Justice and Equity Centre

Submission on mental health and policing interactions in NSW

10 July 2026

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About the Justice and Equity Centre

The Justice and Equity Centre stands for a society that is fair and free from discrimination and disadvantage. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we use the law and policy advocacy to challenge injustice and inequality. We do this through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

We collaborate and partner in our work with people and communities who are experiencing marginalisation and disadvantage and focus on finding practical solutions. We work across five focus areas:

Disability rights: challenging discrimination and making the NDIS fairer to ensure people with disability can participate equally in economic, social, cultural and political life.

Justice for First Nations people: challenging the systems that are causing ongoing harm to First Nations people, including through reforming the child protection system, tackling discriminatory policing and supporting truth-telling.

Homelessness: reducing homelessness and defending the rights of people experiencing homelessness through the Homeless Persons' Legal Service and StreetCare's lived experience advocacy.

Civil rights: defending the rights of people in prisons and detention, including asylum seekers, modernising legal protection against discrimination, raising the age of criminal responsibility to 14, advancing LGBTIQA+ equality and advocating for open and accountable government.

Energy and water justice: working for affordable and sustainable energy and water and promoting a just transition to a zero-carbon energy system.

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The Justice and Equity Centre acknowledges and pays respects to the Gadigal as the Traditional Owners of the land on which our office stands.

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1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to make a submission to the Law Enforcement Conduct Commission on police responses to mental health-related interactions in NSW.

The JEC runs the Homeless Persons' Legal Service (HPLS) which provides legal assistance to people experiencing or at risk of homelessness. We also support people with lived experience of homelessness through two advisory groups – StreetCare and the Lived Experience Committee for the NSW *Housing and Mental Health Agreement 2022.* Many members of these groups have direct and indirect experience with police responses to mental-health incidents.

The JEC also works extensively on issues of police accountability, including in partnership with First Nations organisations.

This submission draws on feedback from members of our lived experience advisory groups, as well as the experiences of clients we support in HPLS and our work on police accountability.

2. The adverse impact of police as first responders to mental health incidents

Police responses to mental health-related incidents pose the risk of significant harm, injury and fatalities, particularly for vulnerable members of communities such as those experiencing homelessness.

As shared by a lived experience advocate:

> I think we need to look at how many people have been so scared of the police. Where the police have been coming after people so brutishly there have been several people trying to escape them, most certainly having a mental health emergency, trying to climb down a balcony in a high rise building and falling to their deaths. This is a horrible thing to have to happen to anyone.

The NSW Police Minister has acknowledged the limitations of police responses to mental health incidents observing that: 'it's often the case that seeing the blue uniform escalates instead of deescalates.'[1]

For many HPLS clients, mental health crises are often met with criminal justice responses rather than appropriate health or social support. This can result in harmful interactions between police and people experiencing disadvantage. The risk of negative police contact during mental health crisis is heightened for:

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[1] Parliament of New South Wales, Portfolio Committee No. 5 – Justice and Communities, Police and Counter-Terrorism, The Hunter, Friday 23 February 2024, 12 <https://www.parliament.nsw.gov.au/lcdocs/transcripts/3236/Transcript%20-%20CORRECTED%20-%20PC5%20-%20Budget%20Estimates%20(Catley)%20-%2023%20February%202024.pdf> .

- people experiencing homelessness
- people from First Nations and racialised communities[2]
- people with disability, particularly people with cognitive disability; and
- people navigating alcohol and drug use.

In recent years, multiple reports and studies have investigated the experiences of people living with mental ill-health and their interactions with police.[3]

In a 2021 report, the JEC heard from and documented the interactions that people sleeping rough experienced with police.[4]

The report observed that:

> Several service providers we spoke to suggested a **need for police to develop a better understanding of the intersections between trauma, mental health and substance use disorder** that commonly affect their clients. These clients tend to have unfavourable interactions with police that result in arrest, often because police do not have the skills required to engage with these presentations and de-escalate potentially harmful situations…
>
> The experiences of the people we spoke to suggest a skills deficit in NSW Police and the need for greater training, especially in relation to mental illness and dealing with vulnerable people.
>
> [emphasis added]

In 2023, La Trobe University published a report 'Police Apprehension as a Response to Mental Distress' which drew on interviews with 20 people who had experienced police intervention in response to mental health crisis in Australia.[5] Participants described how police intimidated, threatened them and used excessive and disproportionate force against them.

The below case studies provide examples of harmful police responses to our clients. Their names have been changed to protect their privacy.

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2 Rory Randall et al, '*I was having an anxiety attack and they pepper sprayed me':* police apprehension in mental health contexts in Australia' (2025) 35 (1) *Policing and Society* 96 <https://www.tandfonline.com/doi/epdf/10.1080/10439463.2024.2372354?needAccess=true>.

