maximum penalty has a significant deterrent effect in relation to offences which are not pre-meditated”.²⁰⁰ The Law Society noted that in *Munda v Western Australia*, the High Court acknowledged that general deterrence may be of limited use in some circumstances:

It may be argued that general deterrence has little rational claim upon the sentencing discretion in relation to crimes which are not premeditated. That argument has special force where prolonged and widespread social disadvantage has produced communities so demoralised or alienated that it is unreasonable to expect the conduct of individuals within those communities to be controlled by rational calculation of the consequences of misconduct.²⁰¹

- 4.37 Further, the Law Society noted ‘the limited utility of general deterrence’ where offenders suffer from a mental condition, quoting the Judicial Commission of NSW:

General deterrence is attributed little weight in cases where the offender suffers from a mental condition or abnormality because such an offender is not an appropriate medium for making an example of.²⁰²

¹⁹⁸ *Transcript of Evidence*, 18 November 2016, p2.

¹⁹⁹ *Transcript of Evidence*, 14 November 2016, p39.

²⁰⁰ Submission 34, Law Society of NSW, p2.

²⁰¹ Submission 34, Law Society of NSW, p2 quoting the Judicial Commission of NSW’s discussion of the High Court’s comments in *Munda v Western Australia* (2013) 87 ALJR 1035 at [54].

²⁰² Submission 34, Law Society of NSW, p2.

Possible Options for Reform

Public access to sentencing data for offences against emergency services personnel should be increased

Recommendation 42

That the NSW Government consider changes to require the NSW Police Force and the Courts to record where the victim of an offence is an emergency services worker, so that all sentencing statistics that relate to violence against emergency services personnel are clearly identifiable.

Recommendation 43

That the NSW Government consider additional funding so that a greater number of judgments of the Local and District Courts of NSW can be transcribed and published on the NSW Caselaw website.

- 4.38 The Committee is concerned at the limited public access to information about sentencing patterns for violence against emergency services personnel, discussed above. This limits public understanding of why a court imposed the sentence that it did in any given case. Similarly, there can be no public oversight of the sentences handed down for violence against emergency services personnel if much of the sentencing data for these offences does not identify the victim as an emergency services worker. Violence against emergency services personnel is unacceptable behaviour and emergency services personnel and the broader community must be confident that offenders are dealt with appropriately.
- 4.39 For these reasons, the NSW Government should consider changes to require the Police Force and the Courts to record where the victim of an assault or murder is an emergency services worker. In 2007, changes were made to require courts to identify and record domestic violence offences on an offender's criminal record. To facilitate the identification of offences committed in a domestic violence context, the Judicial Commission assigned over 100 new law part codes.²⁰³ A similar approach may be able to be taken to identify offences committed against emergency services personnel. This data could then be built into the JIRS database to better inform the public. As above, the Judicial Commission has confirmed that it is possible for any relevant sentencing information that is collected to be built into the JIRS database, which is a source of rich sentencing data.
- 4.40 To be able to record where the victim is an emergency services worker, the Government would need to settle on a definition of this term. It is clear that police; ambulance officers; firefighters; protective services officers; SES workers; lifesavers; marine rescuers; and hospital staff who provide emergency treatment should be covered. The Committee considers hospital emergency department security staff should also be covered given the inherent duties of their work. It is less clear whether emergency department support staff e.g. cleaners and administration workers should be covered. While they are not on the frontline in treating patients and there is the need to draw the line somewhere, these

²⁰³ Judicial Commission of NSW, *Sentencing Trends & Issues No 45 – Sentencing for Domestic Violence*, 21 July 2016, pp1-2, available at: <https://www.judcom.nsw.gov.au/sentencing-trends-45/>, viewed 30 May 2017.

workers could be involved in a violent incident, particularly assisting frontline and security staff to manage it.

4.41 In addition to recording where the victim is an emergency services worker, as most matters involving violence against emergency services personnel are dealt with outside the Supreme Court, the NSW Government should consider extra funding so that a greater number of Local and District Court judgments are transcribed and published on the NSW Caselaw website.

4.42 As noted earlier in the chapter, sentencing is a complex process and judicial officers must take a variety of factors into account in arriving at an appropriate sentence. At the Committee's hearing on 18 November 2016, Ms Musgrave spoke in favour of initiatives to increase public understanding of sentencing, indicating this may assist to allay concerns that sentencing for violence against emergency services personnel is too lenient:

I do feel there is an understandable level of public concern but it can to a degree arise from a lack of understanding and appreciation of how the court looked at not only the circumstances of the offence but also the subjective circumstances of the offender. Until you get that enriched understanding, there will be a degree of frustration with what people see as a result, particularly when you are facing a sentence of two years jurisdictional maximum and someone gets an alternative sentence. Increasing understanding of why that sentence was imposed would be truly useful.²⁰⁴

4.43 Indeed, at the Committee's hearing on 18 November 2016, Mr Golds told the Committee that his view that sentencing is too lenient is based on anecdotal evidence, not information about sentencing trends:

Mr GOLDS: ...In the courtrooms people who are found guilty of those offences against emergency services personnel are not deemed by the judiciary to be worthy of what we consider appropriate punishment.

Mr DAMIEN TUDEHOPE: Are you saying that anecdotally?

Mr GOLDS: Anecdotally.

Mr DAMIEN TUDEHOPE: There are no specific trends that you can identify?

Mr GOLDS: Absolutely not. I am just going on what public opinion is.

Mr DAMIEN TUDEHOPE: You say that there is a groundswell of public opinion out there which says that if you attack an emergency services worker you will be dealt with leniently?

Mr GOLDS: Yes.²⁰⁵

4.44 At a meeting with the Committee on 22 May 2017, the Chief Judge of the District Court, the Hon Justice DM Price AM stated that increased transcription and publication of court judgments would increase public understanding of the

²⁰⁴ *Transcript of Evidence*, 18 November 2016, p28.

²⁰⁵ *Transcript of Evidence*, 18 November 2016, pp24-25.

sentencing process. In particular, the media would have greater access to judicial reasoning and this could inform what the media produces for the public to read, listen to and watch. His Honour further stated that a significant increase in resources would be needed to achieve this, noting that the County Court in Victoria is allocated specific resources to transcribe and publish its decisions.²⁰⁶

4.45 Past research, both in Australia and overseas also emphasises the importance of educating the public and the media about sentencing. In particular, this research shows:

- In the abstract, the public thinks that sentences are too lenient.
- People who think that sentences are too lenient are more likely to be less knowledgeable about crime and imprisonment rates.
- People have very little accurate knowledge of crime and the criminal justice system.
- The mass media is the primary source of information on crime and justice issues.
- When people are given more information, they are less inclined to support tougher penalties.²⁰⁷

4.46 For example, a jury sentencing study which surveyed 698 jurors from 138 trials in Tasmania between September 2007 and October 2009 suggested that once members of the public are given more information, they overwhelmingly approve of the sentences handed down by judicial officers. The study found:

...informed members of the public overwhelmingly approve of the sentences given by our judges. Based on the findings from 138 trials, jurors who have judged the defendant guilty are more likely to select a more lenient sentence than a harsher sentence than the judge. Moreover, when they are informed of the sentence, they are highly likely to endorse it.²⁰⁸

4.47 A 2015 sentencing study by the Judicial Commission likewise observed that public dissatisfaction with sentencing can be caused by a lack of information:

Media commentary and criticism about sentencing decisions has become common. The perceived leniency by the public of sentencing is partly caused by a lack of information about the sentencing process and sentencing outcomes...

Numerous studies have examined whether sentences imposed by the courts are generally regarded by the public as too lenient. Some of these studies suggest that the more information members of the public (whether they be jurors or randomly selected respondents) have about a case, the more likely it is that they will

²⁰⁶ Meeting with Hon DM Price AM, Chief Judge, District Court of NSW, Committee Site Visit, 22 May 2017.

²⁰⁷ See Roth, L. 'Public opinion on sentencing: recent research in Australia' *NSW Parliamentary Research Service e-brief 08/2014*, pp2&10.

²⁰⁸ Warner, K. et al, 'Jury Sentencing Survey' Report to the Criminology Research Council, April 2010, p8, as cited in Roth, L. 'Public opinion on sentencing: recent research in Australia' *NSW Parliamentary Research Service e-brief 08/2014*, p8.

hypothetically impose a more lenient sentence than the court, or at least agree with the sentences imposed by the court. In one Victorian study, members of the public were given the facts of several cases that had already been decided by the courts. The author found that for three offence categories, the sentences imposed by the courts were harsher than those suggested by the respondents.²⁰⁹

- 4.48 Further, the Judicial Commission study found that, for the offences selected for the study, sentences in NSW were among the most severe across the eastern seaboard states of Australia. The study stated:

Despite some small differences in statutory maximum penalties (and putting to one side partially suspended sentences) NSW had higher full-time imprisonment rates than Queensland and Victoria for all five offence categories examined and higher median head sentences than both States for the offences of child sexual assault, robbery, and break and enter/burglary.

The sentencing patterns presented in this study are generally consistent with those reported by the Judicial Commission in 2007. That study concluded that calls in the media for more severe sentences in NSW, at least comparatively speaking, were “pushing an open door”. This study confirms that observation.²¹⁰

It is not necessary to create new offences or penalties to deal appropriately with violence against emergency services personnel

Finding 12

It is not necessary to create new offences or penalties to appropriately punish offenders for violence against emergency services personnel.

- 4.49 During the inquiry, some stakeholders argued the offences that exist in the *Crimes Act 1900* for assault and murder of police officers should extend to other emergency services personnel. However, legal experts warned that were such provisions created, it would over-complicate the law, raising further questions about why other categories of employee were not included. The Committee also heard that it should focus on measure to prevent violence from happening in the first place – not creating new offences and penalties to deal with people after the fact. This is because new offences and penalties would do little to deter people from committing these types of offences, which are often linked to mental illness and drugs and alcohol.
- 4.50 Given the above, and in the absence of data suggesting a pattern of inadequate sentencing for violence against emergency services personnel, the Committee does not support the creation of new offences and penalties. In addition, it does not support the creation of further mandatory minimum penalties as sentencing is a complex process and each case should be decided according to its own individual circumstances.

²⁰⁹ Judicial Commission, *Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment*, March 2015, pp1-2, available at: <https://jirs.judcom.nsw.gov.au/publish/mono39/monograph39.pdf>, viewed 19 June 2017.

²¹⁰ Judicial Commission, *Sentencing in NSW: A cross-jurisdictional comparison of full-time imprisonment*, March 2015, p47.

- 4.51 The current general provisions of the *Crimes Act 1900* are appropriate to punish offenders for violence against emergency services personnel, and the Committee strongly supports current provisions in the *Crimes (Sentencing Procedure) Act 1999* that provide offences against emergency services personnel are to be treated more seriously by a sentencing court. Standard non-parole periods are also in place for some offences, providing additional guidance for courts and the appeals process provides another safeguard.
- 4.52 The focus should now turn to increasing public oversight and understanding of the sentencing process through increasing public access to sentencing data (as detailed above), and to proactively preventing violence from occurring through acting on the recommendations about training, equipment and resources discussed in earlier chapters of the report.
- 4.53 During the inquiry, some emergency services agencies argued that the specific offences that exist in the *Crimes Act 1900* for assault and murder of police officers (discussed above) should extend to other emergency services personnel. For example, Mr Connellan of Fire and Rescue NSW stated:
- We...support extending the special offences for injury and murder of police officers to other emergency services workers on the basis that they all deserve these special protections.²¹¹
- 4.54 Mr Rogers of the NSW Rural Fire Service provided similar evidence to the Committee:
- I think that would be appropriate...we need to have consistent and clear community expectations of behaviour when people are dealing with these types of situations...²¹²
- 4.55 Similarly, Ms Iacurto of the NSW SES provided the following evidence:
- The protections that are provided under section 24 of the New South Wales State Emergency Services Act are not as strong as those provided in the Crimes Act for law enforcement officers. We have a view that it would be a benefit in terms of reduction of the risk for our members and our volunteers if the penalties were to be increased to the same level as for law enforcement officers.²¹³
- 4.56 As above, other stakeholders, such as Mr Golds, argued for mandatory minimum penalties for violence against emergency services personnel stating that current sentencing is too lenient, public officers are 'at the end of their tether' and that three and a half thousand people have signed his E-petition calling for mandatory sentences.²¹⁴
- 4.57 Notwithstanding this, the weight of evidence taken during the inquiry militates against mandatory minimum sentences and the creation of new offences. For example, NSW Ambulance did not specifically argue that legislative provisions for

²¹¹ *Transcript of Evidence*, 14 November 2016, p19.

²¹² *Transcript of Evidence*, 14 November 2016, p25.

²¹³ *Transcript of Evidence*, 14 November 2016, p17.

²¹⁴ Submission 5, Mr Greg Golds, p1.

police and other emergency services personnel should be identical. Mr Morgan told the Committee he is confident the courts take violence against emergency services seriously under the current law, an approach that he strongly supports:

Generally speaking, the issue is not so much whether things are equal. Subtleties will be taken into account, either by the government of the day or the courts, to determine those things. There is good evidence that the courts deal with perpetrators of violence against emergency services workers more harshly than they do members of the general community. I support that, from the perspective that it is very different. These are a group of people who come to work to help, whether they are police or paramedics. If we want good people to come forward and take on these roles, they need to feel protected by their employer and by the legislation.²¹⁵

4.58 Similarly, the NSW Police Force has not called for the creation of new offences, providing no view on the matter and stating it is a matter of Government policy.²¹⁶

4.59 The Director of Public Prosecutions (DPP), the Law Society of NSW, and the NSW Society of Labor Lawyers warned against over-complicating the law by creating provisions related to the victim's status as an emergency services worker. The Committee agrees with these stakeholders that if such provisions were created, it would raise further questions about why other categories of employees were not included. The NSW Society of Labor Lawyers stated:

The Society cautions against adopting any definition that may have the effect of creating artificial distinctions between classes of employees; all employees should have workplaces free from assault.²¹⁷

4.60 Similarly, the DPP, Mr Lloyd Babb SC, told the Committee:

You could conceivably not have an offence for assaulting emergency services personnel but have sufficient scope within very simple, very basic offences....You are touching on an area that I am very interested in, which is simplifying the law rather than doing it in a piecemeal way. Because as you add on one particular profession, it is going to become clear with the next high-profile case that we have missed another public servant or another profession doing good for the community and putting themselves in harm's way that way.²¹⁸

4.61 Ms Musgrave of the Law Society of NSW stated:

I fully appreciate the dynamic that emergency services workers are involved in, it must be an extremely volatile situation, but you have other areas of employment that are vulnerable for other reasons. You will immediately get a broken down offence or employment-specific system of legislation – you will have emergency service workers, teachers, people in remote communities, different things everywhere. The beauty of the Crimes Act is that it says, "Here is one offence that really fits every member of society" with these parameters that allow a magistrate to

²¹⁵ *Transcript of Evidence*, 14 November 2016, p13.

²¹⁶ NSW Police Force, Further Answer to Question Taken on Notice, 14 November 2016, p1.

²¹⁷ Submission 22, NSW Society of Labor Lawyers, p1.

²¹⁸ *Transcript of Evidence*, 14 November 2016, p38.

go in and say, “What was operating here? I have got the scope to respond appropriately”.²¹⁹

- 4.62 In addition, the Health Services Union and the Fire Brigade Employees Union have argued the Committee should concentrate on preventing violence against emergency services personnel, not creating new offences and penalties to deal with perpetrators after the fact. As outlined above, these stakeholders have argued that given the links between these type of offences and drugs, alcohol and mental health issues, sentencing does little to deter offenders. Similarly, the NSW Society of Labor Lawyers stated:

A focus on sentencing of individual offenders (who may be affected by drugs, mental illness or a range of other circumstances) risks drawing attention away from a focus on employers making changes to their work places (including for example training, physical workplaces, equipment and support) that enable employees to avoid assaults in the course of their duties.²²⁰

- 4.63 This accords with the evidence of the DPP and the Law Society of NSW, also discussed above, which indicates stricter sentencing is unlikely to be a deterrent for these types of offences. While deterrence is but one factor to consider in any sentencing regime, the Committee considers it is an important one.

- 4.64 Finally, Legal Aid NSW has argued against mandatory minimum sentencing in this area stating:

Legal Aid NSW submits that the current regime is adequate and it would not be appropriate to over prescribe sentencing thresholds or mandatory minimum terms for these types of offences. Rather, the judiciary should retain the fullest discretion in reflecting the aggravating and mitigating features when sentencing the accused.²²¹

- 4.65 As detailed above, sentencing is a complex process and the Committee agrees each case should be considered on its own individual circumstances. New mandatory minimum penalties should not be created. The current maximum penalties, standard non-parole periods and the sentencing provisions stipulating that offences against emergency services personnel are to be treated more seriously provide adequate guideposts for judicial officers in arriving at an appropriate sentence. As the Law Society has pointed out, the appeals process provides an additional safeguard.²²²

Increasing the sentencing power of the NSW Local Court

The NSW Attorney General should consider a further review of the sentencing power of the NSW Local Court

Recommendation 44

That the NSW Attorney General consider asking the NSW Sentencing Council to conduct a further review of the sentencing power of the NSW Local Court.

²¹⁹ *Transcript of Evidence*, 18 November 2016, p29.

²²⁰ Submission 22, NSW Society of Labor Lawyers, p 2.

²²¹ Submission 25, Legal Aid NSW, p4.

²²² *Transcript of Evidence*, 18 November 2016, pp28-29.

- 4.66 Throughout the course of its inquiry, the Committee considered the sentencing power of the NSW Local Court. Most assaults against emergency services personnel in NSW are heard in the Local Court.²²³ Therefore, a question that arose for the Committee was whether the sentencing power of the Local Court is sufficient to deal with such violent offences and whether it should be increased.
- 4.67 The Committee found the question of whether the Local Court's sentencing power should be increased is a complex policy matter upon which stakeholder opinion is divided. As it has been some years since the NSW Sentencing Council's 2010 report on the issue, and given it is an important issue in ensuring appropriate sentencing for violence against emergency services personnel, the Attorney General should consider asking the Sentencing Council to conduct a further review of it.
- 4.68 In NSW, the court in which an offence is tried depends on the type of offence. Summary offences, which are less serious offences, are generally triable in the Local Court. Indictable offences, which are more serious offences, are generally triable in the District or Supreme Courts.²²⁴
- 4.69 The exception is 'Table 1' and 'Table 2' offences. 'Table 1' offences are to be tried summarily in the Local Court unless the prosecution *or the accused* elects otherwise, in which case they can be dealt with on indictment in the District Court. 'Table 2' offences are to be tried summarily in the Local Court unless the prosecution elects otherwise, in which case they can be dealt with on indictment in the District Court.²²⁵
- 4.70 If an offence is tried in the Local Court, the maximum penalty the court can order is:
- 2 years imprisonment for a single offence
 - 5 years imprisonment for consecutive sentences
 - 100 penalty units (currently a \$1,100 fine)²²⁶
- regardless of what the maximum legislated penalty for the offence in fact is. For example, a person who is tried in the Local Court for an offence that attracts a maximum penalty of 10 years imprisonment under the *Crimes Act 1900*, could only be sentenced to a maximum two years imprisonment. In contrast, if he or she were tried in the District Court for the same offence, the District Court would have jurisdiction to hand down anything up to the maximum legislated penalty of 10 years imprisonment.
- 4.71 As above, the majority of assaults committed in NSW against emergency services personnel are tried in the Local Court. Some of these are Table 1 of Table 2 offences with quite significant maximum penalties including:

²²³ Submission 19, Acting Director of Public Prosecutions, p1.

²²⁴ See *Criminal Procedure Act 1986*, ss5-8.

²²⁵ See *Criminal Procedure Act 1986*, s6 and schedule 1.

²²⁶ *Criminal Procedure Act 1986*, ss267-268 and *Crimes (Sentencing Procedure) Act 1999*, s58(1).

- Use or possession of a weapon to resist arrest (maximum penalty: 12 years imprisonment or 15 years imprisonment if in company, section 33B *Crimes Act 1900*).
- Reckless grievous bodily harm (maximum penalty: 10 years imprisonment or 14 years imprisonment if in company, section 35 *Crimes Act 1900*).
- Reckless wounding (maximum penalty: 7 years imprisonment or 10 years imprisonment if in company, section 35 *Crimes Act 1900*).
- Assault, throw missile at, stalk, harass or intimidate police officer during public disorder (maximum penalty: 7 years imprisonment or 9 years imprisonment if the assault occasions actual bodily harm, section 60 *Crimes Act 1900*).

- 4.72 In short, the specific question that arose during the Committee's inquiry into violence against emergency services personnel is whether the Local Court's two to five year jurisdictional limit is sufficient to address these violent offences, particularly the ones with significant maximum penalties of 7 to 10 years gaol.
- 4.73 The Committee met with the Chief Magistrate of NSW, His Honour Judge GL Henson on 7 November 2016 and His Honour expressed support for increasing the sentencing power of the Local Court.²²⁷ Specifically, His Honour considers the maximum penalty the Court should be able to order for a single offence should be five years imprisonment, rising from the current two years. In addition, His Honour considers the maximum penalty the Court should be able to order for more than one offence on a cumulative basis should be six years imprisonment, rising from the current five years.
- 4.74 His Honour has indicated that his reasons are twofold. His Honour has stated that the number of very serious offences left in the Local Court that would justify a sentence of more than two years is on the rise. In addition, His Honour has stated that increasing the sentencing power would enable the District Court to divert a significant number of offences away from the District Court to the Local Court, taking pressure off the District Court.
- 4.75 The Chief Judge of the District Court, the Hon Justice DM Price AM also stated at a meeting with the Committee on 22 May 2017 that he supports an increase in the sentencing power of the Local Court, with the qualification that the extent of the increase will require further detailed consideration.²²⁸
- 4.76 The Committee also met with the Hon Justice P Johnson of the Supreme Court on 1 May 2017, at the NSW Parliament. His Honour administers the Supreme Court's criminal law list. His Honour raised concerns about increasing the jurisdictional limit of the Local Court so that it could order a maximum penalty of five years imprisonment for a single offence.²²⁹ His Honour stated that such an increase, and a corresponding increase in the limit for more than one offence, might increase the number of cases dealt with summarily in the Local Court, but

²²⁷ Meeting with His Honour Judge GL Henson, Chief Magistrate of NSW, Committee Site Visit, 7 November 2016.

²²⁸ Hon DM Price AM, Chief Judge, District Court of NSW, Committee Site Visit, 22 May 2017.

²²⁹ Meeting with Hon Justice P Johnson of the Supreme Court of NSW, 1 May 2017.

also increase significantly the number of cases proceeding on appeal to the District Court, where the appeal proceeds as a complete rehearing on sentence. His Honour stated:

If the jurisdictional limit was increased to five years, it may be that fewer cases would proceed to the District Court for sentence, but that a substantial number of appeals would be brought to the District Court so that the District Court would be engaged in any event in a full sentencing hearing, and with that occurring after a full sentencing hearing had already taken place in the Local Court.²³⁰

4.77 Justice Johnson further clarified that his concerns relate to a possible increase in jurisdictional limit from two to five years imprisonment. His Honour stated that there may well be justification for a lesser increase to, for example, three years imprisonment for a single offence, with a corresponding increase in the limit for more than one offence. His Honour indicated that an increase of this scale would involve less risk of duplication by way of appeal as outlined above.

4.78 The Committee also questioned the DPP about the issue at its hearing on 14 November 2016. Mr Babb stated:

The question about the extension of the jurisdiction of the Local Court is an important policy question. Personally, I do support an extension of the jurisdiction of the Local Court, not simply in relation to particular offences. I think that there is the expertise in the Local Court to deal with serious matters, but as the Committee is probably aware, it is a controversial topic and you could call other senior lawyers who would not share my view.²³¹

4.79 The NSW Sentencing Council reviewed the sentencing power of the Local Court in 2010. Using JIRS, it reviewed personal violence offences finalised in the Local Court between July 2005 and June 2009 for which the maximum penalty was imposed.²³²

4.80 Based on this data, the Sentencing Council recommended against enlarging the Local Court's jurisdiction to allow it to impose a maximum sentence of 5 years imprisonment for a single offence.²³³ It found there was an absence of any clear evidence that the current jurisdictional limits were causing a problem in the imposition of appropriate sentences:

The Council is of the view that the sentencing statistics do not support the need for a general increase in the Local Court's jurisdiction.²³⁴

4.81 Additionally, the Sentencing Council accepted that there were 'sound policy reasons for preservation of the status quo'.²³⁵ While the Chief Magistrate of the

²³⁰ Associate to Hon Justice P Johnson, email to Committee Secretariat, 13 June 2017, p1.

²³¹ *Transcript of Evidence*, 14 November 2016, p38.

²³² Sentencing Council, *An Examination of the sentencing powers of Local Courts in NSW*, December 2010, Annexure C, p79, available at:

http://www.sentencingcouncil.justice.nsw.gov.au/Documents/sentencing%20powers%20of%20the%20local%20court_dec%202010.pdf, viewed 15 June 2017.

²³³ Sentencing Council, *An Examination of the sentencing powers of Local Courts in NSW*, December 2010, p41.

²³⁴ Sentencing Council, *An Examination of the sentencing powers of Local Courts in NSW*, December 2010, p39.

²³⁵ Sentencing Council, *An Examination of the sentencing powers of Local Courts in NSW*, December 2010, p39.

Local Court and the NSW Police Force supported an increased jurisdictional limit, the then Chief Judge of the District Court; the Public Defenders; the NSW Bar Association; the Law Society of NSW; Legal Aid NSW and Young Lawyers NSW opposed it. The then DPP, Corrective Services NSW and the State Parole Authority also warned of resourcing implications.²³⁶

- 4.82 In 2013, the NSW Law Reform Commission revisited the issue. Again, most stakeholders did not support an increase in the Local Court's jurisdiction.²³⁷ Owing to this absence of broad stakeholder support, the Law Reform Commission did not recommend change at that time. However, it recommended the matter should remain under review and that:

The NSW Sentencing Council should monitor the consequences of the limit on the Local Court's sentencing jurisdiction. The Council should consider any difficulty that the limit presents for imposing appropriate sentences and any other relevant matter, including the possibility that it is adversely affecting the timely disposition of the state's criminal caseload. The Council should report on its review within two years.²³⁸

- 4.83 The Sentencing Council has advised that it has not conducted further work on this matter since its 2010 report, and it is understood that if a project of this nature were undertaken, it would be initiated by the request of the Attorney General.²³⁹

- 4.84 The Committee has limited evidence concerning the sentencing of people who are violent towards emergency services personnel, owing to the lack of data discussed earlier in this chapter. In addition, the issue of the Local Court's sentencing power is complex, with stakeholder opinion divided, and the Committee has only heard evidence from a small portion of the affected stakeholders.

- 4.85 Therefore, the Committee is not in a position to make a conclusive decision on the issue. Notwithstanding this, the sentencing power of the Local Court is an important issue when considering appropriate sentencing for violence against emergency services personnel.

- 4.86 Given this, the fact the Local Court's sentencing power has not been reviewed for some years, and the fact that the Law Reform Commission has recommended a further review, the NSW Attorney General should consider asking the Sentencing Council to conduct a further review of the matter, in consultation with all relevant stakeholders.

²³⁶ Sentencing Council, *An Examination of the sentencing powers of Local Courts in NSW*, December 2010, pp18-32.

²³⁷ NSW Law Reform Commission, *Report 139: Sentencing*, July 2013, p421, available at: <http://www.lawreform.justice.nsw.gov.au/Documents/Publications/Reports/Report-139.pdf>, viewed 15 June 2017.

²³⁸ NSW Law Reform Commission, *Report 139: Sentencing*, July 2013, p423.

²³⁹ See *Crimes (Sentencing Procedure) Act 1999*, s100J(1)(d).

All existing offences of violence against emergency services personnel could be contained in the *Crimes Act 1900*

Recommendation 45

That the NSW Government consider changes so that all existing offences for violence against emergency services personnel are dealt with under the *Crimes Act 1900*.

- 4.87 While the Committee does not recommend creating new offences to deal with violence against emergency services personnel, there are some discrete changes that could be made to the law so that it deals better with violence against emergency services personnel. First, as discussed earlier in this chapter, some offences of obstructing or hindering emergency services personnel are contained in legislation other than the *Crimes Act 1900*, that is:
- The Health Services Act 1997 (s67J)
 - The Rural Fires Act 1997 (s42)
 - The State Emergency Service Act 1989 (s24); and
 - The Fire Brigades Act 1989 (s35).
- 4.88 To reflect the criminality of such conduct, and to send a clear message that it will be treated seriously by the courts, the Government should consider moving these offences to the *Crimes Act 1900*. If officers and volunteers who are performing vital work for the community are being obstructed it is not a trivial matter and this anti-social behaviour has the potential to discourage people from taking up emergency service roles.²⁴⁰
- 4.89 At the Committee's hearing on 18 November 2016, Ms Musgrave of the Law Society of NSW provided the following evidence about whether all violence against emergency services personnel should be dealt with in the *Crimes Act 1900*:
- I keep on going back to general principles, and I think they apply equally here. You will find that in the New South Wales criminal law you will often have two tiers of responses. You will have a specific response in the specific Act and it might be regulatory or it might be a low-level offence in, say...the Rural Fires Act where there will be some specific offences. That should be your first port of call, and part of the decision about your response is: Is this offending so serious that it has the indicia of criminality that needs to be taken up into the Crimes Act where the more serious offences lie?²⁴¹
- 4.90 In deciding whether to move the offences to the *Crimes Act 1900*, the Government would need to consult all affected stakeholders including the relevant emergency services agencies and the NSW Police Force. Ms Musgrave

²⁴⁰ For example, Mr Rob Rogers of the NSW Rural Fire Service warned the Committee that 'Any instances of violence... have the potential to be a disincentive to volunteering, which could have a long-lasting impact on volunteer numbers' see *Transcript of Evidence*, 18 November 2016, p29.

²⁴¹ *Transcript of Evidence*, 18 November 2016, p29.

further indicated that one factor for consideration may be whether emergency services agencies actually prefer dealing with their in-house regulators to prosecute lower level matters, rather than referring them to Police to be dealt with under the *Crimes Act 1900*.²⁴²

- 4.91 Sentencing data provided to the Committee by the Judicial Commission of NSW (which is reproduced at Appendix Seven) shows that between 2013 and 2016 there were limited prosecutions for the offences that fall outside the *Crimes Act 1900* (41 under the *Health Services Act 1997* and 4 under the *Fire Brigades Act 1989*). A range of penalties were handed down for these offences and one person was sentenced to prison.

Hospital emergency department security staff should receive special protection under sentencing law

Recommendation 46

That the NSW Government amend the *Crimes (Sentencing Procedure) Act 1999* to clarify that hospital emergency department security staff are covered by provisions that state it is an aggravating factor in determining sentence if the offence has been committed against a 'health worker'.

- 4.92 Another discrete area in need of change is to clarify the categories of worker who receive special protection under sentencing law. The Committee considers the NSW Government should amend section 21A(2)(a) of the *Crimes (Sentencing Procedure) Act 1999* to clarify that emergency department security staff are covered by provisions that state it is an aggravating factor in determining sentence if the offence has been committed against a 'health worker'.
- 4.93 As noted earlier in the chapter, section 21A(2)(a) of the *Crimes (Sentencing Procedure) Act 1999* provides that where a court is determining an appropriate sentence for any offence, it is an aggravating factor if the offence was committed against certain categories of people including an 'emergency service worker' or a 'health worker'. While doctors, nurses and paramedics are clearly covered by these provisions, it is less clear whether others working in and around public hospitals are also covered. This is of particular concern for security staff given the inherent duties of their work.
- 4.94 The Committee understands some steps have already been taken in an effort to plug this gap, and the Committee welcomes this work. The steps that have been taken extend beyond the remit of the hospital emergency department staff that are of interest to the inquiry, to hospital workers more generally. Following the Committee's hearing on 20 February 2017, NSW Health told the Committee that in mid-2016, the then Health Minister requested amendments to the legislation to clarify that all members of the NSW Health service, including security and support staff, are covered by the aggravating factor provisions:

In August 2016, the former Minister for Health wrote to the former Attorney General requesting amendments to the *Crimes (Sentencing Procedure) Act 1999* to clarify that all members of NSW Health Service harmed or assaulted on performing their

²⁴² *Transcript of Evidence*, 18 November 2016, p29.

functions at public hospitals should come within the definition of “health worker” as an aggravating factor in sentencing.

In November 2016, the Attorney General responded and agreed there is merit in seeking an amendment to the Act, to ensure that when sentencing an offender, Courts consider the role security and other support staff provide in protecting staff and patients. The Ministry of Health understand that this is under consideration by the Department of Justice.²⁴³

Other Legal Issues

Mandatory disease testing of persons whose bodily fluids come into contact with police officers and emergency services personnel

A mandatory disease testing power should be further considered by the NSW Government

Recommendation 47

That the NSW Government consider introducing legislation to allow mandatory disease testing of people whose bodily fluids come into contact with police and emergency services personnel, in consultation with all affected stakeholders.

Finding 13

Under any legislative scheme, the power to conduct mandatory testing should only be able to be enlivened in circumstances where there is a risk of transmission of listed diseases. The legislation should clearly define the factual circumstances in which there is a risk of transmission of listed disease and this definition should be based on up to date medical evidence.

- 4.95 In its submission to the inquiry, the Police Association of NSW (PANSW) proposed mandatory disease testing of people whose bodily fluids come into contact with police officers and emergency services personnel in certain circumstances.²⁴⁴ This proposal is based primarily on the stress that emergency services personnel experience waiting for test results following an interaction that could lead to infection with a serious disease like HIV or hepatitis. PANSW told the Committee that certain infectious diseases do not materialise in the bloodstream for a number of months and the waiting time to determine if infection has occurred can be up to six months.²⁴⁵ PANSW argued immediate testing of a person who may have infected a police officer or other emergency services worker, would provide that officer with greater certainty regarding the possibility of infection.²⁴⁶
- 4.96 The Committee is concerned about Police and emergency services personnel being exposed to the risk of serious diseases in the course of their duties and considers that PANSW’s mandatory testing proposal should be further considered by the NSW Government. The Committee notes legislation of this kind already exists in some other jurisdictions including Queensland, South Australia and

²⁴³ NSW Health, Additional Answer to Question Taken on Notice, 20 February 2017, p1.

²⁴⁴ Submission 21, Police Association of NSW, p9.

²⁴⁵ Mr Angus Skinner, Research Manager, Police Association of NSW, *Transcript of Evidence*, 18 November 2016, p15.

²⁴⁶ Mr Oliver Behrens, Executive Member, Police Association of NSW, *Transcript of Evidence*, 18 November 2016, p10.

Western Australia.²⁴⁷ However, the proposal raises complex issues and requires further consultation with all affected stakeholders, particularly health, legal and privacy experts. In addition, it is clear that if a mandatory testing power were introduced, the relevant legislation would require careful drafting so the power could only be enlivened in cases where there is a real risk of transmission of a listed disease, based on up to date medical evidence.

- 4.97 During the inquiry, concerns were raised about PANSW's proposal and a group of six organisations (including ACON; Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine [ASHM]; Hepatitis NSW; NSW Users and AIDS Association; Positive Life NSW and the Sex Workers Outreach Project) wrote to the Committee opposing it. These organisations work in the area of blood-borne viruses, conducting community support work, advising the medical profession and undertaking research.
- 4.98 In particular, the six organisations raised concerns that aspects of PANSW's proposal did not accord with up to date medical evidence about the way in which blood-borne viruses are transmitted.²⁴⁸ They stated there have been no cases of HIV transmission through saliva in Australia, and there is no risk of transmission where bodily fluid comes into contact with unbroken skin, or where there is skin-to-skin contact.²⁴⁹
- 4.99 In response, PANSW identified scenarios police face in the course of their duties that clearly expose them to the risk of blood-borne viruses, including where they are stabbed with needles, or where offenders apply blood to officers so that it comes into contact with broken skin or cuts.²⁵⁰ PANSW also clarified that it did not seek a mandatory testing power covering cases where there is no risk of transmission of a relevant disease. Instead, any legislated power would be based on up to date medical evidence and carefully drafted, defining the factual circumstances under which there is a risk of transmission of a listed disease. The testing power could therefore only be enlivened where a medically supported risk was present.²⁵¹
- 4.100 The six groups raised the further objections to the PANSW's mandatory testing proposal including:
- Contrary to the evidence of the PANSW, they stated mandatory testing will not alleviate the concerns of emergency services personnel who fear they may have contracted an infectious disease. There is a "window period" during which HIV and other blood-borne viruses cannot be detected and the testing of a person can only be considered preliminary. In short, even if the person who may have infected the emergency services officer tested negative, this would not be conclusive, and the relevant emergency services officer would have to continue to undertake testing and treatment. Similarly,

²⁴⁷ See *Police Powers and Responsibilities Act 2000* (Qld), *Criminal Law (Forensic Procedures) Act 2007* (SA) and *Mandatory Testing (Infectious Diseases) Act 2014* (WA).

²⁴⁸ ACON et al, Letter to the Committee dated 16 February 2017, p1.

²⁴⁹ ACON et al, Letter to the Committee dated 16 February 2017, p2.

²⁵⁰ Police Association of NSW, Letter to the Committee dated 3 March 2017, p2.

²⁵¹ Police Association of NSW, Letter to the Committee dated 3 March 2017, p2.

the person testing positive would not necessarily mean the officer had contracted the disease themselves.²⁵²

- Testing without consent poses a significant invasion of privacy and bodily autonomy that is disproportionate considering the lack of certainty and medical benefit arising from mandatory testing.²⁵³
- It could increase the significant existing stigma and discrimination that people living with blood-borne viruses such as HIV and hepatitis experience. This is particularly relevant because various vulnerable or minority population groups are disproportionately affected by these diseases, including gay men, people who inject drugs, sex workers, people from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander people. The introduction of a mandatory testing power could further impact groups who are already facing various degrees of discrimination.²⁵⁴
- Increased discrimination may also result in fewer people seeking medical help for relevant diseases, and significantly impair progress regarding treatment and voluntary testing.²⁵⁵
- There is also a concern that if mandatory testing were introduced, there could be circumstances where an order for testing was made by someone who is not a medical professional (e.g. a senior police officer).²⁵⁶

4.101 PANSW responded to the various objections as follows:

- In response to concerns that mandatory testing will not alleviate the concerns of emergency services personnel who fear they have contracted a disease because of the “window period”, PANSW acknowledged that while immediate testing would not be conclusive, it would be of considerable comfort to an officer during the waiting period. Further, a positive test would help an officer prepare for his/her own tests results and provide more information when considering risk levels and treatment options.²⁵⁷
- In response to concerns that the proposed power would constitute a significant invasion of privacy and bodily autonomy, PANSW acknowledged this and confirmed that any legislated power would need to be accompanied by clear limits on the persons to whom results could be disclosed, and relevant confidentiality requirements. Similarly, as above, the testing power would only be enlivened where there is a real risk of transmission of a listed disease.²⁵⁸
- In response to concerns that the proposal could increase stigma and discrimination against people with blood-borne viruses, including those

²⁵² ACON et al, Letter to the Committee dated 16 February 2017, p2.

²⁵³ ACON et al, Letter to the Committee dated 16 February 2017, p3.

²⁵⁴ ACON et al, Letter to the Committee dated 16 February 2017, p2.

²⁵⁵ ACON et al, Letter to the Committee dated 16 February 2017, p2.

²⁵⁶ ACON et al, Letter to the Committee dated 16 February 2017, pp2-3.

²⁵⁷ Police Association of NSW, Letter to the Committee dated 3 March 2017, p3.

