Psychiatric Commitment And
Patients' Rights

Civil commitment - The legal process of placing a person in a mental institution, even against his or her will.

Criminal commitment - The legal process of confining a person found not guilty by reason of insanity in a mental institution.

Civil commitment in a psychiatric hospital usually requires that a relative or professional file a petition with the court, which empowers psychiatric examiners to evaluate the person.

Not guilty by reason of insanity.

Civil commitment - The legal process of placing a person in a mental institution, even against his or her will.

Criminal commitment - The legal process of confining a person found not guilty by reason of insanity in a mental institution.

Civil commitment in a psychiatric hospital usually requires that a relative or professional file a petition with the court, which empowers psychiatric examiners to evaluate the person.

Predicting Dangerousness

Mental health professionals tend to overpredict dangerousness—that is, to label many individuals as dangerous when they are not.

Clinicians tend to err on the side of caution in predicting the potential for dangerous behavior, perhaps because they believe that failure to predict violence may have more serious consequences than overprediction.

Overprediction of dangerousness does deprive many people of liberty.

According to Szasz and other critics of the practice of psychiatric commitment, the commitment of the many to prevent the violence of the few is a form of preventive detention that violates basic constitutional principles.
The Post Hoc Problem
Recognizing violent tendencies after a violent incident occurs (post hoc) is easier than predicting it beforehand.

It is often said that hindsight is 20/20. Like Monday morning quarterbacking, it is easier to piece together fragments of people's prior behaviors as evidence of violent tendencies after they have committed acts of violence.

Predicting a violent act before the fact is a more difficult task, however.

The Problem in Leaping from the General to the Specific
Generalized perceptions of violent tendencies may not predict specific acts of violence.

Most people who have "general tendencies" toward violence never act on them.

Nor is a diagnosis associated with aggressive or dangerous behavior, such as antisocial personality disorder, a sufficient basis for predicting specific violent acts in individuals.

Problems in Defining Dangerousness
One difficulty in predicting dangerousness is the lack of agreement over what types of behavior are violent or dangerous.

Most people would agree that crimes such as murder, rape, and assault are acts of violence.

For example, driving recklessly, harshly criticizing one's spouse or children, destroying property, selling drugs, shoving into people at a tavern, or stealing cars—as violent or dangerous.

Base-Rate Problems
The relative difficulty of making predictions about infrequent or rare events is known as the base-rate problem.

If the suicide rate in a given year has a low base rate of about 1% of a clinical population, the likelihood of accurately predicting that any given person in this population will commit suicide is very small.

You would be correct 99% of the time if you predicted that any given individual in this population would not commit suicide in a given year.

But if you predicted the nonoccurrence of suicide in every case, you would fail to predict the relatively few cases in which suicide does occur, even though virtually all your predictions would likely be correct.

What are the rights of mental patients?

The Unlikelihood of Disclosure of Direct Threats of Violence
The client in therapy is not likely to inform a therapist of a clear threat, such as "I'm going to kill _____ next Wednesday morning."

Threats are more likely to be vague and nonspecific, as in "I'm so sick of _____ ; I could kill her," or "I swear he's driving me to murder."

In such cases, therapists must infer dangerousness from hostile gestures and veiled threats.

Vague, indirect threats of violence are less-reliable indicators of dangerousness than specific, direct threats.
The Difficulty of Predicting Behavior in the Community from Behavior in the Hospital

Mental health professionals fall well short of the mark when making long-term predictions of dangerousness (Buchanan, 1999). They are often wrong when predicting whether patients will become dangerous following release from the hospital. One reason is that they often base their predictions on patients’ behavior in the hospital.

Violence and Mental Disorders

Research evidence shows that mental illness is at best a weak predictor of violent behavior. Only a small minority of people with mental disorders commit violent crimes. Hence, we need to identify factors to help us better appraise the risk of violence.

Patients’ Rights

Do involuntarily committed patients have the right to receive or demand treatment? Or can society just warehouse them in psychiatric facilities indefinitely without treating them?

Consider the opposite side of the coin as well: May people who are involuntarily committed refuse treatment? Such issues—which have been brought into public light by landmark court cases—fall under the umbrella of patients’ rights.

Right to Treatment

Not until the 1972 landmark federal court case of Wyatt v. Stickney, however, did a federal court establish a minimum standard of care to be provided by hospitals. The case was a class action suit against Stickney, the commissioner of mental health for the State of Alabama, brought on behalf of Ricky Wyatt, a mentally retarded young man, and other patients at a state hospital and school in Tuscaloosa.

The federal district court in Alabama held both that the hospital had failed to provide treatment to Wyatt and others that living conditions at the hospital were inadequate and dehumanizing.

Right to Treatment

The case of Wyatt v. Stickney established certain patient rights, including the right not to be required to perform work that is performed for the sake of maintaining the facility.

