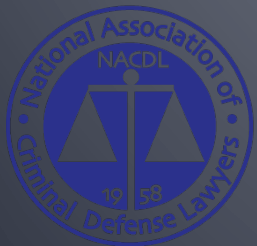




ELIZABETH KELLEY

Criminal Defense Attorney

REPRESENTING PEOPLE WITH MENTAL ILLNESS AND
INTELLECTUAL/DEVELOPMENTAL DISABILITIES



Deinstitutionalization



Community mental health centers would end the "shabby treatment of the many millions of the mentally disabled in custodial institutions"

-October 1963

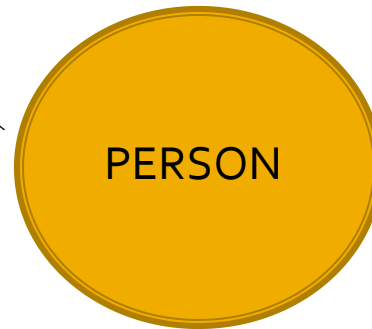
Transinstitutionalization



People-Centered Language

Mental Retardation

Schizophrenia



Important Statistics

- Half of all men and women in prison have a mental health issue
- One in four adults has a diagnosable mental illness
- People with mental illness or an intellectual disability are more likely to be the **victim** of a crime rather than a perpetrator of a crime

Meds

- No meds
- Wrong meds
- Forced meds

No Meds

- Estelle v. Gamble, 429 U.S. 97, 105 (1976)

Wrong Meds

- ABC  DEF

Forced Meds

- Washington v. Harper, 494 U.S. 210 (1990)
- Riggins v. Nevada, 504 U.S. 127 (1992)
- Sell v. U.S., 539 U.S. 166 (2003)

Psychologists and Psychiatrists

- PhD v. MD
- Does it matter?

Competency

- Dusky v. U.S., 362 U.S. 402 (1970)
- Drope v. Missouri, 420 U.S. 162 (1975)

Sanity

- **Irresistible Impulse**

- **McNaughten**

As a result of a mental illness or intellectual disability, the accused

1) did not know the wrongfulness of his or her act OR

2) did not appreciate the nature and quality of his or her actions

- **Durham**

Product test

- **Model Penal Code**

If at the time of conduct as a result of a mental illness or intellectual disability, the accused lacks substantial capacity to appreciate the criminality of his or her conduct or conform his other conduct to the requirements of the law

Federal Insanity

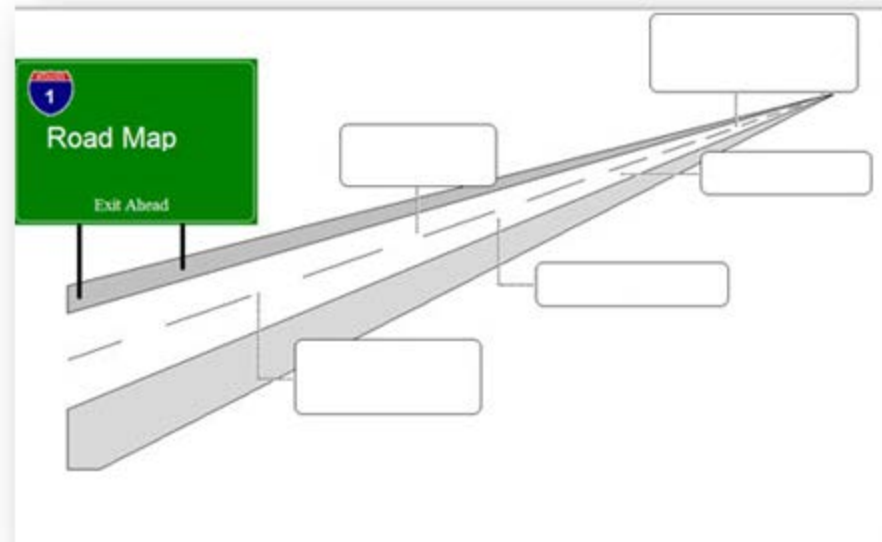
18 U.S.C. 17

(a) The defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his or her acts.

(b) Burden is on the accused to prove by clear and convincing evidence.

Mitigation

- If requesting an intermediate sanction, have a plan



Malingering

- History of treatment
- School, employment records
- Interviews with family, friends, teachers, co-workers

Masking



Mental Health Courts

America's Problem-Solving Courts:

The Criminal Costs of Treatment and the Case for Reform



PTSD, TBI and Veterans Courts



The Family