²⁵⁸ Police Association of NSW, Letter to the Committee dated 3 March 2017, p4.

population groups at particular risk, and stop them from engaging with health services, PANSW stated that the proposal would be carefully drafted to ensure no groups were unfairly targeted. As above, the power would be confined to specific factual circumstances and accompanied by strict confidentiality obligations in the attempt to address these risks.²⁵⁹

- In response to concerns that if mandatory testing were introduced there could be circumstances where an order for testing was made by someone who is not a medical professional, PANSW again stated that the legislation would need to be carefully drafted to ensure the mandatory testing power could only be enlivened in defined factual circumstances where there is a real risk of transmission. This would mean no senior police officer could make a valid order unless it was based on accurate medical evidence.²⁶⁰

4.102 When consulted about the PANSW's mandatory testing proposal, the Australian Paramedics Association, NSW commented on a range of complex issues surrounding it and indicated support for further investigation of the proposal in consultation with all affected stakeholders.²⁶¹

4.103 In conducting such consultation, the Committee considers that in addition to the above, a number of other issues would need to be addressed. These include:

- Whether any testing power, if introduced, should be able to be enlivened by the possible exposure itself, or whether the power should only be able to be triggered against a person who has first committed an offence (the 'predicate offence' model).
- Who should be able to make the decision to enliven any testing power, if introduced. While the above discussion envisages the decision could be made by a senior police officer, other possibilities include a court or medical officer.
- Any operational guidelines and procedures to underpin the legislation should a testing power be introduced. For example, in introducing mandatory testing legislation in South Australia, the relevant Minister stated that it was intended that senior police officer decision-makers would have expert guidance on the risks of transmission of infectious diseases in deciding if testing was appropriate, and that a protocol would be developed between SA Health and South Australia Police in close consultation with the Chief Public Health Officer to ensure that senior police officers are properly informed and testing is performed appropriately.²⁶²
- Whether there should be oversight of decisions to trigger any testing power, if introduced. For example, whether there should be a right of appeal to a court, higher court, or other body against an order for mandatory testing.

²⁵⁹ Police Association of NSW, Letter to the Committee dated 3 March 2017, pp3-4.

²⁶⁰ Police Association of NSW, Letter to the Committee dated 3 March 2017, p5.

²⁶¹ Australian Paramedics Association, NSW, Letter to the Committee dated 13 March 2017.

²⁶² South Australia, *Parliamentary Debates*, 18 June 2015, Legislative Council, Hon Gail Gago.

- 4.104 Guidance may also be sought from the experience of other jurisdictions. As above, mandatory testing legislation already exists in Queensland, South Australia and Western Australia. During the course of its inquiry, the Committee examined this legislation, paying particular regard to how the power is enlivened in each jurisdiction and who is covered by it.
- 4.105 The Committee found that none of the jurisdictions has a mandatory testing power triggered by the fact of exposure itself. Rather, each jurisdiction has adopted the ‘predicate offence’ model under which mandatory testing can only be undertaken on a person who is suspected of a prescribed offence. Jurisdictions differ in relation to whom the testing power can be applied, and in relation to who can make a decision to trigger the testing power. Detail for each jurisdiction follows.
- 4.106 Queensland has adopted the ‘predicate offence’ model of testing. If certain pre-determined offences are committed, the mandatory testing power is enlivened. These include rape, sexual assault and ‘serious assault’, on the condition that semen, blood, saliva or another bodily fluid may have been transmitted into the victim’s anus, vagina, a mucous membrane, or broken skin.²⁶³
- 4.107 In Queensland, the decision to enliven the testing power is made by a Court. A police officer will make an application to either a Magistrate or the Children’s Court (if the offender is under 18 years old) for a disease test order if he or she reasonably suspects one of the specified offences has occurred. This application will then be heard with as little delay as possible.²⁶⁴ An appeal against a disease test order is possible to the District Court.²⁶⁵ The results of a test must not be disclosed, except to prescribed persons (the victim, the person to whom the test relates, and the people assisting that person after diagnosis), and this prohibition on disclosure is backed by penalties.²⁶⁶
- 4.108 In South Australia, mandatory disease testing may be carried out if the person is suspected of a prescribed serious offence, and it is likely that a person in prescribed employment came into contact with bodily fluid.²⁶⁷ The prescribed offences are as follows:
- (a) Assault, assault causing serious harm and assault causing harm
 - (b) Acts endangering life or creating risk of serious harm
 - (c) Offences relating to public order, assaulting and hindering police, and violent disorder.²⁶⁸
- 4.109 The South Australian power applies in respect of people who are engaged in the following prescribed employment:

²⁶³ *Police Powers and Responsibilities Act 2000* (Qld), s538(1).

²⁶⁴ *Police Powers and Responsibilities Act 2000* (Qld), ss540 and 542.

²⁶⁵ *Police Powers and Responsibilities Act 2000* (Qld), s544.

²⁶⁶ *Police Powers and Responsibilities Act 2000* (Qld), s547.

²⁶⁷ *Criminal Law (Forensic Procedures) Act 2007* (SA), s20B(1).

²⁶⁸ As defined in the *Criminal Law (Forensic Procedures) Act 2007* (SA), s20A.

- (a) Police officer
- (b) Emergency worker (including volunteers)
- (c) Medical practitioner in a hospital
- (d) Nurse or midwife in a hospital
- (e) A person providing assistance or services, in a hospital, to a medical practitioner, nurse or midwife acting in the course of their employment in the hospital
- (f) Officer or employee of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Correctional Services Act (1982) SA*.²⁶⁹

- 4.110 The decision to undertake the test must be made by a senior police officer (of or above the rank of inspector).²⁷⁰ There is no provision for appeal against this decision in South Australia. Disclosure of information obtained under the legislation is prohibited, except in certain circumstances including where the disclosure is necessary for the medical treatment of the person to whom the information relates or any other person, and this prohibition is backed up by penalties.²⁷¹
- 4.111 The testing power in Western Australia is triggered if ‘reasonable grounds for disease testing’ exist. That is, there must be reasonable grounds for suspecting there has been a transfer of bodily fluid from a suspected transferor to a ‘public officer’ as a result of an assault against the ‘public officer’ or the lawful apprehension or detention of the suspected transferor.²⁷² ‘Public officer’ is defined as a police officer, police-related officer or police service employee.²⁷³
- 4.112 The decision to undertake mandatory testing can be made by a senior police officer, that is, an officer of the rank of Inspector or above.²⁷⁴ There is no provision for appeal against a mandatory testing decision. The only exception to this is where the offender is a ‘protected person’, that is, a child or an incapable person. In such cases a public officer must apply to a court for a mandatory testing order and, in this instance, a right of appeal to the District Court exists.²⁷⁵ The results of any test under the legislation must not be disclosed except to prescribed persons (including an affected public officer, the suspected transferor or a health professional involved in treating or providing care for an affected public officer or the affected transferor), and this prohibition is backed up by penalties.²⁷⁶

²⁶⁹ As defined in the *Criminal Law (Forensic Procedures) Act 2007 (SA)*, s20A.

²⁷⁰ *Criminal Law (Forensic Procedures) Act 2007 (SA)*, ss 3 and 20B(1).

²⁷¹ *Criminal Law (Forensic Procedures) Act 2007 (SA)*, s50(1)(n).

²⁷² See *Mandatory Testing (Infectious Diseases) Act 2014 (WA)* in particular ss4, 8(1), 10(1) and 19(1).

²⁷³ *Mandatory Testing (Infectious Diseases) Act 2014 (WA)* s4.

²⁷⁴ *Mandatory Testing (Infectious Diseases) Act 2014 (WA)* ss7(1), 8(1) and 10.

²⁷⁵ See *Mandatory Testing (Infectious Diseases) Act 2014 (WA)* ss 4, 16, 19 and 24.

²⁷⁶ *Mandatory Testing (Infectious Diseases) Act 2014 (WA)* s29.

Violence Against Emergency Services Personnel
Sentencing and Other Legal Issues

Appendix One – Terms of Reference

1. That the Legislative Assembly Committee on Law and Safety inquire into and report on:
 - (a) the adequacy of current measures in place to protect emergency services personnel from violence including internal policies and procedures, training, and public education campaigns;
 - (b) whether current sentencing options for people who assault or murder emergency services personnel remain effective;
 - (c) possible options for reform;
 - (d) any other related matter.

2. In examining these issues the Committee should have regard to:
 - (a) all emergency services personnel, including police; ambulance officers; firefighters; protective services officers; SES workers; lifesavers; marine rescuers; and nurses, doctors and other hospital staff who provide or support emergency treatment;
 - (b) the incidence of assaults on and homicides of emergency services personnel;
 - (c) current sentencing patterns for assaults on and homicides of emergency services personnel;
 - (d) the experience of other jurisdictions.

Appendix Two – Conduct of Inquiry

Terms of Reference

On 12 May 2016, the Committee resolved to conduct an inquiry into violence against emergency services personnel. It also adopted terms of reference for the inquiry which provided the Committee was to inquire into and report on the adequacy of current measures to protect emergency services personnel from violence including internal policies and procedures, training, and public education campaigns; whether current sentencing options for people who assault or murder emergency services personnel remain effective; and possible options for reform. The full terms of reference can be found at Appendix One.

Submissions

The Committee called for submissions by issuing a media release and writing to key stakeholders, inviting them to make a submission. The closing date for submissions was 22 July 2016.

The Committee received 35 submissions from a range of stakeholders including the NSW Government; interstate Government Ministers and agencies; unions and employee groups; peak bodies; community groups; legal experts; and individuals.

A complete list of submissions can be found at Appendix Three.

Public Hearings

The Committee held public hearings for the inquiry on 14 and 18 November 2016, and on 20 February 2017. 28 witnesses appeared to give evidence to the inquiry. They included representatives from the NSW Police Force; the NSW Ministry of Health; NSW Ambulance; the NSW State Emergency Service; Fire and Rescue NSW; the NSW Rural Fire Service; unions and employee associations; the Australasian College for Emergency Medicine; the Law Society of NSW, and the NSW Director of Public Prosecutions. A complete list of the witnesses who appeared before the Committee can be found at Appendix Four.

The transcripts of evidence from the public hearings can be found on the Committee's webpage:

<https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2395>.

Private Briefings

During the course of the inquiry, the Committee also conducted private meetings with legal experts. These experts briefed the Committee on the legal issues of interest for the inquiry, in particular, sentencing.

On 7 November 2016, the Committee conducted meetings with the Chief Magistrate of the NSW Local Court, His Honour Judge GL Henson; the

Chairperson of the Sentencing Council, the Hon James Wood AO QC; and with Mr Ernest Schmatt PSM, Chief Executive and Mr Hugh Donnelly, Director Research and Sentencing, Judicial Commission of NSW.

The Committee met again with the above representatives of the Judicial Commission on 17 February 2017.

On 1 May 2017, the Committee also met with the Hon Justice P Johnson of the Supreme Court of NSW, while on 22 May 2017, it met with the Hon Justice DM Price AM, Chief Judge of the District Court of NSW.

Appendix Three – Submissions

Submission Ms Natalie Stebbings
No 1

Submission Confidential submission
No 2

Submission Confidential submission
No 3

Submission Name suppressed
No 4

Submission Mr Greg Golds
No 5

Submission Office of the Director of Public Prosecutions, WA
No 6

Submission Ms Kelly Tyrrell
No 7

Submission Confidential submission
No 8

Submission Hon Michael Mischin MLC, Attorney General, WA
No 9

Submission Hon John Elferink MLA, Attorney General and Minister for Justice, NT
No 10

Submission Western NSW Local Health District
No 11

Submission Australian Nursing and Midwifery Federation, SA Branch
No 12

Submission Confidential submission
No 13

Submission Confidential submission
No 14

Submission Adjunct Professor Kylie Ward, Australian College of Nursing Ltd
No 15

Submission Ms Leah Parlour, Department of Fire and Emergency Services, WA
No 16

Submission Mr Simon Corbell MLA, Deputy Chief Minister, ACT
No 17

Submission Judge Graeme Henson, Chief Magistrate of the Local Court NSW
No 18

Submission Mr Keith Alder, Acting Director of Public Prosecutions NSW

No 19	
Submission No 20	Confidential submission
Submission No 21	Mr Scott Weber, Police Association of NSW
Submission No 22	NSW Society of Labor Lawyers
Submission No 23	Fire Brigade Employees Union of NSW
Submission No 24	Confidential submission
Submission No 25	Legal Aid NSW
Submission No 26	Injured Workers Support Network
Submission No 27	Professor Anthony Lawler and Professor Andrew Bezzina, Australasian College for Emergency Medicine
Submission No 28	Mr Brett Holmes, NSW Nurses and Midwives' Association
Submission No 29	Australian Medical Association, NSW and Australian Salaried Medical Officers' Federation, NSW
Submission No 30	Ambulance Employees Australia, Victoria
Submission No 31	Ms Anne Gardiner, Public Service Association of NSW
Submission No 32	Health Services Union
Submission No 33	Hon David Elliot MP, NSW Government
Submission No 34	Mr Gary Ulman, Law Society of NSW
Submission No 35	Confidential submission

Appendix Four – Witnesses

MONDAY, 14 NOVEMBER 2016, MACQUARIE ROOM, PARLIAMENT HOUSE

Witness	Organisation
Assistant Commissioner Carlene York Assistant Commissioner	NSW Police Force
Mr Dominic Morgan Chief Executive	NSW Ambulance
Mr Allan Loudfoot Executive Director, Clinical Services	NSW Ambulance
Ms Kathleen Iacurto Director, People and Culture	NSW State Emergency Service
Mr Gary Zuiderwyk Manager, Work Health and Safety	NSW State Emergency Service
Mr Malcolm Connellan Executive Director, People and Culture	Fire and Rescue NSW
Mr Gerry Byrne Assistant Commissioner, Metropolitan Operations	Fire and Rescue NSW
Mr Rob Rogers AFSM Deputy Commissioner and Executive Director, Operations	NSW Rural Fire Service
Mr Gerard Hayes State Secretary	Health Services Union
Mr Lloyd Babb SC Director of Public Prosecutions	Office of the Director of Public Prosecutions
Mr Brett Holmes General Secretary	NSW Nurses and Midwives' Association
Mr Leslie Gibbs Work Health and Safety Professional Officer	NSW Nurses and Midwives' Association
Ms Bernadette Compton Endorsed Enrolled Nurse, Ryde Hospital	NSW Nurses and Midwives' Association
Dr Roderick Bishop Fellow of the College	Australasian College for Emergency Medicine
Mr Gary Wilson Secretary	Australian Paramedics Association, NSW

FRIDAY, 18 NOVEMBER 2016, MACQUARIE ROOM, PARLIAMENT HOUSE

Witness	Organisation
Mr Leighton Drury State Secretary	Fire Brigade Employees Union
Ms Claire Pullen Senior Industrial Officer	Fire Brigade Employees Union
Mr Scott Weber President	Police Association of NSW
Mr Oliver Behrens Executive Member	Police Association of NSW
Mr Angus Skinner Research Manager	Police Association of NSW
Mr Greg Golds	Individual
Ms Penny Musgrave Member	Law Society of NSW
Dr Tony Sara President	Australian Salaried Medical Officers' Federation (ASMOF)
Dr Alan Pham Chair, ASMOF State Medical Officers Group Committee	Australian Salaried Medical Officers' Federation (ASMOF)
Dr Kate Porges Member	Australian Medical Association Council

MONDAY, 20 FEBRUARY 2017, JUBILEE ROOM, PARLIAMENT HOUSE

Witness	Organisation
Mr Gerard Hayes State Secretary	Health Services Union
Mr Allan Loudfoot Executive Director, Clinical Services	NSW Ambulance
Mr David Dutton Executive Director Services Delivery	NSW Ambulance
Mr Geoff Waterhouse Senior Project Manager, Radio Telecommunications Capital Works Program	NSW Ambulance
Ms Karen Crawshaw Deputy Secretary, Governance, Workforce and Corporate	NSW Ministry of Health
Ms Annie Owens Director Workplace Relations	NSW Ministry of Health

Appendix Five – Extracts from Minutes

MINUTES OF MEETING No 3

8:31am

12 May 2016

Room 1254

Members Present

Mr Provost (Chair), Mr Rowell (Deputy Chair), Mr Atalla, Ms Leong and Mr Tudehope.

Officers in Attendance

Jason Ardit, Elspeth Dyer and Mohini Mehta.

1. Confirmation of minutes

Resolved on the motion of Mr Atalla:

That the draft minutes of meeting no 2, held on 6 August 2015, be confirmed.

2. Potential inquiry into violence against emergency services personnel

The Committee considered conducting an inquiry into violence against emergency services personnel.

Resolved, on the motion of Mr Rowell:

That the Committee conduct an inquiry into violence against emergency services personnel.

The Committee considered draft terms of reference for the inquiry. Discussion ensued.

The Committee agreed to amend the draft terms of reference by omitting the words:

- “a. whether the current sentencing options for people who assault or murder emergency services personnel remain effective;
- b. possible options for reform;
- c. the adequacy of other measures, including internal policies and procedures, training, and public education campaigns, to ensure emergency services personnel are protected from violence;”

and inserting instead:

- “a. the adequacy of current practices to protect emergency services personnel against violence including internal policies and procedures, training and public education campaigns;
- b. whether current sentencing options for people who assault or murder emergency services personnel remain effective;
- c. possible options for reform;”.

Resolved, on the motion of Mr Tudehope:

That the draft terms of reference for the inquiry into violence against emergency services personnel be adopted as amended.

The Committee considered a draft timetable for the inquiry. Discussion ensued.

Resolved, on the motion of Ms Leong:

That the submission closing date for the inquiry be 22 July 2016; and that a follow-up Committee meeting to discuss inquiry direction take place in the week beginning 1 August 2016.

The Committee agreed that the Chair issue a media release announcing the inquiry and calling for submissions by 22 July 2016, for dissemination by the secretariat.

The Committee noted that a draft list of targeted stakeholders would be emailed to the Committee by Committee staff for members' comment by close of business 13 May 2016.

The Committee agreed that the Chair write to those on the finalised list of targeted stakeholders inviting submissions by 22 July 2016.

3. ***

The Committee agreed to re-visit the issue of agency briefings following the conclusion of the inquiry into violence against emergency services personnel.

4. Next Meeting

The Committee adjourned at 8:47am until the first sitting week of August 2016, at a date and time to be determined.

MINUTES OF MEETING No 4

1:00pm

3 August 2016

Room 1136

Members Present

Mr Provest (Chair), Mr Rowell (Deputy Chair), Mr Atalla, Ms Leong (by telephone) and Mr Tudehope.

Officers in Attendance

Jason Arditi, Elspeth Dyer, Leon Last, Tanja Zech and Mohini Mehta.

1. Confirmation of minutes

Resolved on the motion of Mr Rowell, seconded by Mr Atalla:

That the draft minutes of meeting no 3, held on 12 May 2016, be confirmed.

2. Correspondence

The Committee considered the following items of correspondence received:

- Mr Bruce McKenzie, Assistant Secretary, Police Association Victoria, dated 24 May 2016 advising the union will not make a submission to the Committee's inquiry

into violence against emergency services personnel but will offer to assist the NSW Police Association in making its submission to the inquiry.

- The Hon TF Bathurst AC, Chief Justice, Supreme Court of NSW, dated 27 May 2016 advising the Court does not wish to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Ms Christine Parker, Executive Assistant to Chief Justice AM Blow OAM, Chief Justice, Supreme Court of Tasmania, dated 25 May 2016 advising His Honour does not wish to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Dr John Lowndes, Chief Judge, NT Magistrates Court, dated 30 May 2016 declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- The Hon Marilyn Warren AC, Chief Justice of Victoria, dated 31 May 2016 declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Steve Gollschewski, Acting Commissioner, Queensland Police Service, dated 30 May 2016 declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Mr Stephen Gelding, Executive Director, NT WorkSafe, dated 2 June 2016 declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- His Honour K.F. Sleight, Chief Judge, District Court WA dated 3 June 2016, declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Mr D.L. Hine, Commissioner of Police, Department of Police and Emergency Management Tasmania, dated 15 June 2016 declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Mr Doug Gardiner, Acting Senior Ministerial and Project Officer, Western Australia Police, email dated 15 June 2016, declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Ms Eva O'Driscoll, Director of Communications, Australian Medical Association (South Australia) Inc, email dated 13 June 2016 declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Mr Mark Rogers, Acting CEO, Ambulance Victoria, dated 5 July 2016, declining to make a submission to the Committee's inquiry into violence against emergency services personnel and listing relevant recent Victorian reports that might assist the inquiry.
- Ms Kym Peake, Secretary, Department of Health and Human Services, dated 5 July 2016, declining to make a submission to the Committee's inquiry into violence against emergency services personnel and listing relevant reports and resources that might assist the inquiry.
- Ms Jodi Lee Anderson, Senior Ministerial Liaison Officer, NT Department of Corrective Services email dated 15 July, declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Mr Peter Lauritsen, Chief Magistrate, Magistrates' Court Victoria, dated 15 July 2016, declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Mr Reece P Kershaw APM, Commissioner of Police and CEO, NT Police, Fire and Emergency Services, dated 21 July, declining to make a submission to the Committee's inquiry into violence against emergency services personnel.

Resolved, on the motion of Mr Rowell, seconded by Mr Atalla:
That the correspondence be noted.

3. Inquiry into violence against emergency services personnel

3.1 Publication of submissions

The Committee considered publication orders for submissions lodged by the closing date of 22 July 2016 to its inquiry into violence against emergency services personnel.

Resolved, on the motion of Mr Tudehope, seconded by Mr Rowell:

- that submissions 1, 5, 6, 9-12, 15-19, 21-23 and 25 be received by the Committee and published in full;
- that submissions 4 and 7 be received by the Committee and published in part;
- that submissions 2, 3, 8, 13, 14, 20 and 24 be received by the Committee but not published.

3.2 Statistics regarding violence against emergency services personnel

The Committee noted that the NSW Bureau of Crime Statistics has elected not to make a submission to the inquiry but has informally advised that it can provide the Committee with data if necessary.

Resolved, on the motion of Ms Leong, seconded by Mr Atalla:

- that the Chair write to the NSW Bureau of Crime Statistics and Research requesting data about the incidence of assaults and homicides against emergency services personnel in the last five years in NSW;
- that members are to email any specific data requests to the Committee secretariat for inclusion in the letter to the NSW Bureau of Crime Statistics and Research.

3.3 Public hearings

The Committee considered the issue of public hearings for the inquiry, noting that some written submissions are yet to be lodged.

Resolved, on the motion of Mr Rowell:

That the Committee consider the issue of public hearings for its inquiry into violence against emergency services personnel at its next meeting.

4. ***

5. Next Meeting

The Committee adjourned at 1:06pm until the first sitting week of September 2016, at a date and time to be determined.

MINUTES OF MEETING No 5

1:02pm

15 September 2016

Room 1254

Members Present

Mr Provest (Chair), Mr Rowell (Deputy Chair), Mr Atalla, and Mr Tudehope.

Officers in Attendance

Elaine Schofield, Elspeth Dyer, Leon Last, and Tanja Zech.

1. Apologies

An apology was received from Ms Leong.

2. Confirmation of minutes

Resolved on the motion of Mr Rowell, seconded by Mr Atalla:

That the draft minutes of meeting no 4, held on 3 August 2016, be confirmed.

3. Correspondence

The Committee considered the following items of correspondence:

Received

- Mr Gavin Silbert QC, Chief Crown Prosecutor Victoria, dated 26 May 2016, declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Deputy Commissioner Linda Williams, South Australia Police, dated 9 June 2016, declining to make a submission to the Committee's inquiry into violence against emergency services personnel.
- Hon Yvette D'Ath MP, Queensland Attorney General and Minister for Justice, dated 31 August 2016, regarding Queensland laws surrounding assaults on public officers.
- Mr Joseph Waugh, Senior Policy Officer, NSW Sentencing Council, responding to the Chair's letter regarding a Committee private briefing.

Sent

- Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research, dated 9 August 2016, requesting statistics regarding assaults and homicides against emergency services personnel, other health workers, and social workers in NSW.
- His Honour Judge GL Henson, Chief Magistrate, dated 6 September 2016, enquiring whether His Honour would be available for a private briefing with the Committee to discuss sentencing; and raising the possibility of a Committee site visit to a Local Court.
- Mr Ernest Schmatt PSM, Chief Executive, Judicial Commission of NSW, enquiring whether the Judicial Commission would be available to attend a private briefing with the Committee to discuss sentencing.
- The Hon James Wood AO QC, Chairperson, NSW Sentencing Council, enquiring whether the Sentencing Council would be available to attend a private briefing with the Committee to discuss sentencing.

Resolved, on the motion of Mr Rowell, seconded by Mr Atalla:

That the correspondence be noted.

4. Inquiry into violence against emergency services personnel

4.1 Publication of submissions

The Committee considered publication orders for submissions lodged after the closing date of 22 July 2016 to its inquiry into violence against emergency services personnel.

Resolved, on the motion of Mr Atalla, seconded by Mr Rowell:

That submissions 26-34 be received by the Committee and published on the Committee's webpage.

4.2 Briefing Note – Crimes Against the Person in Australia

The Committee noted the briefing note containing details about the penalties for various crimes against the person across jurisdictions in Australia and details of any special penalties where the victim is an emergency services worker.

4.3 Statistics regarding violence against emergency services personnel (attachment E)

The Committee noted statistics received from the NSW Bureau of Crime Statistics and Research [BOCSAR] in response to its request dated 9 August 2016, and the briefing note prepared by Committee staff relating to the statistics provided.

The Committee considered a request by Ms Leong that:

'In addition to the statistics requested in that letter could I make an additional request for statistics concerning the impact of any increased penalties for assaults or homicides generally (i.e. not just those involving emergency services personnel victims) over the past 10 years in NSW? That is, the number of offences recorded before and after the imposition of increased penalties.'

Discussion ensued.

Resolved on the motion of Mr Rowell, seconded by Mr Atalla:

That the Committee note Ms Leong's request but considered that the information requested is outside the inquiry's terms of reference.

Mr Tudehope asked the Committee staff to enquire whether BOCSAR collects statistics indicating whether or not people who murder or assault emergency services workers are drug or alcohol affected at the time.

4.4 Briefings/Site Visits

The Committee considered potential private briefings with the Chief Magistrate, the NSW Sentencing Council and the Judicial Commission of NSW, noting the availability of the Chief Magistrate, the Chairperson of the Sentencing Council and the CEO of the Judicial Commission.

Resolved on the motion of Mr Rowell, seconded by Mr Tudehope:

- That the Committee conduct private briefings with the Chief Magistrate and representatives from the Sentencing Council and Judicial Commission, for the purposes of its inquiry into violence against emergency services personnel; and
- That the Chair and Committee secretariat further examine whether a Committee site visit can be arranged to a Local Court to observe criminal proceedings for the purposes of the inquiry into violence against emergency services personnel.

4.5 Public hearings

Committee Members to be contacted to determine dates for public hearing to be held subsequent to private briefings and site visits.

5. ***

6. Next Meeting

The Committee adjourned at 1:08pm *sine die*.

MINUTES OF MEETING No 6

11:25am

7 November 2016

Downing Centre Local Court and Room 1043, Parliament House

Members Present

Mr Provost (Chair), Mr Atalla, and Ms Leong.

Officers in Attendance

Bjarne Nordin, Elspeth Dyer, Leon Last, and Tanja Zech.

1. Apologies

Apologies were received from Mr Rowell and Mr Tudehope.

2. Site Visit

The Committee conducted a site visit to the Downing Centre Local Court, where it met with the His Honour, Chief Magistrate Graeme Henson. The meeting concluded at 12:10pm. The Committee then observed courtroom criminal proceedings.

The Committee adjourned at 12:35pm and reconvened at 1:45pm in Room 1043 at Parliament House.

3. Confirmation of minutes

Resolved on the motion of Mr Atalla, seconded by Ms Leong:

That the draft minutes of meeting no 5, held on 15 September 2016, be confirmed.

4. Inquiry into violence against emergency services personnel

4.1 Statistics regarding violence against emergency services personnel

The Committee deliberated on obtaining further statistical information from BOCSAR to indicate whether or not people who murder or assault emergency services workers are drug or alcohol affected at the time.

Discussion ensued.

Resolved, on the motion of Mr Atalla, seconded by Ms Leong:

That the Chair write to NSW Bureau of Crime Statistics and Research requesting that further data on alcohol involvement in assaults be added to the police data already received.

4.2 Public Hearings – 14 and 18 November

The Committee agreed to the conduct of public hearings on 14 and 18 November 2016.

Resolved, on the motion of Ms Leong, seconded by Mr Atalla:

That the Committee hold public hearings at Parliament House on 14 November and 18 November 2016, the Chair issue a media release announcing the hearing and that the circulated witnesses be confirmed.

4.3 Briefings

At 2:00pm, the Committee invited Justice James Wood, Chairperson of the Sentencing Council and of the Parole Authority, to a private briefing. Mr Wood withdrew at 2:33pm.

At 2:35, the Committee invited Mr Ernest Schmatt, CEO of the Judicial Commission, and Mr Hugh Donnelly, Director, Research and Sentencing, Judicial Commission, to a private briefing. Mr Schmatt and Mr Donnelly withdrew at 3:30pm.

5. ***

6. Next Meeting

The Committee adjourned at 3:35pm until Monday 14 November 2016 at 9:45am.

MINUTES OF MEETING No 7

9.49 am

14 November 2016

Macquarie Room, Parliament House

Members Present

Mr Provest (Chair), Mr Tudehope, Mr Atalla, and Ms Leong.

Officers in Attendance

Elaine Schofield, Bjarne Nordin, Leon Last, Tanja Zech, and Mohini Mehta.

1. Deliberative meeting

1.1 Apologies

An apology was received from Mr Rowell

1.2 Confirmation of minutes

Resolved on the motion of Mr Atalla, seconded by Ms Leong:

That the draft minutes of meeting no 6, held on 7 November 2016, be confirmed.

1.3 Correspondence sent

The Committee noted the following correspondence sent:

- Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research, dated 14 November 2016, requesting statistics regarding the instances of alcohol related assaults and homicides against emergency services personnel, other health workers, and social workers in NSW.
- His Honour Chief Magistrate Graeme Henson, dated 14 November 2016, thanking him for meeting with the Committee on 7 November.

- Mr Ernest Schmatt PSM, Chief Executive, Judicial Commission of NSW, dated 14 November 2016, thanking him for meeting with the Committee on 7 November.
- The Hon James Wood AO QC, Chairperson, NSW Sentencing Council, dated 14 November 2016, thanking him for meeting with the Committee on 7 November.

1.4 Media orders

Resolved on the motion of Mr Tudehope, seconded Ms Leong: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 14 November 2016, in accordance with the Legislative Assembly's guidelines for the coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

1.5 Publication orders

Resolved, on the motion of Mr Tudehope, seconded Ms Leong: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's website.

1.6 Answers to questions taken on notice

Resolved, on the motion of Mr Tudehope, seconded Ms Leong: That witnesses be requested to return answers to questions taken on notice and supplementary questions within five days of the date on which the questions are forwarded to the witnesses, and that, once received, answers be published on the Committee's website.

2. Public hearing - Inquiry into violence against emergency services personnel

Witnesses and the public were admitted. The Chair opened the public hearing at 9.59 am and after welcoming the witnesses made a short opening statement.

Ms Carlene York, Assistant Commissioner, NSW Police Force, was sworn and examined.

Ms York made a brief opening statement.

Evidence concluded, the witness withdrew.

Mr Dominic Morgan, Chief Executive and Mr Allan Loudfoot, Executive Director, Clinical Services NSW Ambulance were sworn and examined.

Mr Morgan made a brief opening statement.

Evidence concluded, the witnesses withdrew.

Ms Kathleen Iacurto, Director, People and Culture and Mr Gary Zuiderwyk, Manager, Work Health and Safety, NSW State Emergency Services were sworn and examined.

Evidence concluded, the witnesses withdrew.

The Committee adjourned at 11.45am and resumed the public hearing at 11.50am.

Mr Gerry Byrne, Assistant Commissioner, Metropolitan Operations and Mr Malcolm Connellan, Executive Director, People and Culture, Fire and Rescue NSW were sworn and examined.

Mr Byrne made a brief opening statement.

Evidence concluded, the witnesses withdrew.

Mr Rob Rogers AFSM, Deputy Commissioner and Executive Director Operations, NSW Rural Fire Service was sworn and examined.

Mr Rogers made a brief opening statement.

Evidence concluded, the witness withdrew.

The Committee adjourned at 12.40am and the public hearing resumed at 1.47pm.

Mr Gerard Hayes, State Secretary, Health Services Union, was sworn and examined.

Mr Hayes made a brief opening statement.

Evidence concluded, the witness withdrew.

Mr Lloyd Babb SC, Director, Office of the Director of Public Prosecutions, was sworn and examined.

Evidence concluded, the witness withdrew.

The Committee adjourned at 2.48pm and resumed the public hearing at 3.00pm.

Mr Brett Holmes, General Secretary, NSW Nurses and Midwives' Association was affirmed and examined.

Mr Leslie Gibbs, Work Health and Safety Professional Officer, and Ms Bernadette Compton, Registered Nurse and Member, NSW Nurses and Midwives' Association were sworn and examined.

Mr Holmes, Ms Compton, and Mr Gibbs made brief opening statements.

Evidence concluded, the witnesses withdrew.

Dr Roderick Bishop, Fellow, Australasian College for Emergency Medicines, was affirmed and examined.

Dr Bishop made a brief opening statement.

Evidence concluded, the witness withdrew.

Mr Gary Wilson, Secretary, Australian Paramedics Association (NSW), was sworn and examined.

Mr Wilson made a brief opening statement.

At 4.52pm, the Committee agreed to resume its deliberative meeting to consider hearing evidence from Mr Wilson *in camera*. The public hearing was adjourned and the public withdrew. The witness remained.

3. Resumption of deliberative meeting

The Committee considered whether to hear from Mr Wilson *in camera*.

Resolved on the motion of Mr Tudehope, seconded Ms Leong: That the Committee hear evidence from the witness from the Australian Paramedics Association (NSW), Mr Gary Wilson, *in camera*.

4. *In camera* hearing - Inquiry into violence against emergency services personnel

The Committee heard evidence from Mr Wilson *in camera*.

Evidence concluded, the witness withdrew.

The *in camera* hearing concluded at 5.12pm.

5. Next Meeting

The Committee adjourned at 5.15pm until Friday, 18 November 2016 at 8.45am.

MINUTES OF MEETING No 8

8.48 am

18 November 2016

Macquarie Room, Parliament House

Members Present

Mr Provost (Chair), Mr Tudehope, Mr Atalla, and Ms Leong.

Officers in Attendance

Elaine Schofield, Bjarne Nordin, Leon Last, Tanja Zech, and Mohini Mehta.

1. Deliberative meeting

1.1 Apologies

An apology was received from Mr Rowell

1.2 Confirmation of minutes

Resolved on the motion of Mr Atalla, seconded by Ms Leong:

That the draft minutes of meeting no 7, held on 14 November 2016, be confirmed.

1.3 Receipt of submission

Resolved, on the motion of Mr Tudehope, seconded by Mr Atalla, that submission 35 be received by the Committee but not published.

1.4 Media orders

Resolved on the motion of Mr Tudehope, seconded Ms Leong: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 18 November 2016, in accordance with the Legislative Assembly's guidelines for the coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

1.5 Publication orders

Resolved, on the motion of Mr Tudehope, seconded Ms Leong: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's website.

1.6 Answers to questions taken on notice

Resolved, on the motion of Mr Tudehope, seconded Ms Leong: That witnesses be requested to return answers to questions taken on notice and supplementary questions within five days of the date on which the questions are forwarded to the witnesses, and that, once received, answers be published on the Committee's website.

1.7 Further public hearing

Resolved, on the motion of Mr Tudehope, seconded by Mr Atalla: That the Committee hold a public hearing on 20 February 2017 to hear further evidence from NSW Ambulance, the Health Services Union, NSW Health, and the Judicial Commission.

The deliberative meeting adjourned at 8.57am.

2. Public hearing - Inquiry into violence against emergency services personnel

Witnesses and the public were admitted. The Chair opened the public hearing at 8.59 am and after welcoming the witnesses made a short opening statement.

Mr Leighton Drury, Vice President and Ms Claire Pullen, Senior Industrial Officer, Fire Brigade Employees' Union were affirmed and examined.

Mr Drury made a brief opening statement.

Evidence concluded, the witnesses withdrew.

Mr Scott Weber, President and Mr Angus Skinner, Research Manager, Police Association were sworn and examined.

Mr Oliver Behrens, Executive Member, Police Association was affirmed and examined.

Mr Weber and Mr Behrens made brief opening statements.

Evidence concluded, the witnesses withdrew.

The Committee adjourned at 10.50am and resumed the public hearing at 11.00am.

Mr Greg Golds, Paramedic and Private Individual was affirmed and examined.

Mr Golds made a brief opening statement.

Evidence concluded, the witness withdrew.

Ms Penny Musgrave, Committee Member, Criminal Law Committee, Law Society was affirmed and examined.

Evidence concluded, the witness withdrew.

Dr Tony Sara, President, Australian Salaried Medical Officers' Federation was sworn and examined.

Dr Alan Pham, Chair, State Medical Officers' Group, Australian Salaried Medical Officers' Federation and Dr Kate Porges, Member of Council, Australian Medical Association, were affirmed and examined.

Dr Sara, Dr Porges and Dr Pham made brief opening statements.

Evidence concluded, the witnesses withdrew.

The public hearing concluded at 12.38pm.

3. Resumption of deliberative meeting

Resolved, on the motion of Ms Leong, seconded by Mr Atalla: That the Committee send written material to NSW Health prior to their appearance at the public hearing to ensure that they are prepared to provide information relevant to the Committee's particular enquiries.

4. Next Meeting

The Committee adjourned at 12.40pm until 9.45am on Monday, 20 February 2017.

MINUTES OF MEETING No 9

10.02 am

17 February 2017

Room 1043, Parliament House

Members Present

Mr Provest (Chair), Mr Tudehope, and Ms Leong.

Officers in Attendance

Jason Ardit, Elspeth Dyer, Leon Last, Tanja Zech, and Mohini Mehta.

1. Apologies

Apologies were received from Mr Atalla and Mr Rowell.

2. Confirmation of minutes

Resolved on the motion of Mr Tudehope, seconded by Ms Leong

That the draft minutes of meeting no 8, held on 18 November 2016, be confirmed.

3. Inquiry into violence against emergency services personnel

3.1 Questions on notice and supplementary questions

The Committee noted the following answers to supplementary questions and questions taken on notice at the public hearings on 14 and 18 November 2016. The answers were previously circulated and published on the Committee's webpage as resolved by the Committee.

- Letter from Prof. Brad Frankum OAM, President Australian Medical Association and Dr Tony Sara, President Australasian Salaried Medical Officers' Federation, dated 28 November 2016, containing answer to supplementary question.
- Answers to questions on notice and additional questions, and accompanying journal articles, supplied by Dr Roderick Bishop, NSW Fellow, Australasian College for Emergency Medicine, 28 November 2016.
- Answers to questions taken on notice by Police Association of NSW, supplied 30 November 2016.
- Answers to questions taken on notice by NSW Ambulance, and answers to supplementary questions, supplied 1 December 2016.
- Letter from Mr Gary Ulman, President, Law Society of NSW, dated 2 December 2016 containing answer to supplementary question.
- Letter from Mr Rob Rogers AFSM, Deputy Commissioner, Rural Fire Service, dated 6 December 2016, containing answer to question on notice.
- Letter from Mr Gerard Hayes, Secretary, Health Services Union, dated 7 December 2016 containing answer to supplementary question.
- Letter from Mr Tony Norman, A/Director, Office of the Commissioner, NSW Police Force, dated 8 December 2016 containing answers to questions on notice and supplementary questions.
- Further answer to question taken on notice by NSW Police Force, supplied 16 December 2016.

3.2 Statistics – Bureau of Crime Statistics and Research (BOCSAR)

The Committee noted BOCSAR statistics regarding alcohol-related assaults and homicides against emergency services personnel, other health workers, and social workers in NSW for the period 1 July 2006 to 30 June 2016; provided in response to the Committee's request dated 14 November 2016.

