

12-2019

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Baur, Natalie, "Incompetency to Stand Trial: An Informational Guide" (2019). *Capstone Projects and Master's Theses*. 623.

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Incompetency to Stand Trial: an Informational Guide

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November 23, 2019

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Abstract

At Monterey County Behavioral Health, we serve people with a variety of mental illnesses. They range from moderate to severe- whether it be schizophrenia or depression, we provide services that will help them deal with their symptoms. We strive to cultivate positive relationships in the community with our clients and contracted facilities. In this essay, I am going to talk about a certain population of who we serve: those who are found incompetent to stand trial and the toll it takes on them and their families. Moreover, I will be talking about the challenges and uncertainties that clients and their families have to overcome during the incompetency to stand trial process. My capstone project focused on supporting families and loved ones of those who are incompetent. I created a brochure of important questions they may ask to help them understand the restoration to competency journey. I included four questions about the process and resources such as the Monterey County Behavioral Health ACCESS team phone numbers and the MCBH website in case they need support. Additionally, I measured my results by presenting my brochure to my mentor, Anjanette Brannon-Hinze, and the Behavioral Health Services manager, Rhiyan Quiton. I also presented my brochure to the Placement Team and dispersed my brochure to the Adult Systems of Care counseling office at Natividad Medical Center and the Monterey County Jail, and the offices of the District Attorney, Public Defender and Public Guardian.

Keywords: Incompetency to Stand Trial, Severe Mental Illness, Behavioral Health, Felony, Misdemeanor, Mental Competence

Agency and Communities Served

The agency I have served the span of my internship with is Monterey County Behavioral Health. The mission of Monterey County Behavioral Health is: “To provide mental health services that are individualized, flexible, and tailored to the care of the individual and their recovery. This approach emphasizes healthy decision-making and coping skills to strengthen family and community support systems. Monterey County Behavioral Health offers accessible and comprehensive services and links to other agencies and community resources. Whenever possible we involve clients, family members, and peer supports in planning and fulfilling wellness recovery goals.” (Welcome to Monterey County Behavioral Health, 2015).

This agency has several divisions such as outpatient counseling, inpatient services in the Mental Health Unit, and crisis intervention such as the Mobile Crisis Team. The division I am placed with is the Mental Health Unit Placement Team. The Placement Team is comprised of around four social workers and a Placement Team supervisor. While it is a small team, it has the backing of the Medical Director of Behavioral Health, the Deputy Director, Behavioral Health Manager, among several other titles of individuals that assist in the placement process. The team works to place our clients that are on conservatorships in various psychiatric facilities of different levels across California. The goal that is the driving force of the team is to place our clients with a severe mental illness in the least restrictive setting that will allow them to function at the best of their abilities. Monterey County Behavioral Health (MCBH) itself provides several services. These services include information and education, screening and assessment, individual, group, and family counseling, case management, social and life skills groups, family

support groups, medication evaluation and treatment, residential treatment, and referrals to community resources.

MCBH serves people of all demographics. Mental illness does not discriminate! However, the clients we serve must have Medi-Cal or an equivalent health insurance. We serve people of all ages, so we serve young children all the way up to the aging population. Anyone that has a mental health issue can be treated by Monterey County Behavioral Health. However, the Placement Team only works with adults who are on LPS conservatorships, so that is the primary population I have been working with throughout my time here. Although we serve people no matter who they are, the age demographics of the clients that are most commonly seen by MCBH are adults from 21-44 years old, coming in at 59.2% for the 2016-2017 year. The gender breakdown is 55.7% female and 44.3% male, and lastly, the race/ethnicities that are most common are Hispanic at 46.4% and Caucasian/white at 31.8%. (POS EPSDT Report, 2017.)

