

Competency Attainment in Minnesota: A New Direction

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4/22/2023

1

Disclosure

- I am employed by the State of Minnesota, Department of Human Services
- I receive 100% of my income from the State of Minnesota, except for occasional honoraria from teaching engagements
- I have no financial conflicts of interest and will not be discussing off-label uses of commercial products
- I am speaking on behalf of myself

2



Current Process

- Individual is Arrested and Charged with a Crime

3



Current Process

- Individual is Arrested and Charged with a Crime
- Defense or Prosecution Raises Concerns about Individual's Competency to Proceed

4



Current Process

- Individual is Arrested and Charged with a Crime
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- Rule 20.01

5

Competency to Proceed

- A defendant is incompetent and must not plead, be tried, or be sentenced if the defendant due to mental illness of Cognitive Impairment lacks ability to:
 - **Rationally** consult with counsel; or
 - **Understand** the proceedings or participate in the defense.
- **Understand** relevant basic information
- **Appreciate** the nature of their situation
- Rationally **process** the above information to
- **Communicate** a clear and consistent choice

6

Competency to Proceed

Court Proceedings/Case

Mental Illness/Cognitive Impairment

7

Competency to Proceed

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8

Current Process

- Individual is Arrested and Charged with a Crime
- Defense or Prosecution Raises Concerns about Individual's Competency to Proceed
- Rule 20.01
- Opined and Adjudicated Not Competent to Proceed

9

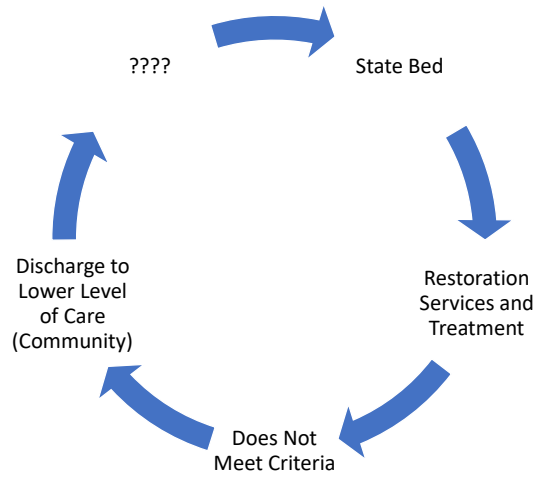
Not Competent to Proceed

Meets Commitment Criteria, Often Referred to State Bed

Does Not Meet Commitment Criteria, Released to Restoration Services in the Community (Minimal-to-None)

10

So What's the Problem?



11

Chapter 611

POLITICS

Lawmakers pass mental health package that includes 'gap' protection in criminal justice system

Both the State Senate and House passed the legislation, which closes gaps uncovered by a KARE 11 investigation for those deemed incompetent.



12

“Forensic Navigator”

- “Forensic navigator” means a person who meets the certification and continuing education requirements under section [611.56, subdivision 2](#), paragraph (b), clause (3), and provides the services under section [611.55, subdivision 3](#).



13

Forensic Navigators!

- Impartial regarding criminal case
- Develop bridge plans
- Assist defendants in participating in examinations
- Placing defendants in CAPs
- Providing attainment education
- Reporting to courts
- Help coordinate mental health, medical, housing, and financial services

14



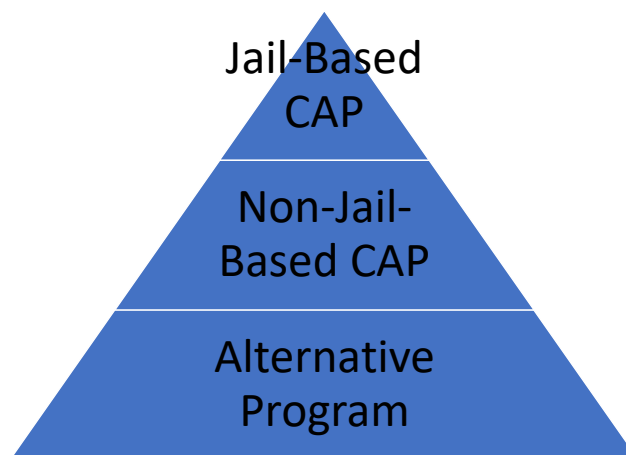
Bridge Plans!

- Confirmed housing address upon release
- Dates, times, locations, and information for future appointments
- Other referrals, resources, or recommendations necessary
- Confidential

15

Order to Competency Attainment

- If the court finds the defendant incompetent...the court shall order the defendant to participate in a competency attainment program....
- Least-restrictive appropriate program in collaboration with forensic navigator



16

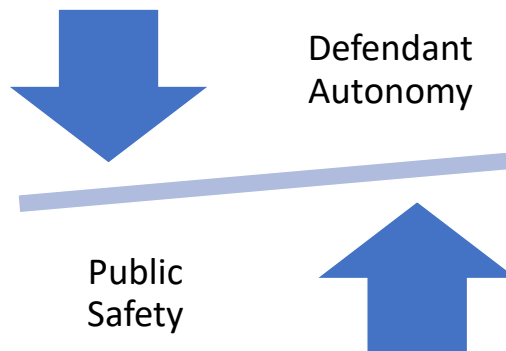
If in jail
and not
received
CAP
within 30
days...

- ...the court may:
 - Order participation in CAP outside of jail
 - Conditionally release defendant with conditions of participation in a CAP
 - Make determination of restorability of competency and proceed separately
 - Dismiss charges "in the interest of justice."

17

Supervision upon Release

- Court determines appropriateness and level of pretrial supervision



18

State Competency Attainment Board

Judicial Branch

Three members appointed by MN Supreme Court

- One Defense Attorney
- One County Attorney
- One Public Member

Four members appointed by Governor


- At least one mental health professional with experience in CR

19

State Competency Attainment Board

- Approve and recommend a budget for board and forensic navigator program
- Establish forensic navigator standards, procedures, rules of court
- Establish certification requirements for CAPs
- Provide/contract for enough CAP to meet needs of defendants in each judicial district found NCST

20



Why the exclamation marks?

Help correct the steep drop-off in services available to individuals after leaving restrictive settings (jail, state hospital)

Distribute competency attainment responsibilities across settings, organizations, and levels of care

Critical update to current situation of Gap Cases, incompetency, and attainment services

21



Questions? Thank you!

22