

Mental Health Issues and Incarceration

Sponsored by NAMI of St. Tammany

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Susan Johannsen
District Forensic Coordinator
State of Louisiana

Region 9

St. Helena, Livingston, Tangipahoa,
Washington and St. Tammany

What is a District Forensic Coordinator?

- I do not work for the Sheriff or District Attorney Office
- I work under the Department of Mental Health (now known as the Department of Behavioral Health)
- Responsible for monitoring individuals who have been found Not Guilty by Reason of Insanity and Civil Conditional Discharge in the Community
- Provide Competency Restoration in the jails and community
- Cover all areas in Region 9 and currently about 25 cases (soon to be increase to 40) in Baton Rouge
- Presently, there are only 9 District Forensic Coordinators in the State of Louisiana.
- Yes. I'm very tired.

Services Provided

- In-jail services for competency restoration
- Competency restoration to individuals in the community along with referrals to other agencies
- Providing Risk Assessment addressing dangerous to the Courts and Mental Health Clinics
- Work directly with the Medical Department of each jail and Mental Health Clinic
- Work hand and hand with the State Probation and Parole Office dealing with Insanity Cases placed on Probation
- Assist State and Misdemeanor Probation Officers with individuals with Mental Health and Substance Abuse Issues
- Provide education to Law Enforcement, Judicial Courts and Mental Health Agencies

Who is in the Jail?

- Pre-trial individuals have not been convicted of a crime. Charges are pending.
- Federal Inmates serving Federal Time.
- Department of Correction: DOC inmates serving State time.
 - Parole Violation: Individuals released on “Good Time” and violated conditions of their parole.
 - **These individuals appear in front of the Parole Board, not the Judicial Court**

Probation Cases

- Probation Violations: Individual who had a **suspended sentence**, then violated conditions of their Felony or Misdemeanor probation.
 - Individuals have been found guilty by a Judge or Jury,
 - Not guilty by reason of insanity by a Judge or Jury or
 - had accepted a plea bargain for lesser time and/or lesser charge. Waived rights to a trial and rights to appeal.
 - **These individual must go back to the Sentencing Judge for revocation hearing, in most cases they will have a probation hold until their hearing.**

ARREST

Go to Jail

Initial Screening (Need medical clearance before accepting individuals in the jail)

- Pre-Set Bond
- 72 hour hearing to determine bond
- Drug Screening

Medical Screening

- Questions regarding medical problems
- Questions regarding medications
- Questions related to history of mental illness
 - Ask if one is having thoughts of harming self
 - Ask if one having thoughts of harming others
- Questions related to drug and alcohol use

Requesting Mental Health Services in the Jails

- Medical request form (Can be obtain by any nursing staff at the time of medication pass).
- Evaluation by Medical doctor, Consent to be signed for previous treatment.
- Referral to Psychiatrist
- I receive many request for follow-up from the Mental Health Clinic, Jail Personnel, Attorneys, Nick Richard (NAMI), Court personnel and Family Members

Psychiatric History

- -Request records with sign consent for information
- **Medical personnel can not give out information, (Violation of confidentiality) BUT** more than willing to receive information from family members.
- Remember we can not identify people over the telephone.

They need to be in a hospital, NOT a Jail!!!

- It's not like the movies.
- It is different process state to state
- Order of Protective Custody : Notify the jail that an Order of Protective Custody is being filed, the Coroner's Office will fax the order to the jail.
- After Bond is made, the Sheriff Office will release from jail and transport the individual for evaluation

Motion to determine mental capacity

- If mental capacity is in question, the defense counsel (defendant's attorney) will file a motion for determining mental capacity. *Note: The Judge, District Attorney and/or Defense Counseling may request evaluation for determining mental capacity.*
- The Judge will order a Lunacy Hearing to determine if the defendant has the mental capacity to proceed. The evaluation is conducted by the Sanity Commission, consisting of at least one psychiatrist and one or two other psychologist, or psychiatrist.

Bennett Guidelines

- In State v. Bennett, 1977, the Supreme Court articulated several factors which the trial judge should consider while evaluating the defendant's ability to stand trial
 - Whether the accused can understand the proceedings against him
 - Awareness of the nature of the charge and his appreciation of its seriousness
 - His understanding of available defenses
 - His ability to distinguish between pleas of guilty and not guilty and the consequences of each
 - His awareness of legal rights
 - And his comprehension of the range of possible verdicts and of the consequences of conviction

Bennett Guideline

The defendant's ability to assist in his defense

- The defendant's recall and relation of facts pertaining to his actions and whereabouts at certain times
- His ability to assist counsel in locating and examining witnesses
- His maintenance of a consistent defense; the defendant's ability to inform his attorney of any distortion or misstatements in the testimony of the other witnesses
- His capacity to make simple decisions in response to well-explained alternatives
- His ability to testify in his own defense
- And whether his mental condition will deteriorate under the stress of the trial