3.3 Briefing Note – Mandatory testing for communicable diseases

The Committee noted a briefing note prepared by Committee staff regarding legislation that exists in other jurisdictions allowing mandatory testing of people who transfer bodily fluids to police/other emergency services personnel in certain circumstances.

Ms Leong advised that various groups had raised concerns with her about the legislation that exists in other jurisdictions that allows mandatory testing of people whose bodily fluids may come into contact with a police officer, and the proposal to introduce similar legislation in NSW.

3.4 Briefing – Judicial Commission of NSW

At 10.05, the Committee admitted Mr Ernest Schmatt PSM, Chief Executive and Mr Hugh Donnelly, Director Research and Sentencing, Judicial Commission of NSW to brief the Committee. Mr Schmatt and Mr Donnelly withdrew at 11.32.

4. Next Meeting

The Committee adjourned at 11.33am until 8.45am on Monday, 20 February 2017.

MINUTES OF MEETING No 10

8.50 am

20 February 2017

Jubilee Room, Parliament House

Members Present

Mr Provost (Chair), Mr Tudehope, and Ms Leong.

Officers in Attendance

Jason Arditi, Elspeth Dyer, Leon Last, Tanja Zech, and Mohini Mehta.

1. Apologies

Apologies were received from Mr Rowell.

2. Confirmation of minutes

Resolved, on the motion of Mr Tudehope, seconded by Ms Leong

That the draft minutes of meeting no 9, held on 17 February 2017 be confirmed.

3. Correspondence

The Committee noted the following item of correspondence received:

- Letter from ACON, Hepatitis NSW, Sex Workers Outreach Project, New Users and AIDS Association, ASHM, and Positive Life NSW concerning Police Association proposal for mandatory testing of people whose bodily fluids come into contact with police officers and draft response.

Resolved, on the motion of Ms Leong, seconded by Mr Tudehope:

- That the Chair's draft response to the letter from ACON and other groups be sent;
- That the Chair's draft response also ask if there is any objection to the letter from ACON and other groups being published on the Committee's webpage;
- That the letter from ACON and other groups be published on the Committee's webpage if no objections are raised;

- That if there are no objections to the letter from ACON and other groups being published, the Chair also write to the NSW Police Association and other unions that have made submissions to the inquiry requesting its comment on the letter;
- That the Chair write to the Western Australian and South Australian Governments requesting comment on the usage and effectiveness of the mandatory testing legislation in those jurisdictions.

4. Inquiry into violence against emergency services personnel

4.1 Site Visit – NSW District Court

The Committee discussed the possibility of a meeting with the Chief Judge of the District Court, the Honourable Justice DM Price AM, to discuss the current jurisdictional limits of the Local Court of NSW, an issue that has arisen during the course of the inquiry.

The Chair also raised the possibility of a meeting with the Chief Justice of the Supreme Court, the Honourable Justice T.F. Bathurst, to discuss the issue.

Resolved, on the motion of Mr Tudehope, seconded by Ms Leong:

- That the Chair write to the Chief Justice of the Supreme Court of NSW requesting His Honour meet with the Committee to discuss the current jurisdictional limits of the Local Court of NSW.
- That the Chair write to the Chief Judge of the District Court of NSW requesting His Honour meet with the Committee to discuss the current jurisdictional limits of the Local Court of NSW.

4.2 Public Hearing 20 February

The Committee considered standard resolutions for the conduct of its public hearing on 20 February 2017.

Resolved, on the motion of Mr Tudehope, seconded by Ms Leong:

- That the Committee permit audio-visual recording, photography and broadcasting of the public hearing on 20 February 2017.
- That the corrected transcript of evidence given on 20 February 2017 be authorised for publication and uploaded on the Committee's webpage.
- That witnesses be requested to return answers to questions taken on notice and any further questions within five days of the date on which the questions are forwarded to the witness, and that, once received, the answers be published on the Committee's webpage.

5. Public Hearing – Inquiry into violence against emergency services personnel

At 9:08am, the Chair declared the public hearing open and witnesses and the public were admitted.

Mr Gerard Hayes, State Secretary, Health Services Union, was sworn and examined.

Mr Hayes made an opening statement.

At 9:22am, Mr Atalla arrived.

At 9:46am, Mr Hayes' evidence concluded and the witness withdrew.

Mr Allan Loudfoot, Executive Director, Clinical Services, NSW Ambulance, was sworn and examined.

Mr Geoff Waterhouse, Senior Project Manager, Radio Telecommunications Capital Works Programme, NSW Ambulance, was sworn and examined.

Mr David Dutton, Executive Director, Service Delivery, NSW Ambulance, was sworn and examined.

Mr Loudfoot made an opening statement.

At 10:37am, the evidence of NSW Ambulance concluded, the witnesses withdrew and the Committee took the morning tea adjournment.

The public hearing resumed at 10:45am.

Ms Karen Crawshaw, Deputy Secretary, Governance, Workforce and Corporate, NSW Ministry of Health, was sworn and examined.

Ms Annie Owens, Director Workplace Relations, NSW Ministry of Health, was affirmed and examined.

Ms Crawshaw made an opening statement.

At 12:10pm, the evidence of NSW Ministry of Health concluded and the witnesses withdrew.

The hearing concluded at 12:10pm and the public withdrew.

6. Next meeting

The Committee adjourned at 12:10pm until a date and time to be determined.

MINUTES OF MEETING No 11

10.10 am

1 May 2017

Room 1254, Parliament House

Members Present

Mr Provest (Chair) (from 10:12am), Mr Atalla, Ms Leong and Mr Tudehope.

Officers in Attendance

Elsbeth Dyer and Mohini Mehta.

1. Election of Acting Chair

The Committee noted the absence of the Chair and Deputy Chair.

Resolved, on the motion of Ms Leong, seconded by Mr Atalla

That Mr Tudehope be elected Acting Chair for the duration of the meeting or until the Chair arrives.

2. Apologies

An apology was received from Mr Rowell (Deputy Chair).

3. Confirmation of minutes

Resolved, on the motion of Ms Leong, seconded by Mr Atalla

That the draft minutes of meeting no 10, held on 20 February 2017 be confirmed.

4. Correspondence

The Committee noted the following items of correspondence:

Sent

- Letter to Mr Nicholas Parkhill, CEO, ACON, dated 20 February 2017, responding to correspondence from ACON and other groups regarding the Police Association mandatory testing proposal, and seeking permission to publish the correspondence on the Committee's webpage.
- Letter to Hon Chief Justice T.F. Bathurst AC, dated 24 February 2017, requesting that His Honour meet with the Committee to discuss its inquiry into violence against emergency services personnel.
- Letter to Hon Justice D.M. Price AM, dated 24 February 2017, requesting that His Honour meet with the Committee to discuss its inquiry into violence against emergency services personnel.
- Letter to Hon Mark Ryan, Queensland Minister for Police, Fire and Emergency Services, dated 24 February 2017, requesting information regarding Queensland legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.
- Letter to Hon Liza M Harvey MLA, WA Minister for Police, dated 24 February 2017, requesting information regarding WA legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.
- Letter to Hon John Rau, SA Attorney General, dated 24 February 2017, requesting information regarding SA legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.
- Letter to Hon Michael Gunner MLA, NT Minister for Police, Fire and Emergency Services, dated 24 February 2017, requesting information regarding NT legislation that will allow mandatory testing of persons for communicable diseases in certain circumstances.
- Letter to Mr Scott Weber, President, Police Association of NSW, dated 24 February 2017, requesting comment regarding correspondence from ACON and other groups concerning the Police Association's mandatory testing proposal.
- Letter to Mr Gary Wilson, Secretary, Australian Paramedics Association, dated 24 February 2017, requesting comment regarding the Police Association mandatory testing proposal and correspondence from ACON and other groups concerning same.
- Letter to Mr Leighton Drury, State Secretary, Fire Brigade Employees Union, dated 24 February 2017, requesting comment regarding the Police Association mandatory testing proposal and correspondence from ACON and other groups concerning same.
- Letter to Mr Brett Holmes, General Secretary, NSW Nurses and Midwives Association, dated 24 February 2017, requesting comment regarding the Police

Association mandatory testing proposal and correspondence from ACON and other groups concerning same.

- Letter to Dr Antony Sara, President, Australian Salaried Medical Officers Federation, dated 24 February 2017, requesting comment regarding the Police Association mandatory testing proposal and correspondence from ACON and other groups concerning same.
- Letter to Mr Gerard Hayes, State Secretary, Health Services Union, dated 24 February 2017, requesting comment regarding the Police Association mandatory testing proposal and correspondence from ACON and other groups concerning same.
- Letter to Prof. Bradley Frankum, President, Australian Medical Association NSW, dated 24 February 2017, requesting comment regarding the Police Association mandatory testing proposal and correspondence from ACON and other groups concerning same.
- Letter to Ms Anne Gardiner, Secretary, Public Service Association of NSW, dated 1 March 2017, requesting comment regarding the Police Association mandatory testing proposal and correspondence from ACON and other groups concerning same.
- Letter to Hon John Rau, SA Attorney General, dated 20 March 2017, thanking him for letter containing information regarding SA legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.
- Letter to Hon Mark Ryan MP dated 24 March 2017 thanking him for letter containing information regarding Qld legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.
- Letter to Hon Michelle Roberts MLA, WA Minister for Police, dated 3 April 2017, requesting information regarding WA legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.

Received

- Email from Mr James Gray, Associate Director, Policy, Strategy and Research, ACON, dated 20 February 2017, granting permission for the Committee to publish correspondence from ACON and other groups regarding the Police Association mandatory testing proposal on the Committee's webpage.
- Email from Ms Stephanie Dubois, A/Executive Officer, Office of the WA Deputy Premier and Minister for Police, dated 27 February, advising WA Government is in caretaker mode and asking Committee to write back concerning mandatory testing legislation following the WA election.
- Letter from NSW Police Association dated 3 March 2017 responding to request for comment regarding correspondence from ACON and other groups concerning the Police Association's mandatory testing proposal.
- Letter from Mr Gary Wilson, Secretary, Australian Paramedics Association, dated 13 March 2017 commenting on Police Association mandatory testing proposal and correspondence from ACON and other groups concerning same.
- Letter from Hon John Rau MP, SA Attorney General, dated 14 March 2017 responding to the Committee's request for information regarding SA legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.
- Letter from Hon Mark Ryan MP, Queensland Minister for Police, Fire and Emergency Services, dated 17 March 2017, responding to request for information

regarding Queensland legislation allowing mandatory testing of persons for communicable diseases in certain circumstances.

- Letter from Hon Chief Justice T.F. Bathurst AC dated 22 March 2017 responding to the request that His Honour meet with the Committee to discuss its inquiry into violence against emergency services personnel.

At 10:12am the Chair arrived and took the Chair.

5. Inquiry into violence against emergency services personnel

5.1 Answers to Questions on Notice and Additional Questions

The Committee noted the following answers to additional questions and questions taken on notice at the public hearing on 20 February 2017:

- Answers to questions on notice and additional questions, dated 1 March 2017, supplied by Ms Karen Crawshaw PSM, Deputy Secretary, Governance, Workforce and Corporate, NSW Ministry of Health.
- Answers to questions on notice and additional questions, dated 7 December 2016 [sic], supplied by Mr Gerard Hayes, Secretary, Health Services Union; and attached Institute for Safety, Compensation and Recovery Research, 'Workers' compensation claims among nurses and ambulance officers in Australia, 2008/09 and 2013/14'.
- Answer to further question on notice, dated 2 March 2017, supplied by Ms Karen Crawshaw PSM, Deputy Secretary, Governance, Workforce and Corporate, NSW Ministry of Health.
- Answers to questions on notice, dated 2 March 2017, supplied by Mr Allan Ross Loudfoot, Executive Director, Clinical Services, NSW Ambulance; and attached NSW Ambulance 'Occupational Violence Prevention Strategic Advisory Group Report', November 2016 (not for publication).

5.2 Possible reporting timetable and emerging report themes

The Committee noted a document containing a possible reporting timetable and emerging report themes prepared by Committee staff.

Discussion ensued.

The Committee agreed to the reporting timetable and that content on the emerging themes should be included in the Committee's report.

The Committee also agreed to meet on 31 May 2017 to discuss the sentencing and legal issues chapter of its report.

5.3 Briefing Note – Jurisdictional Limit, NSW Local Court

The Committee noted a briefing note prepared by Committee staff concerning the current jurisdictional limits of the NSW Local Court.

Discussion ensued.

Mr Tudehope requested that Committee staff provide the Committee with copies of recent media articles concerning a person who damaged an ambulance in Sydney; an assault on police in Coogee; and an assault on staff at Gosford Hospital.

5.4 Briefing – Justice Johnson of the NSW Supreme Court

At 10:21am Justice Peter Johnson of the NSW Supreme Court was admitted. The Committee conducted a private briefing with Justice Johnson concerning legal issues of relevance to the inquiry.

At 11:21am the briefing concluded and Justice Johnson departed.

6. ***

7. Next meeting

The Committee adjourned at 11:21am until 22 May 2017 at 2:00pm.

MINUTES OF SITE VISIT TO DISTRICT COURT OF NSW

2.00 pm

22 May 2017

District Court of NSW, 86 Goulburn Street, Sydney

Members Present

Mr Provest (Chair), Mr Atalla and Mr Tudehope.

Officers in Attendance

Elspeth Dyer and Madeleine Dowd.

1. Apologies

Apologies were received from Mr Rowell (Deputy Chair) and Ms Leong.

2. Site Visit

The Committee conducted a site visit to the District Court of NSW to meet with His Honour, Chief Judge DM Price AM to discuss sentencing and other legal issues of relevance to its inquiry into violence against emergency services personnel.

Mr Provest, Mr Atalla, Mr Tudehope and Committee staff met in the Legislative Assembly foyer, level 7, Parliament House at 2:00pm. Members and staff walked to the District Court of NSW, 86 Goulburn Street Sydney.

The Committee and staff met with the Chief Judge at 2:30pm, adjourning at 2:55pm.

Mr Atalla left the District Court of NSW at 3:00pm to catch a taxi back to Parliament House.

Mr Provest, Mr Tudehope and Committee staff returned to Parliament by foot arriving at 3:30pm.

3. Next meeting

The Committee adjourned at 2:55pm until 31May 2017 at 1:00pm.

MINUTES OF MEETING No 12

1.09pm

31 May 2017

Room 814-815, Parliament House

Members Present

Mr Provost (Chair), Mr Rowell (Deputy Chair), Mr Atalla, Ms Leong and Mr Tudehope.

Officers in Attendance

Jason Ardit, Elspeth Dyer and Madeleine Dowd.

1. Confirmation of minutes

Resolved, on the motion of Mr Tudehope, seconded by Mr Atalla:

That the draft minutes of meeting no 11, held on 1 May 2017, and the site visit to the District Court of NSW on 22 May 2017, be confirmed.

2. Correspondence

The Committee considered the following items of correspondence sent:

- Letter to Hon Justice P Johnson, dated 1 May 2017, thanking His Honour for attending Parliament to brief the Committee on legal issues relevant to its inquiry into violence against emergency services personnel.
- Letter to Hon Justice DM Price AM, Chief Judge, District Court of NSW, dated 23 May 2017, thanking His Honour for meeting with the Committee to brief it on legal issues relevant to its inquiry into violence against emergency services personnel.

Resolved, on the motion of Mr Rowell, seconded by Ms Leong:

That the correspondence be noted.

3. Inquiry into violence against emergency services personnel

3.1 Proposed letter to Sentencing Council concerning jurisdiction of Local Court

The Committee considered the Chair's draft letter to the NSW Sentencing Council asking whether it has undertaken any work on the sentencing powers of the NSW Local Court since its 2010 report 'An examination of the sentencing powers of the Local Court in NSW'.

Resolved, on the motion of Mr Tudehope, seconded by Mr Rowell:

That the Chair's draft letter to the NSW Sentencing Council be sent as circulated.

3.2 Consideration of sentencing and other legal recommendations for Committee's report

The Committee considered a possible chapter outline containing possible recommendations about sentencing and other legal issues for the Committee's report into violence against emergency services personnel.

Discussion ensued.

The Committee agreed to the following recommendations:

- That the NSW Government consider changes to require the NSW Police Force and the Courts to record where the victim of an offence is an emergency services worker, so that all sentencing statistics that relate to violence against emergency services personnel are clearly identifiable.

- That the NSW Government consider additional funding so that a greater number of judgments of the Local and District Courts of NSW can be transcribed and published on the NSW Caselaw website.
- That all existing offences for violence against emergency services personnel be dealt with in the *Crimes Act 1900*.
- That the NSW Government amend the *Crimes (Sentencing Procedure) Act 1999* to clarify that assaulting hospital security staff is an aggravating factor in determining sentence.
- That the NSW Government consider commissioning a further expert review of the sentencing power of the NSW Local Court.

In addition, the Committee agreed to the following recommendation:

- That the NSW Government consider introducing legislation to allow mandatory disease testing of people whose bodily fluids come into contact with police and emergency services personnel, in consultation with all affected stakeholders.

However, Ms Leong requested that her opposition to this final recommendation be recorded in the minutes.

4. ***

5. Next meeting

The Committee adjourned at 1:35pm until a date and time to be determined.

MINUTES OF MEETING No 13

9:03am

3 August 2017

Room 1254, Parliament House

Members Present

Mr Provest (Chair), Mr Atalla, Ms Leong and Mr Tudehope.

Officers in Attendance

Jason Arditi, Elspeth Dyer, Madeleine Dowd and Mohini Mehta.

1. Apologies

An apology was received from Mr Rowell (Deputy Chair).

2. Confirmation of minutes

Resolved, on the motion of Mr Tudehope, seconded by Ms Leong:

That the draft minutes of meeting no 12, held on 31 May 2017, be confirmed.

3. Correspondence

The Committee noted the following item of correspondence sent:

- Letter to the Hon James Wood AO QC, Chairperson, NSW Sentencing Council, dated 31 May 2017, asking whether the Sentencing Council has undertaken any

work on the sentencing powers of the NSW Local Court since its 2010 report 'An examination of the sentencing powers of the Local Court in NSW'.

The Committee noted the following items of correspondence received:

- Email from Mr Joseph Waugh, Senior Policy Officer, NSW Sentencing Council, dated 31 May 2017, advising the Sentencing Council has not undertaken any monitoring of the Local Court's jurisdictional limit.
- Letter from Hon Michelle Roberts, Western Australian Minister for Police and Road Safety, dated 5 July 2017, responding to the Committee's request for information concerning the *Mandatory Testing (Infectious Diseases) Act 2014*.

4. Inquiry into violence against emergency services personnel – consideration of the Chair's draft report

The Committee agreed to consider the Chair's draft report, *Violence Against Emergency Services Personnel*, distributed to members by email on 14 July 2017, chapter by chapter, following consideration of the summary at the beginning.

Summary put.

Mr Tudehope moved that all references to 'the Chapter finds' in the Summary be deleted and replaced with 'the Committee finds'.

Amendment put and agreed to.

Mr Tudehope moved that all references to 'the Chapter recommends' in the Summary be deleted and replaced with 'the Committee recommends'.

Amendment put and agreed to.

Chapter One put.

Ms Leong moved that in the discussion of underreporting of violence against emergency services personnel at paragraphs 1.18-1.28 of the Chair's draft report, some reference to the reasons for this underreporting be inserted.

Discussion ensued.

Amendment put and negatived.

Resolved, on the motion of Mr Tudehope:
That Chapter One stand as part of the report.

Chapter Two put.

Mr Atalla raised recommendations 2 and 3 and the discussion of the 12 point action plan to improve security in NSW public hospitals at paragraphs 2.2-2.9 of the Chair's draft report.

Discussion ensued.

Mr Atalla moved that the second sentence of paragraph 2.3 be amended by inserting the words 'to include all hospitals within NSW Health' after the word 'maintained'.

Discussion ensued.

Amendment put and agreed to.

Ms Leong moved that recommendation 5 be amended by inserting the words 'and enable necessary resourcing to make that happen' after the word 'staff'.

Discussion ensued.

Amendment put and negatived.

Ms Leong moved that recommendation 7 be amended to insert the words 'to assist with risk management and better prevention strategies' after the word 'areas'.

Discussion ensued.

Amendment put and negatived.

Ms Leong moved that the second sentence of paragraph 2.25 be amended to insert the words 'as a risk management tool' after the word 'State'.

Amendment put and agreed to.

Ms Leong moved that the discussion of file flagging of dangerous patients at paragraphs 2.31-2.33 of the Chair's draft report include reference to the fact that once files and addresses are flagged there can be problems for patients in accessing services.

Discussion ensued.

Amendment put and negatived.

Resolved on the motion of Mr Atalla, seconded by Mr Tudehope:
That Chapter Two, as amended, stand as part of the report.

Chapter Three put.

Ms Leong moved that recommendation 23 be amended to insert the words 'and that benchmarking be shared across emergency services agencies' after the word 'needs'.

Discussion ensued.

Amendment put and negatived.

Resolved on the motion of Mr Tudehope, seconded by Mr Atalla:
That Chapter Three stand as part of the report.

Chapter Four put.

Resolved on the motion of Mr Tudehope, seconded by Mr Atalla:
That Chapter Four stand as part of the report.

Resolved on the motion of Mr Atalla, seconded by Mr Tudehope:
That the Committee adopt the Chair's draft report, as amended, and that it be signed by the Chair and presented to the House.

Resolved on the motion of Ms Leong, seconded by Mr Tudehope:
That the Committee authorise the secretariat to make appropriate final editing and stylistic changes as required.

Resolved on the motion of Ms Leong, seconded by Mr Tudehope:
That once tabled the report be published on the Committee's webpage.

Resolved on the motion of Ms Leong, seconded by Mr Atalla:
That the Chair issue a media release announcing the tabling of the Committee's report, for dissemination by the Committee secretariat.

The Chair thanked the Committee staff for their work on the inquiry.

5. ***

6. Next meeting

The Committee adjourned at 9:40am until a date and time to be determined.

Appendix Six – Table of Penalties for Crimes Against the Person in NSW

New South Wales

Maximum penalties for offences (and mandatory minimum penalties where applicable) – under the *Crimes Act 1900* (NSW)

Offence	Against police officers	Against law enforcement officers	Against emergency workers	Against general public
Murder (19A, 19B)	Mandatory life sentence (s19B (1)), unless offender under 18 years of age or significantly cognitively impaired (19B(3))	N/A	<p>Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).</p> <p>There is also a standard non-parole period of 25 years for an emergency services worker, correctional officer, judicial officer, council law enforcement officer, health worker, teacher community worker or other public official exercising public or community functions and the offence arose because of the victim's occupation or voluntary work.</p>	<ul style="list-style-type: none"> Life imprisonment If life sentence imposed, to be served for the term of offender's natural life (s19A(2))
Manslaughter (s24)	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).	N/A	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	25 years
Assault causing death (s25A, 25B)	Taken as an aggravating factor to be taken into account in sentencing	N/A	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes</i>	<ul style="list-style-type: none"> 20 years (25A(1)) 25 years if over 18 years of age and intoxicated (25A(2)); and

	(s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).		<i>Sentencing Procedure Act 1999</i> (NSW)).	<u>mandatory minimum sentence</u> and non-parole period 8 years (25B)
Acts done to the person with intent to murder (s27)	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).	N/A	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	25 years
Documents containing threats (Sending, delivering or causing to be received a document threatening to kill or inflict bodily harm) (s31)	N/A	N/A	N/A	10 years
Wounding or grievous bodily harm with intent (including whilst resisting lawful arrest) (s33)	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).	N/A	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	25 years
Discharging firearm etc with intent (including whilst resisting arrest)(s33A)	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).	N/A	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	25 years
Use or possession of weapon to resist arrest etc (s33B)	Taken as an aggravating factor to be taken into account in sentencing	N/A	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes</i>	<ul style="list-style-type: none"> 12 years (with intent to commit indictable offence or to prevent lawful arrest or

	(s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).		<i>Sentencing Procedure Act 1999</i> (NSW)).	hinder police officer from investigating) (33B(1)) <ul style="list-style-type: none"> 15 years, if offender in the company of others (33B(2))
Reckless grievous bodily harm or wounding (s35)	<ul style="list-style-type: none"> 12 years (s60(3)) 14 years if during public disorder (s60(3A)) 	<ul style="list-style-type: none"> 12 years (s60A(3)) 	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	Reckless grievous bodily harm: <ul style="list-style-type: none"> 10 years (35(2)) 14 years, if in company of another person or persons (35(1)) Reckless wounding <ul style="list-style-type: none"> 7 years (35(4)) 10 years if in company of another person or persons (35(3))
Assault on persons preserving wreck (s57)	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).		Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	7 years
Assault with intent to commit a serious indictable offence on certain officers (s58)	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing and Procedure Act 1999</i> (NSW)).		Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	5 years (see below 'definitions table' for definition of 'certain officers')
Assault occasioning actual bodily harm (s59)	7 years (s60(2))	7 years (s60A(2))	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	<ul style="list-style-type: none"> 5 years 7 years if in company of another person or persons
Assault during public disorder	<ul style="list-style-type: none"> 7 years (s60(1A)) 9 years if occasioning 		Taken as an aggravating factor to be taken into account in	<ul style="list-style-type: none"> 5 years 7 years if occasioning actual

(s59A)	actual bodily harm(s60(2A))		sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	bodily harm
Common assault (not occasioning actual bodily harm)	5 years (60(1))	5 years (60A(1))	Taken as an aggravating factor to be taken into account in sentencing (s21A(2)(a) <i>Crimes Sentencing Procedure Act 1999</i> (NSW)).	2 years (s61)
Actions against third parties connected with law enforcement officers (s60B)	5 years for: <ul style="list-style-type: none"> Assaulting, stalking, harassing or intimidating; or Obtaining personal information about Person with whom a law enforcement officer has a domestic relationship 	5 years for: <ul style="list-style-type: none"> Assaulting, stalking, harassing or intimidating; or Obtaining personal information about Person with whom a law enforcement officer has a domestic relationship 	N/A	N/A
Obtaining personal information about law enforcement officers (s60C)	5 years for obtaining personal information about law enforcement officer	5 years for obtaining personal information about law enforcement officer	N/A	N/A
Resisting etc Police (s546C)	12 months or 10 penalty units or both for resisting or hindering or inciting any person to assault, resist or hinder a police officer in the execution of his or her duty.	N/A	N/A	N/A
Obstruction of and violence against ambulance officers (s67J, <i>Health Services Act 1997</i>)			<ul style="list-style-type: none"> 50 penalty units or imprisonment for 2 years or both for intentionally obstructing or hindering ambulance officer in providing or attempting to 	

			<p>provide ambulance services (s67J(1))</p> <ul style="list-style-type: none"> • 5 years imprisonment if obstruction by an act of violence against ambulance officer (s67J(2)) 	
<p>Obstruction, hindrance etc of members of Rural Fire Service (including volunteers) (s42 Rural Fires Act 1997)</p>			<ul style="list-style-type: none"> • 50 penalty units or imprisonment for 2 years or both. 	
<p>Obstruction, hindrance of SES officer/other person acting with authority of SES Commissioner (s24 State Emergency Service Act 1989)</p>			<ul style="list-style-type: none"> • 50 penalty units or imprisonment for 2 years or both. 	
<p>Obstruction of fire fighters or other personnel (s35 Fire Brigades Act 1989)</p>			<ul style="list-style-type: none"> • 50 penalty units or imprisonment for 2 years or both. 	

Definitions Table

Term	Definition	Reference
Murder and Manslaughter	<p>(1) (a) Murder shall be taken to have been committed where the act of the accused, or thing by him or her omitted to be done, causing the death charged, was done or omitted with reckless indifference to human life, or with intent to kill or inflict grievous bodily harm upon some person, or done in an attempt to commit, or during or immediately after the commission, by the accused, or some accomplice with him or her, of a crime punishable by imprisonment for life or for 25 years. (b) Every other punishable homicide shall be taken to be manslaughter.</p> <p>(2) (a) No act or omission which was not malicious, or for which the accused had lawful cause or excuse, shall be within this section. (b) No punishment or forfeiture shall be incurred by any person who kills another by misfortune only.</p>	<i>Crimes Act 1900 (NSW), s18</i>
Aggravating factor (to be taken into account in sentencing)	<p>The aggravating factors to be taken into account in determining the appropriate sentence for an offence are as follows: (a) the victim was a police officer, emergency services worker, correctional officer, judicial officer, council law enforcement officer, health worker, teacher, community worker, or other public official, exercising public or community functions and the offence arose because of the victim's occupation or voluntary work, (...)</p>	<i>Crimes (Sentencing Procedure) Act 1999 (NSW), s21A(2)(a)</i>
Assault causing death	<p>(1) A person is guilty of an offence under this subsection if: (a) the person assaults another person by intentionally hitting the other person with any part of the person's body or with an object held by the person, and (b) the assault is not authorised or excused by law, and (c) the assault causes the death of the other person.</p>	<i>Crimes Act 1900 (NSW), s25A(1)</i>
Certain officers (for the purposes of s58)	<p>(...) any officer while in the execution of his or her duty, such officer being a constable, or other peace officer, custom-house officer, prison officer, sheriff's officer, or bailiff, or any person acting in aid of such officer (...)</p>	<i>Crimes Act 1900 (NSW), s58</i>

<p>Law enforcement officer (for purposes of Division 8A Assaults and other actions against police and other law enforcement officers)</p>	<p>In this Division: law enforcement officer means:</p> <ul style="list-style-type: none"> (a) a police officer, or (b) the Commissioner for the Independent Commission Against Corruption or an Assistant Commissioner for that Commission, or (c) an officer of the Independent Commission Against Corruption, within the meaning of the <i>Independent Commission Against Corruption Act 1988</i>, who performs investigation functions, or (d) the Commissioner for the Police Integrity Commission or an Assistant Commissioner for that Commission, or (e) an officer of the Police Integrity Commission, within the meaning of the <i>Police Integrity Commission Act 1996</i>, who performs investigation or confiscation functions, or (f) the Commissioner for the New South Wales Crime Commission or an Assistant Commissioner for that Commission, or (g) a member of staff of the New South Wales Crime Commission, within the meaning of the <i>Crime Commission Act 2012</i>, who performs investigation or confiscation functions, or (h) the Commissioner of Corrective Services, or (i) governors of correctional centres, correctional officers and probation and parole officers, within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i>, or (j) an officer of the Department of Juvenile Justice who works with children who have, or are alleged to have, committed offences and who is employed at or works from a community centre or children’s detention centre, or (k) an officer of the Department of Juvenile Justice who is involved in the conduct of youth justice conferences, or (l) a Crown Prosecutor or an Acting Crown Prosecutor, or (m) an Australian legal practitioner who is employed as a member of staff of the Director of Public Prosecutions, or (n) a sheriff’s officer, or (o) a recognised law enforcement officer within the meaning of the <i>Police Act 1990</i>, or 	<p><i>Crimes Act 1900 (NSW), s60AA</i></p>
--	--	--

	(p) a special constable within the meaning of section 82L of the <i>Police Act 1990</i> .	
Police officer on duty (for purpose of s60 Assault and other actions against police officers)	(4) For the purposes of this section, an action is taken to be carried out in relation to a police officer while in the execution of the officer's duty, even though the police officer is not on duty at the time, if it is carried out: (a) as a consequence of, or in retaliation for, actions undertaken by that police officer in the execution of the officer's duty, or (b) because the officer is a police officer.	<i>Crimes Act 1900 (NSW), s60(4)</i>
Ambulance officer	67J(4) In this section: ambulance officer means a member of staff of the Ambulance Service of NSW. ambulance services means the work of rendering first aid to, or transporting, sick and injured persons.	<i>Health Services Act 1997</i>

Appendix Seven – Sentencing Data Provided by the Judicial Commission of NSW

Table of Contents

Tab No.	Item detail
1	Sentencing Graph and offence statistics: s 19A/19B - Murder of police officers
2	Sentencing Graph and offence statistics: s 33(2)(a) - Discharging a firearm etc with intent to resist or prevent lawful arrest or detention
3	Sentencing Graph and offence statistics: s 33B - Use or possession of a weapon to resist arrest
4	Sentencing Graph and offence statistics: s 58 - Assault/resist/wilfully obstruct officer in execution of duty
5	Sentencing Graph and offence statistics: s 60(1) - Assault on a police officer that does not occasion actual bodily harm s 60(1A) - Assault on police officer during public disorder s 60(2) - Assault occasioning actual bodily harm on a police officer s 60(2A) - Assault on police officer during public disorder that occasions actual bodily harm (no District Court cases) s 60(3) - Reckless grievous bodily harm or wounding of a police officer (no Local Court cases)
6	Sentencing Graph and offence statistics: s 60(3A) - Reckless grievous bodily harm or wounding of a police officer during public disorder (no Local Court cases)
7	Sentencing Graph and offence statistics: s 60B - Actions against third parties connected with law

	<p>enforcement officers (no District Court cases)</p> <p>s 60C - Obtaining personal information about law enforcement officer (no cases in any jurisdiction)</p>
8	<p>Sentencing Graph and offence statistics:</p> <p>s 546C - Resisting etc Police (no District Court cases)</p>
9	<p>Sentencing Graph and offence statistics:</p> <p>s 67J <i>Health Services Act 1997</i> - Obstruction of and violence against ambulance officers (no District Court cases)</p>
10	<p>Sentencing Graph and offence statistics:</p> <p>s 42 <i>Rural Fires Act 1997</i> - Obstruction, hindrance etc of members of Rural Fire Service (including volunteers) (no cases in any jurisdiction)</p> <p>s 24 <i>State Emergency Service Act 1989</i> - Obstruction, hindrance of SES officer / other person acting with authority of SES Commissioner (no cases in any jurisdiction);</p> <p>s 35 <i>Fire Brigades Act 1989</i> - Obstruction of fire fighters or other personnel (no District Court cases)</p>

TAB 1

Judicial Information Research System (JIRS)

CRIMES ACT 1900

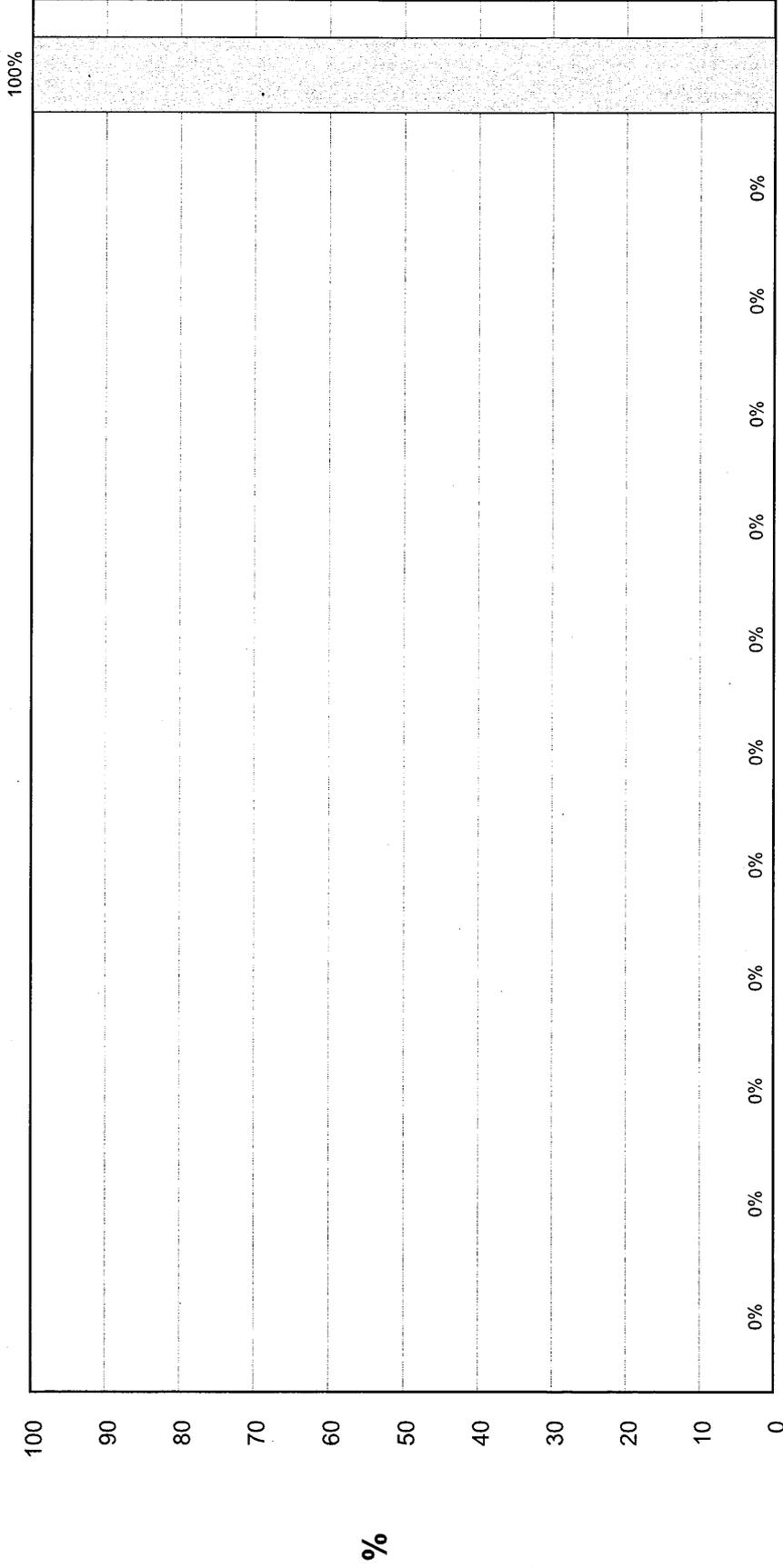
NSW Higher Courts - as at 28/04/17

s.19A - murder prescribed victim - SNPP (Item 1A)

Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Total	s.10(1)(a)	s.10(1) Bond	s.10A	Rise of Court	Fine Only	s.9 Bond	CSO	Susp Sentence	ICO	Period Detent	Home Detent	Prison
Cases	0	0	0	0	0	0	0	0	0	0	0	2

Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

District and Supreme Court — Case Details

Cases 1 to 2 of 2 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.19A — murder prescribed victim - SNPP (Item 1A)



Graph: Penalty Type - Principal Offences Only

Column: Prison

Offenders: All Offenders

1. **JusticeLink Case Number:** ██████████
Judgment(s): 23/6/2016 – **NSWSC Judgment**
Offence Date: 29/07/2014
Sentence Date: 23/06/2016
Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
No Priors — Plea Not Guilty — Age > 50 years
Sentence – Principal Offence: Imprisonment 32 years — NPP 22 years
Sentence – Aggregate/Effective: Imprisonment 35 years — NPP 24 years

2. **JusticeLink Case Number:** ██████████
Judgment(s): 18/12/2014 – **NSWSC Judgment**
Offence Date: 06/12/2012
Sentence Date: 18/12/2014
Offender Characteristics: Individual — One Offence — Form 1 Matters
No Priors — Plea Guilty — Age 18-20 years
Sentence – Principal Offence: Imprisonment 35 years — NPP 26 years
Sentence – Aggregate/Effective: Imprisonment 35 years — NPP 26 years

Judicial Information Research System (JIRS)