The court held that mental hospitals must, at a minimum, provide the following:

1. A humane psychological and physical environment,
2. Qualified staff in numbers sufficient to administer adequate treatment, and
Donaldson points to the U.S. Supreme Court decision that ruled that people who are considered mentally ill but not dangerous cannot be confined against their will if they can be maintained safely in the community.

Donaldson v. Donaldson

Donaldson, a former patient at a state hospital in Florida, sued two hospital doctors on the grounds that he had been involuntarily confined without receiving treatment for 14 years, despite the fact that he posed no serious threat to himself or others.

Donaldson had been originally committed on the basis of a petition filed by his father, who had perceived him as delusional.

Despite the fact that Donaldson received no treatment during his confinement and was denied grounds privileges and occupational training, his repeated requests for discharge were denied. Court.

O’Connor v. Donaldson

He was finally released when he threatened to sue the hospital.

Once discharged, Donaldson did sue his doctors and was awarded damages of $38,500 from O’Connor, the superintendent of the hospital.

The case was eventually argued before the U.S. Supreme Court.

Duty to warn - The therapist’s obligation to warn third parties of threats made against them by clients.

Youngberg v. Romeo

Nicholas Romeo, a 33-year-old man with profound retardation who was unable to talk or care for himself, had been institutionalized in a state hospital and school in Pennsylvania.

While in the state facility he had a history of injuring himself through his violent behavior and was often kept in restraints.

The case was brought by the patient’s mother, who alleged that the hospital was negligent in not preventing his injuries and in routinely using physical restraints for prolonged periods while not providing adequate treatment.
Right to Refuse Treatment

The rights of committed patients to refuse psychotropic medications was tested in a 1979 case, Rogers v. Okin, in which a Massachusetts federal district court imposed an injunction on a Boston state hospital prohibiting the forced medication of patients except in emergency situations.

The court ruled that committed patients could not be forcibly medicated, except in the case of emergency—for example, when patients' behaviors posed a significant threat to themselves or others.

The Insanity Defense

**Insanity defense** - A legal defense in which a defendant in a criminal case pleads not guilty on the basis of insanity.

In the aftermath of the Hinckley verdict, the federal government and many states changed their statutes to shift the burden of proof to the defense to prove insanity.

Even the American Psychiatric Association went on record as stating that psychiatric expert witnesses should not be called on to render opinions about whether defendants can control their behavior.

Legal Bases of the Insanity Defense

The first was an 1834 case in Ohio that was ruled that people could not be held responsible if they are compelled to commit criminal actions because of impulses they are unable to resist.

The second major legal test of the insanity defense is referred to as the M’Naghten rule, based on a case in England in 1843 of a Scotsman, Daniel M’Naghten, who had intended to assassinate the prime minister of England, Sir Robert Peel.

The third major case that helped lay the foundation for the modern insanity defense was Durham v. United States of 1954.

By 1972, the Durham rule was replaced in many jurisdictions by legal guidelines formulated by the American Law Institute (ALI) to define the legal basis of insanity (Van Susteren, 2002). These guidelines, which essentially combine the M’Naghten principle with the irresistible impulse principle, include the following provisions:

1. A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality (wrongfulness) of his conduct or to conform his conduct to the requirements of law.

2. . . . the terms “mental disease or defect” do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct. (American Law Institute, 1962, p. 66)

Determining the Length of Criminal Commitment

The issue of determinate versus indeterminate commitment was addressed in the case of Michael Jones (Jones v. United States), who was arrested in 1975 and charged with petty larceny for attempting to steal a jacket from a Washington, D.C., department store.

Jones was first committed to a public mental hospital, St. Elizabeth’s Hospital (the same hospital where John Hinckley remains committed as of this writing).

Jones was diagnosed as suffering from paranoid schizophrenia and was kept hospitalized until he was judged competent to stand trial, about 6 months later.

Jones offered a plea of not guilty by reason of insanity, which the court accepted without challenge, remanding him to St. Elizabeth’s.

Despite the fact that Jones’s crime carried a maximum sentence of 1 year in prison, Jones’s repeated attempts to obtain release were denied in subsequent court hearings.

The U.S. Supreme Court eventually heard his appeal 7 years after Jones was hospitalized and reached its decision in 1983.

It ruled against Jones’s appeal and affirmed the decision of the lower courts that he was to remain in the hospital.
Perspectives on the Insanity Defense

Thomas Szasz and others who deny the existence of mental illness have raised another challenge to the insanity defense.

If mental illness does not exist, then the insanity defense becomes groundless.

Szasz argues that the insanity defense is ultimately degrading because it strips people of personal responsibility for their behavior.

Competency to Stand Trial

Competency to stand trial - The ability of criminal defendants to understand the charges and proceedings brought against them and to participate in their own defense.

Far more people are confined to mental institutions on the basis of a determination that they lack the mental competence to stand trial than on the basis of the insanity verdict.

There may be 45 people committed under the mental competency to stand trial criteria for every one committed following a verdict of not guilty by reason of insanity.

QUESTIONS?