

MENTAL HEALTH AWARENESS FOR POLICE OFFICIALS

A SHORT GUIDE



INTRODUCTION

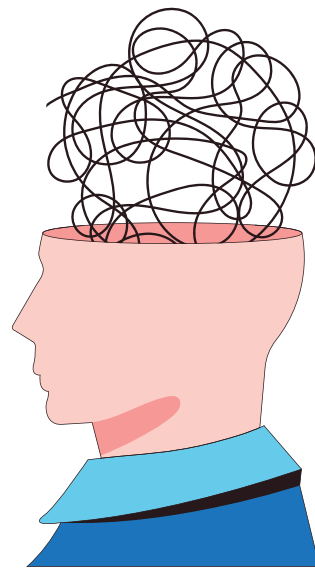
It is estimated that 15–25% of Pakistan’s population suffers from mental illness. In addition, the severe lack of mental health awareness and training (generally in Pakistan and specifically in the criminal justice system) means that many individuals never get diagnosed or treated, and hence are unjustly arrested, convicted, sentenced and punished. Without treatment mental illness can linger and get worse. This in turn increases the chances of the same person reoffending and repeatedly being caught up in the criminal justice system.

All offenders in the criminal justice system are accorded some basic rights, and those suffering from mental illness are given additional protections. Moreover, in February 2021, in the case of *Mst. Safia Bano vs Home Department, Government of The Punjab*, The Supreme Court of Pakistan issued a landmark judgment which provides broad guidelines for criminal justice stakeholders to manage offenders living with mental illness. The judgement banned capital punishment for prisoners with mental illness. It also directed Federal and Provincial authorities to set- up special forensic mental health facilities and start training and awareness programs on forensic mental health for medical personnel, social workers, police, prison staff, lawyers and judges.

This handbook seeks to guide police personnel on how to respond appropriately when dealing with an offender who may be suffering from a mental illness.

It provides an overview of different mental illnesses, how to spot them, and what the police should do and not do if they are dealing with someone who may be suffering from mental illness.

WHAT IS MENTAL HEALTH AND MENTAL ILLNESS



The World Health Organization (WHO) defines mental health as “... a state of well-being in which an individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and is able to make a contribution to his or her community.”

Mental health affects how we think, feel and act. It also affects how we handle stress and relate to others. Those with good mental health can better handle life’s challenges and stress, make appropriate decisions and maintain healthy relationships. Those with poor mental health can find the stresses of life difficult to cope with and have difficulty interacting with people.

Poor mental health is not the same as a mental illness. A mental illness is a medical condition that can affect how an individual interacts with others. It affects moods, feelings, thoughts and behavior (or a combination of these) of the person dealing with them. However, prolonged poor mental health can lead to mental illness. Mental illness can increase the risk of physical health problems like stroke, type 2 diabetes and heart disease.

CAUSES OF MENTAL ILLNESS?



GENETICS:

Mental illness can often be hereditary and run in the family



CHEMICAL IMBALANCE IN THE BRAIN:

Mental illness can be the result of an imbalance in the naturally occurring chemicals in the brain and body



ENVIRONMENTAL FACTORS:

Mental illness can develop if the person is/was living in a stressful environment, such as poverty or for example in an abusive environment



TRAUMATIC AND STRESSFUL EVENTS:

Traumatic and stressful events such as a car accident, death of a loved one, being put in jail, or being sentenced to prison can also lead to mental illness



SUBSTANCE ABUSE:

Abusing drugs and alcohol can also trigger mental illnesses. Substance abuse can also make it more difficult to recover from mental illness



CAN MENTAL ILLNESS BE CURED?

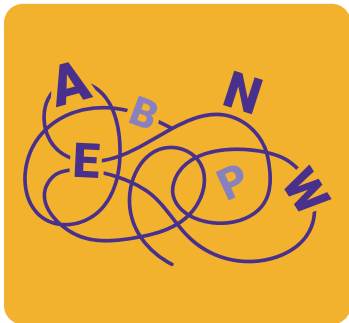
There is no cure for mental illness. However, symptoms can be managed with psychotherapy and medication. This can improve an individual's quality of life and allow them to live a more fulfilling life despite the difficult conditions.

