

Introduction to the Forensic System

Kara Marciani, Psy.D., ABPP
Director of Forensic Services,
Forensic Psychiatry Center for Western Ohio

Joy Stankowski, M.D.
Chief Clinical Officer and Director of Forensic Services, Northcoast Behavioral Healthcare
Ohio MHAS Annual Forensic Conference

November 3, 2016

Outline

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 - Mental Illness
 - Criminal Court
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 - Community Forensic Centers
 - Regional Psychiatric Hospitals
 - Community Forensic Monitoring
- Conclusion/Questions

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Forensic Mental Health:

- Interplay of law and psychiatry/psychology.
- Assessment and treatment of people with:
 - A mental disorder and a history of criminal offending; or
 - Those who are at risk of offending.

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Mental Illness - Ohio Revised Code (ORC) Section 5122.01:

Substantial disorder of		That grossly impairs:
Thought		Judgment
Mood,		Behavior
Perception	+	Capacity to meet
Orientation, or		ordinary demands
Memory		of life.

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Criminal Courts

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Criminal Courts

- County Common Pleas
 - General Division
 - Probate
 - Juvenile
- County (Area) Courts
- Municipal (City) Courts

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Pre-Trial Issues - ORC 2945.37(G)

- A defendant is **presumed competent** to stand trial.
- **UNLESS** it is proved by a **preponderance** of the evidence that because of his **present mental condition** he is:
 - **incapable of understanding** the nature and objective of the proceedings against him; or
 - **incapable of assisting** in his defense.

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Standards of Proof

- Preponderance = 51%
- Clear and Convincing = 75%
- Beyond a Reasonable Doubt = 99-ish%

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Incompetent to Stand Trial

Finding of Incompetence to Stand Trial

NOW WHAT?

- Court orders defendant to undergo treatment for **Restoration to Competency**
 - in **least restrictive setting**
 - consistent with treatment **needs of defendant and public safety.**

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Timelines for Restoration

- Up to 12 months if charged with Murder or a 1st or 2nd degree Felony.
- Up to 6 months if charged with a 3rd, 4th of 5th Degree Felony.
- Up to 30 or 60 days if charged with a Misdemeanor.

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“Unrestorable” Defendant

If defendant is not likely to be restored: with a course a treatment at any time during the commitment; <u>or</u> whenever the maximum treatment time has expired; <u>and</u> the defendant is charged with a lesser felony offense.	THEN	Court can: dismiss the indictment discharge the defendant; or refer to probate court.
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“Unrestorable” Defendant - Violent Crime

If **unrestorable** and the the **defendant is charged with an offense as described in 2945.38 (C)(1)** the criminal court has the option to **maintain jurisdiction over the defendant.**

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“Unrestorable” Defendant - Court Jurisdiction

- Must be found by **clear and convincing evidence that defendant committed the offense** with which s/he was charged; and
- Found to be **mentally ill or mentally retarded** and subject to court order or institutionalization.

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**Not Guilty by Reason of Insanity (NGRI)
ORC 2901.01 (N)**

- Defendant proves that at the time of the commission of the offense **s/he did not know, as a result of a severe mental disease or defect, the wrongfulness of his/her act.**

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**Irresistible Impulse Not Defense
ORC 2945.391**

Proof that a person's reason, at the time of the commission of an offense, was so impaired that he did not have the ability to refrain from doing his acts, **does not constitute a defense.**

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NGRI - Standards of Proof

- Insanity defense is an **affirmative defense**.
 - **Defendant bears burden of proof.**
 - **Preponderance of the evidence.**
- **Trier of fact decides** on the issue of Sanity.
- Expert opinion may be ignored if it is considered not to be credible.

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Case Presentation

Edna Smith takes a purse from Macy's.
She is charged with Theft.
She has a mental illness.
What happens?



