Fort Bend County
Behavioral Health Services
Forensic Services

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Objectives

- To provide a review of the types of court-ordered evaluations available through BHS
- To provide insight into when particular evaluations could be needed

Court-Ordered Mental Health/Substance Abuse & Forensic Evaluations

- Mental Health Evaluation
- Substance Abuse Evaluation
- Intellectual Assessment
- Competency to Stand Trial
- Sanity
- Risk of Violence

Mental Health Evaluations

Mental Health Evaluations

- Evaluations designed to provide information regarding personal history, psychological functioning, substance abuse issues, and clinical/treatment recommendations.
- These evaluations are designed to provide information regarding the defendant's personal background, history of mental health treatment, mental health diagnoses, and clinical recommendations to the court.
- Likely to include psychological testing
- *When may a defendant need a mental health eval?*
  - It is suspected that a defendant might have a mental illness, but there are no records
  - A defendant reported a history of mental illness, but more information about that condition is needed
  - Need psychological testing for differential diagnoses, insight into their psychological functioning, etc.

Mental Health Evaluations

- These are ***NOT*** competency to stand trial evaluations
- Recommendation for consideration of competency evaluation is provided when competency appears to be in question
- ***DO NOT*** provide recommendations regarding punishment/sentencing decisions

Commonly Seen Psychiatric Diagnosis in Forensic Settings

- **Mood Disorders** (such as Major Depressive Disorder, Bipolar I Disorder, Bipolar II Disorder, Unspecified Depressive /Bipolar Disorder)
- **Anxiety Disorders** (such as generalized anxiety disorder, social anxiety disorder and OCD)
- **Psychotic Disorders** (e.g. schizophrenia, schizoaffective disorder, delusional disorder, other unspecified psychotic disorder)
- **Trauma-related Disorders** (such as post-traumatic stress disorder, acute stress disorder, & adjustment disorder)
- **Personality Disorders** (e.g. Antisocial personality disorder and borderline personality disorder)
- **Substance Use Disorders**
  - Dual diagnosis (Comorbid mental health and substance use disorders)
    - Estimates of upwards of 87% of justice-involved individuals with severe mental illness have co-occurring substance use disorder
- **Neurodevelopmental Disorders** (e.g., Intellectual Disability, Autism, ADHD)
  - IDD diagnosis – onset during developmental period

Intellectual Assessment

- Evaluations designed to assess an individual's intellectual functioning and any associated impairments in functioning
- Includes intellectual measure and assessment of adaptive functioning
- Warranted when there is a suspicion of intellectual disability, but there is no documentation to support
- *Note: BHS can assess intellectual functioning, but cannot determine if someone meets criteria for IDD services*
  - If want evaluated for IDD services, refer to local mental health authority (e.g., Texana Center, The Harris Center for Mental Health and IDD)

Substance Abuse Evaluations

Substance Abuse Evaluations

- The primary purpose of the substance abuse evaluation is to determine if the individual has a qualifying substance use disorder and if substance abuse treatment is warranted.
- Evaluations are designed to provide information regarding the defendant's personal background, mental health/substance use diagnoses, and clinical recommendations (specific to substance abuse treatment.)
- A request for a substance abuse evaluation should be based on information suggesting a potential problem (i.e. positive toxicology screens, a history of use/abuse, or criminal allegation that is substance-related)

Competency To Stand Trial Evaluations

Incompetency

- **Article 46B.003**: A defendant is presumed competent to stand trial and shall be found competent to stand trial unless proved incompetent by a preponderance of the evidence
- A person is incompetent to stand trial if the person does not have:
- Sufficient present ability to consult with the person's lawyer with a reasonable degree of rational understanding

and/or

- Rational as well as factual understanding of the proceedings against the person

Evaluation Process

- Review of available collateral records
- Clinical Interview
  - Mental Status Examination (MSE)
  - Basic background information of defendant
  - Mental health/IDD history
  - Factors relevant to CST as outlined in 46B
    - Understanding of charge/possible consequences, ability to disclose pertinent information to defense counsel, capacity to engage in reasoned choice regarding legal options, understanding of adversarial nature of criminal proceedings, ability to control behavior in court/testify
- Consult with defense counsel, prosecution, jail staff, etc. when necessary to form opinion
- Psychological testing is generally NOT a part of a competency evaluation unless there are specific issues testing could help decipher regarding competency, restorability, malingering, cognitive impairment, etc.

Things to Remember

- Incompetence and mental illness/intellectual disability are not synonymous
  - Defendant may be psychotic, manic, depressed, and/or intellectually disabled, but competent to stand trial
- Competency abilities are fluid and competency evaluations assess defendants current understanding/capacity
  - Not an assessment of mental health at the time of offense
- Incompetency must be related to mental health/intellectual/cognitive issues, not just lack of cooperation
- Expert provides opinion based on information available. Final decision is up to the Court.

Criminal Responsibility (Sanity)

Evaluations

Sanity/Criminal Responsibility

- **Texas Code of Criminal Procedure, Chapter 46C**
- **Texas Penal Code 8.01**
  - “It is an affirmative defense to prosecution that, at the time of the conduct charged, the actor, as a result of severe mental disease or defect, did not know that his conduct was wrong.”
  - Cognitive Prong only, no Volitional Prong

When is a Sanity/Criminal Responsibility Evaluation Warranted

- The defendant has a serious mental illness, intellectual disability, or neurocognitive disorder
- It is believed that defendant did not know that their conduct was wrong due to a severe mental disease or defect
- Defendant must presently be competent to stand trial to proceed with a sanity evaluation
  - A CST evaluation is always done as part of a Sanity evaluation
- The defendant must be willing to discuss the alleged offense in detail to conduct the evaluation

Evaluation Process

- Clinical Interview
  - Basic background
  - Mental health/IDD history
  - Events/behaviors/feelings prior to alleged offense
- Interviews with collateral sources if needed to form opinion

- Collateral records
  - Medical/mental health records
  - Offense report/supplemental reports by law enforcement
  - Interviews with detectives
  - Body cam/patrol vehicle video, surveillance footage
  - Jail medical records
  - Phone calls (i.e., 911, phone calls in jail)

Sanity Helpful Tips

- CST evaluation will be done as part of a criminal responsibility evaluation
  - If you believe defendant is currently incompetent, sanity evaluation should be requested at later date
- Defendant should be aware that an in-depth discussion of the alleged offense and events leading up to the alleged offense will take place
- Gather and provide collateral records you would like to be considered
- Mental health symptoms resulting solely from voluntary intoxication does not qualify for NGRI
- Antisocial Personality Disorder does not qualify for NGRI
- Information in sanity evaluation reports can be used by defense and prosecution
- If defendant is acquitted NGRI, he or she can be admitted to state psychiatric facility for period not to exceed maximum sentence for charge

Risk of Violence

- It is not possible to predict whether an individual will engage in a violent act, but we can identify risk factors that have been shown to be associated with a propensity for violence.
- Historical Clinical Risk Management – 20 Version 3 (HCR-20^{v3})
  - Gold standard for violence risk assessment
  - Structured Professional Judgement
  - Factors are identified as present, partially present, or not present and rated as having low, moderate, or high relevance to person's potential for future violence
  - Three categories: Risk for Future Violence, Risk for Serious Physical Harm, and Risk for Imminent Violence

Additional Information

Copies of motions and orders for all the evaluations that BHS conducts can be found on our website:

https://www.fortbendcountytx.gov/government/departments/behavioral-health-services/forensic-services/forensic-psychological-evaluations

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