

**The CMHS National GAINS Center for Systemic Change for Justice
Involved Persons with
Mental Illness**

*Some Quick Fixes for Backlogged Incompetency to Stand
Trial Systems*

**Net/Teleconference
Thursday, June 7, 2007
2:00-3:30 pm Eastern Time**

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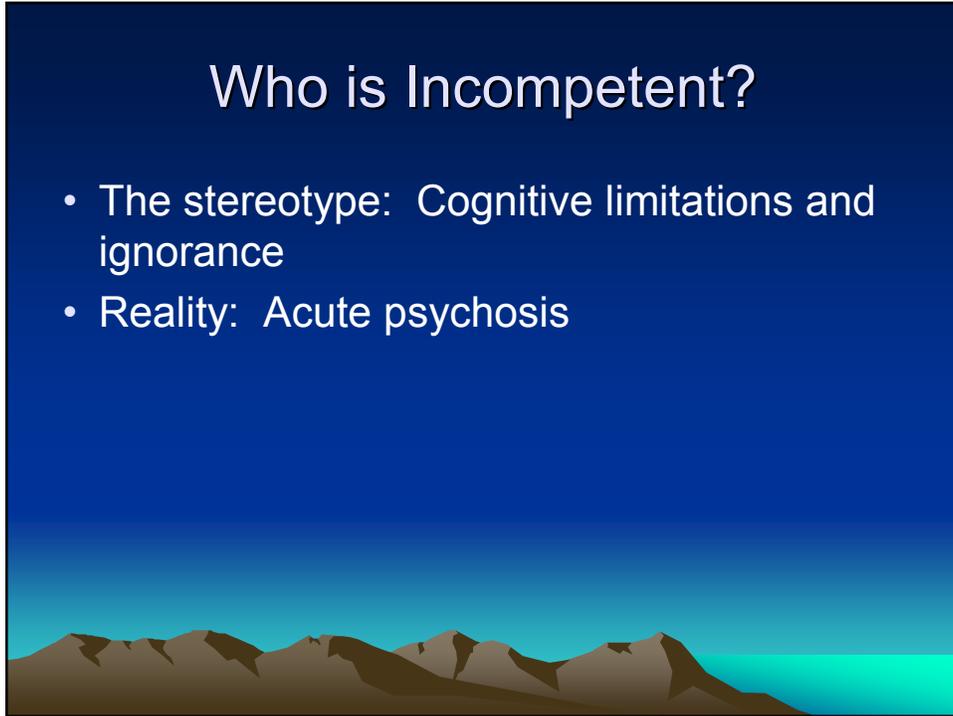
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What is Incompetence

- The most ironic right
- It is not supposed to be a back door into treatment
- It is not supposed to be a defense strategy
- Its only purpose is to vindicate the rights to trial and counsel

Who is Incompetent?

- The stereotype: Cognitive limitations and ignorance
- Reality: Acute psychosis



What Do Incompetent People Need?

- Stereotype: Education about courts and trials
- Reality: Alleviation of psychosis



If a tree falls in the forest....?

- People committed to state forensic hospital
- People found incompetent and waiting for a bed
- People waiting for an evaluation
- People who are floridly psychotic but not yet identified for competency evaluation

Prevalence

- Why are there so many incompetent people?

The Real Conversation

- Inadequate treatment for people with SMI in the community
- Arrest rates
- Inadequate treatment of acute psychoses in jail

Commitments for Hospital-Based Restoration of Competency?

- The greatest sin is waste
- Careful use of beds
- What predicts length of stay?
- LOS: As long as they need and not a day longer
- Ought there to be such a thing as competency restoration?

Where should restoration occur?

- Hospital?
- Jail?
- Community?
- New models?

Is There a Better Way

- A Not So Modest Proposal: The ADA Model
- Judge as Gatekeeper of Justice
- What would it take to give this person a fair trial?

There Is A Better Way

- Quick Fixes—working within your current competency evaluation system
- Not So Quick Fixes—changing your system

Quick Fixes

Switch Evaluations From Hospital to Jail

- Eliminates Transport Delay
- 2003—116 evaluations at hospital, average transport delay 10 days*
- 2006—14 evaluations at hospital
- Savings— $10 \times 100 \times \$200^{**} = \$200,000$

*Seattle Municipal's Mental Health Court (MHC)

**\$200 per day in jail

Orders to Show Cause

- Evaluations not completed on time
- 2004—WSH* granted funding for five more evaluators
- 2007—WSH satellite office opened blocks from the jail

*WSH – Western State Hospital

Waive Statutory Requirement of Two Evaluators

- Enables hospital to more efficiently utilize resources
- Defense can request second opinion



Only Order Competency

- Not insanity or diminished capacity
- Improves hospital and court efficiency



Get The Hospital The Documents!

- Police reports, court orders
- Two day average in Seattle Municipal MHC

Advance The Court Date

- When evaluation is completed prior to scheduled court date
- Increases likelihood of evaluation's accuracy

Immunity Agreement

- From time competency is ordered until court rules, client's statements won't be used against him/her if found competent
- Exception—perjury

Help Me Help You

- Provide evaluator the reasons you requested the evaluation
- Comply with your local ethics rules

Quarterly Systems Collaboration Meetings

- Who—court, prosecution, defense, mental health professionals, hospital, jail, police, politicians
- Why—separate silos

It Works!!!

- Seattle Municipal's MHC orders 450 competency evaluations a year
- 2003—20 day average
- 2007—10 day average
- Savings— $450 \times 10 \times \$200 = \$900,000$

Just Say No

- Don't order new evaluations on frequent fliers
- Seattle's MHC—50 times in 2006
- Savings— $50 \times 10 \times \$200 = \$100,000$
- Savings— $50 \times \$800^* = \$40,000$

*Cost of competency evaluation

Out of Custody Evaluations

- For clients connected with housing and services
- Seattle's MHC—30 in 2006
- Savings— $30 \times 10 \times \$200 = \$60,000$

Results For Everyone

- Transport delay--\$200,000
- Faster evaluations--\$900,000
- No evaluation--\$140,000
- Out of custody--\$60,000
- Total Savings: \$1.3 million!

Not So Quick Fixes

Competency Court

- Seattle Municipal's MHC operates as both a competency and a therapeutic court
- Spotting the issue—170 evaluations in 1999, 450 by 2003
- Accuracy—65% vs. 3%
- Flag system
- Process 15-20 cases per calendar

Rewrite Your Competency Laws

- Washington's Competency Law Revision Task Force
- You need the right players to win

Sequential Intercept Model

- King County, Washington is currently implementing
- GAINS provides literature and consultation
- Goal: identifying and helping those in crisis before they enter the criminal system

Crisis Intervention Teams

- Trained police officers who better respond to people in crisis
- Officers work closely with the MHC
- Case study