3 Ibid; Tamara Walsh et al, ''Back Off! Stop Making US Illegal!': The Criminalisation of Homelessness in Australia' (2024) 34(1) *Social & Legal Studies* <https://journals.sagepub.com/doi/epub/10.1177/09646639241244953>; Portfolio Committee No. 2 - Health, Parliament of New South Wales, *Equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales* (2024) 81-86 <https://files.parliament.nsw.gov.au/fileapi/ParlFiles/GetArtifact?serverRelativeUrl=%2Flcdocs%2Finquiries%2F2973%2FReport%20No.%2064%20-%20PC2%20-%20Equity%2C%20accessibility%20and%20appropriate%20delivery%20of%20outpatient%20and%20community%20mental%20health%20care%20in%20NSW.pdf>.

4 Public Interest Advocacy Centre and Homelessness NSW, Policing Public Space: The experiences of people sleeping rough (Report, 2021) <https://homelessnessnsw.org.au/wp-content/uploads/2021/05/HNSW-Report-Policing-Public-Space-Report-PIAC_Web.pdf>.

5 La Trobe University, Police apprehension as a response to mental distress (Report, November 2023) <https://www.parliament.nsw.gov.au/lcdocs/other/18977/Police-Apprehension-Report_Final_v7.pdf>.

2.1.1 Police charge transgender person experiencing homelessness after they express suicidal ideation

HPLS client, Sam, is a transgender person who was living in temporary accommodation during a period of homelessness.

Sam has multiple disabilities, including postural orthostatic tachycardia syndrome (POTS), anxiety, depression, and a neurodevelopmental condition amongst several other medical conditions. Sam is on the disability support pension and is currently awaiting support from the NDIS.

During a phone call with a friend, Sam disclosed serious suicidal ideation. Sam's friend called emergency services.

Police responded and detained Sam under s 22 of the *Mental Health Act 2007* (NSW) ('MHA'). While searching Sam, police located three tablets of oxycodone in their possession. Rather than treating the matter as part of a mental health crisis, police elected to charge Sam with an offence. Sam had no prior criminal history.

Sam subsequently spent 12 hours in hospital under s 22 of the MHA, before being discharged to emergency accommodation.

Once proceedings commenced, police upgraded the possession charge to a more serious offence.

To resolve the case, Sam pleaded guilty to the charge and was required to participate in court proceedings. In support of sentencing submissions, details of Sam's extensive trauma, including the murder-suicide of Sam's parents were put before the court. This required Sam to revisit profoundly distressing experiences.

Ultimately, the court determined that Sam's personal circumstances and the nature of the offending warranted a non-conviction order under s 10(1)(a) of the *Crimes (Sentencing Procedure) Act 1999* (NSW).

Despite this outcome, the consequences of the criminal justice response were significant. A person in acute mental distress, with no prior criminal history, was drawn into an extended court process, exposed to the risk of a criminal conviction, and required to relive severe childhood trauma. The proceedings were highly stressful and retraumatising for Sam, exacerbating existing mental health issues and illustrating the harm that can result when a mental health crisis is met with criminalisation rather than care and support.

2.1.2 Police arrest person with cognitive disability, ignoring request for support from the Justice Advocacy Service

Jack is a First Nations man who has been diagnosed with neurocognitive disorders, including schizophrenia, bipolar, personality disorder, major depressive disorder and chronic polysubstance misuse. After years of sleeping rough, Jack has only recently been housed.

In early 2025, Jack was at a train station when a group of police officers with a drug dog approached him. Jack explained to police he had recently smoked medicinal marijuana, but that he didn't have any drugs on him.

Jack immediately informed police of his cognitive impairment by providing his Justice Advocacy Service (JAS) card – signalling that he required support to effectively engage with police. He repeatedly asked police to contact a support person.

When police indicated they would proceed with a search before contacting a support person, Jack became increasingly distressed and dysregulated. He told police to place him in handcuffs and go through his stuff, saying that he had nothing to hide and that he had a brain disease.

He also pleaded with the officers to call JAS. Despite Jack's repeated requests for support and clear signs of distress, the interaction continued to escalate without a support person being contacted.

During this incident, and after repeatedly asking for assistance, Jack was arrested for indecent exposure when he pulled his pants down and lifted his shirt while trying to demonstrate he had nothing to hide.

Jack ultimately pleaded guilty to the offence and received a non-conviction sentence and was placed on a 6-month good behaviour bond.

The outcome highlights the limited public benefit of the prosecution. A First Nations man with significant cognitive impairment, mental ill health and a history of homelessness was drawn into a criminal legal system despite repeatedly identifying his disability and seeking support. The matter resulted in court proceedings, legal intervention and ongoing engagement with the justice system.