Incompetent to Proceed

- Order of Pre-trial Commitment
- Order for 90 day in-jail treatment
- Order for 90 day community based treatment

Competency Restoration

- Medication Management
- Information Collection
- Legal education on charges and range of charges and sentencing.
- Roles of members of the court
- Legal Rights
- Review of discovery (what you are arrested for may not be what you are formally charged with)
 - Bill of information
 - Police Report
 - Witness Statements
 - Criminal History
 - Medical Records
 - Sanity Commission Reports
- Georgia Court Competency Evaluation
- Fit-R
- IQ testing

Rights

- Right to Remain Silent
- Right to an attorney
- Right to call witnesses
- Right to fair and speedy trial
- Right to Judge or Jury Trial

PLEAS

- Guilty
- Not Guilty
- Not Guilty By Reason of Insanity

Competency Hearing

- **Found competent:** Proceed to trial
- Can enter plea of Not Guilty and/or Not Guilty By Reason of Insanity.
- Must have a separate evaluation conducted by the Sanity Commission doctors to render an opinion of insanity at the time of the offense.
- It up to the **DEFENSE** to prove if someone was insanity at the time of the offense. It up to the **STATE** (District Attorney) to prove if someone is guilty.

Found Unrestorable, (LOCKHART)

Lockhart vs. Armistead

- Under the new law individuals who are found to be incompetent and no time in the foreseeable future would they be likely to become competent are placed in the custody of the Department of Health and Hospitals.
- DHH has 10 working days from this judgment to evaluate for CIVIL COMMITMENT or RELEASE. (Presently several judicial court are repealing this status).
- Criminal charges are dismissed or deferred.

After in custody of DHH

- Will be evaluated by Psychiatrist through the DHH to address dangerous to self or others
 - Mental Illnesses: Forensic Psychiatrist
 - Mental Retardation: Usually a Team consisting of Psychiatrist and Psychologist specializing in Developmental Disabilities
 - Brain Injuries: Could be either Team.

DHH can recommend several options

- Civil Commitment to Psychiatric Hospital (such as Southeast Hospital, East Division, Greenwell Spring Hospital)
- Civil Commitment to OCDD Facility: (such as Northshore Support and Services, Ruston Facility)
- Civil Commitment to Forensic Group Home i.e. Harmony Transitional Center Group Home
- Civil Commitment to OCDD Group Home
- Civil Commitment to Outpatient Services in the community under Conditional Discharge
- RELEASED

If recommending civil commitment, then

- DHH attorney will petition for Civil Commitment
- Case will be heard in Civil Court, not Criminal Court.
- Can be commitment from 4 to 6 months, with ability to renew commitment every 4 to 6 months indefinitely if still considered dangerous

Not Guilty By Reason of Insanity:

You committed the crime but you did not know the differences between right and wrong at the time of the offense.

Must Be Found Competent to Proceed

Sentencing for NGBRI

- Remains in the same Criminal Judicial District Court and Division
- Dangerous Assessment must be address to determine least restrictive setting.
- The Judge has complete authority regarding placement and release.
- Can be order to :
 - Forensic Hospital in Jackson, Louisiana
 - Civil Hospital
 - Must have a **Panel Review** prior to any least restrictive setting and court permission

Placed on Conditional Release

Place on State Probation for a period of 5 years that can be extended yearly thereafter.

- Forensic Group Home

- Secure Forensic Facility in Jackson, Louisiana
- Harmony Transitional Group Home in Baton Rouge

- Other Group Home Settings

- Nursing Homes

- Back with family

- Supervised Apartments

Changes in the Law

- Indefinite Probation: Lockhart clients released in the community were placed on indefinite probation through the Department of Probation and Parole. Department of Health and Hospital did not monitor the defendant. In 1993, Development of the Conditional Release Program involving Department of Health and Hospital under Community Forensic Services to monitor compliance of both Not Guilty By Reason of Insanity and Lockhart(Unrestorable Cases) with State Probation and Parole.

Denson Case

- Individuals found Unrestorable could no longer can be followed by the State Probation and Parole Office in the Community.
 - Violated civil liberties.
 - Individuals were not found guilty of the charge
 - Individuals were either hospitalized or released, left no in between. Many clients quickly decompensate and needed hospitalization after discharge

Need for More Services

- Ideally, would like to see stronger case management before an individual commits a crime.
- Reduction of Psychiatric Beds
- Need for early intervention (Putting services with the law i.e. Outpatient Commitment Laws)
- Substance Abuse among many mental illness clients
- Housing issues for Mentally ill individuals
- Need for Crisis Intervention Teams
- Stronger coordination between service provider(Mental Health, Substance Abuse and OCDD)
- Transportation Problems

Contact Information

Mailing Address:

701 North Columbia Street Room 3168
Covington, Louisiana 70433

Email: susan.johannsen@la.gov (Best)

Office: (985) 809-5386

Fax: (985) 809-5439

Questions and Answers