

Jail-Based Competency Restoration Program— A Multi-Agency Collaboration



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**DEPT. PSYCHIATRY AND BEHAVIORAL
SCIENCES**

ATLANTA, GEORGIA



EMORY
UNIVERSITY
SCHOOL OF
MEDICINE

Jail-based Competency Restoration Program (CRP)



**JOINT PROJECT
BETWEEN**

EMORY UNIVERSITY

FULTON COUNTY JAIL

**GEORGIA DEPARTMENT OF BEHAVIORAL
HEALTH AND DEVELOPMENTAL
DISABILITIES**



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Outline of Presentation



- **Background of Competency Program**
- **Competence to Stand Trial Definitions**
- **Evaluation process**
- **Competence Restoration Pre- program**
- **Competence Restoration Program Services**
- **Pod-based Service**
- **Advantages to the Model**
- **Roles for Social Workers**



The Determination of CST



“...is the most common procedure involving both the mental health and criminal justice systems.”

Competency Restoration Treatment: Differences Between Defendants Declared Competent or Incompetent to Stand Trial: J AM Acad Psychiatry Law 40:1:89 97 (January 2012); Claire D. Advokat PhD Dept. Psychology



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A little background...



CRP developed in response to:

- **Fulton County's over utilization of state psychiatric forensic beds.**
- **Desire to more effectively use state psychiatric beds.**
- **Long wait lists for Fulton County defendants to get into hospitals for treatment and restoration services.**
- **Treatment and restoration services being delayed.**



What is Competence to Stand Trial (CST)?



**Based on Milton Dusky v US (1960)
Landmark US Supreme Court case**

- **Defined the constitutional floor for laws involving competence to stand trial rights for criminal defendants.**
- **Affirmed a criminal defendant's right to be competent to stand trial (CST).**
- **States' statutes vary but all include the two elements from Dusky.**



Prongs Outlined in Dusky



To be CST the Defendant must have

- **A rational and factual understanding of the charges against him/her and the possible penalties of those charges.**
- **The present ability to consult with his/her attorney in own defense with a reasonable degree of rational understanding.**



Two Examples of States' Definitions

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- Georgia (Rule 31.4) defines CST as “whether the accused is capable of understanding the nature and object of the proceedings” whether the accused comprehends his or her own condition in reference to such proceedings: and whether the accused is capable of rendering to counsel assistance in providing a proper defense.

NEW YORK

- Consolidate Laws of New York, Chapter 11A, Title U, Article 730 Mental Disease or Defect Excluding Fitness to Proceed
- 730:10 Fitness to Proceed: definitions. Used in the article, the following terms have the following meanings: 1. “Incapacitated person” means a defendant who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense. Such a person is not competent to stand trial.



Who Conducts CST Evaluations?

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- **State employed forensic evaluators in all counties but Fulton County**
- **In Fulton County, Emory University/ Grady Memorial Hospital Psychiatry and Law Service**

Forensically trained psychiatrists and psychologists

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- **Court clinics through the Department of Mental Health (DMH)**

Adult Courts: Designated Forensic Professionals (DFPs)

Juvenile Courts: Psychiatrists, Psychologist Social Workers, if certified through DMH



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Pre-CRP Evaluation Process in Fulton County



- **Court ordered CST Evaluation**
- **Defendant evaluated by forensic evaluator in jail (unless able to post bond).**
- **Forensic Evaluator offered opinion to the court through a report regarding competency.**



If opined CST...



Defendant 's



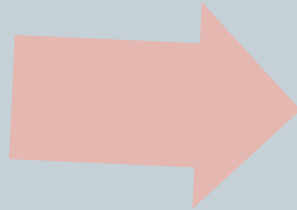
Case proceeds
on a normal
course



If opined not CST...



If court agrees, Defendant is adjudicated incompetent to stand trial (IST)



Hospital notified, court order to transfer; defendant put on admission list

Defendant then admitted to forensic hospital unit for restoration



Essentially



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How does this relate?



Statutory Timeframe



- **Initial restoration period is 90 days.**
- **If still IST and thought still restorable, can notify the court for need for additional 9 months.**
- **If restored to CST, anytime up to that point, defendant will be returned to detention facility and case will proceed normally.**
- **If not restorable to CST, the hospital gives opinion whether defendant meets criteria for civil commitment.**



Traditional Approach



- **Once adjudicated, Defendant waits in jail for hospital bed.**
- **Defendant gets admitted to hospital.**
- **Defendant attends a range of therapeutic and psychoeducational groups that may not relate to competency restoration.**
- **Average LOS in hospital was four-six months.**



Challenges with Traditional Approach



Hospitals ...

- 1. Are mandated to provide a range of services.**
- 2. Have a host of services that are not directly related to competency restoration.**
- 3. Serve multiple populations and clinical staff have diverse duties which may dilute tasks specifically related to competence restoration.**



Advantages to Traditional Approach



- **Provides defendant with range of opportunities for life skills building**
- **24 hr. /day therapeutic milieu**
- **Family/friend visitation easier**
- **Non-punitive environment**
- **Referrals made to aftercare provider**
- **Hospital able to administer involuntary medication when individual is “unsafe”**



Sell v United States



- ***(Sell v. United States, 539 U.S. 166 (2003))*** landmark decision by United States Supreme Court
- **Imposed strict limits on the right of a lower court to order forcible administration of antipsychotic medication to a defendant determined to be incompetent to stand trial for the sole purpose of making them competent and able to be tried.**



Sell Cont.



