

## THE BASICS



Mental illness comes to court in two primary ways: competency to stand trial and insanity at the time of the crime.

A defendant is incompetent to stand trial when he is unable to understand the court proceedings or assist in his defense. A defendant's possible incompetence to stand trial can be raised by the prosecutor, defendant or judge. The court examines not only whether the defendant is competent to stand trial today, but also whether there is a substantial likelihood that he'll be competent within one year.

A defendant who claims she is not guilty because she was insane at the time she committed the crime is raising an affirmative defense. She may or may not be competent today. If the court or jury finds the defendant is not guilty of the crime by reason of her insanity at the time (commonly called, "NGRI"), the charges are eliminated - she was found not guilty.

Some of the procedures outlined in this binder concern only competency OR insanity, while others apply to both. For the sake of simplicity, the person charged with the crime is called the defendant throughout. But to be accurate, once the defendant is found *not guilty* by reason of insanity, she is no longer a defendant. The Ohio Revised Code then refers to her as the "person."

Psychiatrists and mental hospitals, police reports and family testimony form an integral part of the hearings you will conduct. Evidentiary issues are therefore addressed in the first section.

As you utilize these procedures, pay particular attention to: required time tables, hearing notices, the degree of the most serious of the crimes charged and legal definitions.

Whether the procedure is incompetence to stand trial or insanity at the time of the crime, you must eventually deal with what do to with the defendant and the case *now*. A defendant found NGRI may still be mentally ill and require hospitalization. You have the authority to order hospitalization. Under proper circumstances you may order that the person be forced to take meds *during the hospital stay*.

However, hospitalization of a defendant *pursuant to your court order* is a limited-time fix. By statutes, your authority over the defendant will end. If the defendant is still in need of hospitalization, the answer will be found in the nature of a civil commitment. As a result, included in the binder is a brief overview of civil commitment. Did you know that a court can file for a civil commitment on a defendant?

Guardianship and elder abuse information is also provided so that you might sound as though you know what you're talking about!

***The information contained in this binder is provided as a general guide and believed to be accurate. The binder should be used as a supplement to independent legal research related to the statutes on rules applicable to a particular case.***

