



## Mental illness is not a crime

Persons with mental illness in conflict with the law need treatment, not punishment.

**Dr Letitia Pienaar** is a lecturer in criminal and procedural law at the University of South Africa.

**ORCID ID**

0000-0001-6296-4647

*This is a summary of my research and could perhaps be linked to my most recent publication. Letitia Pienaar "Considering Mental Health Courts for South Africa: Lessons from Canada and the United States of America" CILSA 2021 volume 54 number 3 pages 1-22.*

*<https://unisapressjournals.co.za/index.php/CILSA/article/view/9428> For other publications, please see Google Scholar <https://scholar.google.co.za/citations?user=KUQ8gDIAAAAJ&hl=en>*

Persons with mental illnesses that clash with the law require treatment for that illness, just like a person with a physical ailment. When a person with mental illness is arrested and detained, they do not always receive mental health support and treatment due to resource shortages in the criminal

justice system. This is ironic since mental illness is often the underlying cause of their offending behaviour. The only way to reduce the likelihood of the person reoffending, is to treat the mental illness as the underlying cause of the offending behaviour.

"Such persons should not

encounter the traditional criminal justice process, including arrest and detention in prison, since research shows that their mental health deteriorates during contact with the criminal justice system," says Letitia Pienaar.

There should be diversion programmes in place for them to be channelled away from the criminal justice system into treatment programmes. They should receive treatment, not punishment.

"Diversion does not excuse or absolve a person from liability for what they have done wrong. Still, it will help rehabilitate the person to be reintegrated into society as productive citizens after clashing with the law."

Policymakers and lawmakers should consider a formal alternative criminal justice process for accused persons with mental illness. This can include early intervention teams to address the mental illness at the point of arrest and/ or mental health courts that involve mental health professionals in the trial process to ensure that mental health issues are considered and appropriately addressed in each case.



*Persons with mental illness should be treated, not imprisoned.*