- **There must be a substantial probability that the medication will enable the defendant to become competent without substantial undermining side effects.**
- **The medication must be necessary to restore the defendant's competency, with no alternative, less intrusive procedures available that would produce the same results.**



Disadvantage to Traditional Approach



- **Lengthy wait times in jail take its toll on mentally ill defendants.**
- **Overutilization of limited bed space by defendants who do not meet criteria for involuntary hospitalization.**
- **Defendants may not be getting medication while waiting for a bed due to several factors.**
- **Cost factors are impacted. Hospital daily rates far exceed daily rate for incarceration in jail even with medical services provided.**



Disadvantages (Cont'd)



CRP Program Services



- **Pod-based (unit) competency restoration (CR).**
- **Mobile Legal Education (MLE)**
- **Out-patient restoration**
- **Referral to in-patient facility**
- **Legal case management**



Pod-based Program – Criteria for admission



- **Defendant is opined not CST**
- **No recent history of assaults or aggressive behaviors**
- **Have no more than mild to moderately impaired intellectual functioning.**
- **No medical issues which require high level of care**
- **Male**



Admission procedures



Upon admission each defendant is

Oriented to the pod.

- **Tested for their cognitive functioning.**
- **Assigned a one to one contact person from the team.**
- **Assigned a psychiatrist.**
- **Provided a program schedule.**



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Description of pod



- **16 6'x 10' single cells**
- **2 converted cells for offices**
- **2 showers**
- **Common area with stainless steel tables with stools connected**



Staffing



- **Security--2 officers per day assigned to pod**
- **Treatment team –**
 - **3 Forensic psychiatric fellows (4 hours a week)**
 - **2 Forensic Post doctoral fellows (16 hours a week)**
 - **1 Master's level clinician**
 - **1 Forensic Social Worker**
 - **1 Program administrator (24 hours a week)**
 - **1 Medical director (4 hours a week)**



Support Services



- **MoUs with Jail and Medical Provider**
- **Jail provides all food, medical services, psychopharmacology and crisis services
24 / 7**
- **High level of security by specially trained officers who function on the pod as support to the treatment team**



All Groups Support the Process of Becoming CST.

35 Groups/week lasting between 30 and 45 min and are held from 8:30 –11:00 (interspersed by Medication and Lunch and pod and cell cleaning) and 1:00- 3:30

- **Morning Stretch**
- **Start-up/Goals**
- **Cognitive remediation techniques (CRT)**
- **Daily legal education**
- **Current Events-legal/law-based events**
- **Interpersonal/ coping skills**
- **Emotions regulation**



Groups Cont.



- **Expressive Arts**
- **Conflict Resolution**
- **Substance Abuse**
- **Health Awareness**
- **Reading**
- **Medication education**
- **Character Building**



Additional Pod Activities



- **Monthly Birthday Celebration-Peers make cards for those with birthdays, ice cream and cake is served.**
 - **Friday Legal Ed Film group**
 - **Weekly Community Meeting – Agenda-based issues related to Pod functioning, make announcements and appreciations, helps form a sense of shared responsibility.**
- ++Incentives for Group Attendance and Group Participation**



How Long Does it Take?



- **After a resident has been in the program for 90 days, a decision is made regarding their progress.**
- **The team determines readiness for reevaluation (can be at any point in initial 90 days.)**
- **When considered competent by the Team, defendant meets with original forensic evaluator.**
- **If now opined CST, report sent to court.**



Other Potential Dispositions



- **If opined not competent but thought can become CST, letter sent to court requesting up to additional 9 months.**
- **If opined not competent due to not taking medications a decision is made whether defendant needs admission to state hospital.**
- **If opined not competent and charges are not serious, court may consider dismissal of charges if a community plan for placement and services are in place.**



Other Potential Outcomes Con't



- **If opined not competent, charges are serious, and person not taking meds, can request a Sell hearing to administer involuntary medication (only in the hospital).**



Outcomes So Far



Since the inception of the CRP, approximately 50% of the defendants are restored.

Approximately 25% of the defendants are admitted to a state hospital forensic unit.

Approximately 25% are either diverted into community programs due to inability to be restored to competency or because the charges are fairly benign and are dismissed.



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Fulton County Jail- What's Different



- **Simulation of therapeutic/clinical aspects of hospital.**
- **Provides secure, structured environment**
- **Offers flexible, intensive instruction through varied therapeutic interventions**
- **Tailored toward individual needs**
- **Offers services in-jail, either in the pod or General Population, and Outpatient Competency Restoration**
- **Smaller program allows for intensive programming and enhances the therapeutic community**



New Approach



- **Intensive programming**
- **Provides a continuum of services**
- **Is flexible**
- **Saves psychiatric beds for those forensic patients in who meet criteria for hospitalization.**
- **Provides more expedient restoration services.**
- **Eliminates and/or shortens waitlists**
- **Saves money**



Sneak Preview



- **A new pilot project is being considered to provide earlier intervention with female mentally ill incarcerated defendants, through a well-structured, meaningful diversion process.**

