

When someone has a mental health crisis, arrest is not the answer

The proposed expansion of police powers to apprehend persons who are ‘mentally disordered’ may not be a step in the right direction.

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A law was tabled in March 2024 to expand the police's power to apprehend someone undergoing a mental health crisis.

We are concerned that the Law Enforcement and Other Matters Bill could entrench discrimination against those with mental health conditions, if implemented without due care and consideration.

Important issues need to be addressed. Who should respond to a person experiencing a mental health crisis?

How can we ensure a balance between upholding public safety, respect for the dignity of the person in crisis, and the proportionate use of force?

We also need to ask whether provisions under the Mental Health (Care and Treatment) Act 2008 (MHCTA) are still appropriate and relevant in our journey towards a more inclusive Singapore.

As a society, we must reflect on the considerations of recognition, necessity and competence.

RECOGNITION: DIGNITY, NOT DANGER

In February 2024, Deputy Prime Minister Lawrence Wong declared that we need to do more to destigmatise mental health conditions so that people do not hesitate to seek help. Yet, the MHCTA perpetuates the notion that persons with mental health conditions are inherently a threat to public safety.

In truth, research has found that only a tiny proportion of violent incidents can be attributed to mental illness. Environmental and situational factors play a far greater role. It was found that if these factors were removed, those with mental health conditions are less likely to commit violence.

In particular, the law conflates the danger that the person poses to themselves or others with the idea that they may, or do, have a mental health condition.

Section 7(2)(a) of the MHCTA provides that if a police officer reasonably believes that a person may be a danger to themselves or others, then that is sufficient basis for the police officer to believe that the person is “mentally disordered”.

The use of such archaic

language in our law is also a cause for concern.

A person experiencing a mental health crisis should, first and foremost, be recognised as a person in need of support, not a danger to be subdued. Their unusual behaviour could have stemmed from an extreme life event rather than an actual mental health condition. For example, the person could be processing difficult news such as the loss of a job or the death of a loved one.

The involvement of the police may do more harm than good. Some studies have found that police contact may result in increased stress and anxiety. This could potentially escalate, rather than resolve, an already tense situation.

Instead of expanding police powers, some societies have turned to non-police alternatives that focus on harm reduction, de-escalation and respect for the dignity of the individual.

Examples include the Psychiatric Emergency Response Team (PAM) in Sweden, the Crisis Assistance Helping Out On The Streets (Cahoots) model which has spread across the United States, and the Street Triage model in England.

What all these models have in common is that mental crisis situations are treated as medical emergencies, not potential offences. Those experiencing the crisis are treated as victims, not perpetrators, and given the care they need. Police officers may accompany medical professionals

in some situations, but not as leaders of the team.

In contrast, laws like MHCTA, which permit “the involuntary deprivation of liberty of persons with intellectual disabilities and persons with psychosocial disabilities” – that is, on the ground of mental health conditions – are discriminatory and should be abolished, according to the expert body that monitors the United Nations Convention on the Rights of Persons with Disabilities, which the Singapore Government ratified in 2013.

NECESSITY: WHEN TO ARREST?

Existing laws arguably afford the police sufficient power to intervene if the officer suspects a person may cause harm to others, based on the severity of the harm caused.

This principle underpins the distinction between arrestable and non-arrestable offences in our law. For example, if someone has voluntarily caused hurt by punching another person in the face, they cannot be arrested without a warrant.

In contrast, if the person has caused grievous hurt to another person, such as the permanent loss of sight or hearing, then the police are empowered under the Criminal Procedure Code 2010 to arrest them without a warrant.

However, it is concerning that the proposed expansion of police powers does not differentiate between the different levels of danger that the person

experiencing a mental health crisis may pose to themselves or others before the police may arrest them.

Instead, under the proposed amendments, the police can apprehend someone on the basis that they are likely to endanger the personal safety of themselves or others. In addition, the danger which the person poses need not be imminent, nor is the causing of actual harm a prerequisite.

The amendments appear to have been introduced in response to a recent decision by the General Division of the High Court, which held that a police officer had wrongly arrested a man under the MHCTA.

According to the Minister for Home Affairs, the decision may lead to defensive policing where police officers “try to do the least possible (because) they fear that everything they do will be over-analysed and picked apart unfairly”.

That said, is the expansion of police powers necessarily the best – or only – solution to safeguard public safety? Won't greater awareness and sensitivity of how to deal with severe mental health episodes be more effective?

COMPETENCE: WHO SHOULD RESPOND?

The concern with defensive policing brings us to the last question: Who should respond to a mental health crisis?

In the case involving the wrongful arrest of a man under the MHCTA, the High Court highlighted that police officers are not required to have medical or psychiatric training.

While police officers are trained to identify and handle persons with mental health conditions, the Minister for Home Affairs has also acknowledged in Parliament that the police and other investigative agencies' primary task is to “deter crime, investigate, and deal with crime... (and they) are not deeply trained in mental health issues”.

Police officers face real practical and operational challenges in responding to someone experiencing a mental health crisis.

But instead of seeking to expand the police's powers to

avoid defensive policing, this recent High Court case should also invite us to re-examine our current reliance on the police in such cases.

It may be more effective if the crisis response is led by mental health professionals, social workers and community first responders, instead.

The Government could consider piloting an emergency response model that adopts a specialised mental health ambulance or emergency response team (first suggested in 2020 by ex-NMP Anthea, one of the authors of this article). Such a move could also allow the police to better focus on their primary role of deterring and combating crime.

Investing resources on such response services would also build on the good work by the Institute of Mental Health's Crisis Response Team which is a 2021 joint initiative by IMH, the police and the Ministry of Health to support police officers in attempted suicide cases.

Public safety in Singapore cannot be taken for granted. But it should not come at the cost of the dignity of those living with disabilities and mental health conditions.

“Together, let us build a Singapore where everyone matters, where everyone has a place and where everyone belongs”, said DPM Lawrence Wong in his support of the Advancing Mental Health motion in Parliament in February.

As we move forward as an inclusive Singapore, we must not be afraid to challenge the status quo to consider and invest in alternative approaches for supporting persons experiencing mental health crises.

We cannot be where we need to be by remaining where we are.

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