

Use of Physical and/or Mechanical Restraint during Road-based Transportation of Mental Health Patients Policy

1. Purpose

Individuals who are subject to Transport Orders (Form 4A) under the *Mental Health Act 2014* (MHA 2014) may require Inter Hospital Patient Transport or community to hospital transportation as per Operational Directive (OD) 0659/16.

When transporting patients under a Transport Order, there may be a requirement to use physical and/or mechanical restraint to prevent serious and imminent harm to the patient or another person. In accordance with sections 171 and 172 (2) of the MHA 2014, a Transport Officer is able to use reasonable force in the execution of a Transport Order.

The MHA 2014 does not provide guidance on the use of restraint (physical and/or mechanical) in relation to using reasonable force during transportation of mental health patients.

Neither the term 'force' nor 'reasonable force' is defined in the MHA 2014. In addition, under section 260 of the Criminal Code it is unlawful to use excessive force or more force than is justified by the law relating to the circumstance.

The principles in the Chief Psychiatrist's Standards for Clinical Care and the National Standards for Mental Health Services set the overarching standards with which Health Service Providers must comply under the MHA 2014, and which should be considered in any transport arrangements for mental health patients, however, these Standards do not provide detailed guidance on the use of restraint during the transportation of mental health patients.

Accordingly, the purpose of this policy is to provide guidance to Transport Officers executing a Transport Order when the use of reasonable force through physical and/or mechanical restraint for mental health patients during road-based transportation may be required.

There is currently no established legal test for when the use of mechanical restraint is reasonable.

This policy is a mandatory requirement under the *Mental Health Policy Framework*, and is to be read in conjunction with:

- [MP 0063/17 Requesting Transport Officers and WA Police Assistance in Transporting Mental Health Patients Policy](#)

2. Applicability

This mandatory policy is applicable to Transport Officers of contracted health entities executing Transport Orders on patients to or from WA health system public health facilities within or between the following health service areas:

- Child and Adolescent Health Service,
- East Metropolitan Health Service,
- North Metropolitan Health Service,
- South Metropolitan Health Service, and
- WA Country Health Service to the extent that transport is to or from the Bunbury Health Campus.

3. Policy requirements

In accordance with sections 171 and 172 (2) of the MHA 2014, a Transport Officer is able to use reasonable force in the execution of a Transport Order.

Use of physical and/or mechanical restraint during the execution of a Form 4A – Transport Order may be considered reasonable force based on the objective evaluation of all the circumstances.

If a Transport Officer is to conduct an Inter Hospital Patient Transport or community to hospital transportation of a person under a Transport Order a Transport Officer may use physical or mechanical restraint on the person with consideration to the following principles:

- (a) all reasonable and less restrictive options have been tried or considered and have been found to be unsuitable; and
- (b) the physical or mechanical restraint to be used is necessary to prevent serious and imminent harm to the person or to another person.

Transport Officers who use physical and/or mechanical restraint for a mental health patient during a road-based transportation must formally record details on the:

1. *Mental Health Transport Risk Assessment Form* to confirm whether the Transport Officer used restraints and the reasoning for the use of restraints. The Transport Officer must provide the completed *Mental Health Transport Risk Assessment Form* to the receiving Health Service Provider on arrival.
2. Transport Provider's electronic record system e.g. St John Ambulance's Mental Health electronic Patient Care Record (MH ePCR) and report to the Department of Health as required.

Great caution must be exercised when using physical and/or mechanical restraint to ensure that the use of physical or mechanical restraint is objectively reasonable at the time it is used (ie, satisfies criteria (a) and (b) above), as reasonable force at one point in time may not be considered objectively reasonable at a later point in time, especially if the circumstances have changed.

In the context of executing a Transport Order, reasonable force may be used for purposes including detaining a person for transportation (s149). The MHA 2014 (s170) *Principles relating to detention* must be applied when a person is detained and transported under a Transport Order:

- (a) the person must be detained for as brief a period as practicable;
- (b) the degree of any force used to detain the person must be the minimum that is required to be used for that purpose;
- (c) while the person is detained —
 - (i) there must be the least possible restriction on the person’s freedom of choice and movement consistent with the person’s detention; and
 - (ii) the person is entitled to reasonable privacy consistent with the person’s detention; and
 - (iii) the person must be treated with dignity and respect.

4. Compliance, monitoring and evaluation

The System Manager will require Health Service Providers to audit patient medical files as required to ensure Transport Officers have completed the mandatory *Mental Health Transport Risk Assessment Form* for patients who have been transported and restrained by Transport Officers.

The System Manager will source and report information as required on the following two indicators to monitor and evaluate this policy:

1. Number of reported breaches/investigations/complaints.
2. Aggregated number of physical and mechanical restraint(s) of mental health patients under a 4A Transport Order during road-based transportation.

5. Related documents

The following documents are required to give affect to this policy (i.e. the documents included are mandatory):

- [Transport Order \(Form 4A\)](#)
- [Mental Health Transport Risk Assessment Form](#)

6. Supporting information

The following documents inform this policy (i.e. documents that are not mandatory to the implementation of this policy but may support the implementation of the policy):

- [Chief Psychiatrist’s Standard: Seclusion and Bodily Restraint Reduction](#)
- [National Standards for Mental Health Services Standard 2.2](#)

7. Definitions

Term	Definition
Physical Restraint	Is the application of bodily force to the person’s body to restrict the person’s movement.
Mechanical Restraint	Is the application of a device to restrict the person’s movement, such as a belt, harness, manacle, sheet or strap.

Before referencing this mandatory policy please ensure you have the latest version from the [Policy Frameworks website](#).

Mental Health Transport Risk Assessment Form	A standard form distributed by the Mental Health Unit, Department of Health, which documents a formal assessment of risk presented by an individual during transport under the Transport Order (Form 4A), and information related to such transport.
Transport Officer	A person authorised under the <i>Mental Health Regulations 2015</i> to carry out a Transport Order made under the <i>Mental Health Act 2014</i> .
Transport Order	Formal Transport Order made under the <i>Mental Health Act 2014</i> (Form 4A).

8. Policy owner

Assistant Director General, System Policy and Planning.

Enquiries relating to this policy may be directed to:

Title: Mental Health Unit, Clinical Support Directorate

Division: System Policy and Planning

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9. Review

This mandatory policy will be reviewed and evaluated as required to ensure relevance and recency. At a minimum it will be reviewed within three years after first issue and at least every five years thereafter.

Version	Effective from	Effective to	Amendment(s)
MP 0060/17	1 July 2017	08 August 2020	Original version
MP 0060/17 v.1.1	09 August 2017	06 September 2017	Reference to MP 0063/17
MP 0060/17 v.1.2	06 September 2017	29 May 2019	Amended broken hyperlink and updated reference the Chief Psychiatrist's Standards for Clinical Care
MP 0060/17 v.1.3	29 May 2019	30 June 2020	Minor Amendment – Fixed broken links

The review table indicates previous versions of the mandatory policy and any significant changes.

10. Approval

This mandatory policy has been approved and issued by the Director General of the Department of Health.

Approval by	Dr David Russell-Weisz, Director General, Department of Health
Approval date	12 June 2017
Published date	29 May 2019
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