CRIMES ACT 1900

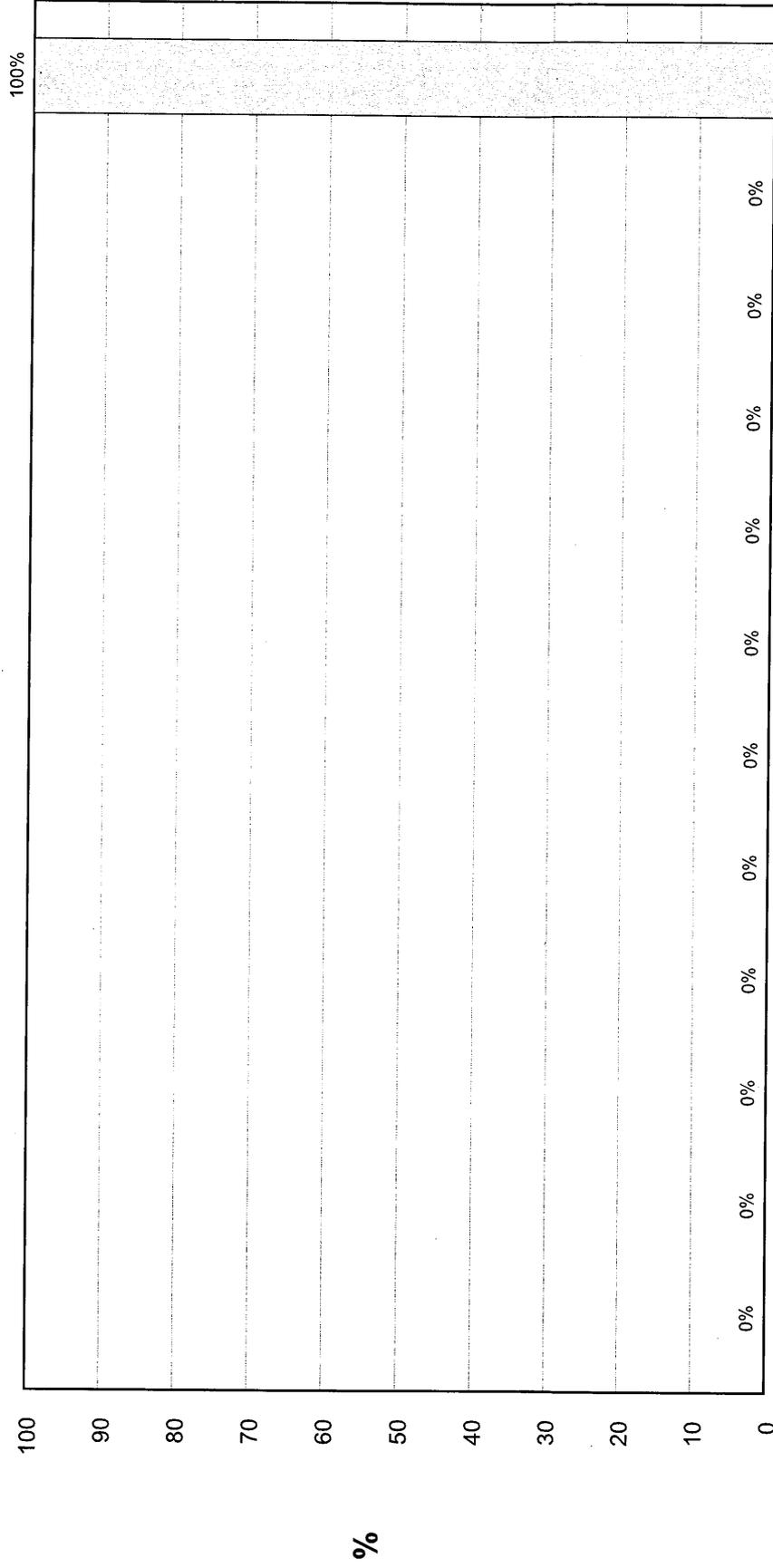
s.19B - murder of police officer - mandatory life sentence

NSW Higher Courts - as at 28/04/17

Sentences from Jun 2011 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Total	s10(1)(a) Dismi	s10(1) Bond (b)&(c)	s.10A	Rise of Court	Fine Only	s.9 Bond	CSO	Susp Sentence	ICO	Period Detent	Home Detent	Prison
1	0	0	0	0	0	0	0	0	0	0	0	1

TAB 2

Judicial Information Research System (JIRS)

CRIMES ACT 1900

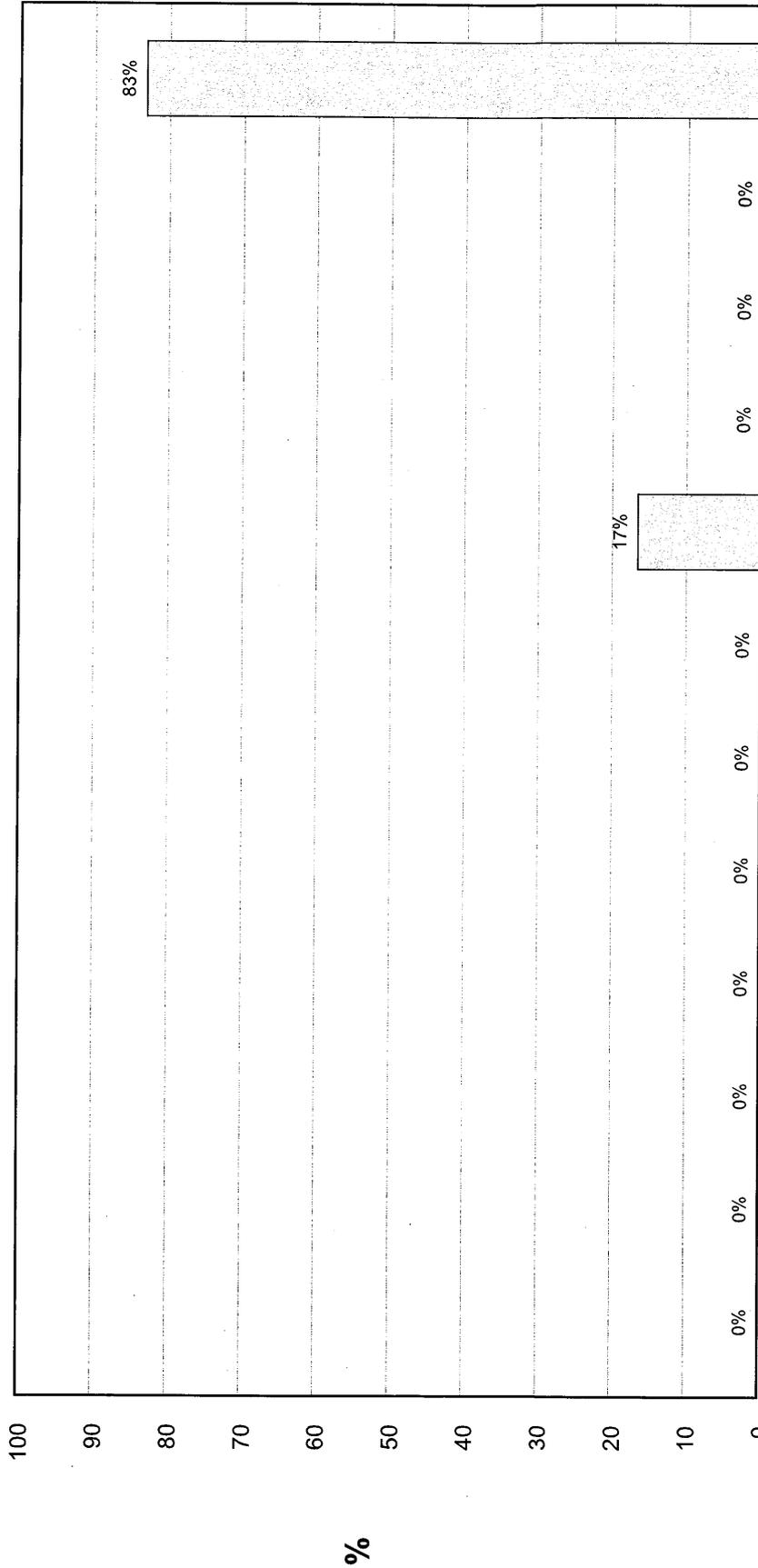
NSW Higher Courts - as at 28/04/17

s.33(2)(a) - wound with intent to resist arrest etc - SNPP (Item 4)

Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Total	s10(1)(a) Dism	s10(1)(b)&(c)	s10(1) Bond	s.10A	Rise of Court	Fine Only	s.9 Bond	CSO	Susp	ICO	Period Detent	Home Detent	Prison
6	0	0	0	0	0	0	0	0	1	0	0	0	5

Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

District and Supreme Court — Case Details

Cases 1 to 5 of 5 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.33(2)(a) — wound with intent to resist arrest etc - SNPP (Item 4)



Graph: Penalty Type - Principal Offences Only

Column: Prison

Offenders: All Offenders

1. **JusticeLink Case Number:** [REDACTED]

Offence Date: 29/10/2013

Sentence Date: 18/06/2015

Offender Characteristics: Individual — More Than One Offence — Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 18-20 years

Sentence – Principal Offence: Imprisonment 5 years — NPP 2 years

Sentence – Aggregate/Effective: Imprisonment 8 years — NPP 5 years

2. **JusticeLink Case Number:** [REDACTED]

Offence Date: 28/02/2009

Sentence Date: 11/10/2013

Offender Characteristics: Individual — More Than One Offence — Form 1 Matters
Priors of Different Type Only — Plea Guilty — Age 18-20 years

Sentence – Principal Offence: Imprisonment 5 years — NPP 2 years 6 months

Sentence – Aggregate/Effective: Imprisonment 7 years — NPP 3 years 3 months

3. **JusticeLink Case Number:** [REDACTED]

Offence Date: 07/08/2012

Sentence Date: 20/09/2013

Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
Priors of Different Type Only — Plea Guilty — Age 18-20 years

Sentence – Principal Offence: Imprisonment 7 years — NPP 4 years

Sentence – Aggregate/Effective: Imprisonment 8 years 6 months — NPP 4 years 8 months

4. **JusticeLink Case Number:** [REDACTED]

Offence Date: 21/06/2012

Sentence Date: 21/02/2013

Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 31-40 years

Sentence – Principal Offence: Imprisonment 6 years — NPP 3 years

Sentence – Aggregate/Effective: Imprisonment 7 years — NPP 4 years

5. **JusticeLink Case Number:** [REDACTED]

Offence Date: 31/05/2009

Sentence Date: 12/12/2012

Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
Priors of Same Type with Gaol — Plea Not Guilty — Age 21-25 years

Sentence – Principal Offence: Imprisonment 6 years — NPP 4 years

Sentence – Aggregate/Effective: Imprisonment 6 years — NPP 4 years

Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

District and Supreme Court — Case Details

Cases 1 to 1 of 1 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.33(2)(a) — wound with intent to resist arrest etc - SNPP (Item 4)



Graph: Penalty Type - Principal Offences Only

Column: s.12 Suspended Sentence

Offenders: All Offenders

- JusticeLink Case Number:** [REDACTED]
Offence Date: 10/04/2014
Sentence Date: 18/12/2014
Offender Characteristics: Individual — One Offence — No Form 1 Matters
Priors of Different Type Only — Plea Not Guilty — Age 10-17 years
Sentence – Principal Offence: Suspended Sentence with Supervision 18 months

Page 1 of 1

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TAB 3

Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

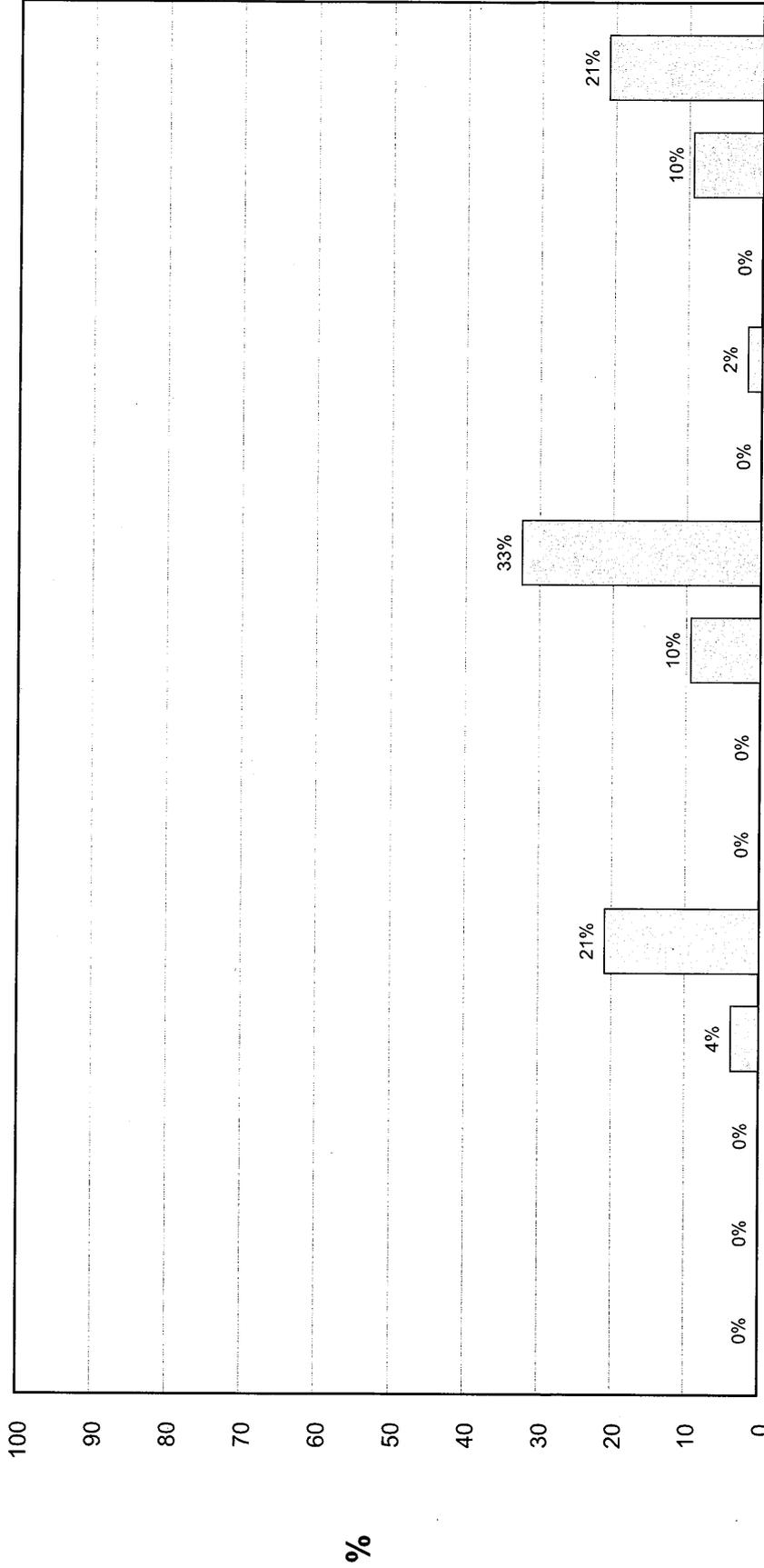
s.33B(1)(a) - use etc offensive weapon w/i to commit offence, resist arrest, etc

NSW Children's Court - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Total	Rise of	Caution	s31 YOA	Disml	Bond	s33(1)(a)	s33(1)(b)	s33(1)(c)	s57(2) YOA	s33(1)(d)	s33(1)(e)	s33(1)(e1)	s33(1)(f)	s33(1)(ft1)	s33(1)(g)
52	0	0	0	0	2	11	5	17	0	0	1	0	0	0	11

Cases Court s31 YOA Disml Bond s33(1)(a) s33(1)(b) s33(1)(c) s57(2) YOA s33(1)(d) s33(1)(e) s33(1)(e1) s33(1)(f) s33(1)(ft1) s33(1)(g) CSO CSO + Probn Susp CO Control Order

Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

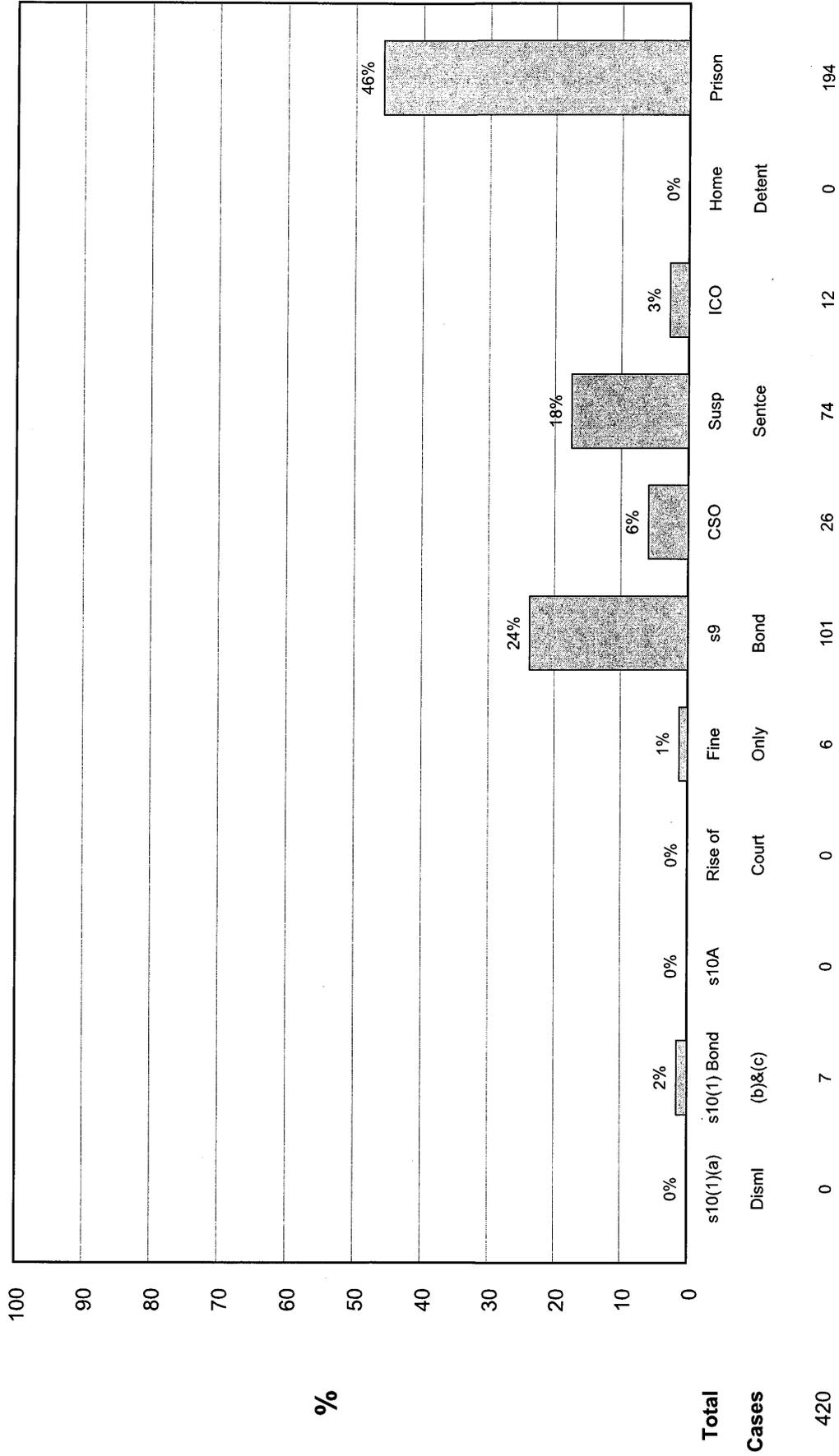
NSW Local Courts - as at Jun 2017

s.33B(1)(a) - use etc offensive weapon w/i to commit offence, resist arrest etc

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

Search

Local Court — Case Details

Cases 1 to 10 of 194 cases matching the following Statistics graph details:

CRIMES ACT 1900 (NSW)

s.33B(1)(a) — use etc offensive weapon w/i to commit offence, resist arrest etc



Graph: Penalty Type - Principal Offences Only

Column: Imprisonment

Offenders: All Offenders

Next 10 documents

1. **JusticeLink Case** [REDACTED]
Number:
Offence Date: 04/10/2016
Sentence Date: 22/12/2016
Offender Individual
Characteristics: 1 Count of this Section
No Other Sections
Priors - Same Type with Custody
Plea Not Guilty/No Plea
Age 41 to 50 Years
No DV Offences
Prior Offences: The offender had a prior record for
 - Acts intended to cause injury (with custody)
 - Property damage and environmental pollution
 - Public order offences
 - Traffic and vehicle regulatory offences
 - Offences against government procedures, government security and government operations (with custody)
 - Miscellaneous offences (with custody)
with most serious penalty: Imprisonment 8 months NPP 5 months
Sentence — Imprisonment 12 months — NPP 3 months
Principal Offence:
2. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 11/12/2016

Sentence Date: 22/12/2016

Offender Individual

Characteristics: 1 Count of this Section
2 Counts of Other Section(s)
Priors - Same Type with Custody
Plea Guilty
Age 31 to 40 Years
No DV Offences

Other Offences: 1 x Crimes Act 1900 (NSW) s61 - Common assault prosecuted by indictment
1 x Summary Offences Act 1988 (NSW) s11E - Wielding of knives in a public place or school

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Unlawful entry with intent/burglary, break and enter (with custody)
- Theft and related offences
- Fraud, deception and related offences
- Illicit drug offences
- Property damage and environmental pollution (with custody)
- Public order offences
- Traffic and vehicle regulatory offences (with custody)
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 18 months NPP 13 months

Sentence — Imprisonment 12 months — NPP 3 months
Principal Offence:

Sentence — Imprisonment 12 months — NPP 3 months
Aggregate/Effective

3. JusticeLink Case Number: [REDACTED]

Offence Date: 23/07/2015

Sentence Date: 16/12/2016

Offender Individual

Characteristics: 1 Count of this Section
5 to 10 Counts of Other Section(s)
Priors - Same Type with Custody
Plea Guilty
Age 31 to 40 Years
No DV Offences

Other Offences: 1 x Road Transport Act 2013 (NSW) s54 - Offences by disqualified drivers or drivers whose licences are suspended or cancelled

2 x Drug Misuse and Trafficking Act 1985 (NSW) s10 - Possession of prohibited drugs

1 x Poisons and Therapeutic Goods Act 1966 (NSW) s16 - Offences relating to prescribed restricted substances

1 x Crimes Act 1900 (NSW) s527C - Persons unlawfully in possession of property

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Dangerous or negligent acts endangering persons
- Abduction, harassment and other offences against the person (with custody)
- Robbery, extortion and related offences (with custody)
- Theft and related offences (with custody)
- Illicit drug offences (with custody)
- Property damage and environmental pollution (with custody)
- Public order offences (with custody)
- Traffic and vehicle regulatory offences (with custody)
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 3 years NPP 2 years

Sentence — Imprisonment 12 months

Principal Offence:

Sentence — Imprisonment 22 months — NPP 17 months

Aggregate/Effective

4. **JusticeLink Case Number:** [REDACTED]

Offence Date: 09/05/2016

Sentence Date: 12/12/2016

Offender Individual

Characteristics: 1 Count of this Section
3 Counts of Other Section(s)
Priors - Same Type with Custody
Plea Guilty
Age 31 to 40 Years
No DV Offences

Other Offences: 1 x Crimes Act 1900 (NSW) s61 - Common assault prosecuted by indictment
1 x Crimes Act 1900 (NSW) s195 - Destroying or damaging property
1 x Crimes Act 1900 (NSW) s60 - Assault and other actions against police officers

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)

- Robbery, extortion and related offences (with custody)
- Theft and related offences (with custody)
- Fraud, deception and related offences
- Illicit drug offences
- Property damage and environmental pollution (with custody)
- Public order offences (with custody)
- Traffic and vehicle regulatory offences
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 3 years 9 months
NPP 21 months

Sentence — Imprisonment 7 months
Principal Offence:

Sentence — Imprisonment 7 months
Aggregate/Effective

5. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 13/06/2016

Sentence Date: 08/12/2016

Offender Individual

Characteristics: 1 Count of this Section
5 to 10 Counts of Other Section(s)
Priors - Same Type
Plea Not Guilty/No Plea
Age 18 to 20 Years
DV Offences Other offence(s) only

Other Offences: 4 x Crimes Act 1900 (NSW) s61 - Common assault prosecuted by indictment (including Domestic Violence)
1 x Crimes (Domestic and Personal Violence) Act 2007 (NSW) s13 - Stalking or intimidation with intent to cause fear of physical or mental harm
2 x Crimes Act 1900 (NSW) s59 - Assault occasioning actual bodily harm (including Domestic Violence)

Prior Offences: The offender had a prior record for

- Acts intended to cause injury
- Unlawful entry with intent/burglary, break and enter
- Property damage and environmental pollution
- Public order offences

with most serious penalty: Suspended sentence with supervision (adult) 12 months

Sentence — Imprisonment 18 months — NPP 5.3 months
Principal Offence:

Sentence — Imprisonment 18 months — NPP 5.3 months
Aggregate/Effective

6. JusticeLink Case [REDACTED]
Number:

Offence Date: 25/01/2016

Sentence Date: 02/12/2016

Offender Individual

Characteristics: 1 Count of this Section
 No Other Sections
 Priors - Same Type with Custody
 Plea Guilty
 Age 31 to 40 Years
 No DV Offences

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Theft and related offences
- Fraud, deception and related offences
- Illicit drug offences (with custody)
- Public order offences (with custody)
- Traffic and vehicle regulatory offences
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 12 months NPP 9 months

Sentence — Imprisonment 24 months — NPP 18 months
Principal Offence:

7. JusticeLink Case [REDACTED]
Number:

Offence Date: 20/05/2016

Sentence Date: 01/12/2016

Offender Individual

Characteristics: 1 Count of this Section
 5 to 10 Counts of Other Section(s)
 Priors - Same Type with Custody
 Plea Not Guilty/No Plea
 Age 31 to 40 Years
 No DV Offences

Other Offences: 1 x Drug Misuse and Trafficking Act 1985 (NSW) s10 - Possession of prohibited drugs
 1 x Summary Offences Act 1988 (NSW) s11C - Custody of knife in public place or school
 1 x Poisons and Therapeutic Goods Act 1966 (NSW) s16 - Offences relating to prescribed restricted substances
 1 x Weapons Prohibition Act 1998 (NSW) s7 - Offence of unauthorised possession or use of prohibited weapon
 2 x Road Transport Act 2013 (NSW) s117 - Negligent, furious or reckless driving
 2 x Road Transport Act 2013 (NSW) s54 - Offences by

disqualified drivers or drivers whose licences are suspended or cancelled

1 x Crimes Act 1900 (NSW) s51B - Police pursuits

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Dangerous or negligent acts endangering persons (with custody)
- Abduction, harassment and other offences against the person (with custody)
- Illicit drug offences
- Property damage and environmental pollution (with custody)
- Public order offences (with custody)
- Traffic and vehicle regulatory offences (with custody)
- Offences against government procedures, government security and government operations

with most serious penalty: Imprisonment 12 months NPP 9 months

Sentence — Imprisonment 20 months — NPP 12 months
Principal Offence:

Sentence — Imprisonment 20 months — NPP 12 months
Aggregate/Effective

8. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 13/03/2016

Sentence Date: 23/11/2016

Offender Individual
Characteristics: 2 Counts of this Section
 1 Count of Other Section
 Priors - Same Type
 Plea Not Guilty/No Plea
 Age 18 to 20 Years
 No DV Offences

Other Offences: 1 x Summary Offences Act 1988 (NSW) s11C - Custody of knife in public place or school

Prior Offences: The offender had a prior record for

- Acts intended to cause injury
- Theft and related offences
- Fraud, deception and related offences
- Illicit drug offences
- Public order offences
- Traffic and vehicle regulatory offences
- Offences against government procedures, government security and government operations

with most serious penalty: Suspended sentence with supervision (adult) 12 months

Sentence — Imprisonment 12 months
Principal Offence:

Sentence — Imprisonment 20 months — NPP 12 months
Aggregate/Effective

9. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 04/08/2016

Sentence Date: 10/11/2016

Offender Individual

Characteristics: 1 Count of this Section
4 Counts of Other Section(s)
Priors - Different Type
Plea Guilty
Age 18 to 20 Years
No DV Offences

Other Offences: 1 x Crimes Act 1900 (NSW) s117 - Punishment for larceny
1 x Crimes Act 1900 (NSW) s61 - Common assault prosecuted by indictment
2 x Inclosed Lands Protection Act 1901 (NSW) s4 - Unlawful entry on inclosed lands

Prior Offences: The offender had a prior record for

- Unlawful entry with intent/burglary, break and enter (with custody)
- Theft and related offences
- Illicit drug offences

with most serious penalty: Imprisonment 2 years NPP 12 months

Sentence — Imprisonment 8 months — NPP 4 months
Principal Offence:

Sentence — Imprisonment 8 months — NPP 4 months
Aggregate/Effective

10. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 30/08/2015

Sentence Date: 27/10/2016

Offender Individual

Characteristics: 1 Count of this Section
5 to 10 Counts of Other Section(s)
Priors - Same Type
Plea Not Guilty/No Plea
Age 31 to 40 Years
DV Offences Other offence(s) only

Other Offences: 2 x Crimes Act 1900 (NSW) s117 - Punishment for larceny
1 x Crimes Act 1900 (NSW) s51B - Police pursuits
1 x Crimes Act 1900 (NSW) s59 - Assault occasioning actual bodily harm (including Domestic Violence)
1 x Crimes Act 1900 (NSW) s61 - Common assault prosecuted by indictment

Prior Offences: The offender had a prior record for

- Acts intended to cause injury
- Robbery, extortion and related offences (with custody)
- Theft and related offences
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 6 months

Sentence — Imprisonment 12 months — NPP 6 months

Principal Offence:

Sentence — Imprisonment 12 months — NPP 6 months

Aggregate/Effective

Next 10 documents

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Judicial Information Research System (JIRS)

CRIMES ACT 1900

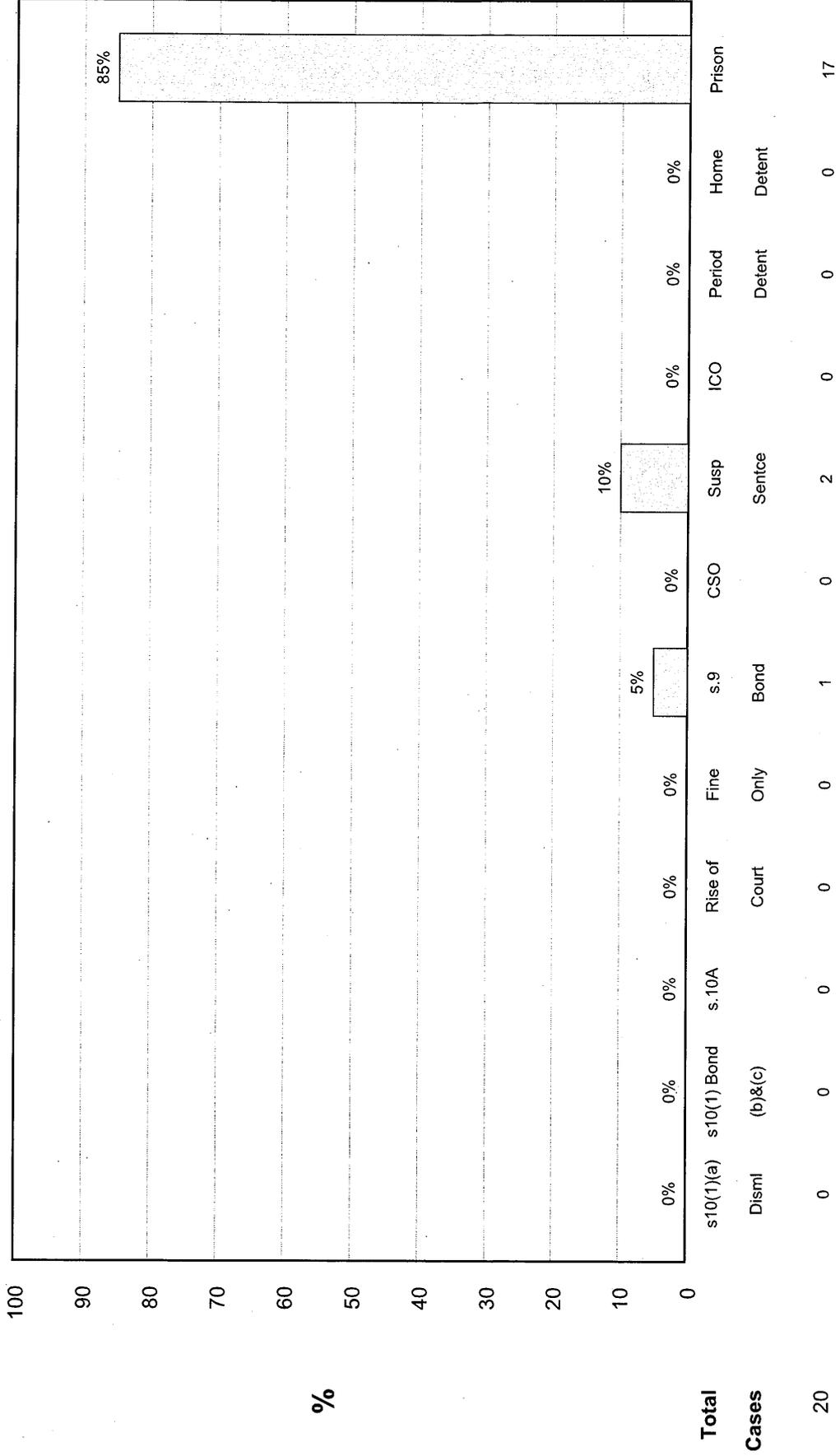
s.33B(1)(a) - use etc offensive weapon w/i to prevent lawful apprehension/detention

NSW Higher Courts - as at 28/04/17

Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

District and Supreme Court — Case Details

Cases 1 to 10 of 17 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.33B(1)(a) — use etc offensive weapon w/i to prevent lawful apprehension/detention



Graph: Penalty Type - Principal Offences Only

Column: Prison

Offenders: All Offenders

[Next 7 documents](#)

1. **JusticeLink Case Number:** [REDACTED]
 - Judgment(s):** 20/11/2009 – NSWDC Judgment
 - Offence Date:** 28/07/2008
 - Sentence Date:** 20/11/2009
 - Offender Characteristics:** Individual — More Than One Offence — Form 1 Matters Priors of Same Type with Gaol — Plea Guilty — Age 41-50 years
 - Sentence – Principal Offence:** Imprisonment 7 years 2 months — NPP 4 years 3 months
 - Sentence – Aggregate/Effective:** Imprisonment 7 years 11 months — NPP 5 years

2. **JusticeLink Case Number:** [REDACTED]
 - Offence Date:** 18/01/2015
 - Sentence Date:** 23/06/2016
 - Offender Characteristics:** Individual — More Than One Offence — Form 1 Matters Priors of Same Type with Gaol — Plea Guilty — Age 21-25 years
 - Sentence – Principal Offence:** Imprisonment 4 years — NPP 2 years
 - Sentence – Aggregate/Effective:** Imprisonment 5 years — NPP 3 years

3. **JusticeLink Case Number:** 2014/00213838

Offence Date: 20/07/2014

Sentence Date: 22/05/2015

Offender Characteristics: Individual — One Offence — No Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 31-40 years

Sentence – Principal Offence: Imprisonment 5 years — NPP 2 years 6 months

Sentence – Aggregate/Effective: Imprisonment 5 years — NPP 2 years 6 months

4. **JusticeLink Case Number:** [REDACTED]

Offence Date: 27/07/2013

Sentence Date: 05/11/2014

Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
Priors of Same Type with Gaol — Plea Not Guilty — Age 31-40 years

Sentence – Principal Offence: Imprisonment 3 years 6 months — NPP 12 months

Sentence – Aggregate/Effective: Imprisonment 4 years 6 months — NPP 3 years

5. **JusticeLink Case Number:** [REDACTED]

Offence Date: 20/03/2013

Sentence Date: 05/06/2014

Offender Characteristics: Individual — More Than One Offence — Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 31-40 years

Sentence – Principal Offence: Imprisonment 2 years 6 months — NPP 15 months

Sentence – Aggregate/Effective: Imprisonment 2 years 9 months — NPP 18 months

6. **JusticeLink Case Number:** [REDACTED]

Offence Date: 16/12/2012

Sentence Date: 04/11/2013

Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
No Priors — Plea Guilty — Age > 50 years

Sentence – Principal Offence: Imprisonment 2 years

Sentence – Aggregate/Effective: Imprisonment 2 years 6 months — NPP 12 months

7. **JusticeLink Case Number:** [REDACTED]
Offence Date: 14/12/2012
Sentence Date: 20/08/2013
Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 41-50 years
Sentence – Principal Offence: Imprisonment 4 years — NPP 2 years 6 months
Sentence – Aggregate/Effective: Imprisonment 4 years — NPP 2 years 6 months
8. **JusticeLink Case Number:** [REDACTED]
Offence Date: 13/09/2012
Sentence Date: 12/07/2013
Offender Characteristics: Individual — More Than One Offence — Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 31-40 years
Sentence – Principal Offence: Imprisonment 3 years 4 months — NPP 18 months
Sentence – Aggregate/Effective: Imprisonment 3 years 4 months — NPP 18 months
9. **JusticeLink Case Number:** [REDACTED]
Offence Date: 01/09/2011
Sentence Date: 23/04/2013
Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
Priors of Same Type — Plea Not Guilty — Age 41-50 years
Sentence – Principal Offence: Imprisonment 2 years 3 months — NPP 15 months
Sentence – Aggregate/Effective: Imprisonment 2 years 6 months — NPP 18 months
10. **JusticeLink Case Number:** [REDACTED]
Offence Date: 03/05/2011
Sentence Date: 14/02/2013
Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters

Priors of Same Type with Gaol — Plea Guilty — Age 21-25 years

Sentence – Principal Offence: Imprisonment 2 years 6 months — NPP 12 months

Sentence – Aggregate/Effective: Imprisonment 2 years 9 months — NPP 15 months

[Next 7 documents](#)

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Judicial Information Research System (JIRS)

CRIMES ACT 1900

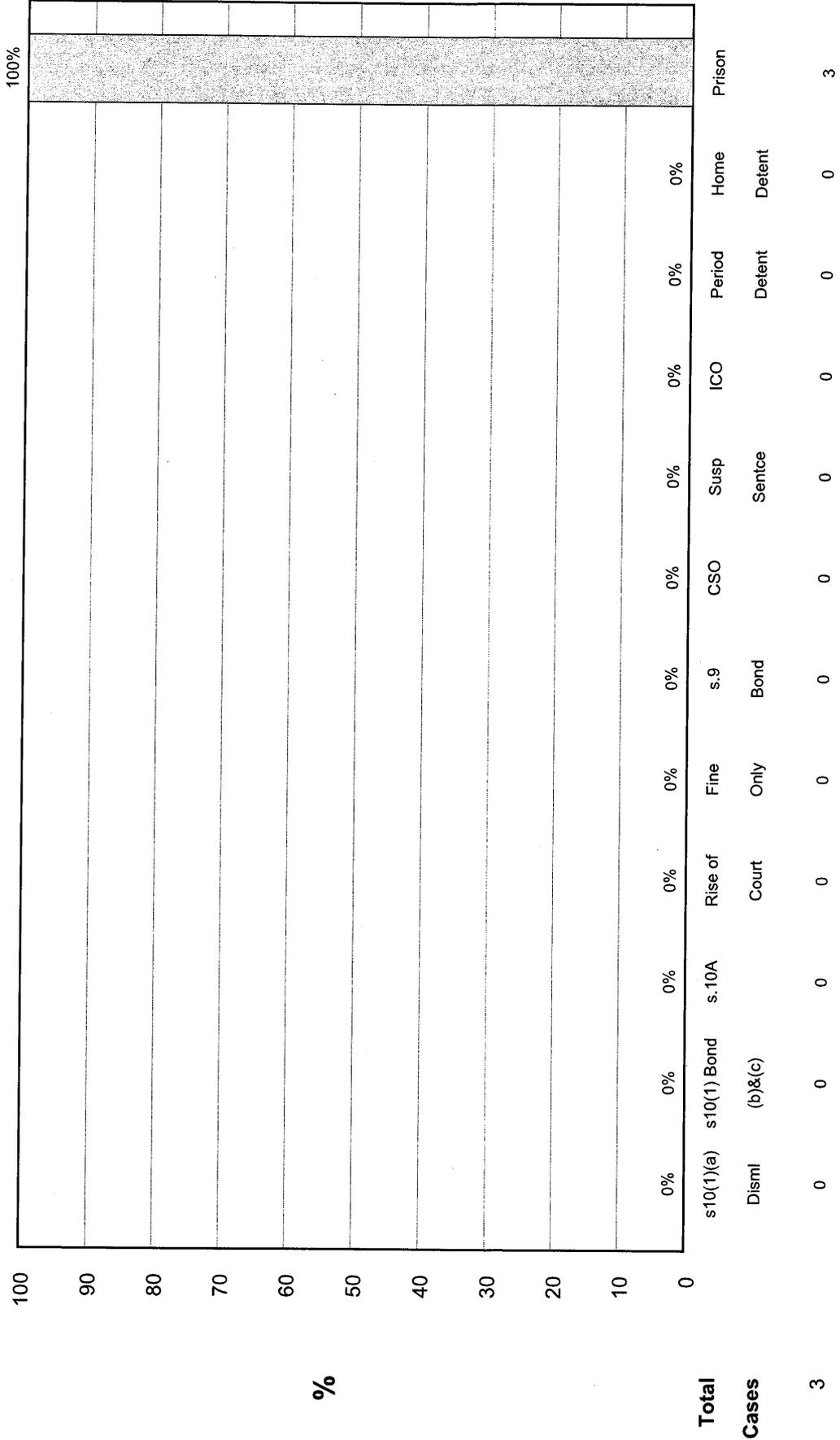
NSW Higher Courts - as at 28/04/17

s.33B(1)(b) - threaten injury w/i to prevent lawful apprehension/detention

Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

Search

District and Supreme Court — Case Details

Cases 1 to 3 of 3 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.33B(1)(b) — threaten injury w/i to prevent lawful apprehension/detention



