

# **Factsheet No. 20**

## **Police powers under the Mental Health Act 2007 (NSW)**



### **When can police detain me and take me to a mental health facility?**

Police can detain you under the Mental Health Act 2007 (NSW) and transport you to a mental health facility if:

- you appear to be mentally ill or mentally disturbed; **and**
- you are committing or have committed an offence or you have attempted or will attempt to cause serious harm to yourself or someone else; **and**
- it would be beneficial for your welfare to have a mental health assessment.

Police may also transport you to a mental health facility if they are requested to do so by an ambulance officer or under a mental health certificate issued by an authorised person (such as a doctor).

### **Will I be taken in a police vehicle?**

You will be transported either in an ambulance with a police escort or by police in a police vehicle.

### **Can I be searched?**

Yes. Police can search you if they hold a reasonable suspicion that you are carrying anything that would be dangerous to you or someone else, or that could help you escape custody.

The search can involve a police officer running their hands over your outer clothing and may involve the removal and examination of outer clothing such as your jacket, shoes and hat.

### **Can force be used?**

Yes. A police officer may use such force as is

reasonably necessary to transport you to a mental health facility.

### **Can I be restrained?**

Yes. You may be restrained in any way that is reasonably necessary in the circumstances.

You may also be sedated (by a medical professional) if it is necessary to ensure your safety or the safety of staff involved in your transportation.

### **If I have committed an offence, will I still be charged?**

Police may still decide to charge you for the offence that occurred prior to you being taken to the mental health facility.

Police can also charge you if you commit an offence while being detained, such as assaulting police.

### **What if police got it wrong?**

If you believe that you should not have been detained under the *Mental Health Act*, or if police acted improperly (for example, by using too much force), you can make a formal complaint. See RLC Factsheet No. 2: Police Complaints (<https://bit.ly/rlcfs2pol>) for more information about making police complaints.

If the police acted unlawfully, you may also have a civil claim for compensation and should seek advice from a lawyer.

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