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Ohio Forensic Mental Health System

- Community Forensic Psychiatry Centers
- Regional Psychiatric Hospitals
- Community Forensic Monitors

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Community Forensic Centers



District V Forensic Diagnostic Center

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Community Forensic Centers

- Ten Regional Centers
- Forensic evaluations for Ohio criminal courts
 - Competency, Sanity evaluations
 - Mitigation of Penalty
 - Civil commitment (including post-NGRI)
 - Nonsecured status evaluations—"Second opinion"
 - Other (sexual predator, probation, etc)

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Forensic Center Evaluations

- Most common evaluation: competency to stand trial
- Snapshot: Cuyahoga County Court Psychiatric Clinic
 - Evaluations 2015: 2,920
 - Competency/sanity evaluations: 1,094 (37%)
 - Mitigation of Penalty: 984 (33.7%)
 - Intervention in lieu of conviction: 634 (21.7%)
 - Nonsecured "second opinion" at NBH: 17 (< 1%)

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Forensic Center Clinical Staff

- Psychiatrists
- Psychologists
- Neuropsychologists
- Social Workers

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Regional Psychiatric Hospitals



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Regional Psychiatric Hospitals (RPH)

- Six state regional psychiatric hospitals
- Two levels of care
 - Minimum security units, housing civil and forensic
 - Maximum security unit, Timothy B. Moritz at TVBH
- Community Support Network (CSN) teams

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RPH Forensic Staff

- Forensic: Criminal court-linked
- Clinical Care Staff
- Report Writing: psychiatry, psychology
- Legal Assurance Administrator
 - Liaison between hospital and courts
 - Monitors procedures, policies

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RPH Snapshot August 31, 2016

- Patient census: 1084
 - NGRI (40B) 24%
 - RTC (38B) 23%
 - ISTU-CJ (39A) 12%
 - ISTU probate (38H) 6%
 - Civil (5122) 31%
- Forensic 69.7% > Civil 30.3%
 - Summit 87%, Athens 40%

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RPH Forensic Services

- Inpatient Evaluations
- Competency Restoration
- Procedures following ISTU
- Procedures following NGRI
- Reporting requirements

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RPH Patients

- Most common diagnosis: psychotic disorder
 - Schizophrenia/Schizoaffective disorder 55% (Aug 2016 data)
- Comorbid substance use disorders
- Comorbid personality
- Comorbid medical

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Hospitalization Goals

- Symptom Control
- Risk Assessment
 - HCR-20
 - Internal second opinions (Forensic Review Team, Chief Clinical Officer)
 - Levels of movement
- Balance of individual rights and community safety

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Movement Levels

- **L1:** may leave locked unit only on a 1:1 escort with staff
- **L2:** may leave locked unit with continuous staff monitoring
- **L3:** may leave locked unit with partial staff monitoring
- **L4:** patients may leave grounds with continuous staff escort
- **L5:** patients may leave grounds with family, case managers

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Decision Making

- Team decides the patient is ready and works with the community to make a plan
- Internal second opinion (Forensic Review Team)
- CCO reviews
- Non-secured "second opinion" for Conditional Release
- Mandatory Hearing: Court makes the final decision

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Community Forensic Monitoring

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Community Forensic Services

- Community Forensic Monitoring
- Community Linkage
- Mental Health Diversion

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Community Forensic Monitoring

- Created in 1996; further defined in 1997
- ADAMHS Boards (Alcohol, Drug Addiction and Mental Health Services)
- Administrative role but clinical backgrounds
- Liaison among patient, court, RPH, community providers, Boards

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Forensic Monitoring Cuyahoga County

- Total caseload of patients eligible for Conditional Release and monitoring (NGRI or ISTU-CJ): 160
- Total patients on Conditional Release status (includes those at NBH for stabilization without CR revoked; DD/monitoring only; community): 97

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Conclusion/Questions

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References

•2012 Ohio Forensic Manual.pdf

•2013 ODMH Hospital Services.pdf

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