Graph: Penalty Type - Principal Offences Only

Column: Prison

Offenders: All Offenders

1. **JusticeLink Case Number:** [REDACTED]
 - Judgment(s):** 31/10/2014 – **s5(1)(c) Appeal - Dismissed**
 - Offence Date:** 10/07/2012
 - Sentence Date:** 09/09/2013
 - Offender Characteristics:** Individual — More Than One Offence — No Form 1 Matters
Priors of Same Type — Plea Guilty — Age 31-40 years
 - Sentence – Principal Offence:** Imprisonment 6 years
 - Sentence – Aggregate/Effective:** Imprisonment 6 years 9 months — NPP 4 years 3 months

2. **JusticeLink Case Number:** [REDACTED]
 - Offence Date:** 06/09/2011
 - Sentence Date:** 13/04/2012
 - Offender Characteristics:** Individual — More Than One Offence — Form 1 Matters
Priors of Same Type — Plea Guilty — Age > 50 years
 - Sentence – Principal Offence:** Imprisonment 2 years 8 months — NPP 8 months
 - Sentence – Aggregate/Effective:** Imprisonment 2 years 8 months — NPP 8 months

3. **JusticeLink Case Number:** [REDACTED]
 - Offence Date:** 14/06/2008

Sentence Date: 02/10/2009

Offender Characteristics: Individual — More Than One Offence — No Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 26-30 years

Sentence – Principal Offence: Imprisonment 3 years — NPP 18 months

Sentence – Aggregate/Effective: Imprisonment 3 years 8 months — NPP 2 years 2 months

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TAB 4

Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

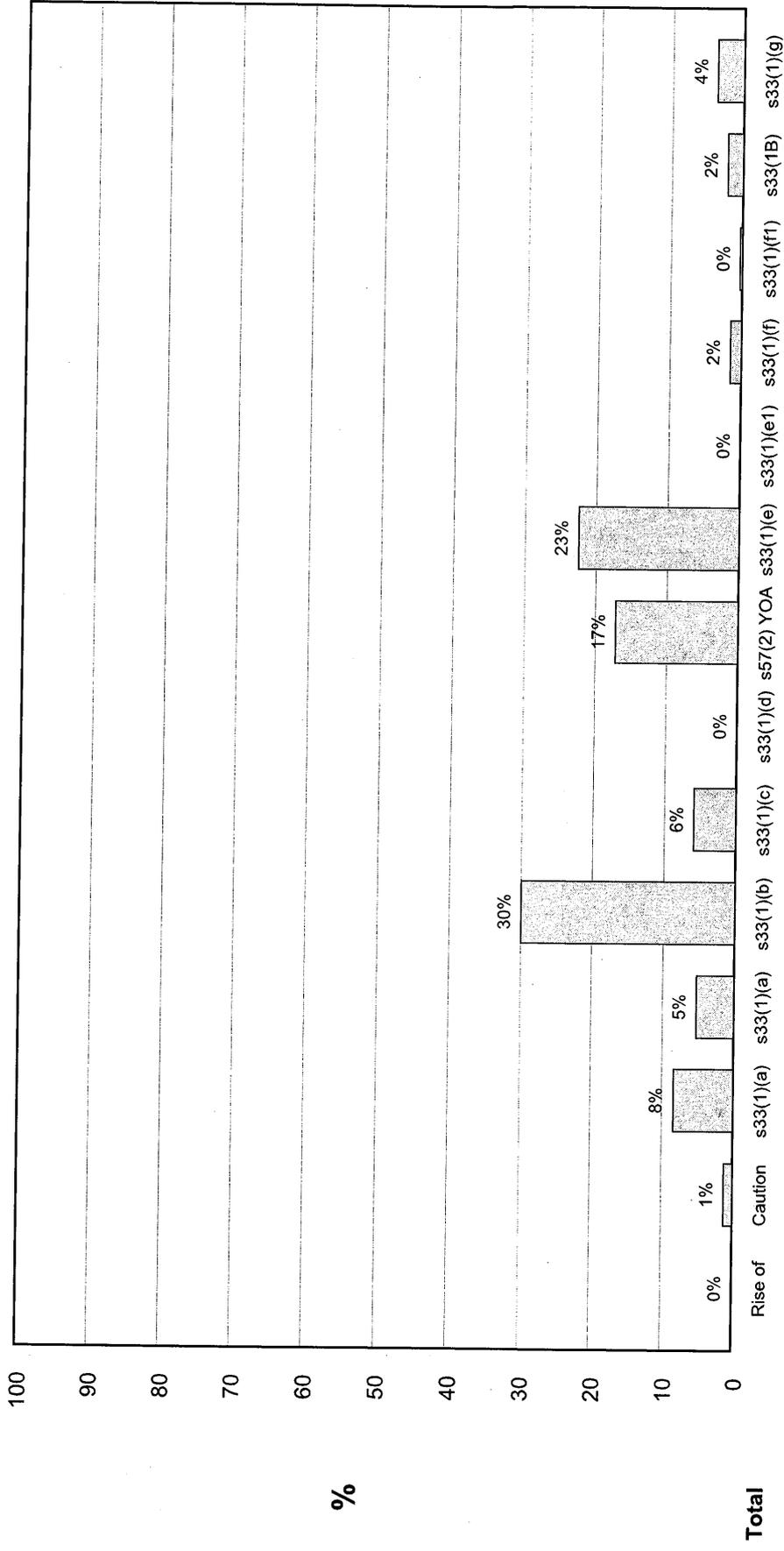
s.58 - resist or obstruct officer in the execution of duty

NSW Children's Court - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS,

CRIMES ACT 1900 (NSW)

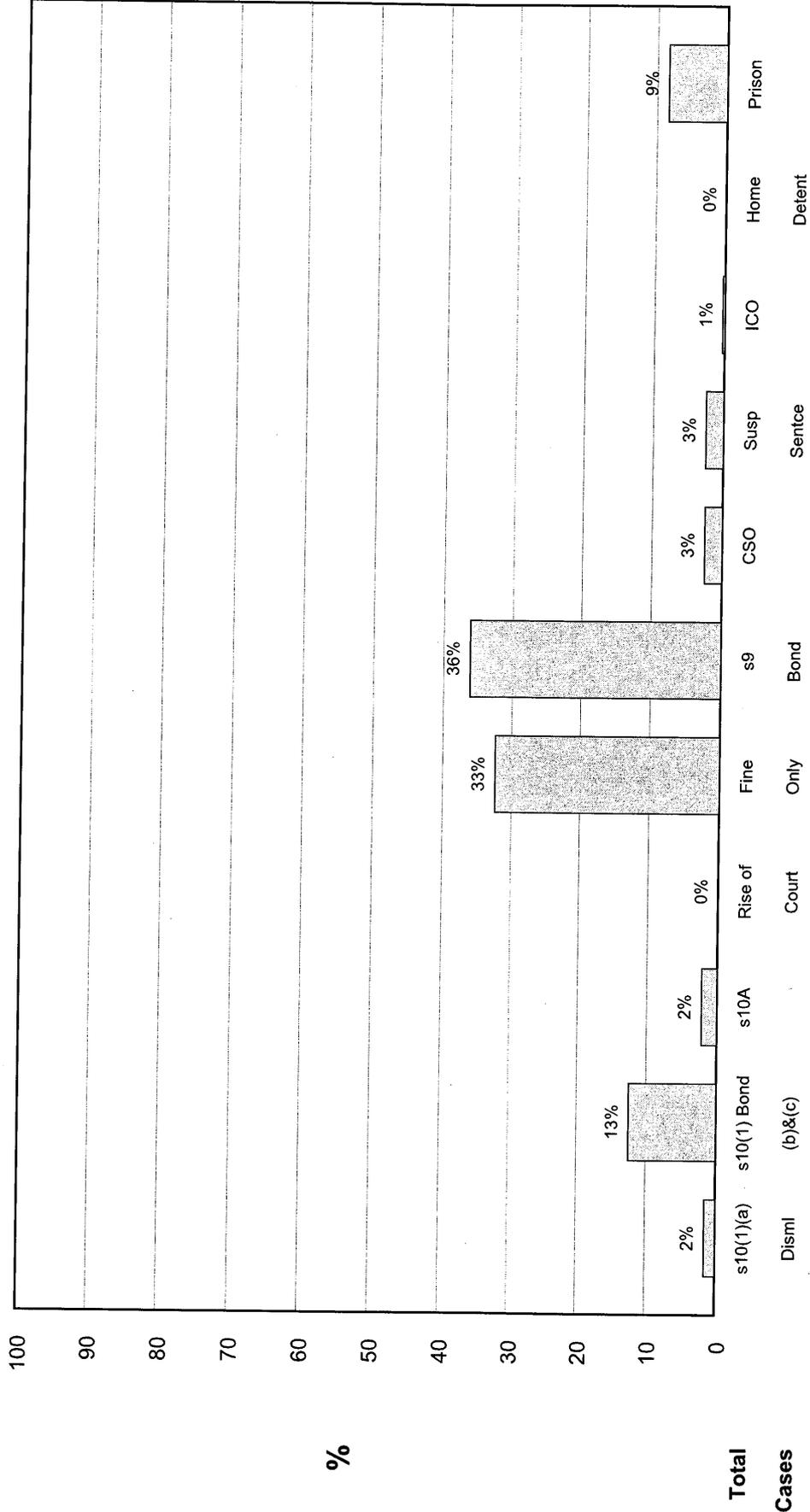
s.58 - resist or obstruct officer in the execution of duty

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Total Cases	s10(1)(a) Dismis	s10(1) Bond (b)&(c)	s10A Court	Rise of Court	Fine Only	s9 Bond	CSO Sentence	ICO Detent	Home Detent	Prison
2990	49	375	67	2	972	1091	84	15	0	257

Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

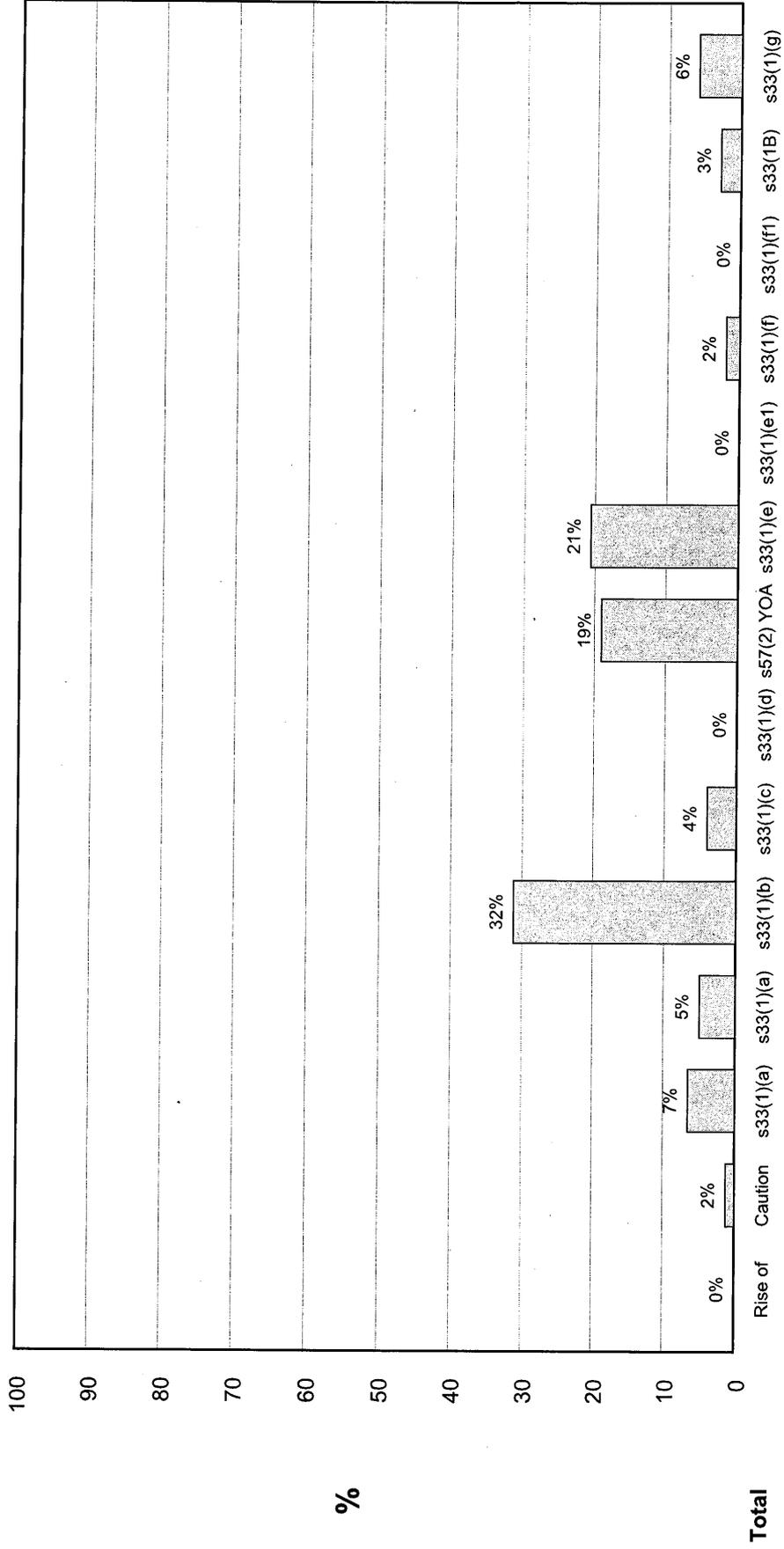
NSW Children's Court - as at Jun 2017

s.58 - assault officer in the execution of duty

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

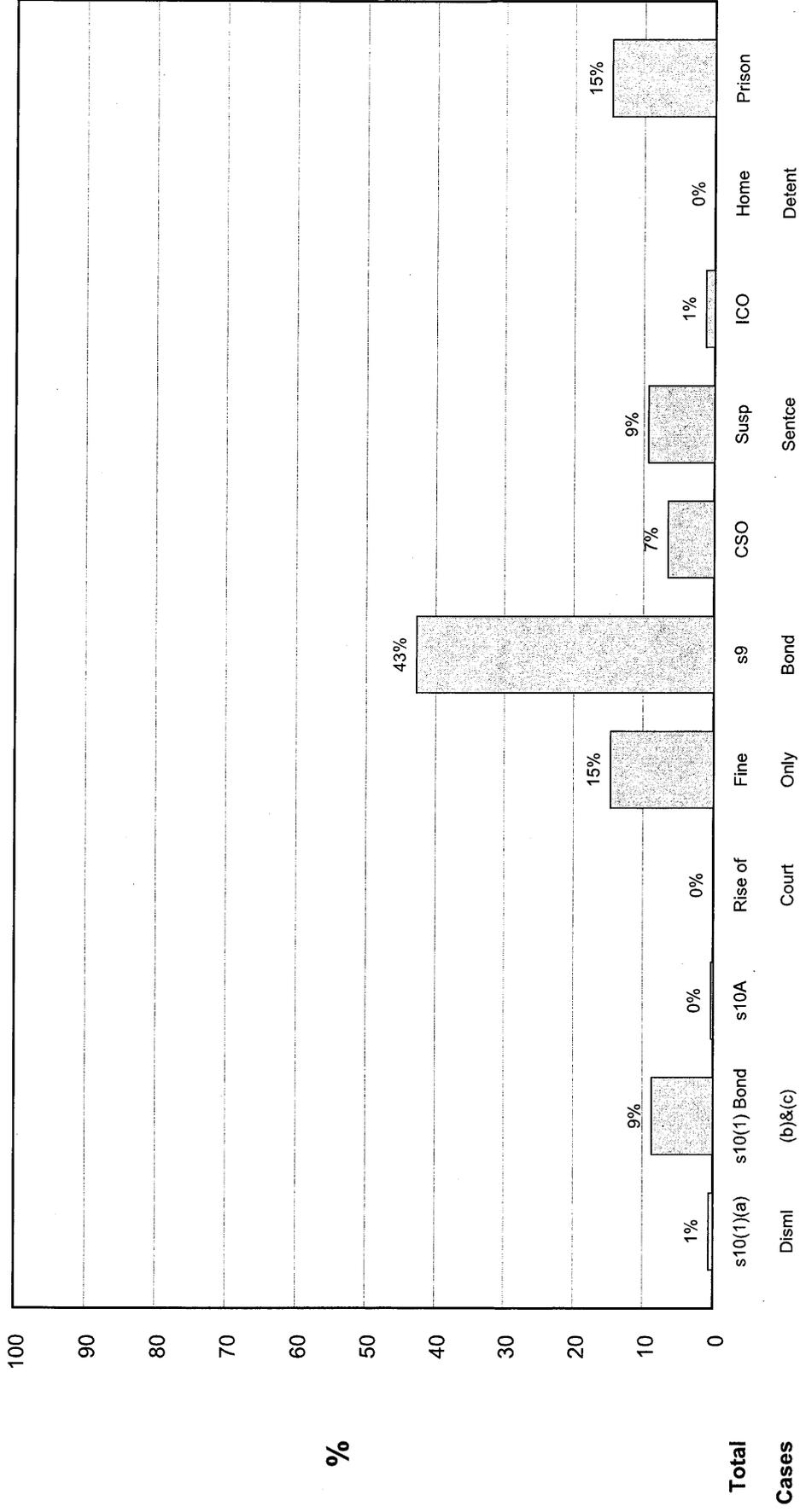
All Offenders



Total	Rise of Court	Caution s31 YOA	Dismal s33(1)(a)	Bond s33(1)(a)	Bond s33(1)(b)	Fine s33(1)(c)	Fine + Bond YJC Disml s33(1)(d)	YOA s33(1)(e)	Probation s33(1)(e)	Probation + Fine s33(1)(f)	CSO s33(1)(f)	CSO + Probation Susp CO Control Order s33(1)(g)	s33(1)(g)	
393	0	6	26	20	124	16	0	75	82	0	8	0	12	24

Penalty Type - Principal Offences Only

All Offenders



Total	Cases
3641	545

Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

Local Court — Case Details

Cases 1 to 10 of 545 cases matching the following Statistics graph details:

CRIMES ACT 1900 (NSW)

s.58 — assault officer in the execution of duty



Graph: Penalty Type - Principal Offences Only

Column: Imprisonment

Offenders: All Offenders

Next 10 documents

1. **JusticeLink Case** [REDACTED]
Number: [REDACTED]

Judgment(s): Judgment

Offence Date: 17/06/2013

Sentence Date: 05/11/2013

Offender: Individual

Characteristics: 4 Counts of this Section
4 Counts of Other Section(s)
Priors - Same Type
Plea Guilty
Age 41 to 50 Years
No DV Offences

Other Offences: 1 x Crimes (Domestic and Personal Violence) Act 2007 (NSW) s13 - Stalking or intimidation with intent to cause fear of physical or mental harm
1 x Road Transport (Safety and Traffic Management) Act 1999 (NSW) s12 - Use or attempted use of a vehicle under the influence of alcohol or any other drug
2 x Road Rules 2008 (NSW) s287 - Repealed

Prior Offences: The offender had a prior record for

- Acts intended to cause injury
- Dangerous or negligent acts endangering persons (with custody)
- Abduction, harassment and other offences against the person
- Unlawful entry with intent/burglary, break and enter (with custody)
- Fraud, deception and related offences (with custody)

- Property damage and environmental pollution
- Public order offences
- Traffic and vehicle regulatory offences
- Offences against government procedures, government security and government operations

with most serious penalty: Imprisonment 16 months NPP 12 months

Sentence — Imprisonment 8 months — NPP 1 month
Principal Offence:

Sentence — Imprisonment 7.9 months — NPP 29 days
Aggregate/Effective

2. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 14/11/2016

Sentence Date: 22/12/2016

Offender Individual

Characteristics: 1 Count of this Section
 2 Counts of Other Section(s)
 Priors - Same Type with Custody
 Plea Not Guilty/No Plea
 Age 31 to 40 Years
 No DV Offences

Other Offences: 1 x Crimes Act 1900 (NSW) s117 - Punishment for larceny
 1 x Bail Act 2013 (NSW) s79 - Offence of failing to appear

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Robbery, extortion and related offences (with custody)
- Theft and related offences (with custody)
- Illicit drug offences
- Public order offences
- Offences against government procedures, government security and government operations

with most serious penalty: Imprisonment 10 months NPP 5 months

Sentence — Imprisonment 9 months — NPP 4 months
Principal Offence:

Sentence — Imprisonment 9 months — NPP 3.9 months
Aggregate/Effective

3. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 14/10/2016

Sentence Date: 21/12/2016

Offender Individual
Characteristics: 2 Counts of this Section
 No Other Sections
 Priors - Different Type
 Plea Guilty
 Age 21 to 25 Years
 No DV Offences

Prior Offences: The offender had a prior record for

- Robbery, extortion and related offences (with custody)
- Theft and related offences (with custody)
- Public order offences
- Traffic and vehicle regulatory offences

with most serious penalty: Imprisonment 4 years NPP 18 months

Sentence — Imprisonment 12 months — NPP 9 months
Principal Offence:

Sentence — Imprisonment 12 months — NPP 9 months
Aggregate/Effective

4. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 18/12/2016

Sentence Date: 19/12/2016

Offender Individual
Characteristics: 3 Counts of this Section
 3 Counts of Other Section(s)
 Priors - Same Type with Custody
 Plea Not Guilty/No Plea
 Age More than 50 Years
 No DV Offences

Other Offences: 1 x Drug Misuse and Trafficking Act 1985 (NSW) s10 - Possession of prohibited drugs
 1 x Crimes Act 1900 (NSW) s60 - Assault and other actions against police officers

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Abduction, harassment and other offences against the person
- Theft and related offences (with custody)
- Illicit drug offences
- Property damage and environmental pollution (with custody)
- Public order offences (with custody)
- Offences against government procedures, government security and government operations (with custody)
- Miscellaneous offences (with custody)

with most serious penalty: Imprisonment 16 months NPP 12 months

Sentence — Imprisonment 7 months — NPP 4 months
Principal Offence:

Sentence — Imprisonment 7 months — NPP 4 months
Aggregate/Effective

5. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 09/11/2016

Sentence Date: 19/12/2016

Offender Individual

Characteristics: 1 Count of this Section
 3 Counts of Other Section(s)
 Priors - Same Type with Custody
 Plea Guilty
 Age 31 to 40 Years
 DV Offences Other offence(s) only

Other Offences: 1 x Crimes Act 1900 (NSW) s195 - Destroying or damaging property
 1 x Crimes Act 1900 (NSW) s61 - Common assault prosecuted by indictment (including Domestic Violence)
 1 x Crimes (Domestic and Personal Violence) Act 2007 (NSW) s14 - Offence of contravening apprehended violence order

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Robbery, extortion and related offences (with custody)
- Unlawful entry with intent/burglary, break and enter (with custody)
- Theft and related offences (with custody)
- Illicit drug offences
- Property damage and environmental pollution (with custody)
- Public order offences (with custody)
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 3 years 8 months
 NPP 2 years 9 months

Sentence — Imprisonment 12 months — NPP 3 months
Principal Offence:

Sentence — Imprisonment 12 months — NPP 3 months
Aggregate/Effective

6. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 30/06/2016

Sentence Date: 09/12/2016

Offender Individual

Characteristics: 4 Counts of this Section
2 Counts of Other Section(s)
Priors - Same Type with Custody
Plea Guilty
Age 26 to 30 Years
No DV Offences

Other Offences: 1 x Road Transport Act 2013 (NSW) sSch3cl3 - Repealed
1 x Road Transport (Driver Licensing) Regulation 2008 (NSW) s15 - Learner licence holder must be supervised in vehicle and display "L" plates

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Unlawful entry with intent/burglary, break and enter
- Illicit drug offences
- Property damage and environmental pollution
- Public order offences (with custody)
- Traffic and vehicle regulatory offences
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 18 months NPP 12 months

Sentence — Imprisonment 12 months — NPP 7 months

Principal Offence:

Sentence — Imprisonment 12 months — NPP 7 months

Aggregate/Effective

7. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 09/09/2016

Sentence Date: 08/12/2016

Offender Individual

Characteristics: 4 Counts of this Section
3 Counts of Other Section(s)
Priors - Same Type
Plea Guilty
Age 18 to 20 Years
No DV Offences

Other Offences: 1 x Crimes Act 1900 (NSW) s188 - Receiving stolen property where stealing a serious indictable offence
1 x Inclosed Lands Protection Act 1901 (NSW) s4 - Unlawful entry on inclosed lands
1 x Drug Misuse and Trafficking Act 1985 (NSW) s10 - Possession of prohibited drugs

Prior Offences: The offender had a prior record for

- Acts intended to cause injury
- Unlawful entry with intent/burglary, break and enter (with custody)
- Theft and related offences (with custody)
- Prohibited and regulated weapons and explosives offences (with custody)
- Property damage and environmental pollution (with custody)
- Public order offences (with custody)
- Offences against government procedures, government security and government operations

with most serious penalty: Imprisonment 8 months NPP 6 months

Sentence — Imprisonment 12 months
Principal Offence:

Sentence — Imprisonment 27 months — NPP 15 months
Aggregate/Effective

8. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 01/10/2015

Sentence Date: 05/12/2016

Offender Individual

Characteristics: 1 Count of this Section
 2 Counts of Other Section(s)
 Priors - Same Type
 Plea Guilty
 Age 31 to 40 Years
 No DV Offences

Other Offences: 1 x Bail Act 2013 (NSW) s79 - Offence of failing to appear
 1 x Summary Offences Act 1988 (NSW) s11C - Custody of knife in public place or school

Prior Offences: The offender had a prior record for

- Acts intended to cause injury
- Public order offences
- Traffic and vehicle regulatory offences
- Offences against government procedures, government security and government operations

with most serious penalty: Fine \$1,000

Sentence — Imprisonment 1 month
Principal Offence:

Sentence — Imprisonment 29 days
Aggregate/Effective

9. **JusticeLink Case** [REDACTED]
Number:

Offence Date: 07/05/2016

Sentence Date: 01/12/2016

Offender: Individual

Characteristics: 2 Counts of this Section
4 Counts of Other Section(s)
Priors - Same Type
Plea Not Guilty/No Plea
Age 31 to 40 Years
No DV Offences

Other Offences: 1 x Passenger Transport Regulation 2007 (NSW) s52 -
Limitation on eating and drinking in certain public passenger
vehicles and trains
2 x Passenger Transport Regulation 2007 (NSW) s50 - No
offensive behaviour or language
1 x Passenger Transport Regulation 2007 (NSW) s77A - Valid
ticket required for travel

Prior Offences: The offender had a prior record for

- Acts intended to cause injury
- Abduction, harassment and other offences against the person
- Illicit drug offences
- Property damage and environmental pollution
- Public order offences
- Traffic and vehicle regulatory offences
- Offences against government procedures, government security and government operations

with most serious penalty: Suspended sentence with supervision (adult) 7 months

Sentence — Imprisonment 9 months

Principal Offence:

Sentence — Imprisonment 9 months — NPP 4 months

Aggregate/Effective

10. JusticeLink Case XXXXXXXXXX
Number:

Offence Date: 25/07/2016

Sentence Date: 30/11/2016

Offender: Individual

Characteristics: 2 Counts of this Section
5 to 10 Counts of Other Section(s)
Priors - Same Type with Custody
Plea Guilty
Age 18 to 20 Years
No DV Offences

Other Offences: 1 x Summary Offences Act 1988 (NSW) s4A - Offensive language
1 x Crimes Act 1900 (NSW) s93C - Affray

1 x Crimes Act 1900 (NSW) s199 - Threatening to destroy or damage property
1 x Crimes Act 1900 (NSW) s195 - Destroying or damaging property
1 x Crimes Act 1900 (NSW) s114 - Being armed with intent to commit indictable offence

Prior Offences: The offender had a prior record for

- Acts intended to cause injury (with custody)
- Abduction, harassment and other offences against the person (with custody)
- Theft and related offences
- Illicit drug offences
- Property damage and environmental pollution
- Public order offences
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Imprisonment 4 months

Sentence — Imprisonment 15 months — NPP 5 months
Principal Offence:

Sentence — Imprisonment 15 months — NPP 5 months
Aggregate/Effective

Next 10 documents

Page 1 of 55

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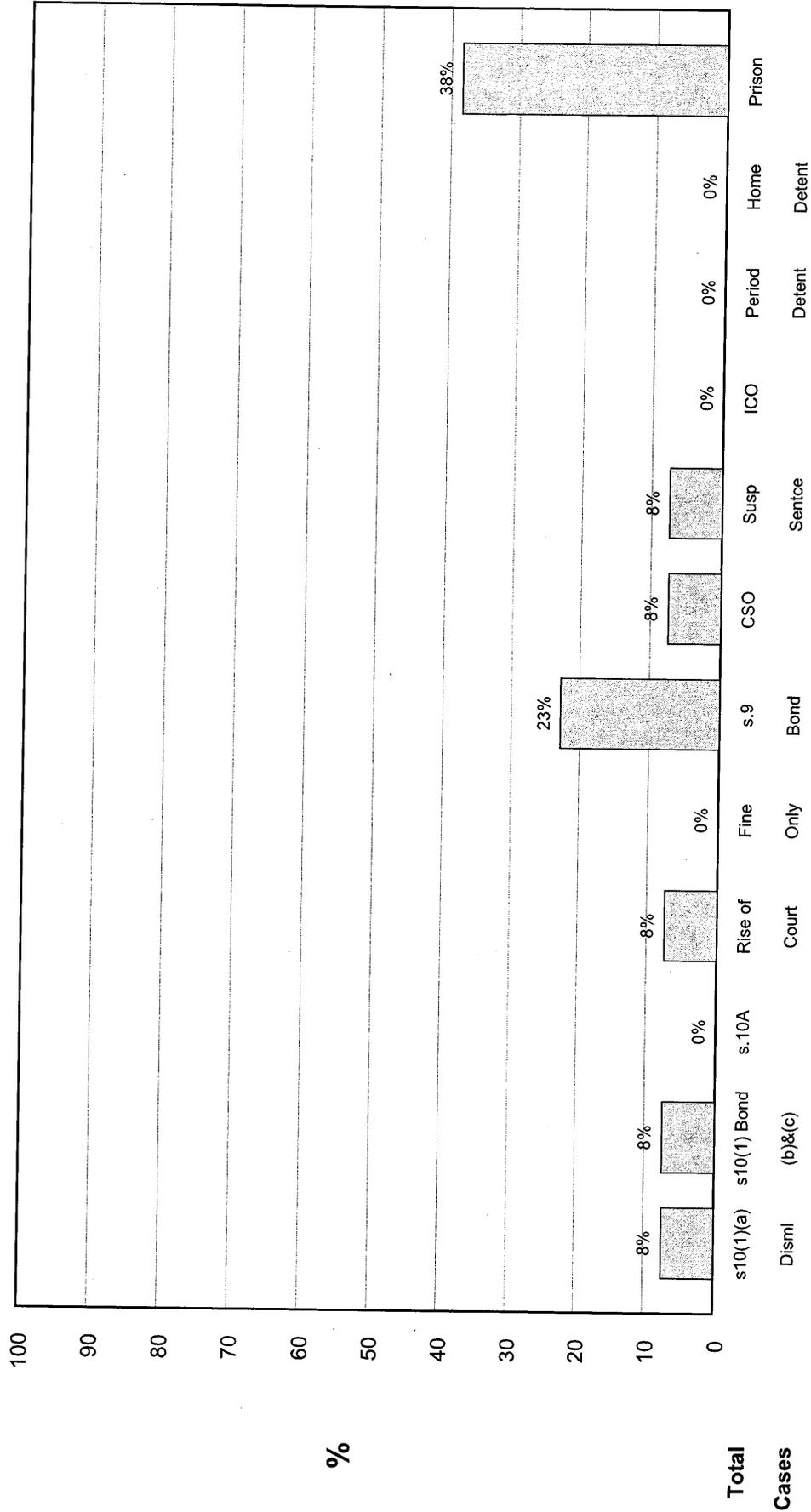
Judicial Information Research System (JIRS)

CRIMES ACT 1900

s.58 - assault etc, on certain officers in execution of duty

NSW Higher Courts - as at 28/04/17
Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only
All Offenders



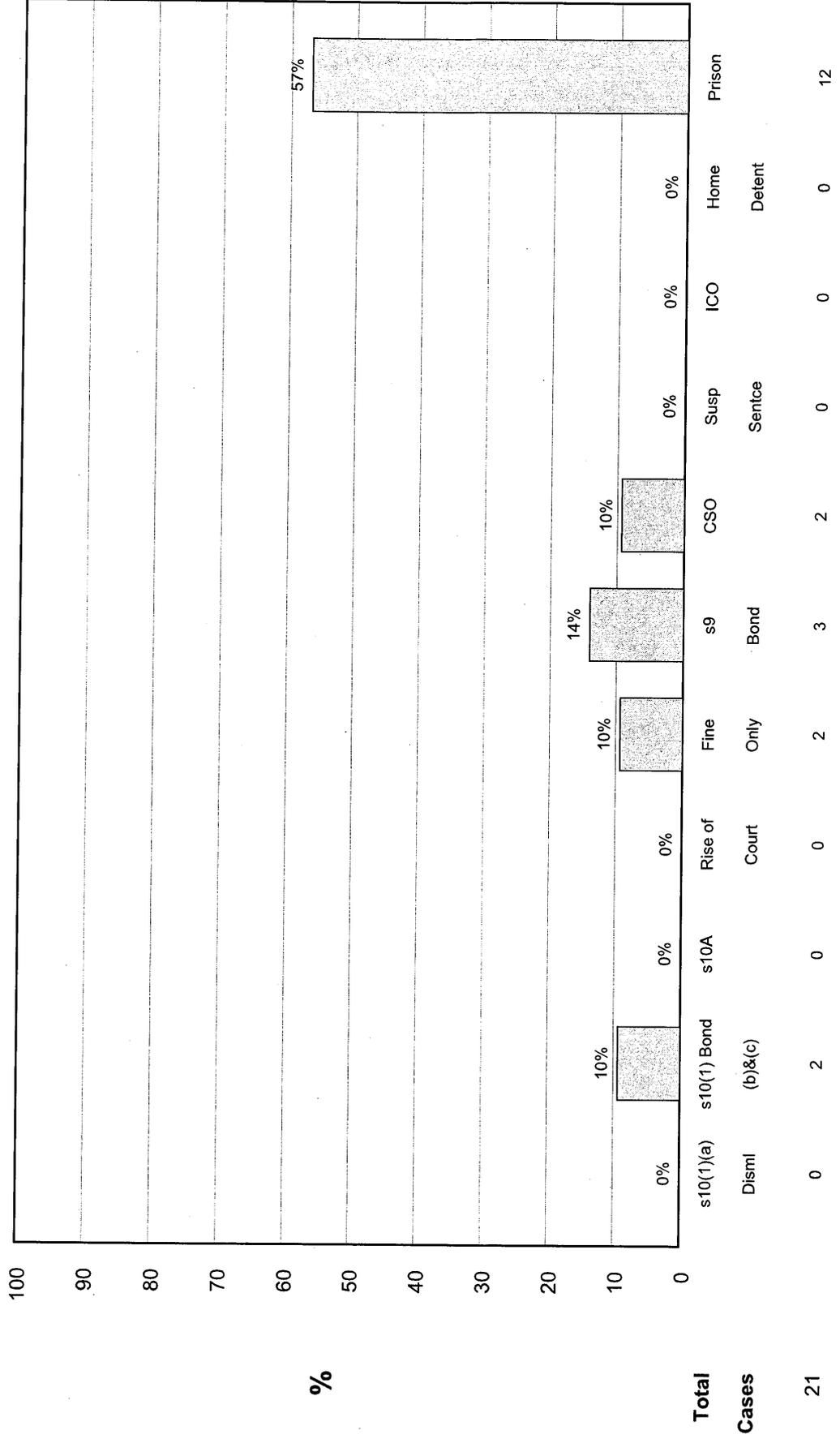
Total

Cases

13	1	1	0	1	3	1	1	0	0	0	0	5
----	---	---	---	---	---	---	---	---	---	---	---	---

Penalty Type - Principal Offences Only

All Offenders



TAB 5

Judicial Information Research System (JIRS,

CRIMES ACT 1900 (NSW)

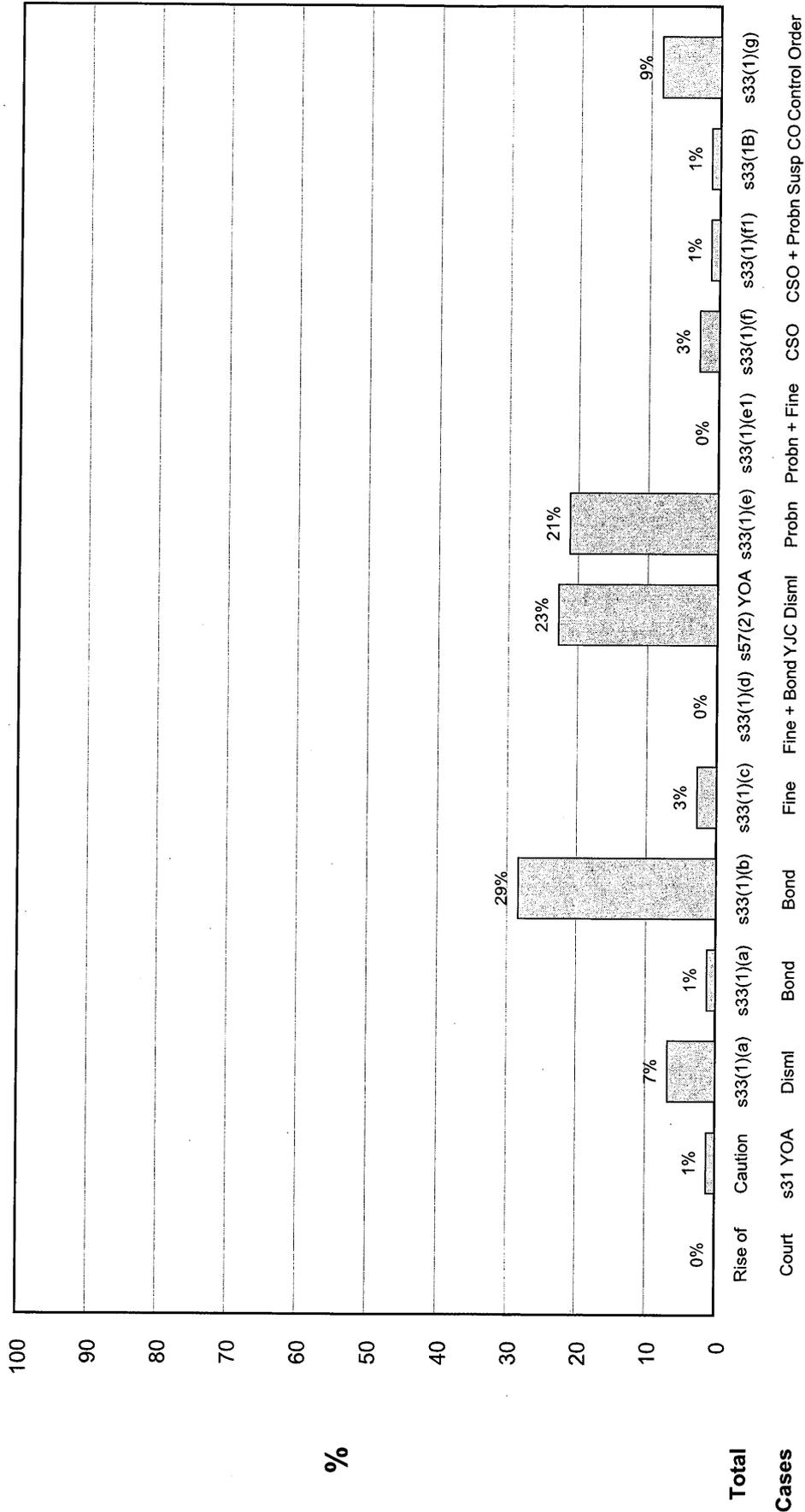
s.60(1) - assault police officer in execution of duty