Problem Description

My capstone project focused on Incompetency to Stand Trial process. The term, “Incompetent to Stand Trial”, under penal code 1370, is described as when someone is incapable to adequately defend themselves against their criminal charges. When someone is deemed incompetent to stand trial, they have to, as a result of a mental disorder or developmental disability either understand the nature of their crimes and assist their legal team in defending themselves, (Disability Rights California, 2015). This event can be incredibly hard on a client’s family and leave them feeling frustrated, confused, and hopeless. One of the reasons for this is because the restoration process for their loved one is unclear. Families often don't know how long the process will take, what the client has to do in order to restore competency, and what the

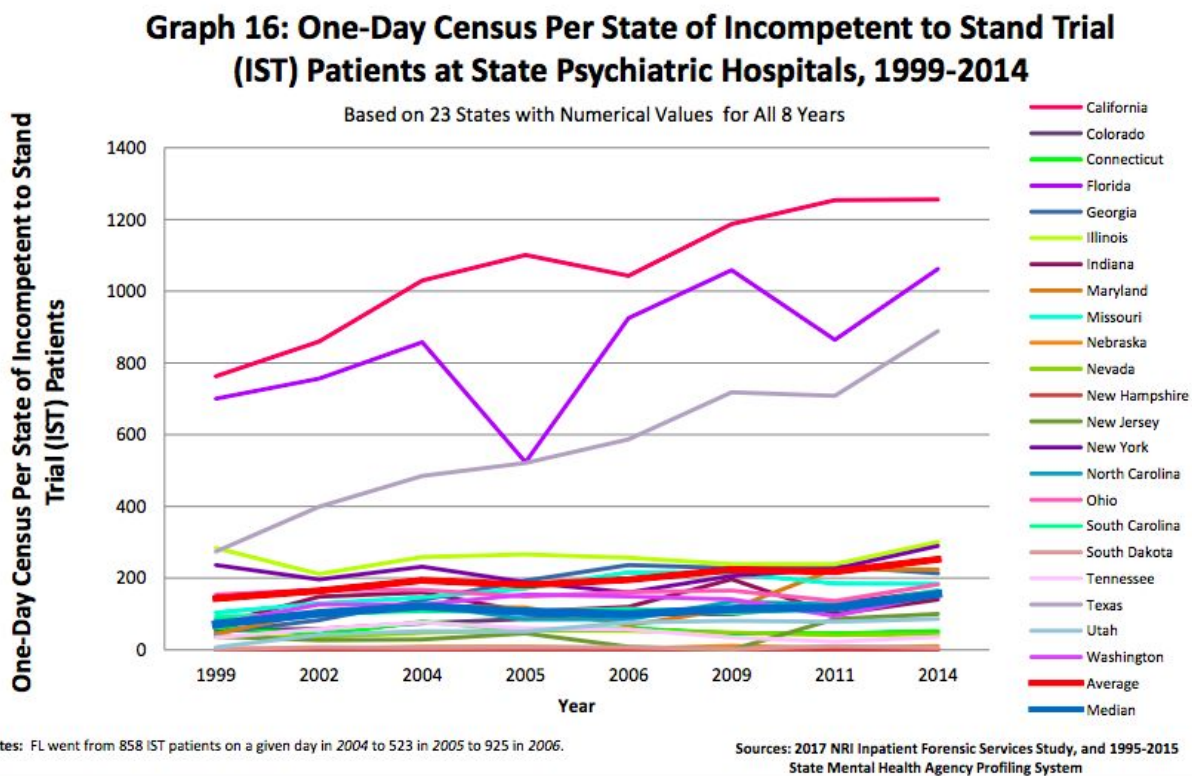
requirements are for restoration. By addressing the uncertainties that families and loved ones may feel, this can help them to feel supported and more clear about what the process will look like.

There are two processes for the restoration process- felony and misdemeanor. For felonies, it can take up to three years to restore the individual. Some examples of felonies can include but are not limited to murder, arson, animal cruelty, rape/sexual assault, or child pornography. For misdemeanors, it can take up to one year to restore them. Some examples of misdemeanors that are common are drug possession, prostitution, possession of a weapon, or violating a restraining order. While there are time limits on how long to try to restore an individual, restoration is not always guaranteed. If they are found to be non-restored, a court hearing is scheduled to determine the next steps that should be taken for that individual.

Below are tables and graphs demonstrating the number of individuals that are found incompetent to stand trial. Although California does have a higher population than the other states listed, the sheer number of individuals going through this has steadily increased in the past several years.