Moreover, some mental illnesses are cyclical in nature. For example, bipolar disorder is such that in some patients the episodes alternate after every few months or few years. In others these alternate very frequently, at times on a daily basis. The lucid intervals in between the episodes are usually maintained with the help of medication as well as avoiding stressful situations or loneliness. Schizophrenia and related psychosis can also present as cyclical in nature with periods of better psycho-social functioning in between. Factors which help manage symptoms include medication, supportive environment and avoiding illicit substances.

Having a mental illness is not related to a person's strength of character or intelligence. Examples of famous and successful people who have/had a mental illness include Michael Jackson, Shakespeare and Nobel Prize winner, John Nash. In 1998 the Prime Minister of Norway took time off while in office to deal with mental health issues, and was successfully re-elected to a second term.

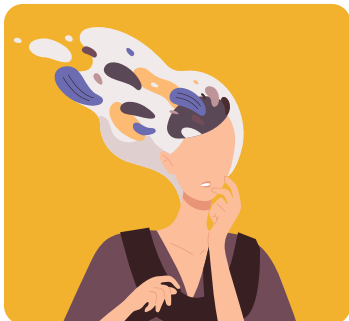
HOW YOU CAN TELL IF A PERSON HAS MENTAL ILLNESS?

The police is the first point of contact with the criminal justice system for most people. Timely and appropriate intervention at this stage can divert offenders suffering from mental illness to mental health facilities, allowing them access to proper treatment. Below are some cues you should look for when trying to assess if the person being arrested, or a person already in police custody, might be suffering from a mental illness:



LANGUAGE DIFFICULTIES:

While talking to the person, you may notice that they don't follow a logical train of thought. They may exhibit other linguistic difficulties, including incoherence, use of a made-up language, changing subject mid-sentence, giving monosyllabic answers, racing speech and consistently repeating themselves etc.



PARANOID STATEMENTS:

They may make paranoid statements or accusations and exhibit irrational fears. For example, the fear of leaving their jail cell or a belief that their fellow inmates want to kill them, or their food has been poisoned.



ALTERED REALITY:

They may hear voices and see things that are not there, or may be confused about people and surroundings.



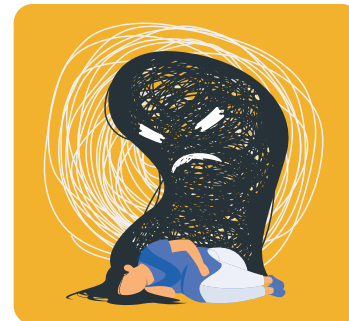
MEMORY AND ATTENTION ISSUES:

They may have limited attention span or amnesia.



EMOTIONAL INSTABILITY:

They may be emotionally unstable, severely anxious, hostile, irritable or laugh at inappropriate times. They can also exhibit symptoms of depression or show no emotion at all.



UNUSUAL SOCIAL INTERACTIONS:

They may find it difficult to relate to others and might even be estranged from family and friends. They might be overly confrontational or have difficulty perceiving social cues and have a lack of inhibition.

WHAT THE POLICE SHOULD DO AT THE TIME OF ARREST



The Code of Criminal Procedure 1898 (CrPC) gives the police a broad range of powers.

However, these powers are curbed by key constitutional guarantees, as well as procedural provisions, which ensure that the due process is followed in every case. These limits grant certain protection to offenders, including specific ones aimed at those with mental illness. As a member of the police force, it is vital that you be aware of these safeguards so that you can do your duty diligently and in keeping with the law.

1. INFORM THE ACCUSED WHY THEY HAVE BEEN ARRESTED.

According to the Article 10 of the Constitution, every person has the right to know the reason for their arrest. Therefore, it is important that the arresting officer informs the person being arrested of the grounds for their arrest as soon as possible.



2. ALLOW THE ACCUSED TO CONSULT/BE DEFENDED BY A LEGAL PRACTITIONER OF THEIR CHOICE.

Article 10 of the Constitution gives all offenders the right to consult a lawyer at the time of being taken into custody, and choose an advocate to defend their case. While the accused is in custody, the police should not prevent them from meeting their lawyer.



3. PRODUCE THE ACCUSED BEFORE A MAGISTRATE WITHIN 24 HOURS OF ARREST.

According to CrPC Section 61, if the police arrests someone without a warrant, they have to produce them before a magistrate within 24 hours. This right is also conferred by Article 10 of the Constitution.