NSW Children's Court - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

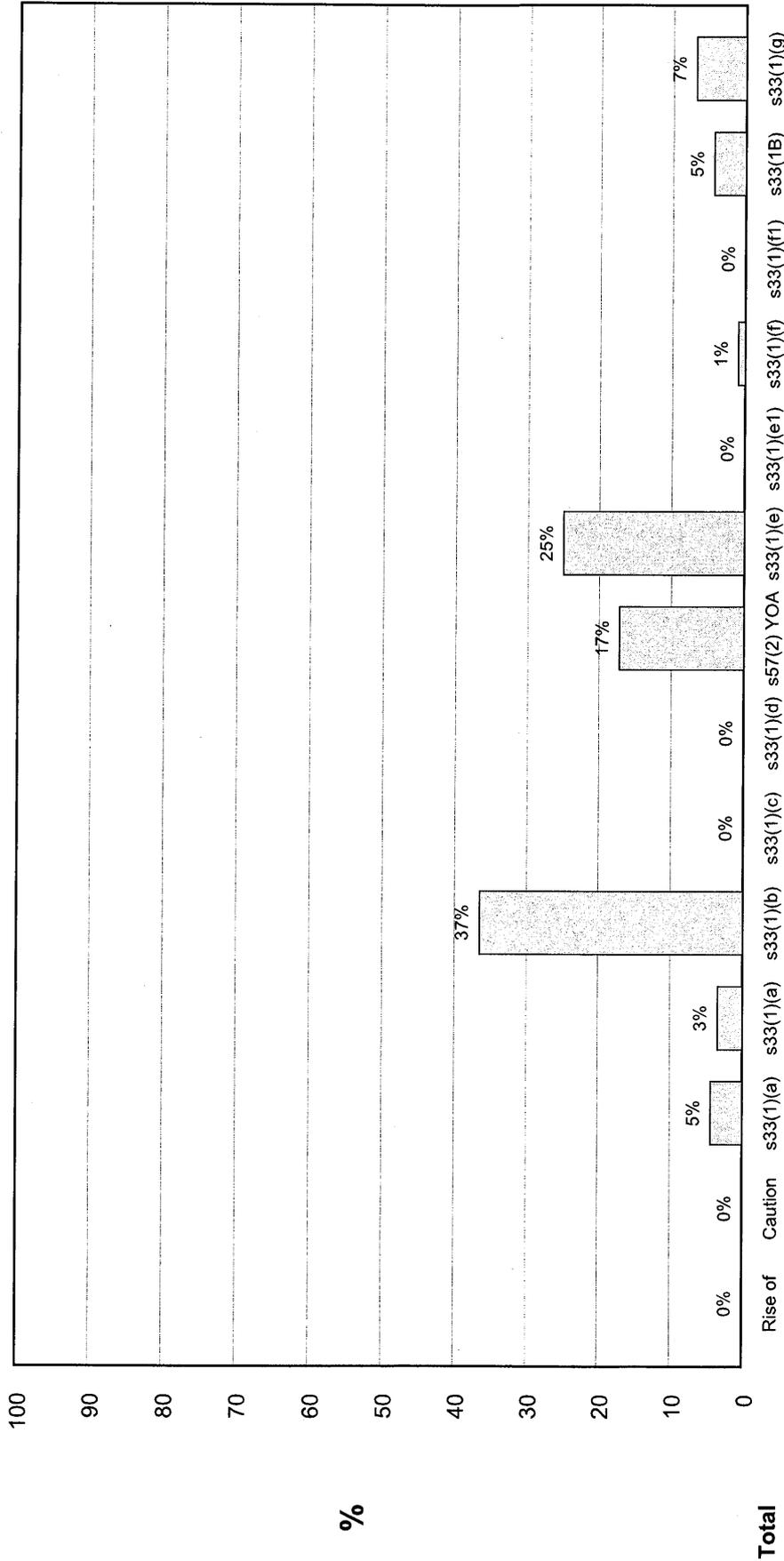
All Offenders



Total	Cases
70	0
1	1
5	5
1	1
20	20
2	2
0	0
16	16
15	15
0	0
2	2
1	1
6	6

Penalty Type - Principal Offences Only

All Offenders



Total	Rise of	Caution	s33(1)(a)	Disml	Bond	s33(1)(a)	Bond	s33(1)(b)	s33(1)(c)	Fine	s33(1)(d)	Fine + Bond YJC Disml	Probn	s33(1)(e)	s33(1)(f)	CSO	s33(1)(f)	CSO + Probn Susp CO Control Order	s33(1)(g)	s33(1)(g)
87	0	0	4	3	32	0	0	15	22	0	1	0	4	6						

Judicial Information Research System (JIRS,

CRIMES ACT 1900 (NSW)

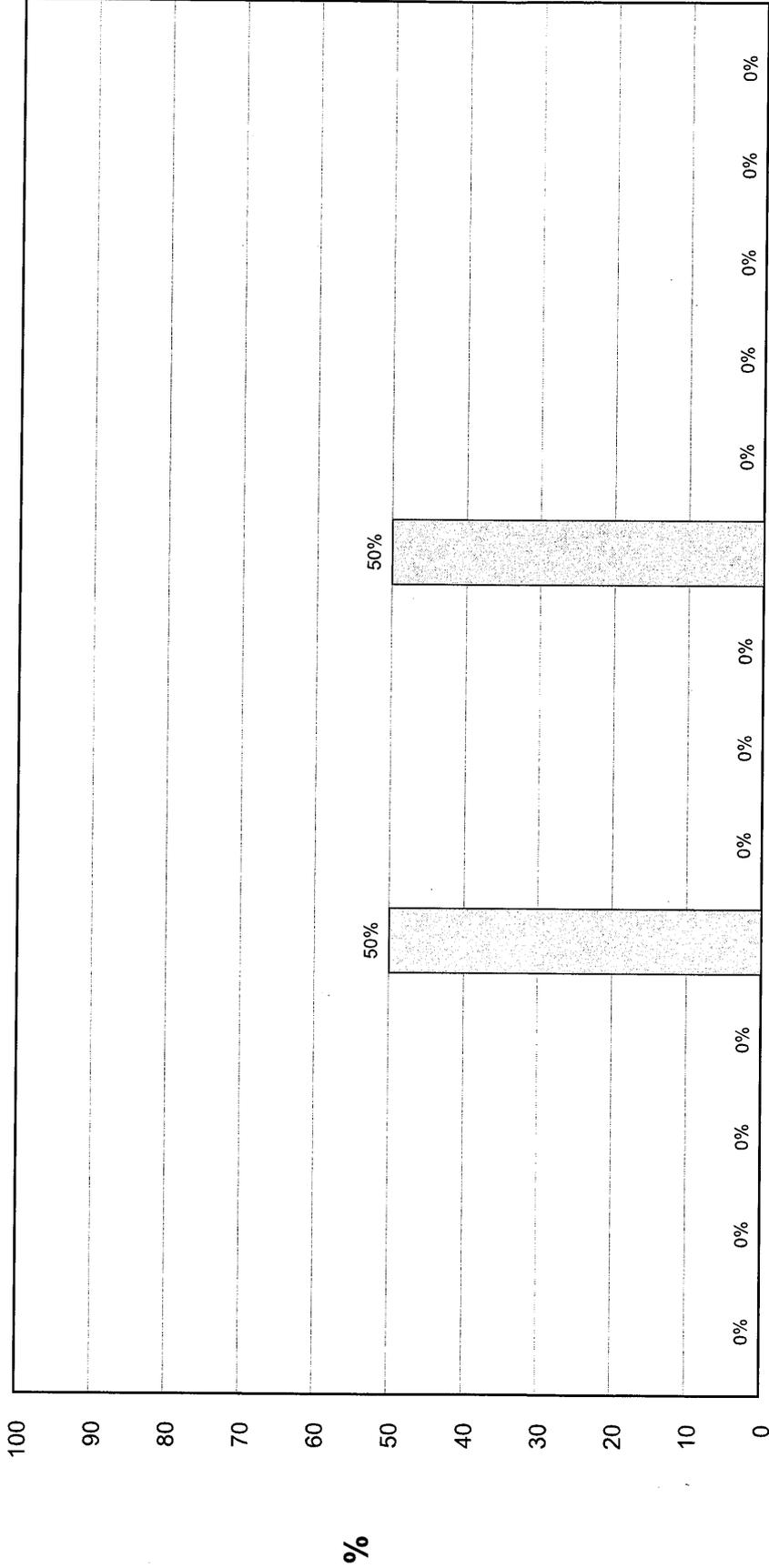
s.60(1) - throw missile at police officer in execution of duty

NSW Children's Court - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

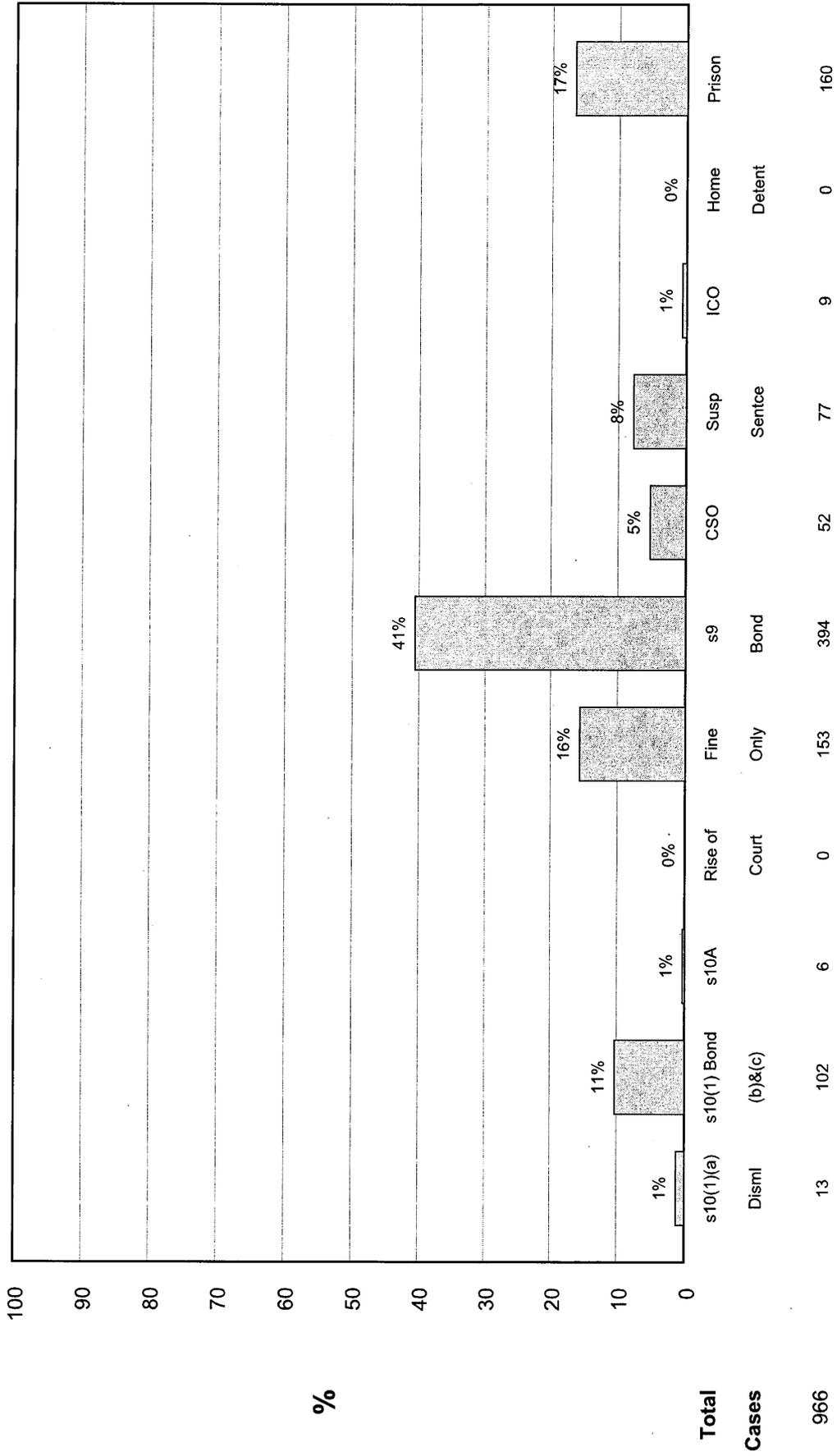
NSW Local Courts - as at Jun 2017

s.60(1) - assault police officer in execution of duty

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

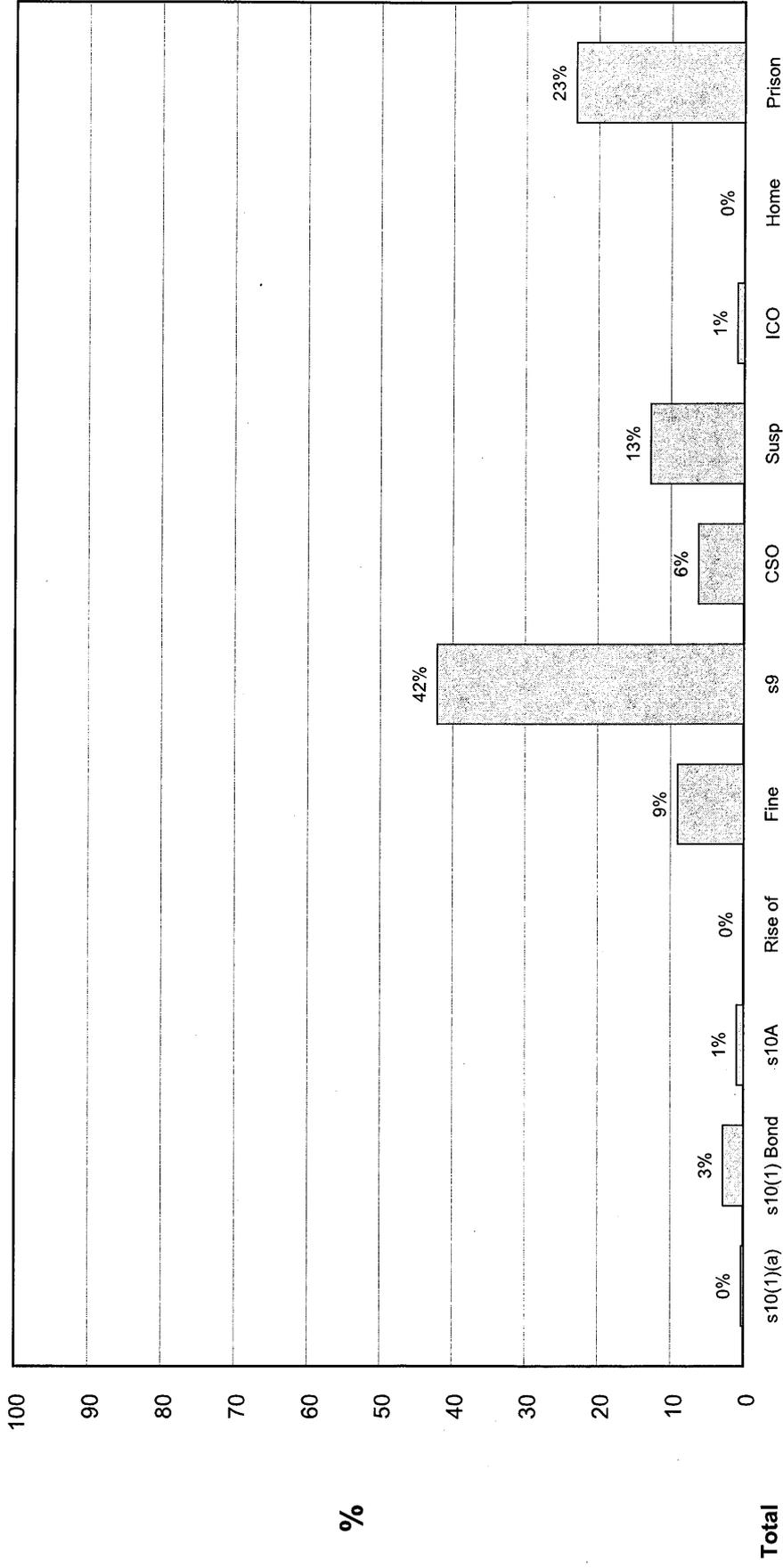
NSW Local Courts - as at Jun 2017

s.60(1) - intimidate police officer in execution of duty

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Total	Cases
1053	5
	31
	13
	0
	98
	445
	67
	136
	12
	2
	244

Judicial Information Research System (JIRS),

CRIMES ACT 1900 (NSW)

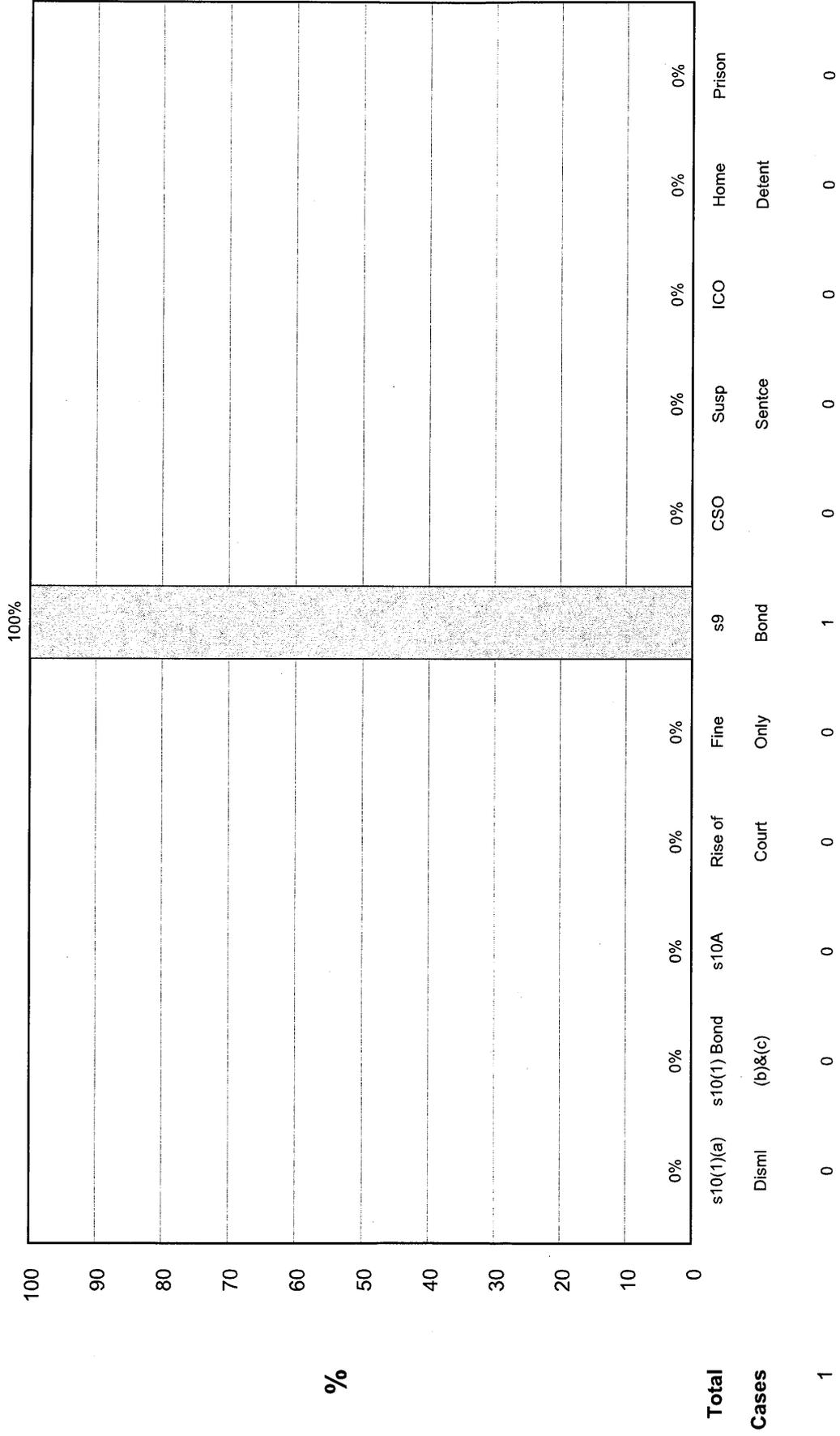
s.60(1) - stalk police officer in execution of duty

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

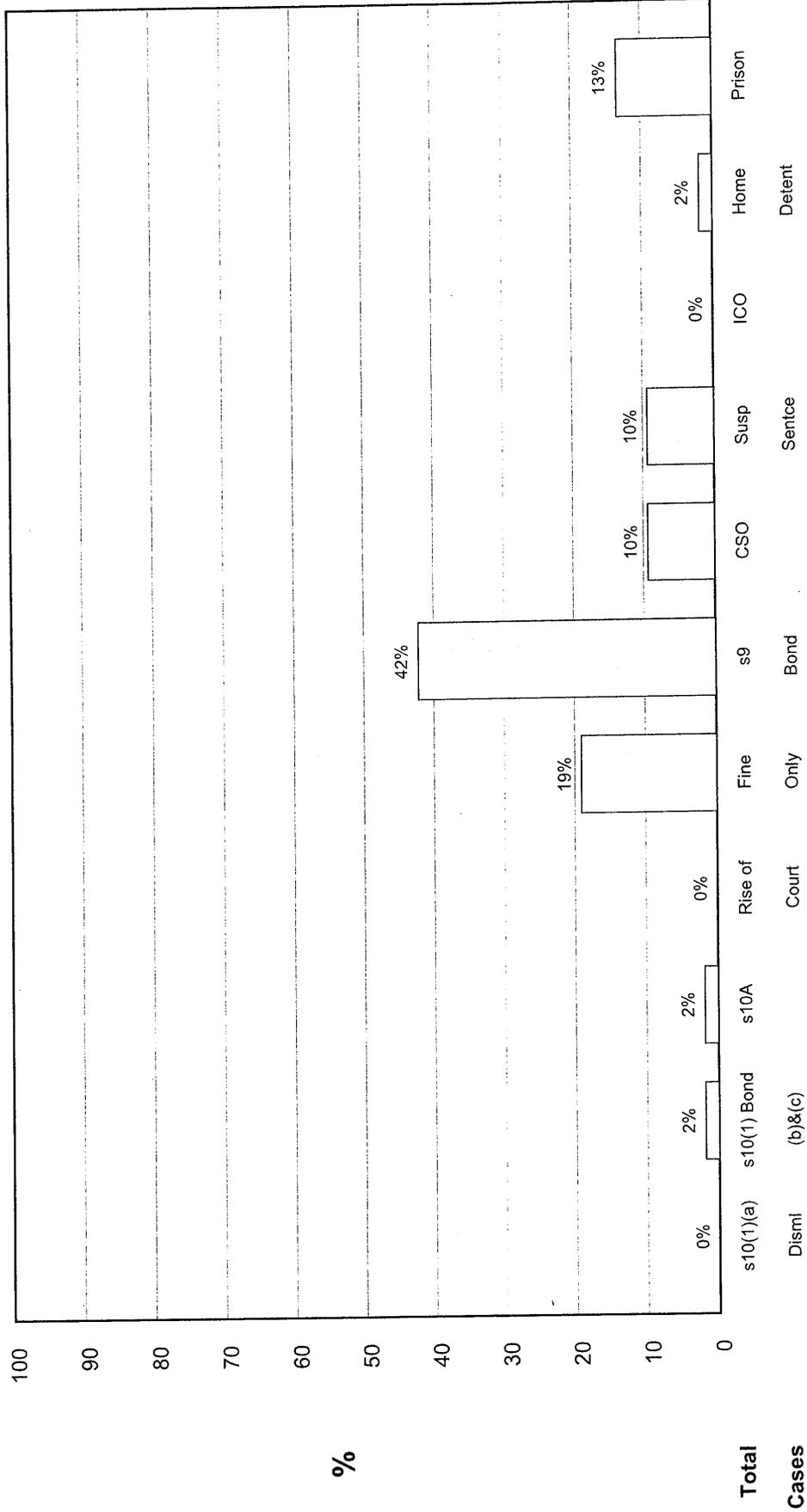
Penalty Type - Principal Offences Only

All Offenders



Penalty Type - Principal Offences Only

All Offenders



Total	s10(1)(a) Dismis	s10(1) Bond (b)&(c)	Rise of Court	Fine Only	s9 Bond	CSO	Susp Sentence	ICO	Home Detent	Prison
52	0	1	0	10	22	5	5	0	1	7

Judicial Information Research System (JIRS),

CRIMES ACT 1900 (NSW)

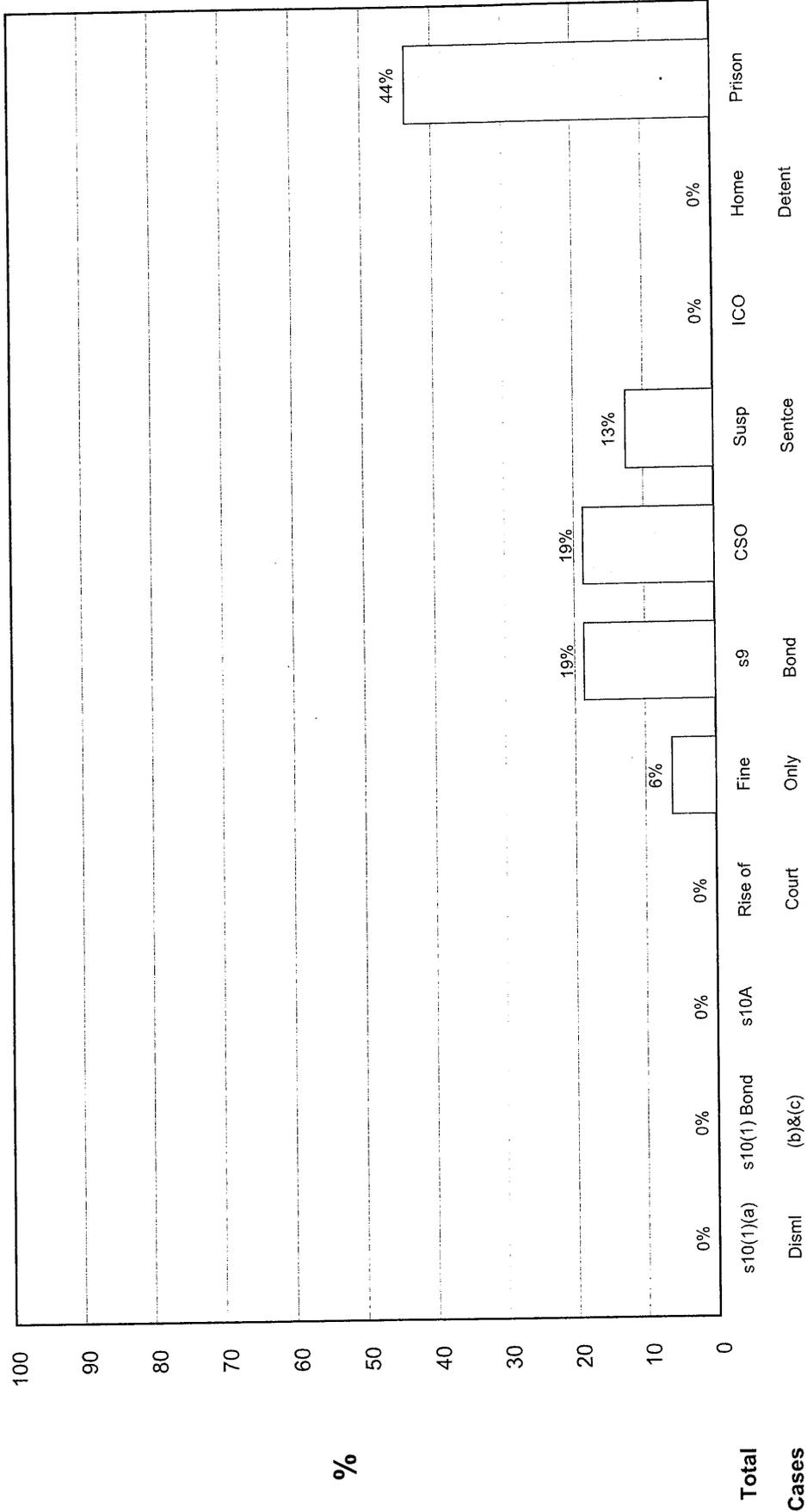
NSW Local Courts - as at Jun 2017

s.60(1) - throw missile at police officer in execution of duty

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS)

CRIMES ACT 1900

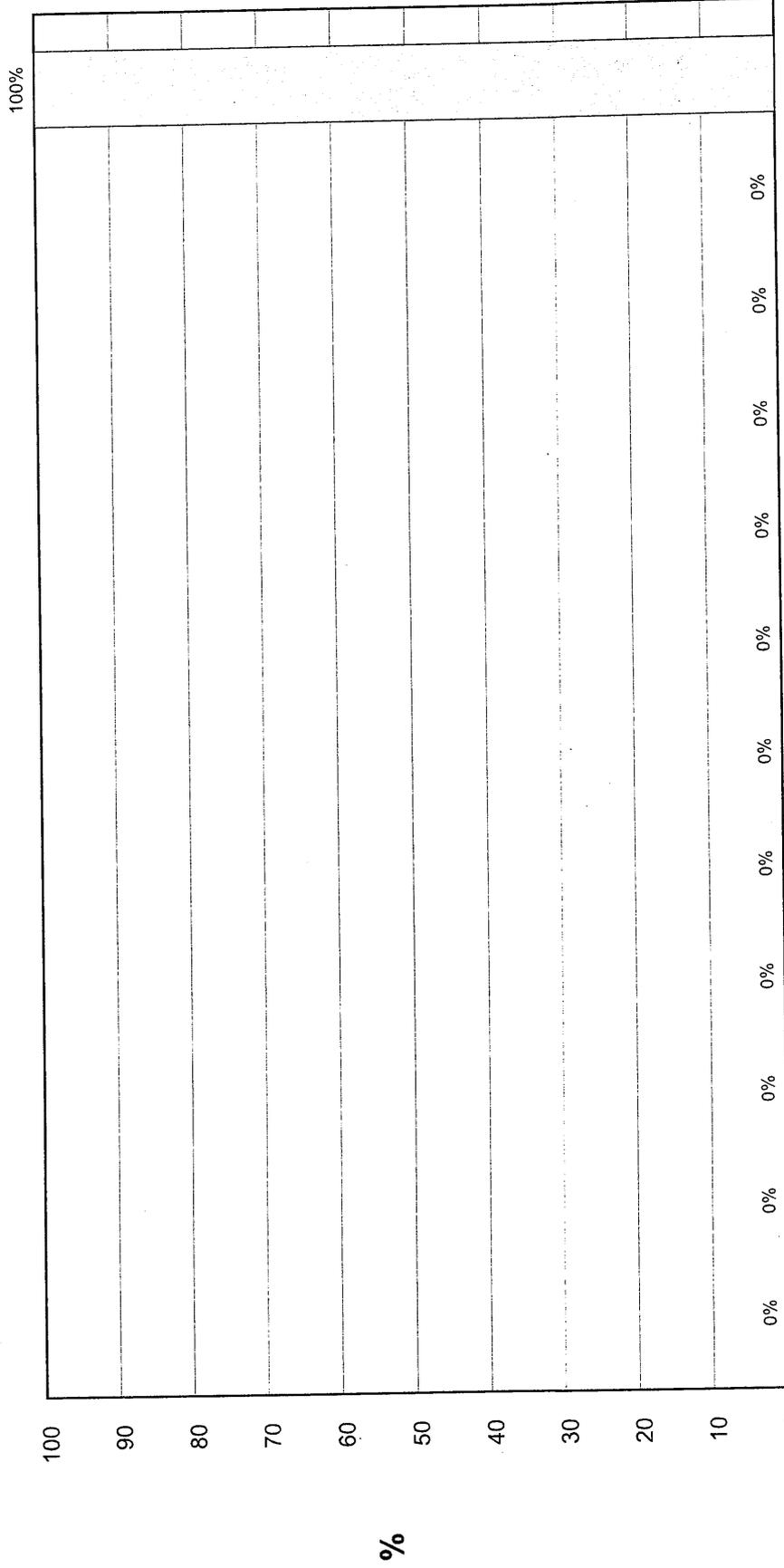
s.60(1) - assault etc police officer in execution of duty

NSW Higher Courts - as at 28/04/17

Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Total

Cases

2

2

Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

District and Supreme Court — Case Details

Cases 1 to 2 of 2 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.60(1) — assault etc police officer in execution of duty



Graph: Penalty Type - Principal Offences Only

Column: Prison

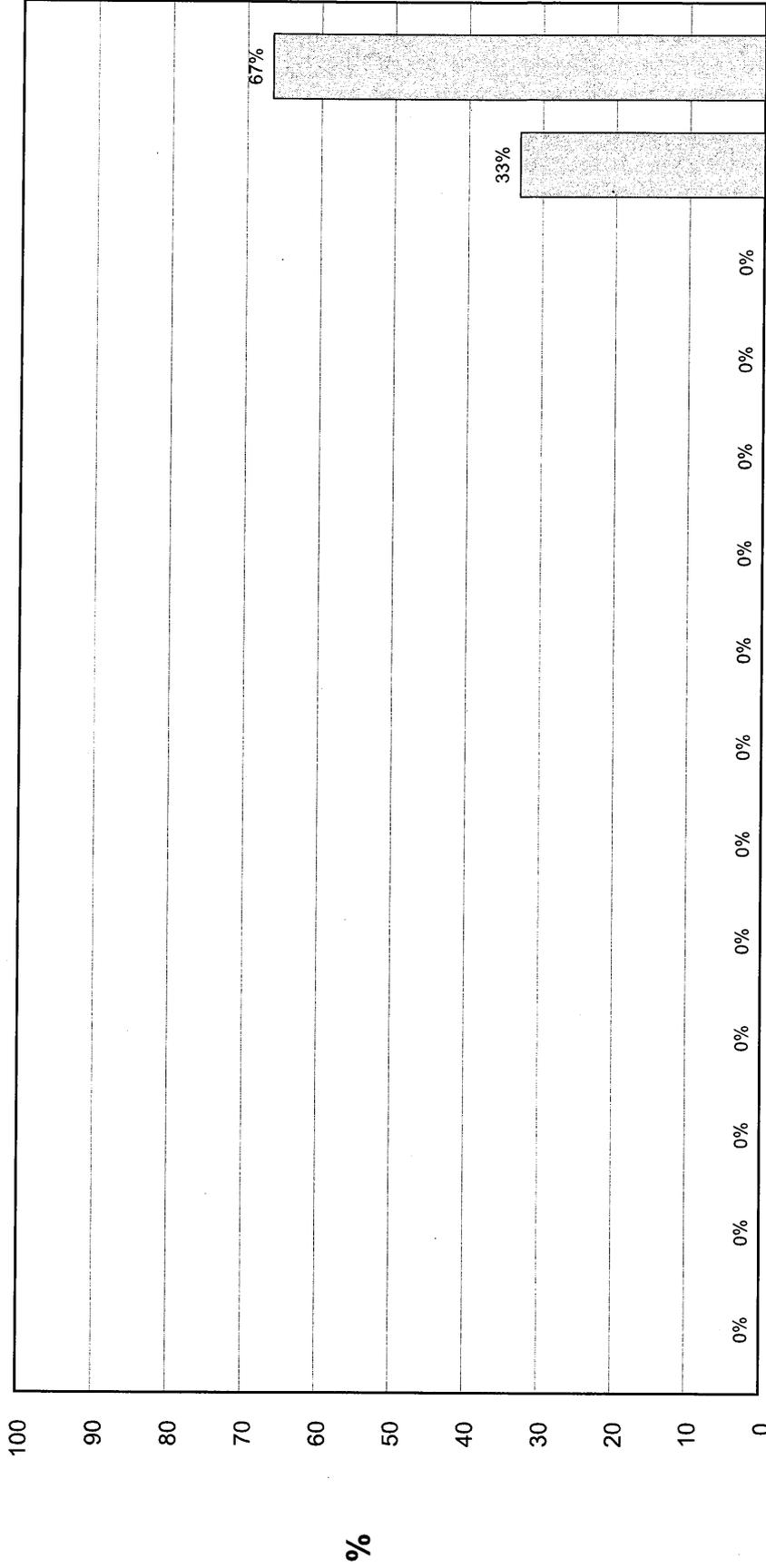
Offenders: All Offenders

1. **JusticeLink Case Number:** [REDACTED]
 - Offence Date:** 21/05/2013
 - Sentence Date:** 20/02/2014
 - Offender Characteristics:** Individual — Additional Offences (any type) — No Form 1 Matters
Priors of Different Type Only — Plea Guilty — Age > 50 years
 - Sentence – Principal Offence:** Term of Sentence/Indicative sentence 3 months
 - Sentence – Aggregate/Effective:** 3 months

2. **JusticeLink Case Number:** [REDACTED]
 - Offence Date:** 30/05/2009
 - Sentence Date:** 29/03/2010
 - Offender Characteristics:** Individual — Additional Offences (any type) — No Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 31-40 years
 - Sentence – Principal Offence:** Term of Sentence/Indicative sentence 7 months
 - Sentence – Aggregate/Effective:** 10 months — NPP 10 months

Penalty Type - Principal Offences Only

All Offenders



Total	Rise of Court s31 YOA	Caution s33(1)(a)	Disml	Bond	s33(1)(a)	s33(1)(b)	s33(1)(c)	s33(1)(d)	s57(2) YOA	s33(1)(e)	s33(1)(e1)	s33(1)(f)	s33(1)(f1)	s33(1)(g)
3	0	0	0	0	0	0	0	0	0	0	0	0	0	2

Judicial Information Research System (JIRS)