Not Guilty by Reason of Insanity (NGRI) One-Day Census - All States

| One-Day Census Per State of NGRI Patients, 1999-2014: All States | | | | | | | | |
|---|--------------------|--------------|-------------|-------------|--------------|-------------|-------------|-------------|
| State | 1999 | 2002 | 2004 | 2005 | 2006 | 2009 | 2011 | 2014 |
| Alabama | 170 | 163 | 166 | 173 | 178 | 163 | 71 | 171 |
| Alaska | 6 | Not Reported | 4 | N/A | Not Reported | 2 | 1 | 1 |
| Arkansas | No Answer Provided | Not Reported | Unknown | Unknown | 45 | 91 | 36 | 82 |
| Arizona | 25 | Not Reported | 101 | 115 | Not Reported | 126 | 119 | 123 |
| California | 1030 | 1144 | 1218 | 1248 | 1220 | 1391 | 1371 | 1369 |



Contributing Factors

The first contributing factor of this issue is that the target population usually has a vast barrier for learning. Since these clients don't really have any insight to knowing that what they did is wrong, much less their mental illness, they may have a really hard time grasping and understanding what the process to restore competency looks like. Additionally, there are a couple different types of restoration processes depending on the nature of the crime, and whether it's considered a misdemeanor or felony case. Both of these things blur together and gets very confusing. Even while researching this project, it was extremely unclear the differences between processes. We can't expect our clients that have been deemed mentally incompetent to

understand this path they are going down, but on the other hand we cannot keep them in the dark. It is important to be open, honest and transparent with our clients no matter what their mental health symptoms are. This goes for their families as well. The family of our clients don't know this process any more than the client does. They have been thrown into this situation because of the actions that their loved one has committed. Additionally, families may not know what questions to ask the social workers and psychiatrists to get the information they need. This leads to further confusion and despair within the family. These situations are usually just as hard on the family as they are on the client and nothing is being done to decrease the stress on them.

Something that is often overlooked is how the family may be traumatized from their loved one's mental illness and the fact that they now have to go visit their family member in a state hospital setting. Speaking from personal experience, a state hospital is a harsh environment to be in and is comparable to a prison. Seeing a loved one in that setting could be hard for families to come to terms with. Furthermore, often times when a person has committed a violent crime, it is most likely to be directed at their family and the people closest to them. Family members could be fearful of the individual perpetrating the crime due to being hurt by them in the past or being the subject of their crime. Family members may not always be excited at the thought of them coming home to live with them, but going through legal processes and having to interact with the criminal justice and behavioral health system could exhaust family members and lead to burn out. Having multiple resources for support could be effective and helpful for them to mitigate their anxieties and distress within the situation.

Consequences

The first consequence is that a lot of our clients are anxious and not ready for their trial. As all people are different in the symptoms they are experiencing, it will vary in the time it takes for them to stabilize. Once they are stabilized and are medication compliant, they have to take certain tests such as filling out the layout of the courtroom and describing the job duties and roles of each person that will be attending the trial. Once they pass this test, they are deemed competent to stand their trial. While this seems like a fairly simple test for them to take, it is fairly difficult and can sometimes take an incredibly long amount of time to complete. They not only have to stabilize their difficult to manage symptoms, but they have to acquire new knowledge about things that haven't mattered in the past. These tests can be intimidating for them to take and can lead to extensive anxiety; even if they pass the test and are functioning well and at baseline, it could be a totally different story once they approach their trial.

When the restoration process is unclear for our clients families, it leads to great distress. Putting oneself in the shoes of a family member, it is easy to see why; all one knows is that their loved one with a severe mental illness was arrested, deemed incompetent, and now they're at a state hospital to restore competency. There are no fine details provided, and often they are left desperate and alone to figure the answers out on their own. This leads to countless calls to lawyers and others who may not have the time or information to answer their questions and concerns fully. Being kept in the dark about the status of the client is a great disservice, and one we have to mitigate if at all possible and attainable.

