

PUBLIC THREATS AGAINST SOME OF US

A PROBLEM FOR ALL OF US

STOP PUBLIC THREATS



Legal Aid
NEW SOUTH WALES



NSW is a strong community where diversity is valued. NSW has laws to ensure that everyone is safe and is treated equally, no matter who they are.

This fact sheet gives information about the laws in NSW that protect you if you experience public threats of violence or incitement to violence.

PUBLICLY THREATENING OR INCITING VIOLENCE

SECTION 93Z CRIMES ACT 1900 (NSW)

In NSW, if someone *intentionally* or *recklessly* makes a public act that threatens or incites violence against another person or a group of people because of their:

- Race
- Religious belief or affiliation
- Sexual orientation
- Gender identity
- Intersex or
- HIV/AIDS status

They are guilty of an offence under the criminal law.

If you report an incident to NSW Police, they will ask who did it. If you know who did it telling the police this will help their investigation. A person will only be found guilty under s93z if there is enough evidence to prove that they committed the offence beyond reasonable doubt.

INCITING VIOLENCE means saying or doing things that urge other people to do acts of violence.

A PUBLIC ACT is any act the public can see, including: speaking, writing, displaying notices, playing recorded material, broadcasting, social media and other electronic methods, actions, gestures, wearing or displaying clothing, signs, flags, emblems, and insignia the public can see.

A public act can be on private land.

EXAMPLE 1: OMAR



"I was on Facebook and I saw that on the page for my local Mosque, someone had posted a comment for everyone to see. Whoever posted it called us terrible names and said they were going to get Muslims like us. They put a bunch of skull and cross bone emojis at the end of the post. When I saw what they had written, I was concerned about my safety and the safety of everyone who worships at the Mosque."

- The post Omar saw is likely to be a **crime under s93z**.
- The Facebook post was a **threat** because the poster said he would get Muslims and used a skull and cross bones emoji.
- It was **public** because it was a post made on a public social media page.
- And **it was made against a group of persons because of their religious beliefs**; in this case, because they were Muslim.

EXAMPLE 2: JESS



"I walked down to the shops to get my groceries and saw that overnight someone had put up a bunch of posters around the carpark. The posters called for homosexual people to be killed. It was horrible. There was an organisation named at the bottom of the poster. I reported it to the police straight away and they are going to investigate."

- The posters Jess saw are likely to be a **crime under s93z**.
- The posters were **inciting violence** by calling on people to kill members of the groups mentioned.
- They were **public** because they were put up in a carpark open to the public to use.
- They were **made against particular groups because of their sexual orientation**.

WHAT ABOUT FREE SPEECH?

In Australia free speech is the right to hold opinions without interference and the right to freedom of expression in any medium. In NSW there are laws that limit free speech to protect 'public order' and to ensure the peaceful and effective functioning of society.

These laws make it unlawful to:

- Intentionally or recklessly threaten violence or incite violence against another.
- Vilify someone.
- Discriminate against another person.

WHO CAN REPORT PUBLICLY THREATENING OR INCITING VIOLENCE?

Anyone can make a report to the NSW Police. You do not have to be a victim to report.

IS THERE A TIME LIMIT?

No. There is no time limit.

WHAT CAN I DO IF I THINK THERE HAS BEEN AN INCIDENT?

If you think there has been an incident, you can report it to police:

- If you are reporting the incident when it is happening, call Triple Zero 000.
- At other times, call The Police Assistance Line 131 444 or go to your nearest police station.

WHAT HAPPENS AFTER I REPORT TO POLICE?

After you report an incident, the police will investigate. They will:

1. Decide whether to charge the offender under s93z. If the offender has committed another offence like an assault at the same time as the incitement or threat of violence, the police will probably charge the offender for the assault and not for the incitement or threat of violence. The incitement or threat of violence will instead make the assault more serious when the offender is sentenced.
2. If they decide to charge the offender under s93z, they will send a brief of evidence to the Office of the Director of Public Prosecutions (ODPP). The ODPP must approve a prosecution of offences under s93Z.

WHAT HAPPENS IF THE POLICE DON'T CHARGE ANYONE?

Sometimes what happened will not fall under s93z of the *Crimes Act 1900*. It might instead be vilification or discrimination under the *Anti-Discrimination Act 1977*.

You can find more information on this at the anti-discrimination website:

www.antidiscrimination.nsw.gov.au

WHERE CAN I GET LEGAL ADVICE?

Working out which law(s) apply can be hard. You can get legal advice to help you.

For legal help Ph. **1300 888 529** or visit: www.legalaid.nsw.gov.au or www.clcnsw.org.au