In HPLS's view, this prosecution was unnecessary. Jack's conduct occurred in the context of his obvious distress during a police interaction. The interaction could have been de-escalated if appropriate support been provided.

2.1.3 Police aggression and use of force towards man with schizophrenia

Matthew has chronic and treatment resistant schizophrenia. He is currently an involuntary patient under a Community Treatment Order.

After failing to attend for his depot injection, police were called to attend his house with community mental health team.

Matthew has a long history of adverse interactions with police. Police were aware that the deterioration of his mental health could increase the risk of aggressive behaviour.

The police met Matthew in the entryway to his home. On seeing police at his home, Matthew retreated inside. When he attempted to close the front door police forcibly entered the property. The forced entry appears to have intensified Matthew's distress and contributed to the rapid escalation that followed.

The interaction resulted in significant physical injuries to Matthew including extensive bruising and a laceration to his mouth. Matthew was eventually restrained, and paramedics arrived to sedate him. Matthew was subsequently charged with assaulting police.

While Matthew used violence during this incident, the violence cannot be separated from the circumstances in which it occurred.

Police were responding to a mental health intervention involving a person with severe and enduring mental illness, who was known to have a history of negative interactions with police.

The outcome of the police-led response was that Matthew was physically injured and drawn into the criminal justice system. What ought to have been an attempt to facilitate mental health treatment ultimately resulted in police using force and laying criminal charges.

Matthew's experience illustrates the risks that arise when police are positioned at the forefront of mental health responses. Where police attendance is likely to heighten a person's distress, there is scope to reduce the risk of escalation by placing health practitioners in the lead and involving police only where a clear and immediate safety risk emerges.

2.1.4 Impact of police responses

These case studies demonstrate how police interactions can exacerbate existing mental health challenges, often intensifying distress rather than facilitating access to appropriate support and care.

They also illustrate how unmet health needs are frequently recast as criminal justice issues, with people being charged with offences arising from conduct linked to mental health.

This was also emphasised by a lived experience advocate, who stated:

> We're seeing the criminalisation of mental illness. Jails have become a holding place for the mentally ill.

These negative interactions with police often have ongoing consequences, including reduced trust in police and services more broadly,[6] which leads to a reluctance to seek mental health support in the future.

3. Responding with health professionals

Health professionals, not police, should respond to mental health incidents. This would deliver safer outcomes for people in crisis. As demonstrated by the case studies above, as well as

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6 Rory Randall et al (n 2) 93.

numerous reports and inquiries,[7] alternative models that replace police as first responders are urgently needed.

Lived experience advocates have highlighted that these alternative response models can lead to 'reduced incarceration, less people being scheduled, more continued engagement with mental health services and fewer Emergency Department admissions' as well as reduce the risk of 'people experiencing mental health crisis being shot.'

We are aware that NSW Police have been working with the NSW Ministry of Health on developing a new model for responding to mental health emergencies in the community. This reform should continue as an urgent priority, and must be done in partnership with communities. In particular, the NSW Government must engage with people with lived experience of mental illness, affected families, Aboriginal people,[8] and people with disability.

If the NSW Government is to transition to a genuinely health-led response to mental health crisis, it should undertake a review of the MHA. The MHA currently assigns police a significant role in mental health responses, including powers to apprehend and transport people to mental health facilities.[9] Without reform to the MHA, police will continue to occupy a central position in crisis responses, limiting the shift towards health-led initiatives.

Recommendation 1

NSW Police should continue to work with other NSW Government departments and the NSW community to minimise the role of police in mental health crises.

3.1 The ongoing need to improve police responses

While a health-led response should be implemented wherever possible, there will remain circumstances in which police interact with people experiencing mental health crisis, including:

- where a person's mental health condition is unknown;
- where there is a safety risk;

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7 Portfolio Committee No. 2 - Health (n 3); La Trobe University (n 5); NSW State Coroner, *Deaths in Custody/Police Operations Report 2025* (Report No 1323-6423) 7, 26 <https://coroners.nsw.gov.au/documents/reports/2025_Annual_Report.pdf>. NSW Police Force, *Summary Internal Review of the NSW Police Force response to mental health incidents in the community* (April 2024) <https://www.police.nsw.gov.au/__data/assets/pdf_file/0004/884974/Review_of_the_NSW_Police_Force_response_to_mental_health_incidents_in_the_community.pdf>; Law Enforcement Conduct Commission, *Five Years (2017 – 2022) of Independent Monitoring of NSW Police Force Critical Incident Investigations* (May 2023) 41 < <file:///Users/adaly/Downloads/Five%20Years%20of%20Independent%20Monitoring%20of%20NSW%20Police%20Force%20Critical%20Incident%20Investigations%20(6).pdf>; NSW Committee on Law and Safety, *Community safety in regional and rural communities* (Final report 5/58, March 2026) 31-33 <https://files.parliament.nsw.gov.au/fileapi/ParlFiles/GetArtifact?serverRelativeUrl=%2Fladocs%2Finquiries%2F3042%2FCommunity%20safety%20in%20regional%20and%20rural%20communities%20-%20Final%20report%20-%20March%202026.PDF>