Problem Model

| Contributing Factors | Problem | Consequences |
|---------------------------------|---|---|
| Barrier for learning in clients | Restoration process is unclear for clients and families | Greater anxiety levels in clients |
| Family trauma | | Great distress in family and loved ones |

Capstone Project Description and Justification

Project Implementation

Because this process is so complicated and hard to understand for clients and families, my capstone project is geared toward providing additional support to families and loved ones. This comes in the form of an informational brochure with a few different basic questions on it that will give our client's families more of an understanding about what restoration will look like. Some of the original questions included:

1. How long will it take for my loved one to restore competency?
2. How long will they be in a psychiatric facility for?
3. Can I do anything to make this process easier?
4. When will I receive updates about the status of their condition?
5. Where can I find support in this situation for my family and I?

I compiled a mixture of these questions into an informational brochure that I designed on www.canva.com. The process of successfully implementing this project came with many unseen obstacles, but the final product of the brochure proves to be effective in answering possible questions or concerns of client's families. I printed out copies of the brochure and put them in the Adult Systems of Care counseling office, as well as various other locations where it would

prove to be helpful. A detailed implementation plan and timeline can be seen in the Scope of Work in Appendix A.

Project Purpose

The purpose of this project is to alleviate some of the anxieties and distress that families and loved ones experience due to their family member's legal and mental situation. There is a massive need for this as the information is not readily available to them and no one is pushing to help them understand the process. Having general information about it, and having it portrayed in a calm-colored brochure will ease some of the stress that they may possess.

Project Justification

There are several reasons why this project will be effective in the form of a brochure. Studies done on healthcare brochures have shown that least 96% of people that picked up the brochure read at least the main points posed in it, (The Effectiveness of an Educational Brochure, 2016). Having large headings that draw attention to it, followed by an easy to comprehend answer will ensure that consumers of this brochure will absorb the main ideas and retain the information enough to help them.

Assessment Plan

The assessment plan used to measure effectiveness was several meetings with Rhiyan Quiton, the Behavioral Health Services Manager, and my mentor, Anjanette Brannon-Hinze. Additionally, I facilitated one final presentation of the finished product to the entire Placement Team. I received bounteous amounts of feedback from every single person, and used that to tweak the brochure to look and sound as exceptional as it could be. Lastly, my brochure was dispersed in various offices that will make it easy for it to be seen by consumers.

Expected Outcomes

In the beginning of the capstone project process, I did not know what the expected outcome could be. My only hope was to have this brochure be an effective form of communication for the families and loved ones that are needing the information the greatest. In the end, I would say my brochure highly exceeded my expected outcomes. The feedback I received on the design, layout, and information was enthusiastic from the colleagues that know the most about this subject. I would not have expected for everyone to approve of it as much as they did, and this revelation is gives me great pride.

Project Results

I finished the full project implementation by October 30th, 2019. Something I did not foresee happening was the amount of time it would take for me to gather information about the Incompetency to Stand Trial process. I spent many hours doing my own research on the internet, but the amount of time it took me to interview Dr. Quiton and input the information I got from him was unprecedented. Something I also underestimated was the amount of time it would take me to design the brochure and make all of the needed information fit. It took a lot of brainstorming from Anjanette, Dr. Quiton and I to figure out how to make all of the information fit into the brochure. Lastly, I had to write the information in a way that would be easy for someone who does not have a behavioral health background to understand. Trying to make the technical words into simple ones took some serious brain power. The questions I included on the brochure are as follows:

1. How long does the process usually take before my loved one goes to trial?
2. What does it mean to be incompetent to stand trial?

3. What do they have to do in order to become competent?
4. Where can I access resources and support?

I ended up ordering one copy since I had to pay for it, and with the help of Anjanette we copied the rest of them. We put ten original copies in the Adult Systems of Care counseling office. I also presented my brochure at the weekly Acute Care Coordination Meeting to the rest of the Placement Team. I did this after the meeting was done earlier than usual. When I presented my brochure, the lawyer in charge of the LPS conservatorships, Christi, stated that she would like to put copies in the Monterey County Jail, and the offices of the District Attorney, Public Defender and Public Guardian. Additionally, Dr. Quiton has contacts at the National Alliance of Mental Illness (NAMI) and mentioned that he would try to put it in the Salinas office. The spread of the brochure is not something I expected to happen, but gives me great satisfaction knowing.