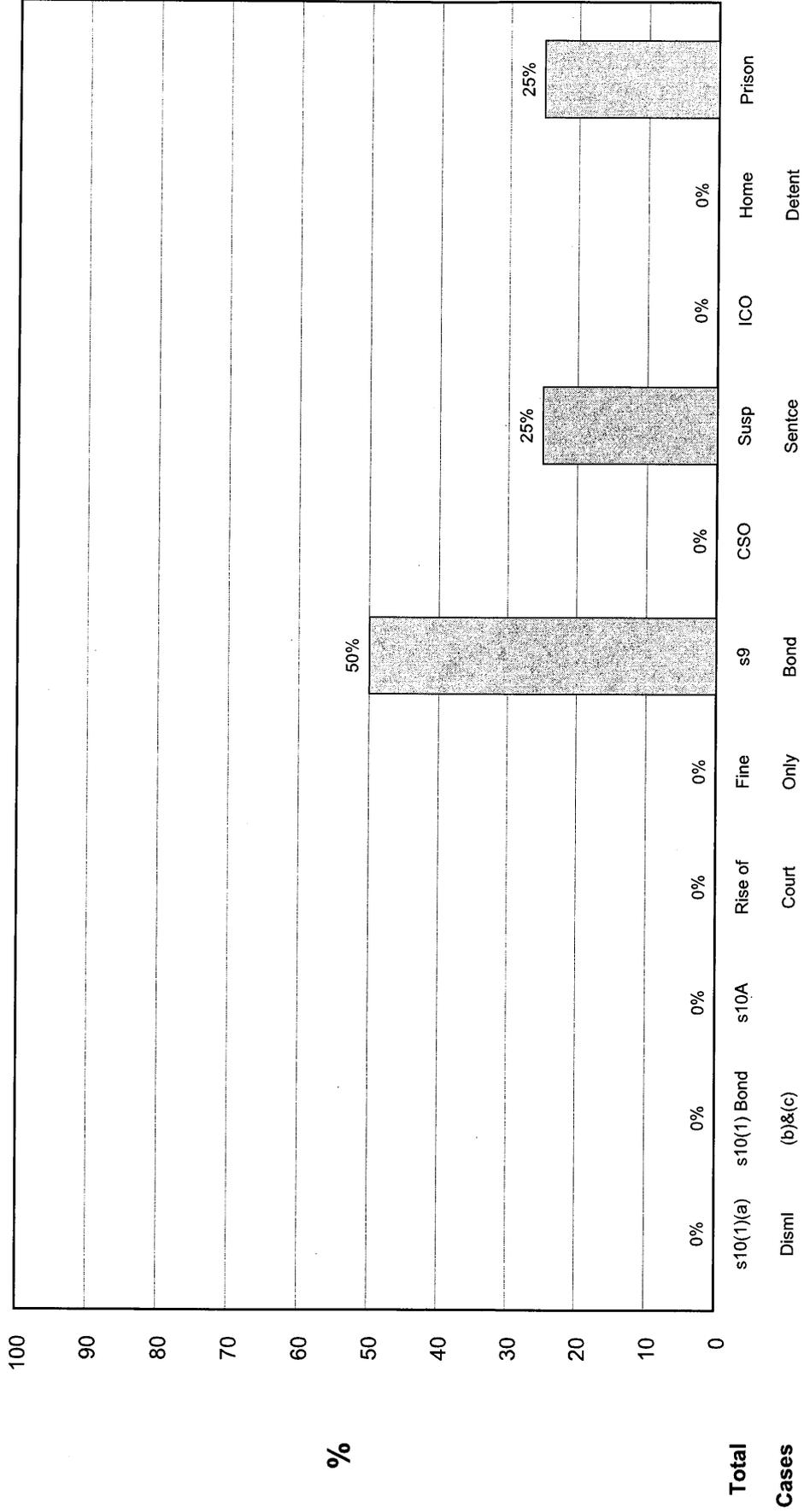
CRIMES ACT 1900 (NSW)

s.60(1A) - assault police officer during public disorder

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only
All Offenders



Total	s10(1)(a) Disml	s10(1) Bond (b)&(c)	s10A Court	Rise of Court	Fine Only	s9 Bond	CSO	Susp Sentence	ICO	Home Detent	Prison
4	0	0	0	0	0	2	0	1	0	0	1

Judicial Information Research System (JIRS,

CRIMES ACT 1900

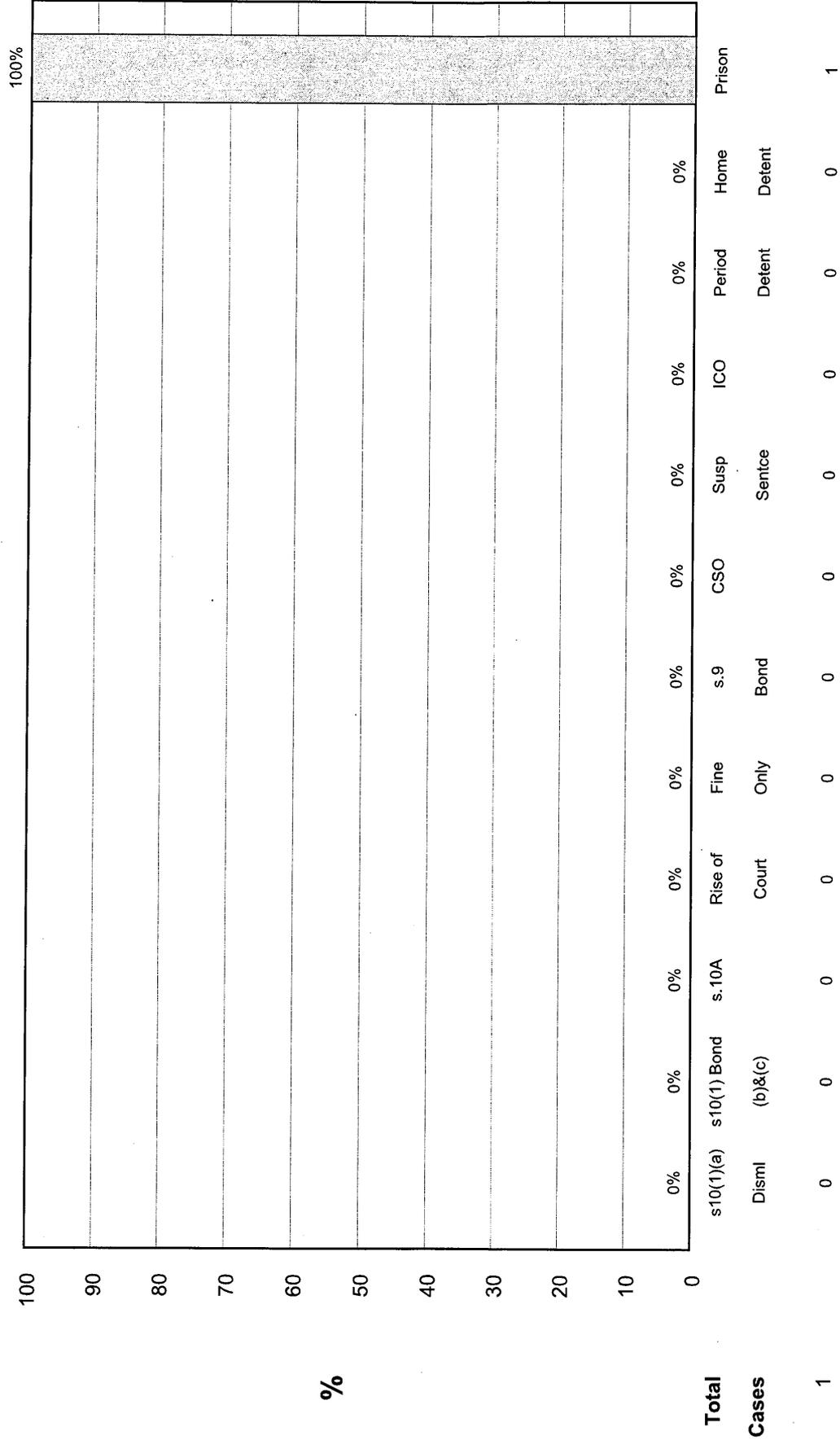
s.60(1A) - assault etc police officer during public disorder

NSW Higher Courts - as at 28/04/17

Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

District and Supreme Court — Case Details

Cases 1 to 1 of 1 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.60(1A) — assault etc police officer during public disorder



Graph: Penalty Type - Principal Offences Only

Column: Prison

Offenders: All Offenders

1. **JusticeLink Case Number:** [REDACTED]

Offence Date: 09/03/2013

Sentence Date: 13/03/2015

Offender Characteristics: Individual — One Offence — Form 1 Matters
Priors of Same Type with Gaol — Plea Guilty — Age 18-20 years

Sentence – Principal Offence: Term of Sentence/Indicative sentence 3 months

Sentence – 3 months

Aggregate/Effective:

Page 1 of 1

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Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

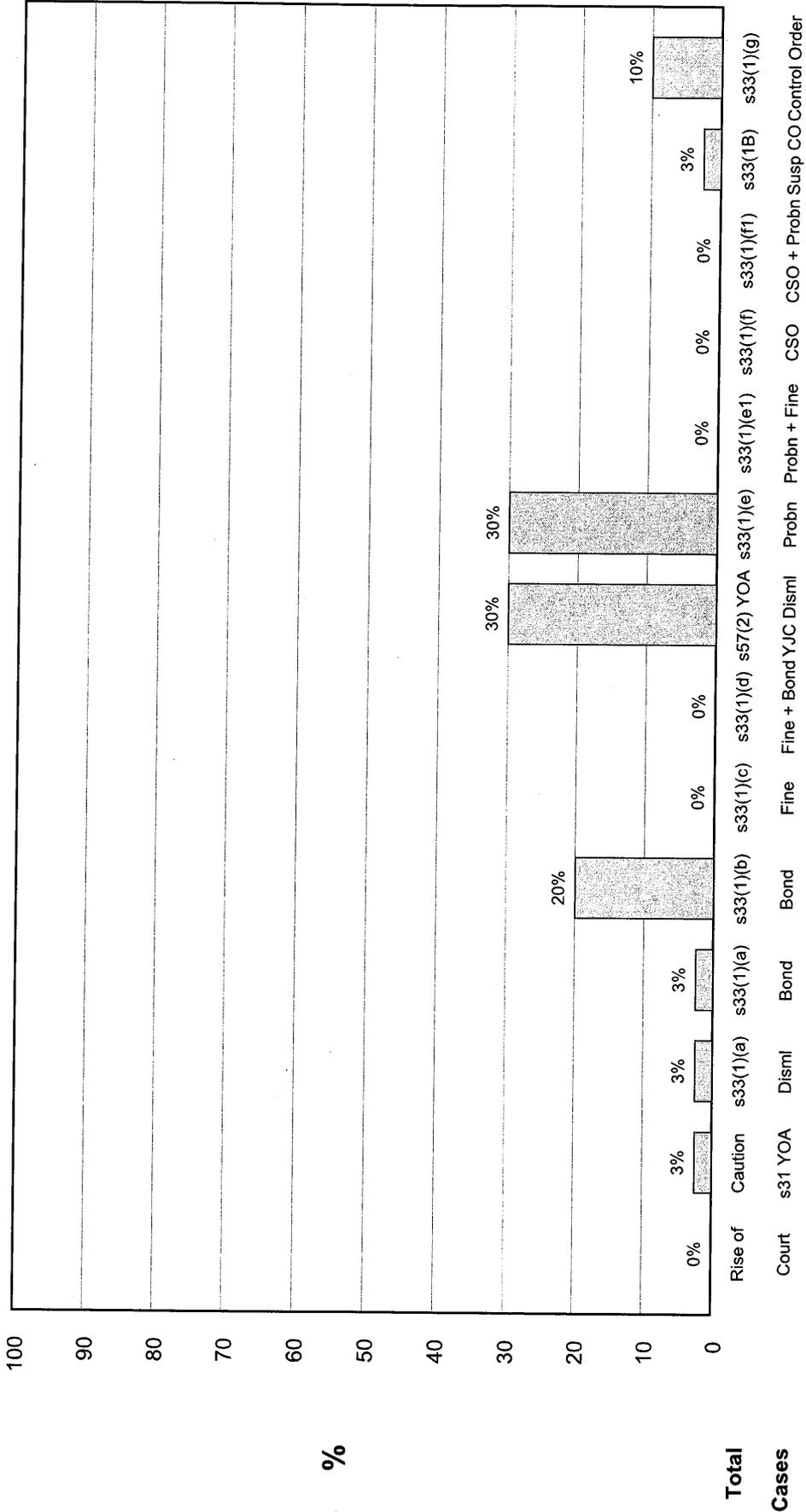
NSW Children's Court - as at Jun 2017

s.60(2) - assault police officer in execution of duty - cause a.b.h.

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS,

CRIMES ACT 1900 (NSW)

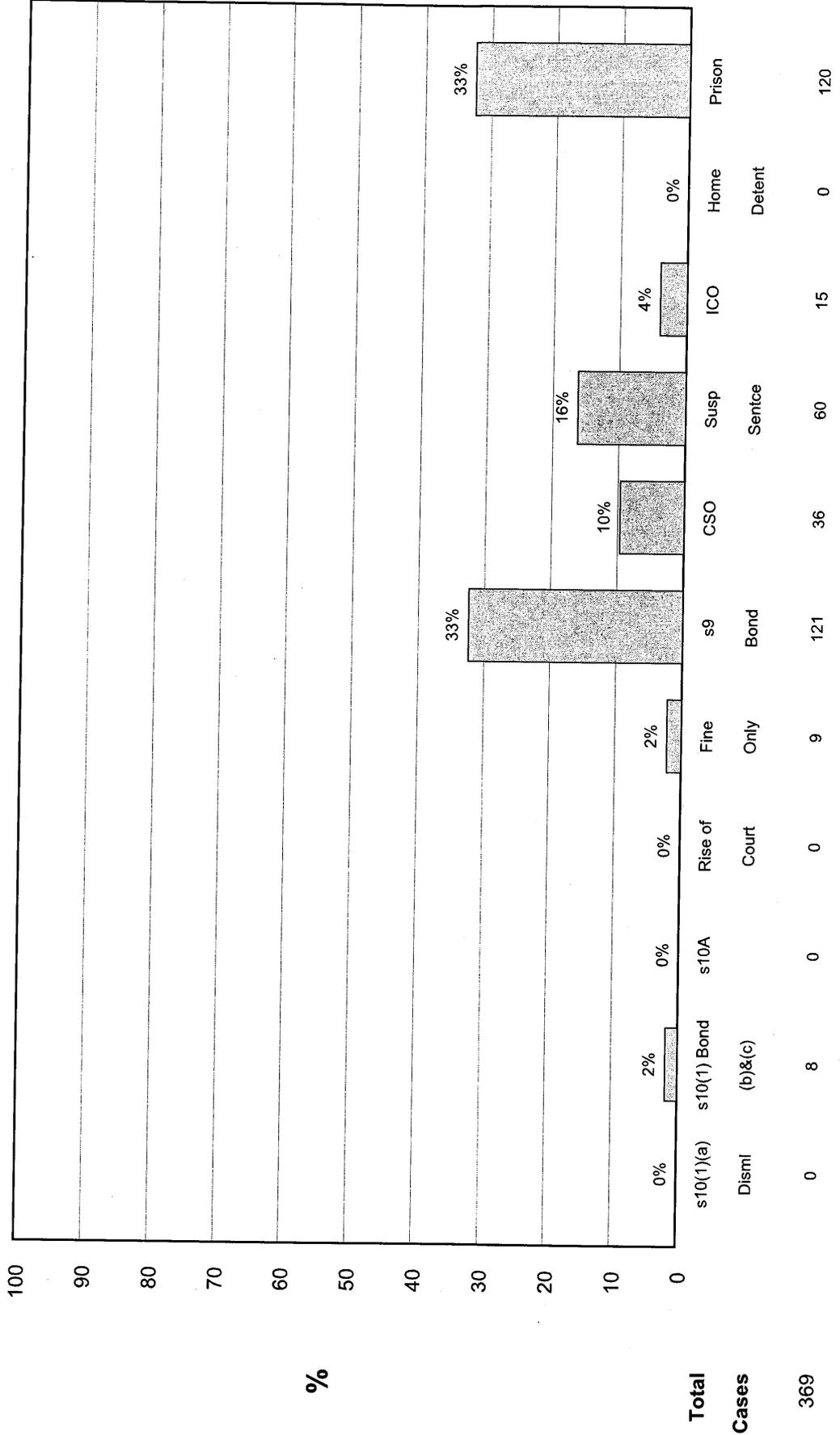
s.60(2) - assault: police officer in execution of duty - cause a.b.h.

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS),

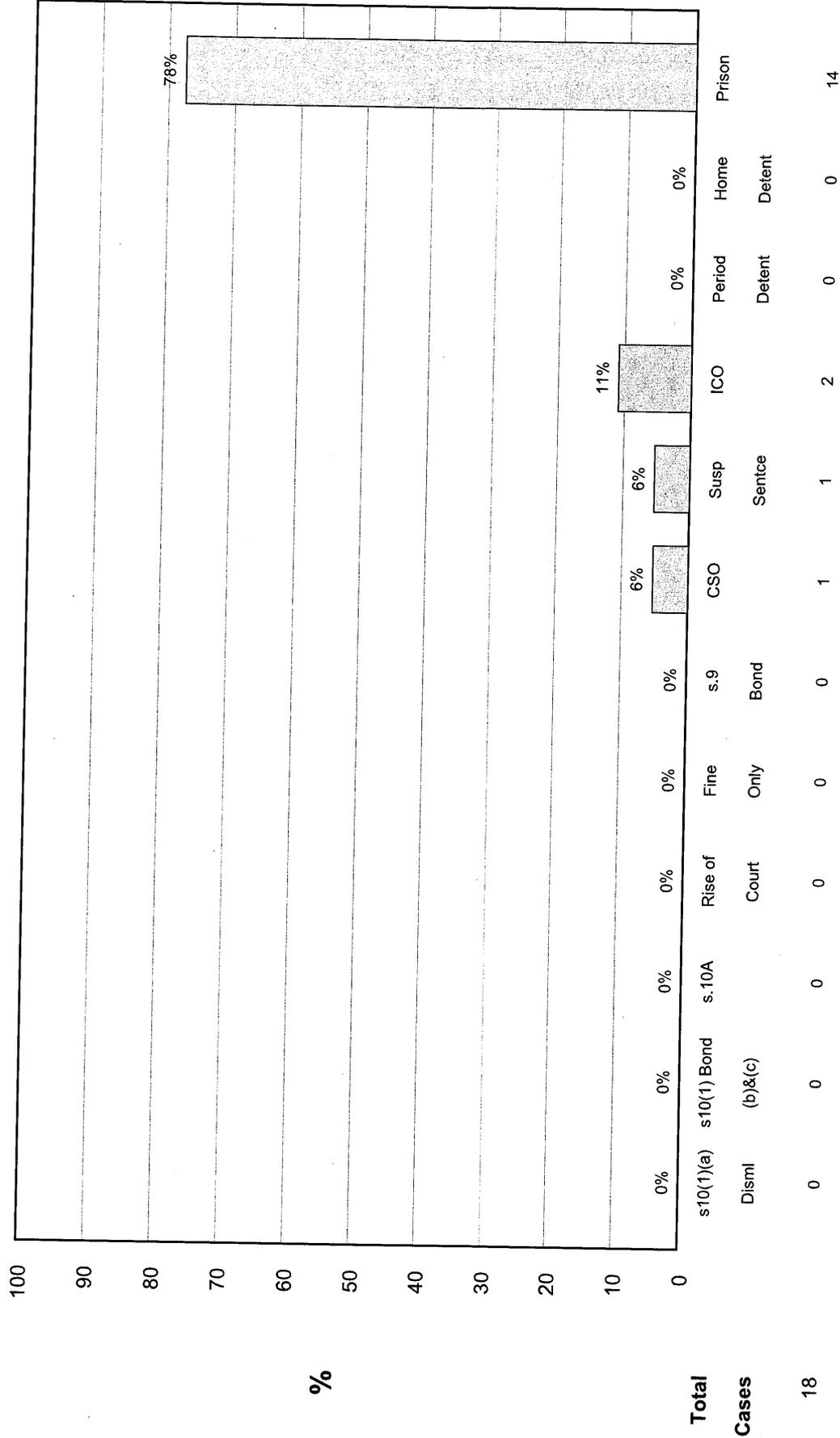
CRIMES ACT 1900

s.60(2) - assault police officer in execution of duty cause ABH - SNPP (Item 5)

NSW Higher Courts - as at 28/04/17
Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

Children's Court — Case Details

Cases 1 to 1 of 1 cases matching the following Statistics graph details:

CRIMES ACT 1900 (NSW)

s.60(2A) — assault police officer during public disorder - cause a.b.h.



Graph: Penalty Type - Principal Offences Only

Column: s.33(1)(e) C(CP)A Probation

Offenders: All Offenders

1. **JusticeLink Case Number:** [REDACTED]
 - Offence Date:** 15/09/2012
 - Sentence Date:** 05/04/2013
 - Offender:** Male
 - Characteristics:** Age 16 to 17 Years
1 Count
1 Count of Other Section
Priors - Different Type
Plea Guilty
 - Other Offences:** 1 x Crimes Act 1900 (NSW) s93C - Affray
 - Prior Offences:** On or before 12/11/2010 the offender had a prior record for
 - Public order offences
 with most serious penalty: Bond without supervision (juvenile) 9 months
 - Sentence — Principal Offence:** Probation with Supervision 15 months

Judicial Information Research System (JIRS,

CRIMES ACT 1900 (NSW)

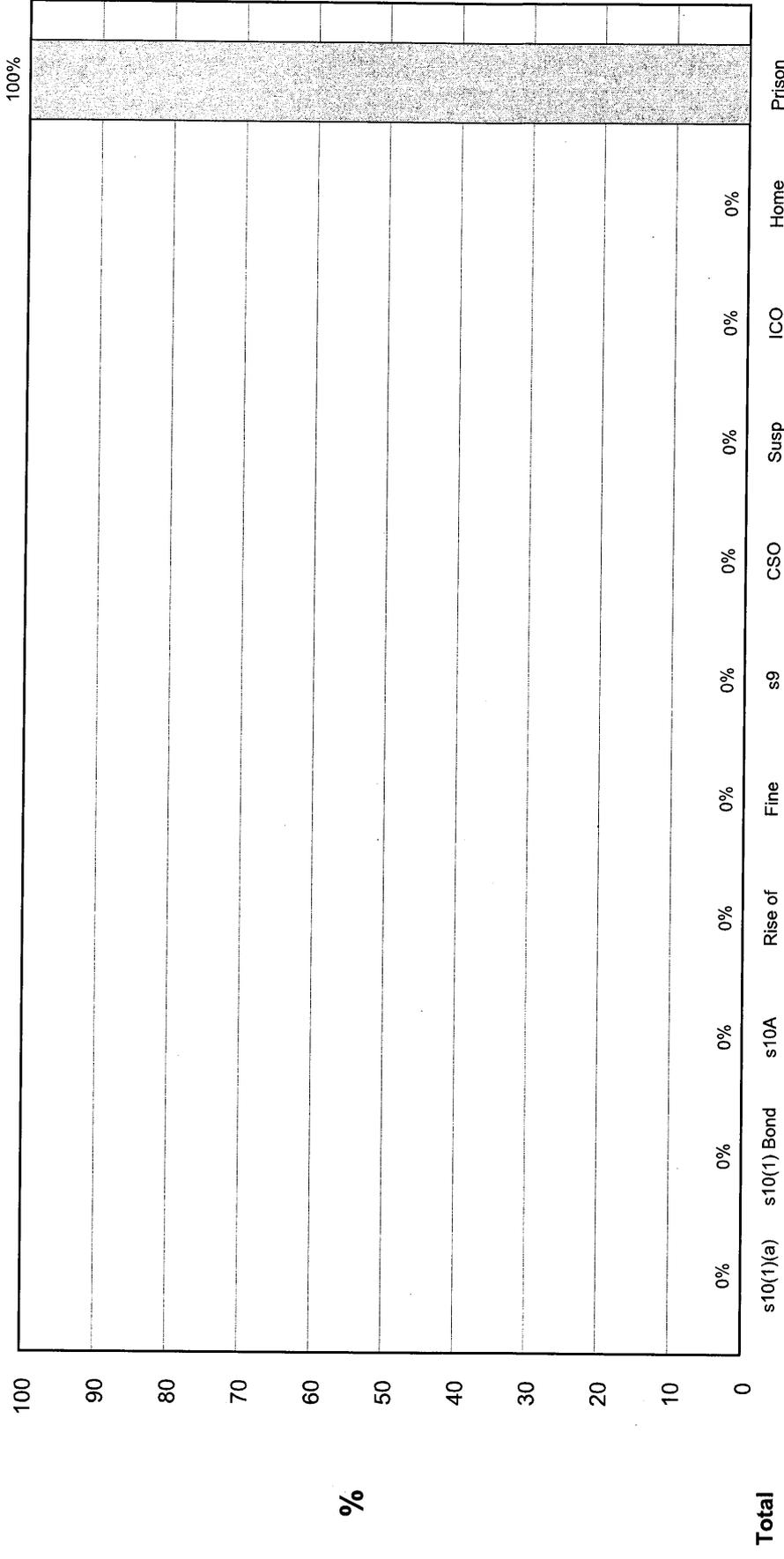
s.60(2A) - assault police officer during public disorder - cause a.b.h.

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Total

Cases

1

1

Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

Search

Local Court — Case Details

Cases 1 to 1 of 1 cases matching the following Statistics graph details:

CRIMES ACT 1900 (NSW)

s.60(2A) — assault police officer during public disorder - cause a.b.h.



Graph: Penalty Type - Principal Offences Only

Column: Imprisonment

Offenders: All Offenders

1. JusticeLink Case Number: [REDACTED]

Offence Date: 12/03/2015

Sentence Date: 01/05/2015

Offender: Individual

Characteristics: 3 Counts of this Section
3 Counts of Other Section(s)
Priors - Different Type
Plea Guilty
Age 18 to 20 Years
No DV Offences

Other Offences: 1 x Crimes Act 1900 (NSW) s546C - Resisting etc police
1 x Summary Offences Act 1988 (NSW) s4A - Offensive language
1 x Crimes Act 1900 (NSW) s195 - Destroying or damaging property

Prior Offences: The offender had a prior record for

- Unlawful entry with intent/burglary, break and enter
- Theft and related offences (with custody)
- Illicit drug offences
- Property damage and environmental pollution
- Public order offences
- Offences against government procedures, government security and government operations (with custody)

with most serious penalty: Juvenile control order 8 months NPP
1 month

Sentence — Imprisonment 8 months — NPP 3 months

Principal Offence:

**Sentence — Imprisonment 8 months — NPP 3 months
Aggregate/Effective**

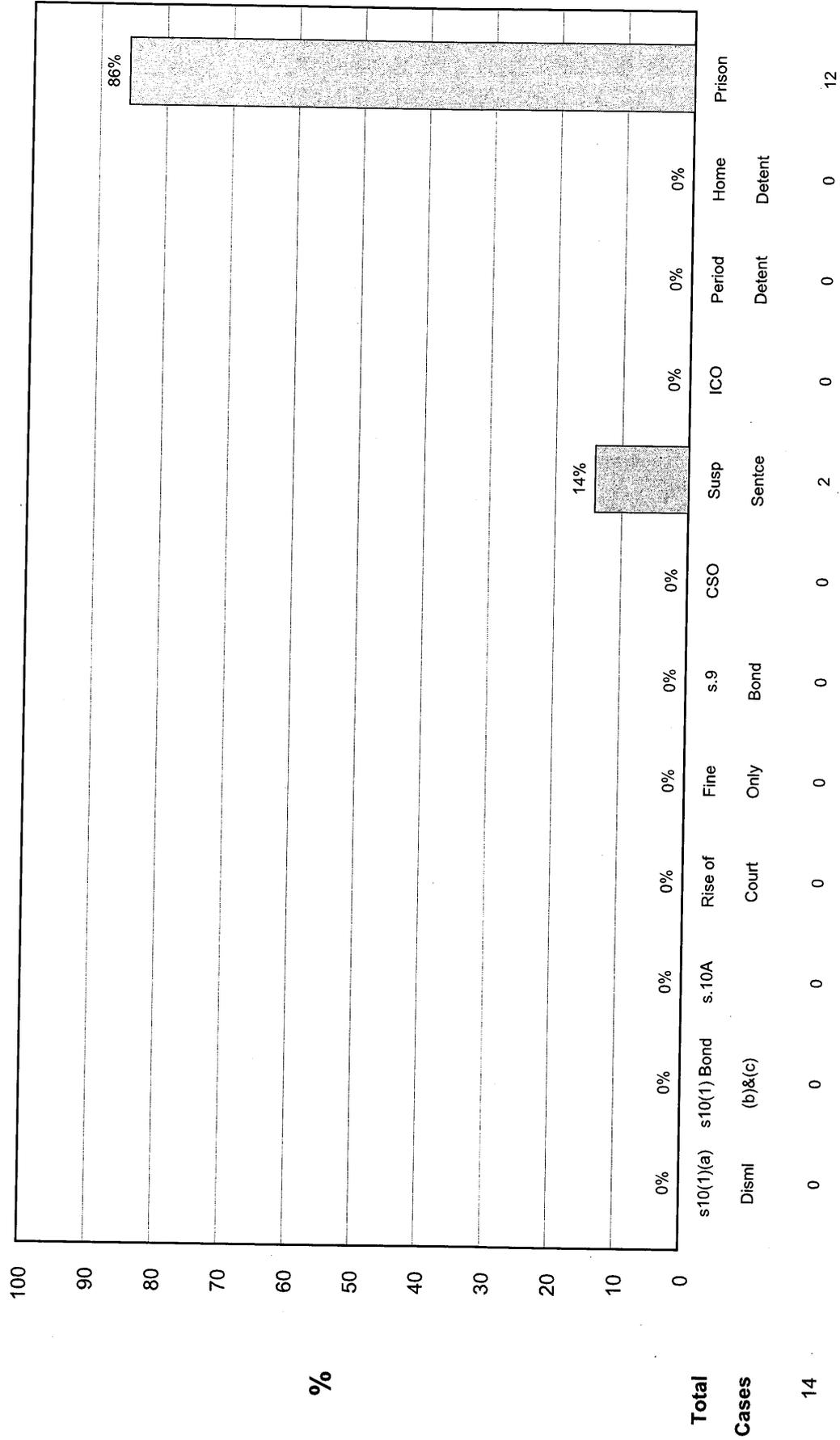
Page 1 of 1

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Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS),

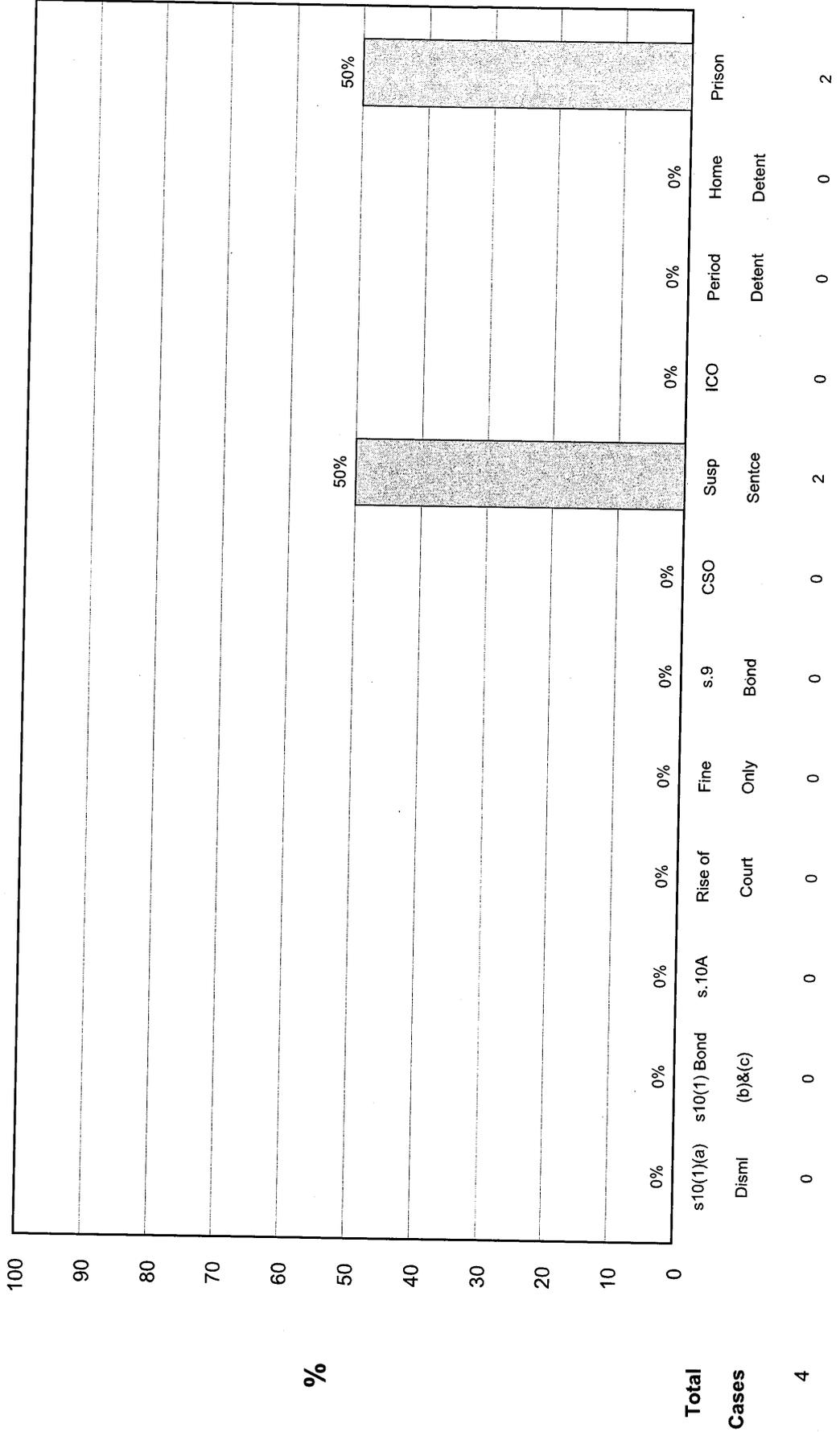
CRIMES ACT 1900

s.60(3) - inflict/cause GBH on police officer in execution of duty - SNPP (Item 6)

NSW Higher Courts - as at 28/04/17
Sentences from Oct 2009 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



TAB 6

Judicial Information Research System (JIRS)

CRIMES ACT 1900

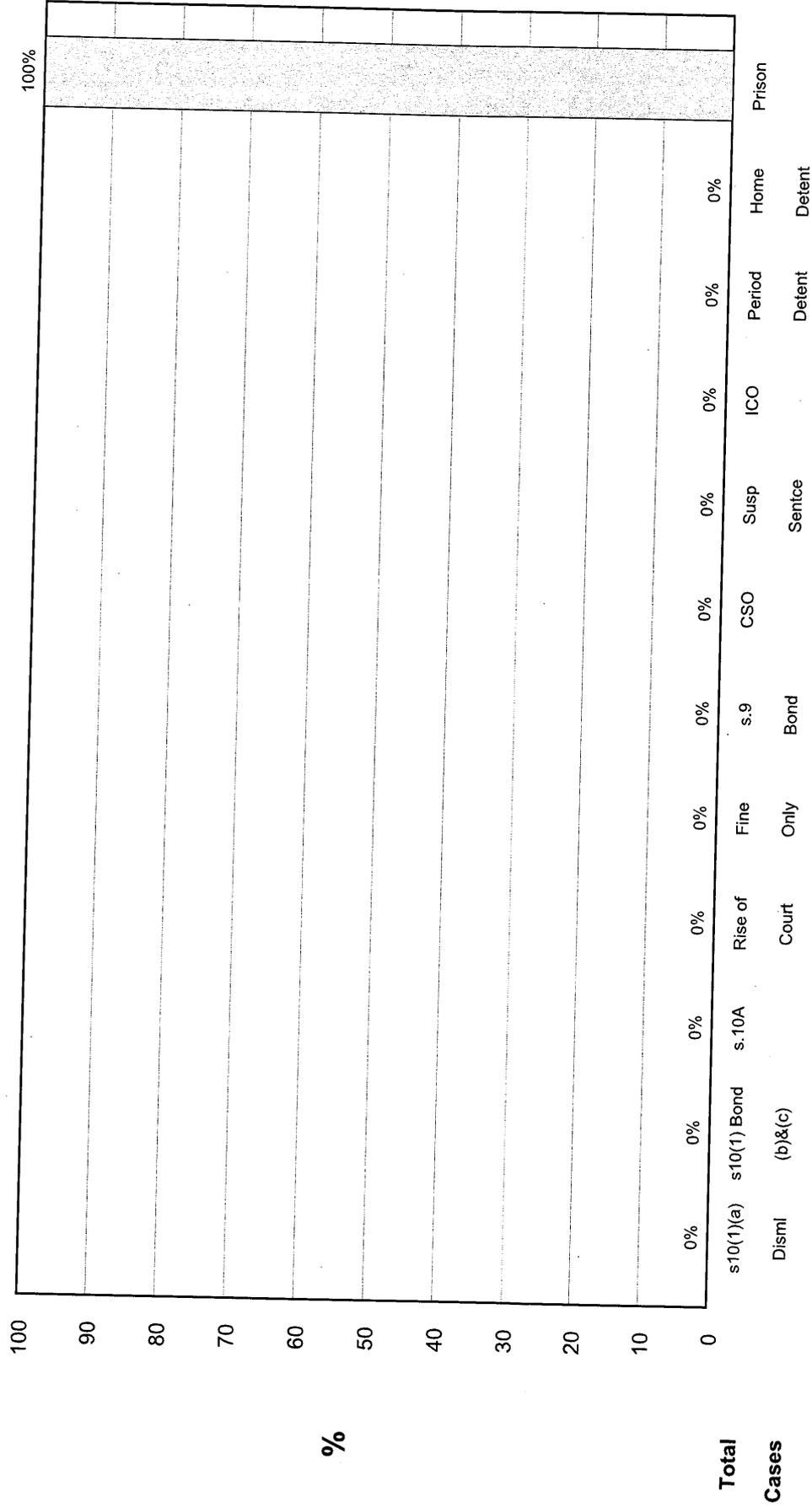
s.60(3A) - wound or cause g.b.h. to police officer during public disorder

NSW Higher Courts - as at 28/04/17

Sentences from Jun 2012 to Sep 2016

Penalty Type - Principal Offences Only

All Offenders



Total
Cases

1

Judicial Commission of New South Wales

Judicial Information Research System

Type your whole of JIRS search here

District and Supreme Court — Case Details

Cases 1 to 1 of 1 cases matching the following Statistics graph details:

CRIMES ACT 1900

s.60(3A) — wound or cause g.b.h. to police officer during public disorder



Graph: Penalty Type - Principal Offences Only

Column: Prison

Offenders: All Offenders

- JusticeLink Case Number:** [REDACTED]
Offence Date: 15/09/2012
Sentence Date: 19/06/2014
Offender: Individual — One Offence — Form 1 Matters
Characteristics: Priors of Same Type with Gaol — Plea Guilty — Age 26-30 years
Sentence – Principal Offence: Term of Sentence/Indicative sentence 4 years 8 months — NPP 2 years 6 months
Sentence – Aggregate/Effective: 4 years 8 months — NPP 2 years 6 months