In our criminal justice system, only a magistrate/judge has the power to rule on a person's competency. If the person in police custody is suffering from mental illness, a diligent police officer should use this appearance before a magistrate as an opportunity to raise the issue of the arrestee's fitness to stand trial. According to Section 464 of the CrPC, if the Magistrate has a reason to believe that the accused is of unsound mind and incapable of making their defence, the Magistrate is legally obligated to inquire into this fact.



4. MUST RELEASE ON BAIL

Section 496 and 497 of CrPC require that whenever a police officer arrests a person for a non-bailable crime without a warrant, they have the right to be released on bail. Bail is not granted if there is a reason to believe that the arrested person is guilty of an offence punishable with death or imprisonment of ten years or greater.

However, if the person in police custody is suffering from a mental illness and has been accused of an offence punishable by death or imprisonment of 10 years or greater, they should still be granted bail. Section 497 CrPC provides "that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail."



WHAT THE POLICE SHOULD NOT DO AT THE TIME OF ARREST



1. SHOULD NOT FORCE AN ACCUSED TO GIVE A STATEMENT OR ANSWER QUESTIONS

Article 13 of the Constitution states that “no person can be compelled to be a witness against himself”. In keeping with this article, the accused has a right to stay silent during the interrogation. Police officers cannot force an arrested person to give a statement or answer any questions.



2. SHOULD NOT DETAIN AN ACCUSED FOR MORE THAN 24 HOURS WITHOUT CHARGING THEM

The police must complete their initial investigation within 24 hours. After 24 hours, they must either release the detained person or charge them with a crime.

If the police are unable to complete their investigation within 24 hours, CrPC Section 167 allows them to detain any arrested person for a maximum of 15 days. However, this can only be done when the detained person, along with the police officer's diary entries, are produced before a Magistrate. This is a mandatory requirement of the law.



3. SHOULD NOT USE UNNECESSARY RESTRAINT

According to CrPC Section 50 “The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.” This protection is vital, in particular if the accused is suffering from mental illness, as unnecessary restraints or force can worsen their condition.



HOW TO TRANSFER TO A MENTAL HEALTH FACILITY?

Once it is determined that the person being arrested or a person already in police custody is suffering from a mental illness, the police can use their powers under the Provincial Mental Health Act to transfer them to a mental health facility instead of keeping them in police custody. The Mental Health Act (passed by Sindh in 2013, Punjab in 2014, Khyber Pakhtunkhwa in 2017, and Balochistan in 2019) allows the police to transfer an arrestee to a mental health facility for assessment and urgent treatment instead of being kept in police custody.



The application of admission for the mental health assessment can be made on the recommendation of two medical practitioners, one of whom should be a psychiatrist.



The criteria for detention requires that the detainee has a mental disorder; the detainee must be a threat to his own health or the safety of others; and that the involuntary care of the detainee is not possible in the outside community. The maximum period for detention is 28 days.



Similarly, under the Mental Health Act, an 'application for admission of treatment' can be made by two medical practitioners, subjected to the above-mentioned criteria. The maximum period for detention is six months.



PROVINCIAL MENTAL HEALTH ACTS

The provincial Mental Health Acts allow an officer, who has reason to believe a person in a public place is suffering from a mental disorder that requires immediate care or control, to remove that person to a place of safety for their own protection or for the protection of other persons. This detainment must not exceed 72 hours. Further, it is only for the purposes of enabling the patient to be examined by a psychiatrist or a nominated medical officer, and making any necessary arrangements for treatment or care.

Following such procedures would allow medical evidence to be gathered earlier for the purposes of trials and appeals. The provincial Mental Health Acts also prescribe the method for an emergency hold in cases where the patient wishes to leave but the psychiatrist in charge believes that they are still suffering from mental disorder to such a degree that it is necessary for their safety and the safety of others, that they be kept in detention.

In short, a person's first point of contact with the criminal justice system is the police, at the time of their arrest. At this pre-trial stage, there are various protections and rights granted to all offenders, and some additional ones to those suffering from mental illness. Timely intervention at this stage can divert those suffering from mental illness to mental health facilities and, if the case goes to trial, help in collecting proper evidence regarding competence to stand trial.





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