

COMPARISON OF CIVIL AND CRIMINAL COMMITMENTS

Judge Stephanie Rhoades

CIVIL COMMITMENTS

How begun:	Mental health professional petitions court (Confidential)
Burden to prove:	The State
Standard of proof:	Person has mental disorder that causes danger to self/others (imminent); or Gravely disables them (inability to care for self)
Evidence:	Expert and other evidence presented
Decisionmaker:	Judge decides
Result:	Involuntary hospitalization
Purpose:	Parental - protection of health, safety and welfare

Problems posed:

1. Person who needs access to treatment alone cannot be committed
2. Non-imminently dangerous, non-gravely disabled persons who refuse treatment can't be committed
3. Substance abuse not a basis for civil commitment to a psychiatric hospital

Results:

1. Deinstitutionalization (hospital closures)
2. Transinstitutionalization (movement of psychiatric patients from hospital to community care)
3. Criminalization (criminal commitment of persons with mental disorders for publicly acting out symptoms of their disorder)

CRIMINAL COMMITMENTS

How begun:	Police/Prosecutors accuse person of crime ('reasonable suspicion' person committed a crime) Any party (including judge) can raise the issue of competence for legal proceedings
Burden to prove:	Defendant must prove non-competence to understand legal proceedings, presumed competent by law
Standard of proof:	Person must be able to understand legal charges AND assist in his/her own defense
Evidence:	Expert and other evidence presented
Decisionmaker:	Judge decides
Result:	If not competent, criminal case stands still; person cannot make decisions about the case, involuntary hospitalization for restoration of competence (through treatment, coaching) with limitations on length. If person cannot be restored to competence, then case is dismissed and civil commitment standard applies
Purpose:	Due process, civil rights

Problems posed:

1. Applies to both dangerous and de minimus crimes; could take longer to evaluate the person for competence or could be committed for restoration for longer period than maximum sentence for the offense if convicted
2. Person may not be capable of restoration to competence
3. Low standard – person may be very disordered yet found competent
4. Person found non-restorable to competence may not be dangerous enough to meet civil commitment criteria yet continues to engage in criminal acts in the community

Results:

1. Defense deterred from raising the issue even if person is not competent; Incompetent persons may be wrongfully convicted if not identified
2. Competent but cognitively disabled persons unable to fully participate or understand the legal process