8 The NSW Government has committed to working in meaningful partnership with the NSW Coalition of Peak Aboriginal Organisations through shared decision-making in the design, implementation, monitoring and evaluation of policies and programs that impact the lives of Aboriginal people. These are commitments under the National Agreement on Closing the Gap and the NSW Partnership Agreement.

9 *Mental Health Act 2007* (NSW) s 22.

- when mental health or other support services call police to respond to someone in a mental health crisis; and
- in the course of their daily duties, including interactions with people experiencing homelessness in public places.

Given the ongoing role of police will play in responding to vulnerable people it is essential that officers have the skills and tools necessary to minimise harm and safely de-escalate. This is line with the NSW Police Force's Mental Health Strategic Action Plan 2024 which includes a commitment to developing and implementing 'training with an emphasis on verbal de-escalation.'[10]

In 2024 the NSW Government reported that NSW Police had conducted a review of mental health training.[11] However there is very limited public information about what this review involved and what, if any, changes had been made to improve training.[12] The recent experiences of HPLS clients suggests that current police training is insufficient to consistently promote de-escalation and harm minimisation in interactions with people experiencing mental ill-health.

NSW Police must provide their officers with more robust training and education about mental health and how to respond appropriately. Training should be:

- mandatory for all Police officers, with regular refreshers.
- developed in partnership with people with lived experience and mental health professionals.
- regularly updated.
- in-person and focused on practical skills and scenario-based learning.
- independently evaluated.
- focused on de-escalation and effective coordination with support services.

Recommendation 2

The NSW Police Force should ensure NSW Police Officers receive regular, comprehensive mental health training.

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10 NSW Police Force, *Mental Health Strategic Action Plan 2024* (2024) 2 <https://www.police.nsw.gov.au/__data/assets/pdf_file/0005/910364/Mental_Health_Strategic_Action_Plan.pdf>.

11 NSW Government, *NSW Government Response: Inquiry into equity, accessibility and appropriate delivery of outpatient and community mental health care in New South Wales* (September 2024) 26 <https://files.parliament.nsw.gov.au/fileapi/ParlFiles/GetArtifact?serverRelativeUrl=%2Flcdocs%2Finquiries%2F2973%2FGovernment%20response%20-%20Report%20No%2064%20-%20PC2%20-%20Equity%2C%20accessibility%20and%20appropriate%20delivery%20of%20outpatient%20and%20community%20mental%20health%20care%20in%20New%20South%20Wales.pdf>.

12 Parliament of New South Wales, Portfolio Committee No. 5 – Justice and Communities, Police and Counter-Terrorism, the Hunter, 'Responses To Supplementary Questions On Notice' 2 <https://files.parliament.nsw.gov.au/fileapi/ParlFiles/GetArtifact?serverRelativeUrl=%2Flcdocs%2Fother%2F20354%2FASQ%20-%20PC%205%20-%20Budget%20Estimates%20-%20Hon%20Yasmin%20Catley%20MP.pdf>.

Recommendation 3

The NSW Police Force should ensure that their policies, procedures and training on mental health are focused on de-escalation and harm minimisation.

4. Oversight and accountability for police responses

Reforms are needed to strengthen the LECC's oversight functions, including to investigate police conduct in mental health-related interactions. These functions are currently limited by constraints on the LECC's information gathering powers.

We recommend:

- Amending the *Law Enforcement Conduct Commission Act 2016* (NSW) ('the LECC Act') to introduce a provision empowering the LECC to compel access to records held by NSW Police within specified timeframes (in terms similar to section 124(2) of the LECC Act).
- Repealing s 27(7) of the LECC Act, which requires the de-identification of information before it is provided to the LECC. This requirement is unnecessarily time-consuming and impedes the LECC's ability to perform its functions effectively.
- Expanding the LECC's powers to oversight any new police powers. This is to enable proactive monitoring and reassure the public that these powers are being exercised lawfully and appropriately.

These changes would improve transparency of NSW Police conduct, reduce the risk of harm and allow more effective oversight and accountability for misconduct.

Recommendation 4

The NSW Government should legislate increased powers for the Law Enforcement Conduct Commission to ensure improved oversight and accountability of NSW Police.