



Hon Kerry Shine MP
Member for Toowoomba North

In reply please quote: 506853/1 J/08/03012

27 MAY 2008



**Queensland
Government**

LAI'D UPON THE TABLE OF THE HOUSE	
No.: 5208T3546	Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland
29 MAY 2008	
MP: Hon K Shine	
Clerk's Signature: <i>[Signature]</i>	

Mr Neil Laurie
The Clerk of the Parliament
Queensland Parliamentary Service
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Laurie *Neil*

Thank you for your letter dated 16 April 2008 concerning Petitions Nos. 1036-08 and 1037-08.

The petitions call for mandatory minimum sentences for unlawful assaults on persons performing their lawful duty such as ambulance officers, teachers, health services staff, police officers and the like.

Despite the reference in the petition to section 114 of Queensland's Criminal Code (which provides the electoral offence of interfering with secrecy at elections) it would appear that the petitioners are concerned with section 340 of the Code. Section 340 provides the offence of serious assault and carries seven years imprisonment. An unlawful assault falls under the section if committed upon certain persons, for example, police officers, corrective services officers, the elderly, those who rely on a remedial device and those who are assaulted whilst performing a duty imposed on the person by law.

I refer the petitioners to the Criminal Code and Other Acts Amendment Bill 2008 which I introduced into Parliament on 1 May 2008. The Bill amends section 340 to ensure that an offender who attacks a public officer while the officer is doing their job, can be charged with serious assault and therefore liable to a maximum penalty of seven years imprisonment instead of three years imprisonment (which is the maximum penalty for common assault).

Level 18 State Law Building
50 Ann Street Brisbane
GPO Box 149 Brisbane
Queensland 4001 Australia
Telephone +61 7 3239 3478
Facsimile +61 7 3220 2475
Email attorney@ministerial.qld.gov.au
Website www.justice.qld.gov.au
ABN 65 959 415 158

If enacted, the amendment will result in front line officers such as fire and ambulance officers, health services employees such as doctors and nurses and other vulnerable public servants such as child safety workers receiving the protection of section 340.

The petition calls for mandatory minimum sentencing. This Government does not support mandatory minimum sentences.

In Queensland, legislation establishes maximum penalties and sets out the matters that can be considered by the court when sentencing. This enables the court to consider the particular and unique facts of each case and craft a punishment which is appropriate and proportionate to the circumstances and nature of the offence. I am confident that this system leads to more appropriate sentences than a system of mandatory sentencing.

An inherent vice of mandatory sentences is that they are designed for the most culpable criminal yet catch many who are considerably less so. A particular offence can carry varying degrees of seriousness and a huge range of conduct can constitute a particular offence. For example, an offender can commit serious assault by spitting blood in the face of a police officer. A serious assault can also be committed by a person who resists (as opposed to assaults) a police officer during the course of an arrest, is immediately remorseful for his conduct and pleads guilty at the earliest opportunity. There is a vast difference in the criminal culpability of both offenders.

Under the present system, the court would acknowledge this difference when considering the appropriate sentence to impose. If a scheme of mandatory minimum sentencing was introduced for the offence of serious assault, the court would have no option but to sentence the latter offender to a period of imprisonment, even if the offender was a young man with no criminal history.

The bottom line is that the legislature cannot define offences and the circumstances in which offences are committed, with the precision necessary to eliminate unjust results in individual cases. That is why this Government does not support minimum mandatory sentencing.

Yours sincerely



Hon Kerry Shine MP
**Attorney-General and Minister for Justice
and Minister Assisting the Premier in Western Queensland**