

## **INQUIRY INTO VIOLENCE AGAINST EMERGENCY SERVICES PERSONNEL**

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OUR REFERENCE

## DIRECTOR'S CHAMBERS



YOUR REFERENCE

LAC16/40  
DATE

22 July, 2016

The Chair  
Committee on Law and Safety  
Parliament House  
6 Macquarie St  
Sydney 2000

Dear Sir

### **Inquiry into Violence Against Emergency Services Personnel**

Thank you for the invitation to make a submission to this inquiry.

The Office of the Director of Public Prosecutions (ODPP) is not aware or have expertise in the measures to protect emergency services personnel from violence and accordingly we cannot make comment about this aspect of the terms of reference.

The ODPP prosecutes offenders for serious assaults and murders in the superior courts. However, the comments we can make in this regard are also limited as, except for the murder of a police officer, we are not able from the data we collect to identify particular cases that involve emergency personnel. Accordingly we are not able to ascertain if there is any trend in regard to sentencing for these types of assaults.

We note that in the case of an offence of murder of a police officer pursuant to 19B, the *Crimes Act* 1900 specifically provides for a mandatory life sentence. From the Judicial Commission Research data base we are able to identify one case which has been dealt with under that section.

In that case, *R v Jacobs* (No (9)) [2013] NSWSC 1470, Justice Button in sentencing the offender to a mandatory life sentence for shooting a police officer who was administering a random breath test, said [at para (29)]:

*In short the murder of a police officer acting in the execution of his or her duty is very much more serious than the intentional taking of the life of a fellow citizen, inherently grave though that is. Certainly, the murder of a police officer in such circumstances is a direct assault upon our system of parliamentary democracy and the rule of law.*

Most assaults are dealt with in the Local Court and are prosecuted by the Police. The Police refer matters to the ODPP, requesting an appeal to the District Court, where it is considered that the sentence imposed by the Magistrate was inadequate. The referrals from the Police are only a tiny proportion of all the sentences handed down for these offences, and so cannot be taken to be a reflection of any trend. Since the beginning of 2011 the Police have referred 25

sentences for Assault Police, Intimidate Police or Assault Police Occasioning Actual Bodily Harm for consideration of an appeal. The seriousness of the offences vary widely ranging from threats or simple pushes, to assaults causing bruising or scratching and punches causing serious injury. The penalties imposed reflect the wide range of factual circumstances including s 10 bonds, s 9 bonds, Community Service Orders, fines and s 12 bonds. Of the 25 matters referred, we appealed the inadequacy of 12 sentences with mixed results.

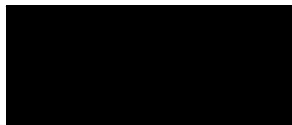
We were unable to identify any referrals where the victims were emergency workers other than police.

The ODPP does not perceive that there is a need for further reform of sentencing options or principles to accommodate offences committed against emergency services personnel unless a separate and distinct offence is created with a higher maximum penalty. We note that section 21A(2) (a) of the *Crimes (Sentencing Procedure) Act 1999* provides aggravating factors to be taken into account in determining the appropriate sentence for an offence if:

*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*

Further we note that the Law Reform Commission Report 139 "sentencing" (July 2013) made recommendations in regard to sentencing reform and the ODPP has on the whole supported those recommendations. If any further reform to sentencing is to be proposed we would urge that it should be considered in light of the Law Reform Commission's recommendations.

Yours faithfully



**Keith Alder**  
**Acting Director of Public Prosecutions**