Page 1 of 1

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TAB 7

Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

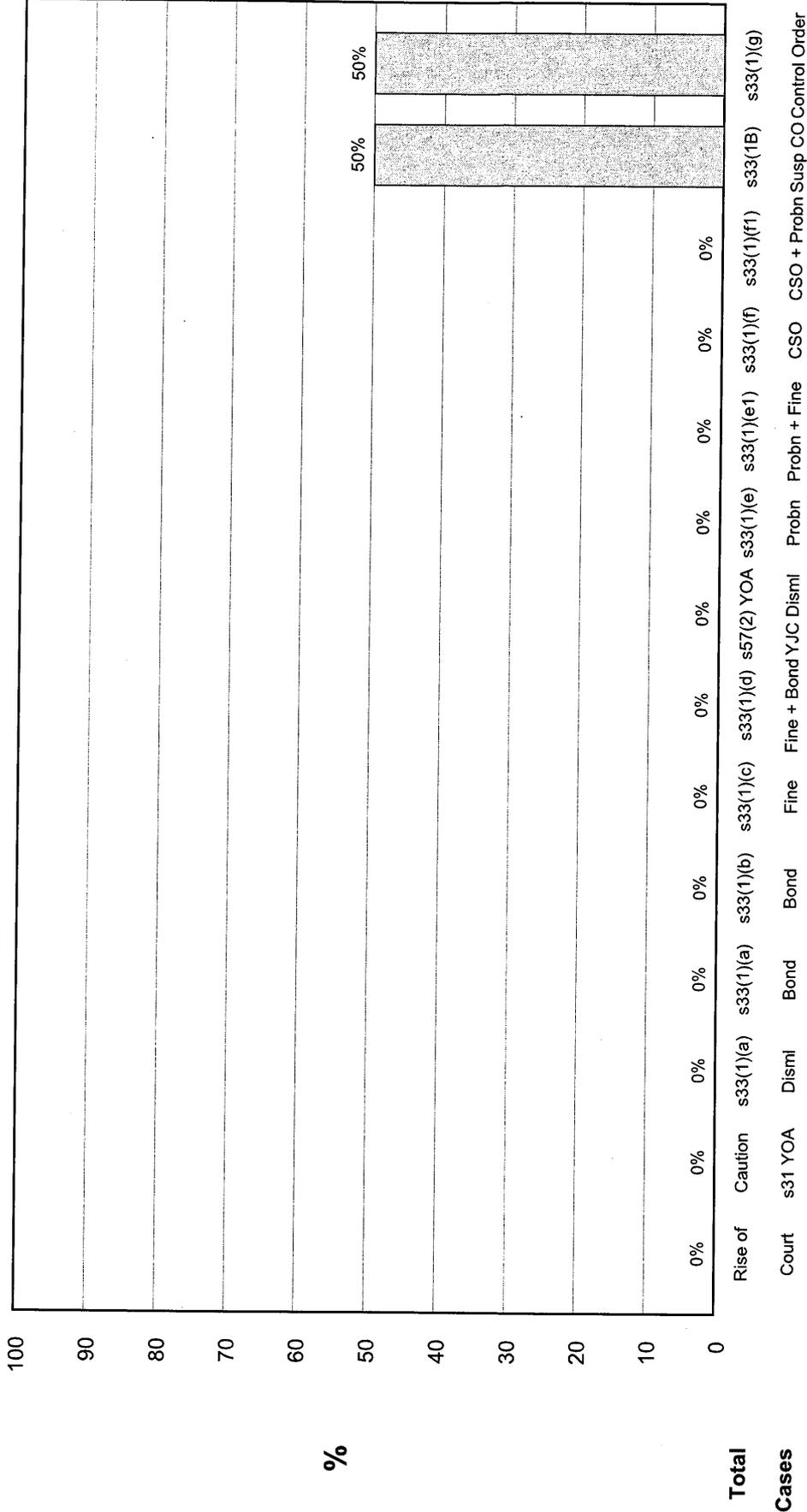
NSW Children's Court - as at Jun 2017

s.60B(1) - stalk/harass/intimidate person with whom officer has domestic relationship

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



2

Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

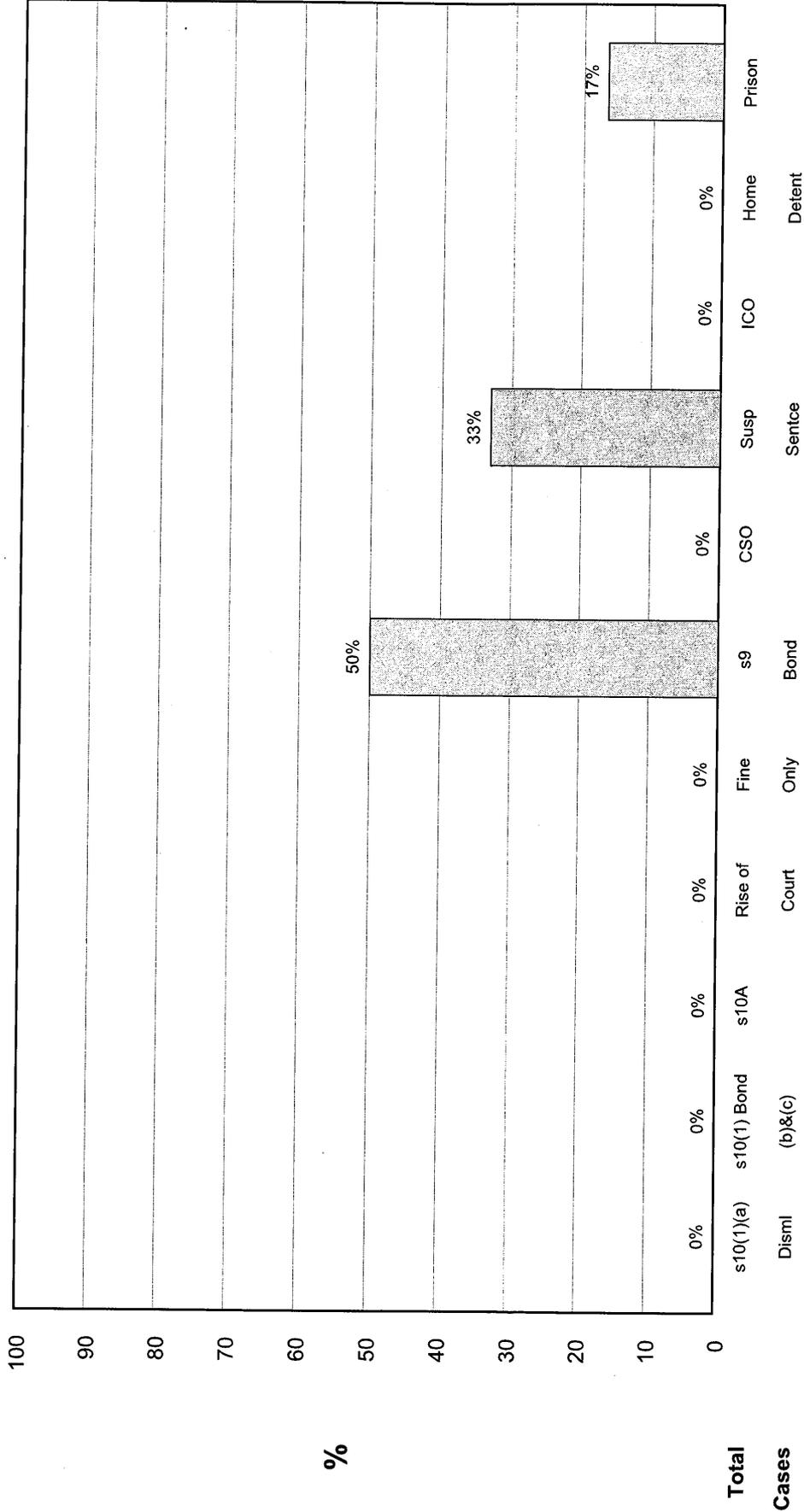
NSW Local Courts - as at Jun 2017

s.60B(1) - stalk/harass/intimidate person with whom officer has domestic relationship

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Total Cases	s10(1)(a) Dismis	s10(1) Bond (b)&(c)	s10A Rise of Court	Fine Only	s9 Bond	CSO	Susp Sentence	ICO	Home Detent	Prison
6	0	0	0	0	3	0	2	0	0	1

Judicial Information Research System (JIRS)

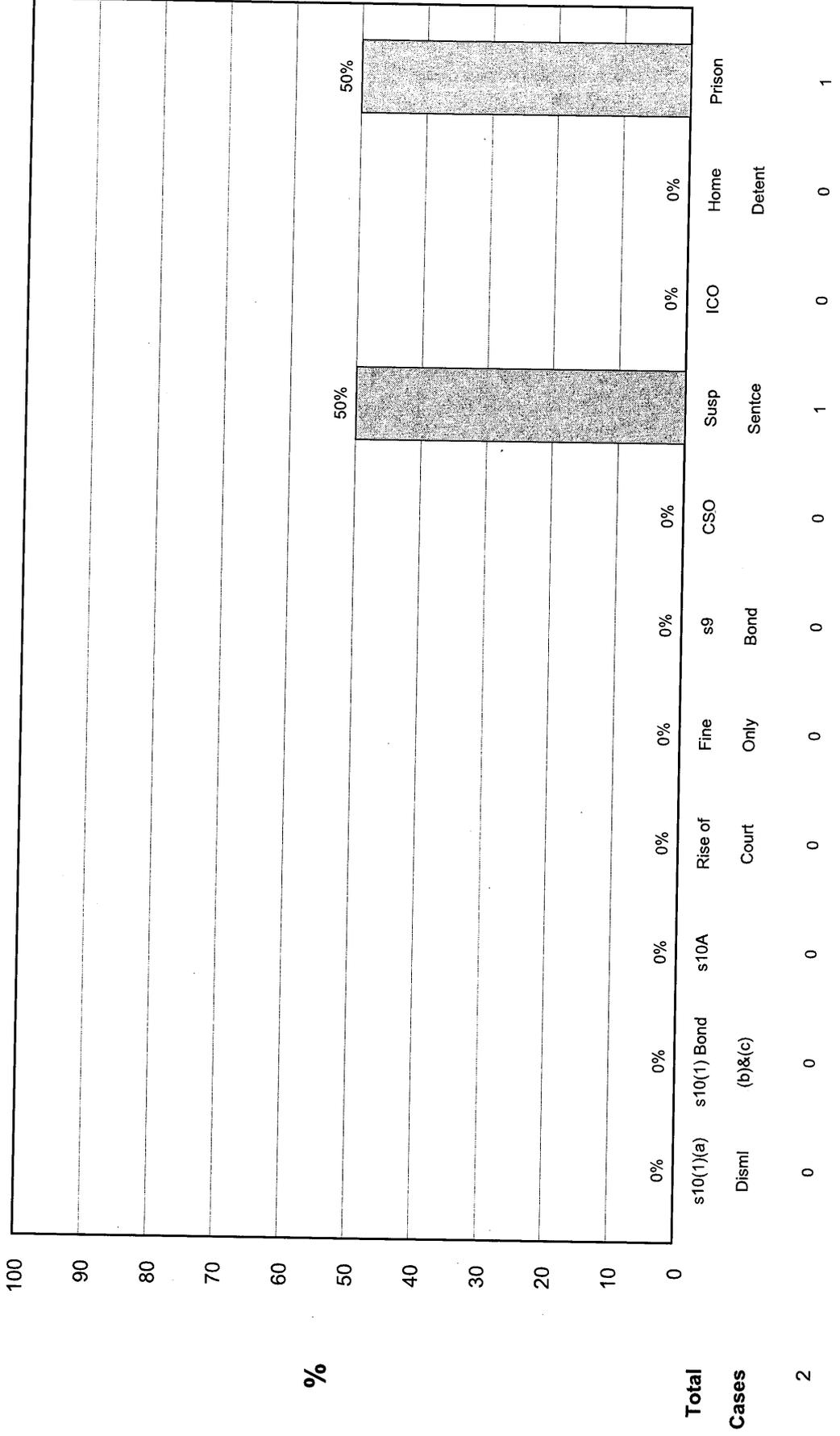
CRIMES ACT 1900 (NSW)

s.60B(2) - obtain personal information about person with whom officer has domestic relationship

NSW Local Courts - as at Jun 2017
Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



TAB 8

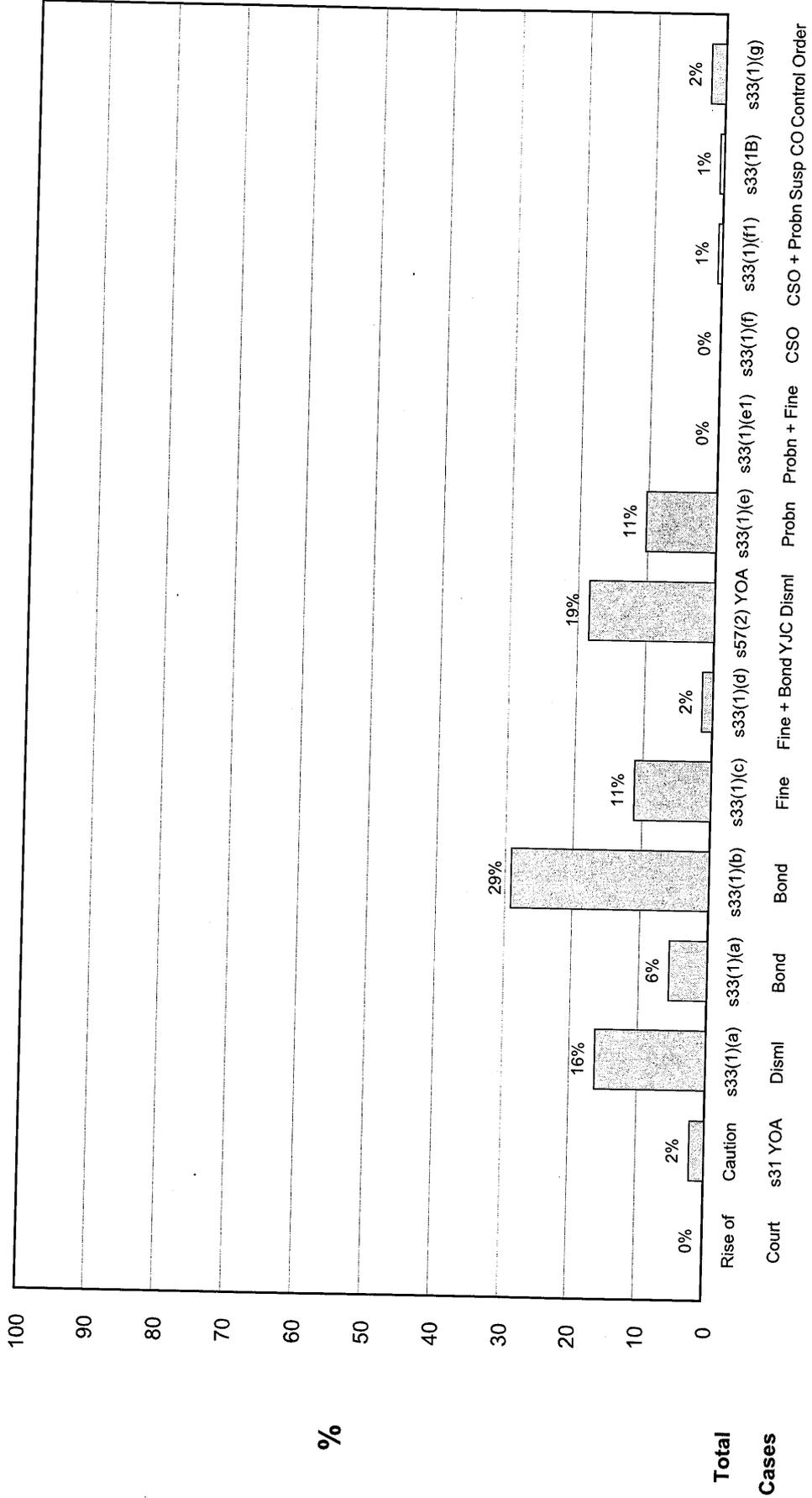
Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

s.546C - resist etc police officer in execution of duty

NSW Children's Court - as at Jun 2017
Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only
All Offenders



Judicial Information Research System (JIRS)

CRIMES ACT 1900 (NSW)

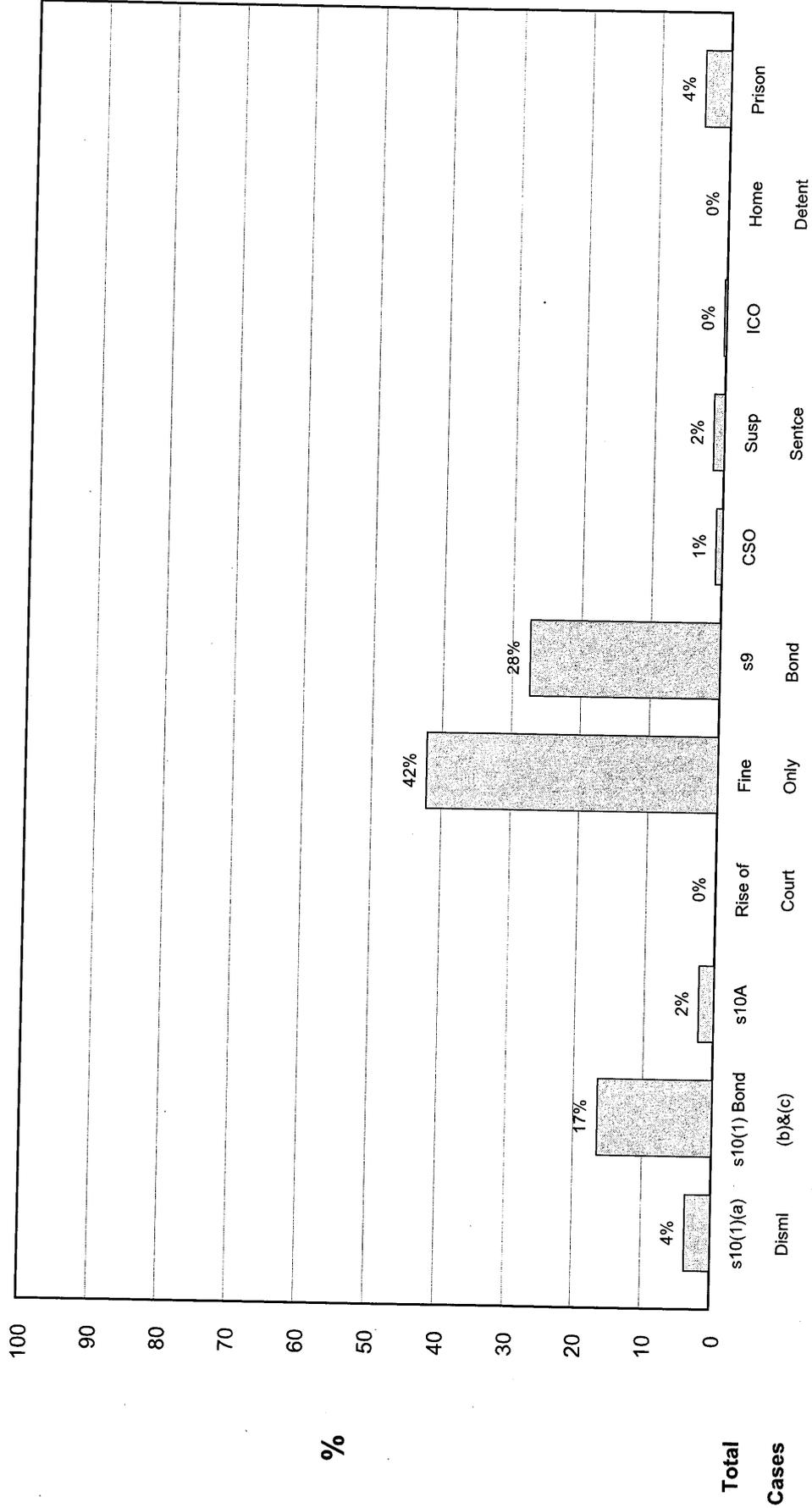
s.546C - resist etc police officer in execution of duty

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Total Cases	s10(1)(a) Dismis	s10(1) Bond (b)&(c)	s10A	Rise of Court	Fine Only	s9 Bond	CSO	Susp Sentence	ICO	Home Detent	Prison
1936	73	324	43	0	817	537	24	33	9	0	76

TAB 9

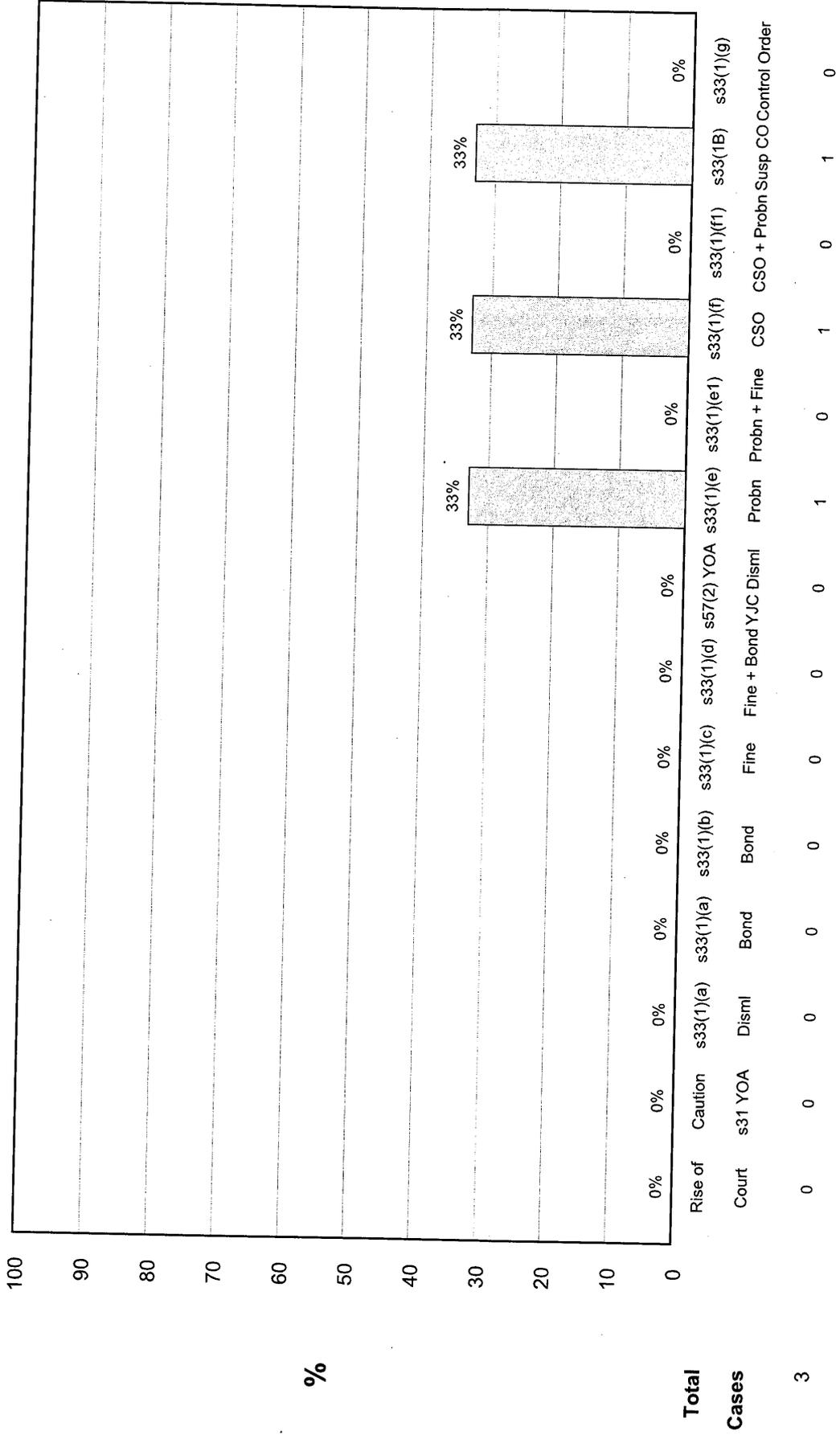
Judicial Information Research System (JIRS)

HEALTH SERVICES ACT 1997 (NSW)

s.67J(1) - obstruct or hinder ambulance officer providing service to other

NSW Children's Court - as at Jun 2017
Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only
All Offenders



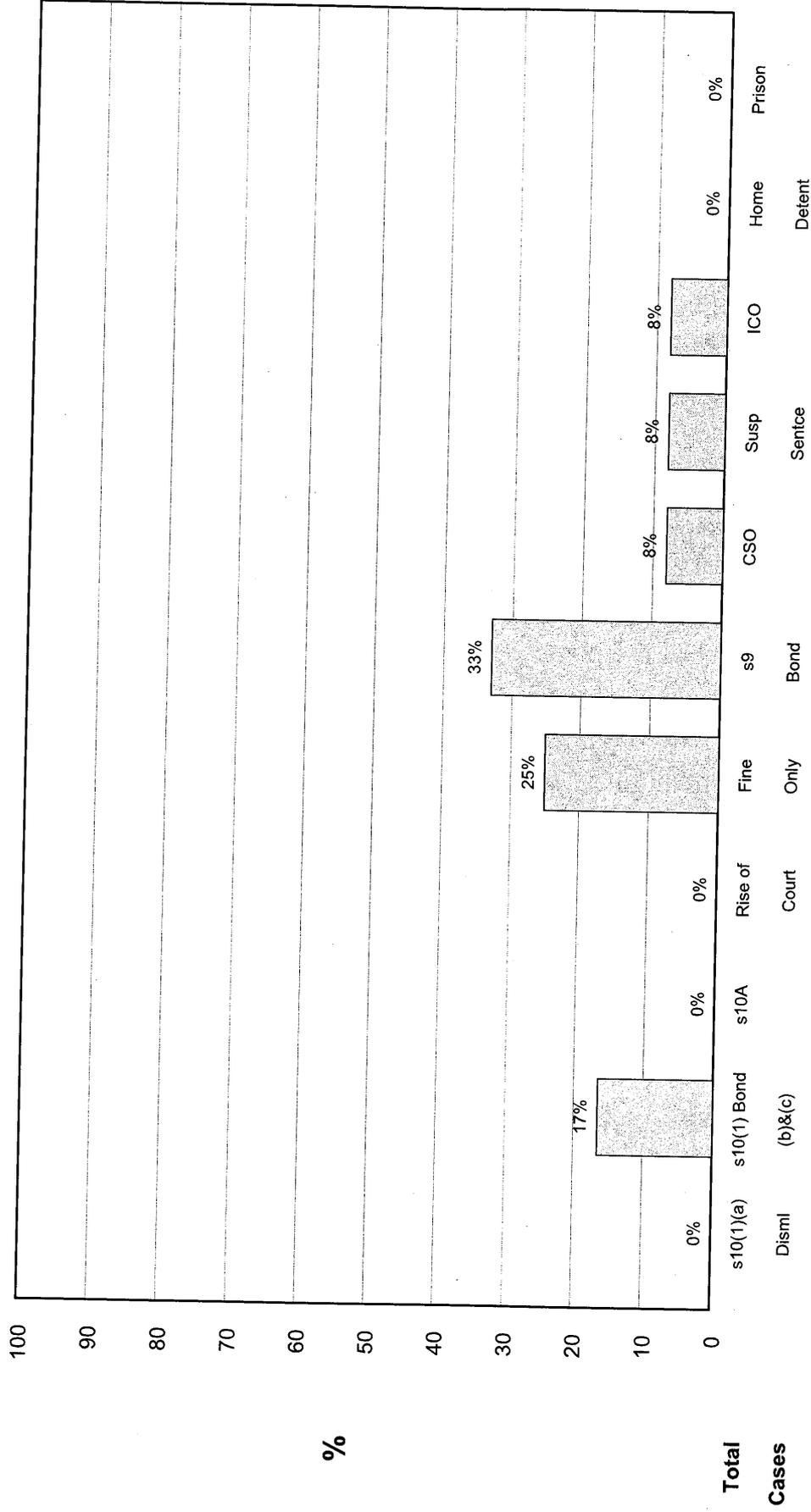
Judicial Information Research System (JIRS)

HEALTH SERVICES ACT 1997 (NSW)

s.67J(1) - obstruct or hinder ambulance officer providing service to other

NSW Local Courts - as at Jun 2017
Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only
All Offenders



Total Cases	s10(1)(a) Dismissal	s10(1) Bond (b)&(c)	s10A	Rise of Court	Fine Only	s9 Bond	CSO	Susp Sentence	ICO	Home Detent	Prison
12	0	2	0	0	3	4	1	1	1	0	0

Judicial Information Research System (JIRS)

HEALTH SERVICES ACT 1997 (NSW)

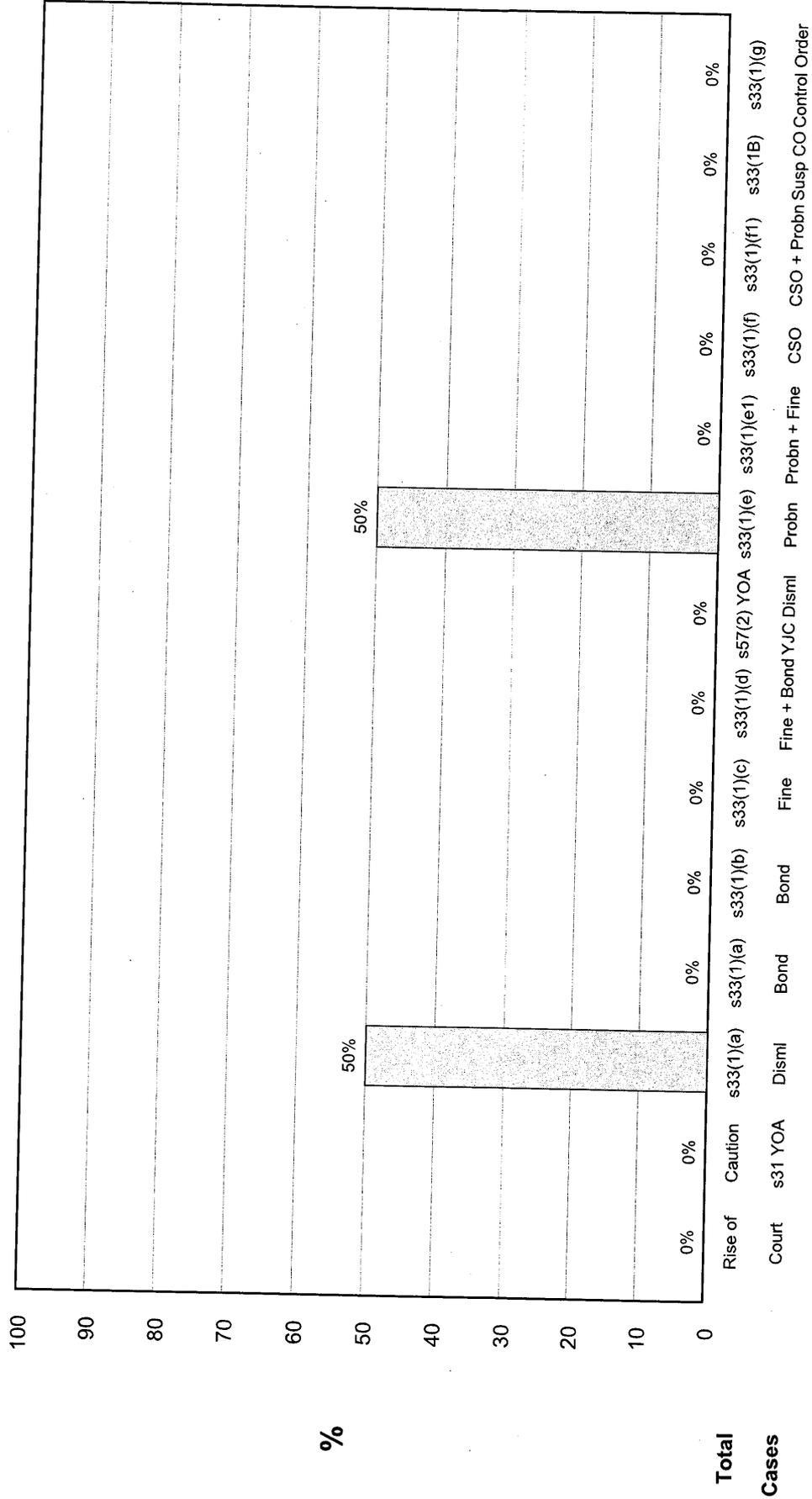
s.67J(2) - obstruct or hinder ambulance officer by act of violence

NSW Children's Court - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS)

HEALTH SERVICES ACT 1997 (NSW)

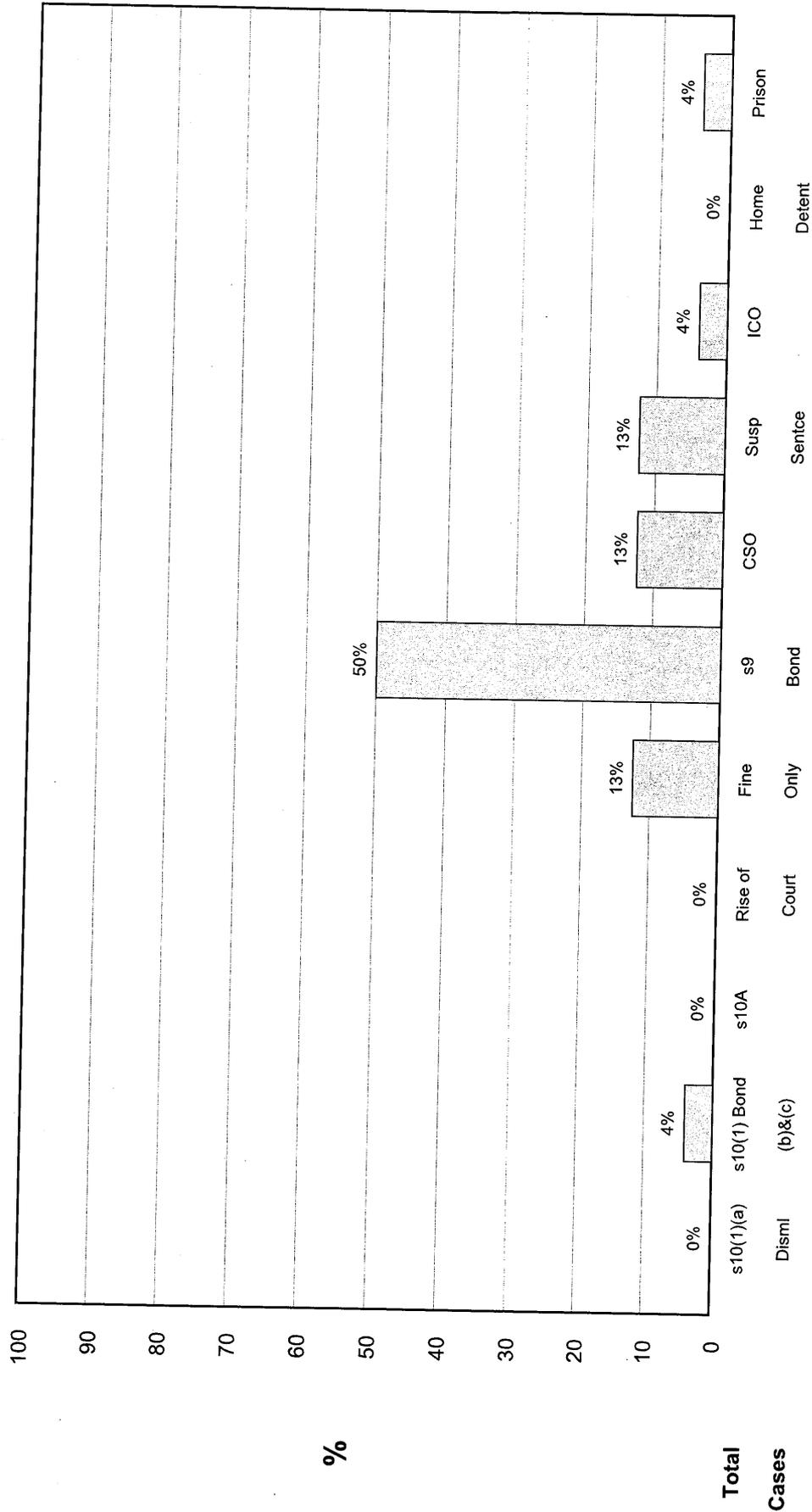
s.67J(2) - obstruct or hinder ambulance officer by act of violence

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Total Cases	s10(1)(a) Dismissal	s10(1) Bond (b)&(c)	s10A Court	Rise of Court	Fine Only	s9 Bond	CSO Sentence	Susp Sentence	ICO Detent	Home Detent	Prison
24	0	1	0	0	3	12	3	3	1	0	1

TAB 10

Judicial Information Research System (JIRS)

FIRE BRIGADES ACT 1989 (NSW)

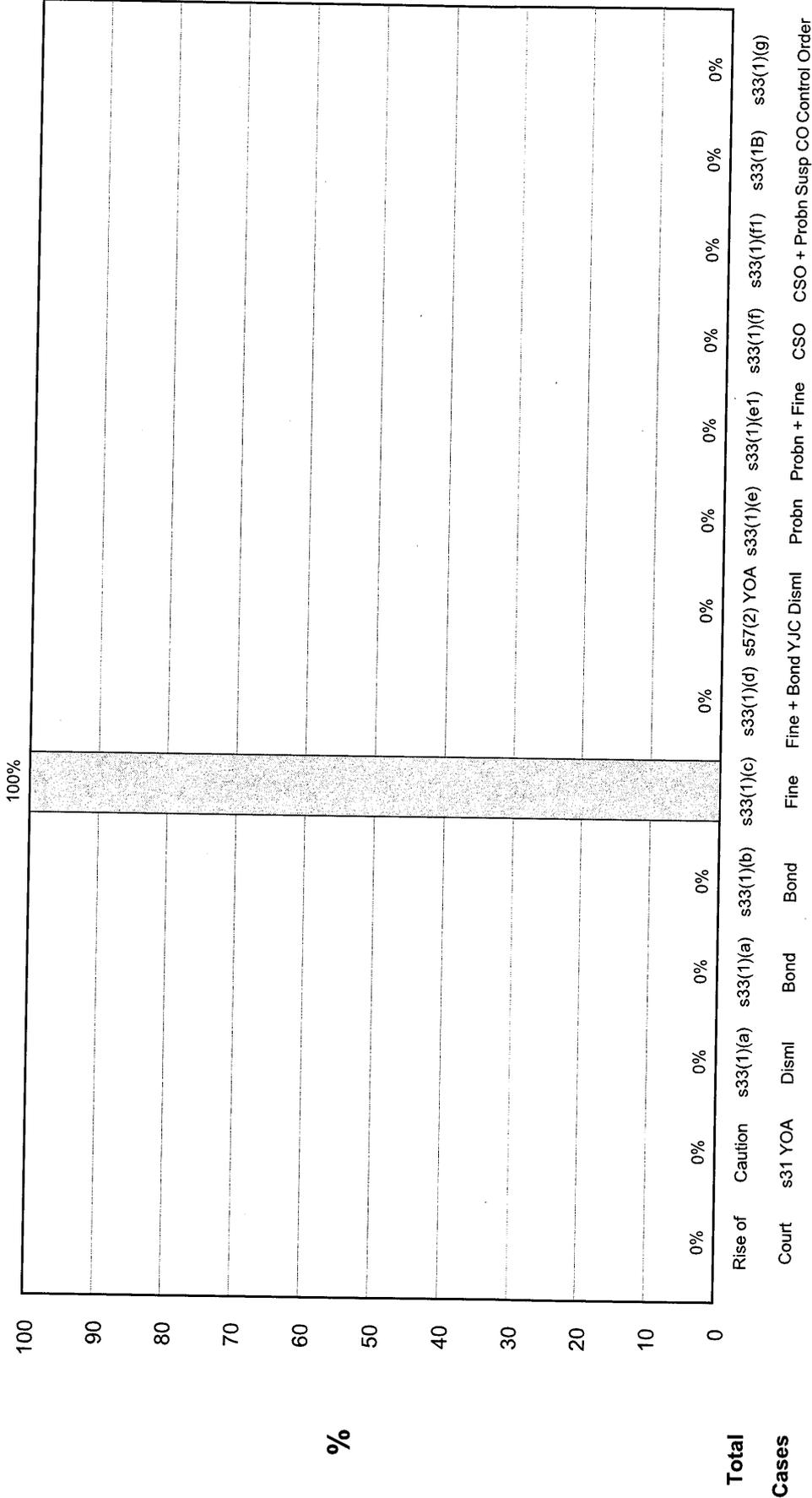
s.35 - obstruct firefighters

NSW Children's Court - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders



Judicial Information Research System (JIRS)

FIRE BRIGADES ACT 1989 (NSW)

s.35 - hinder/obstruct member of fire brigade in ex of function

NSW Local Courts - as at Jun 2017

Sentences from Jan 2013 to Dec 2016

Penalty Type - Principal Offences Only

All Offenders

