

Introduction to the Forensic System

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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.

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

Substantial disorder of
Thought
Mood,
Perception
Orientation, or
Memory

+

That grossly impairs:
Judgment
Behavior
Capacity to meet
ordinary demands
of life.

Criminal Courts



Criminal Courts

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

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.

Standards of Proof

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

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.**

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 or 5th Degree Felony.
- Up to 30 or 60 days if charged with a Misdemeanor.

“Unrestorable” Defendant

If defendant is not likely to be restored:
with a course a treatment at any time during the commitment; or whenever the maximum treatment time has expired; and the defendant is charged with a lesser felony offense.

Court can:

THEN

dismiss the indictment
discharge the defendant: or
refer to probate court.

“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.**

“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.

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.**

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.**

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.

Case Presentation

Edna Smith takes a purse from Macy's.

She is charged with Theft.

She has a mental illness.

What happens?



Ohio Forensic Mental Health System

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

Community Forensic Centers



District V Forensic Diagnostic Center

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)

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%)

Forensic Center Clinical Staff

- Psychiatrists
- Psychologists
- Neuropsychologists
- Social Workers

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

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

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%

RPH Forensic Services

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

RPH Patients

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

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

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

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

Community Forensic Monitoring



Community Forensic Services

- Community Forensic Monitoring
- Community Linkage
- Mental Health Diversion

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

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

Conclusion/Questions

References

- [2012 Ohio Forensic Manual.pdf](#)
- [2013 ODMH Hospital Services.pdf](#)