Conclusion & Recommendations

While the Incompetency to Stand Trial process is complicated and varies for each person, I believe it could be improved in terms of making the process more streamlined to fix our mental health systems and the services we offer. There still needs to be more support for families going through this, and that's why I chose to focus on this support for my capstone project. My hope for the future is that this process can be clear and concise, with limited confusion about it. I also think there needs to be a lot more support for families going through this.

While the mental health care system could always change and improve, I feel that I was fully supported during my implementation of my capstone project. If I ever had any questions, concerns, or confusions during this process I always had people by my side to help me. My

recommendation would be for my colleagues to keep doing what they're doing, because a good team is so hard to come by, and every person is very valuable to the team.

Personal Reflection

I learned a lot from this capstone project and Monterey County Behavioral Health in general; the clients we serve, the facilities we serve them at, and how best to serve our clients with even the most severe symptoms. I never knew what to expect with this internship much less my capstone project, but it has taught me countless skills. These would include professional development, leadership, and professional communication. In the beginning of my internship, I did not know what my agency would need that I could help to improve upon. Up until a couple of months ago I had no idea what the politics were of the office, what issues needed to be fixed, and how I could help fix them. With my full internship experience, I was able to think critically about how I could create something positive to impact our clients and the agency. With my capstone project I did exactly that. Although I am proud of my end result, there are a lot of obstacles I had to overcome to make it into what it is now. In the beginning of my internship experience, I was under the impression that my capstone project was going to be fairly simple for me to figure out. I had the thought that my mentor would guide me right to the area of where to go with my capstone based on the need at MCBH. This was not the case. It took a lot of back and forth with my mentor Anjanette and my professor Stephanie to help me come up with a capstone project. One of the things that I hadn't thought about was the issue of confidentiality. When I first began, something that interested me greatly was the link between childhood trauma and mental illness. In order to do my project based on that I would have had to go through confidential information about our clients; it simply would not work. After a while of the back

and forth I finally got the idea for the brochure. There were some hurdles for the brochure as well, like figuring out which questions to include and how to accurately and concisely fit the answer in the space provided. These things were challenges but not too hard to do. In the end, all of these bumps in the road have taught me a lot about how to be headstrong, proactive, and flexible when composing a professional document such as this.

There are a lot of strengths in my capstone brochure. For one thing, the design and layout of it ensure that an adequate answer can be provided for each of the questions asked. I spent a lot of time coming up with each of the questions that were asked. In order to decide which ones would be asked, I tried to put myself in the shoes of the loved one that would be viewing this brochure. This is why I asked questions pertaining to the length of time the process takes and what the person has to do in order to restore competency. With the help of Dr. Quiton and Anjanette, I crafted a clear and concise answer that fits in the space provided and answers the question fully without bringing up new questions or concerns.

The Placement Team has been an amazing team to work for for the past three semesters. Each person that I have met at Monterey County Behavioral Health throws their best version of themselves into their work and truly cares about each of their clients. Their hard work and dedication have given me an overwhelming admiration for them; and the kindness, appreciation and support I received from all of my colleagues was unprecedented. Never have I felt luckier to work amongst a truly phenomenal team. This experience has taught me everything about being a working mental health professional. It has given me a greater love for our clients after getting to work so closely with them. This experience has given me a sense of partially fulfilling my purpose in this life. I would like to especially thank my mentor, Anjanette Brannon-Hinze for

walking this journey with me and giving me a learning experience no one could put a price on. I would like to also thank Laura Vroman, Melissa Black, Rhiyan Quiton, and Reginald Johnson for bringing me into their world for a short period of time to teach me a little bit about the field that they are experts in. I have learned so much from my time with MCBH and will always have this on my heart as an experience I will never forget.

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Appendix A

Scope of Work

| Timeline | Activity | Deliverable |
|-------------------|--|--|
| May-June | Start researching 1370 process and how family members would benefit from brochure | Write down current laws, processes, and differences between counties in CA |
| August | Interview Dr. Q about his experience with 1370 process and what he thinks I should ask | Write down the interview and things we talk about in it |
| September-October | Research how to make brochure that would best support family members and research different questions/information to include in it | Compile various possible questions to ask in brochure |
| November-December | Finalize questions, information, and design of brochure | Print brochure and disperse in ASOC counseling office |