An Examination of the Relationship Between Competency to Stand Trial, Competency to Waive Interrogation Rights, and Psychopathology

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This study compared the legal abilities of defendants \(N = 212\) with current primary psychotic disorders \(n = 44\), affective disorders \(n = 42\), substance abuse disorders \(n = 54\), and no diagnosed major mental illness \(n = 72\). Defendants with primary psychotic disorders demonstrated more impairment than did other defendants in their understanding of interrogation rights, the nature and object of the proceedings, the possible consequences of proceedings, and their ability to communicate with counsel. Psychosis was of limited value as a predictor however, and high rates of legal impairment were found even in defendants with no diagnosed major mental illness. Sources of within-group variance were examined to further explain this finding. Policy and clinical implications of these results are discussed.

KEY WORDS: competency to stand trial; fitness to stand trial; police interrogation; miranda rights; mentally disordered offenders.

INTRODUCTION

The criminal justice system requires that individuals accused of crimes be competent to understand and participate meaningfully in legal proceedings against them. This provision of competency aims to protect the fairness, accuracy, and dignity of the legal process, and to preserve client autonomy (Bonnie, 1992, 1993; Winick, 1985). Concerns about an accused’s competency can arise at any time during legal proceedings. Various types of competency, such as competency to waive interrogation rights...
and competency to stand trial, have been delineated on the basis of the stage at which the issue is raised (Ogloff, Wallace, & Otto, 1991).

The relationship between legal abilities and psychopathology is an important one (Halleck, Hoge, Miller, Sadoff, & Halleck, 1992). The assumption that mental disorders are a risk factor for legal impairment is perhaps the most fundamental assumption of mental health law (see Winick, 1996). Given that research has revealed high rates of police contact with mentally ill individuals (Bonovitz & Bonovitz, 1981; Pogrebin & Poole, 1987; Rabkin, 1979; Schellenberg, Wasylenki, Webster, & Goering, 1992; Teplin, 1983), the criminal competencies of this group are very important.

Very little research has tested legal and clinical assumptions on the relationship between mental illness and legal competencies (Grisso, in press; Hoge, Poythress, Bonnie, et al., 1997). Research into this relationship serves several purposes. At a general level, this line of research contributes to our understanding of the construct of competency. This research offers additional benefit to clinicians by elucidating the risk factors and correlates of legal impairments. Finally, this research may be used to evaluate current policies and propose change where appropriate. If, for example, it is found that mentally ill individuals are vulnerable to legal impairment, it may suggest that special protections for them are warranted.

This study investigated the legal abilities of mentally ill individuals relevant to competency to stand trial and competency to waive interrogation rights. The legal issues and empirical research applicable to each of these competencies are discussed in the following sections.

**Competency to Waive Interrogation Rights**

Upon arrest, suspects must be informed of their right to remain silent, that any statements that they make can be referred to in court, that they have the right to counsel prior to and during interrogation, and that free counsel can be assigned if they cannot afford to pay (Canadian Charter of Rights and Freedoms, 1982; Miranda v. Arizona, 1966; Oberlander & Goldstein, 2001). To waive the rights to silence and counsel, it is necessary that a defendant be competent to do so. Given that confessions typically lead to convictions and because most accused do not have a lawyer at this point, competence to waive interrogation rights is critical (Olley, 1993; Whittemore & Ogloff, 1994).

In the United States, it appears that courts have required only that defendants have a basic understanding of interrogation rights rather than an appreciation of the consequences of waiving rights (Colorado v. Connelly, 1986; Feld, 2000; Ogloff et al., 1991). In other words, it is not necessary that the decision to waive rights be a wise one. In Canada, courts have often required both understanding and appreciation (Clarkson v. The Queen, 1986; Olley, 1998; R. v. Evans, 1991; Whittemore & Ogloff, 1994), although recent court cases may indicate a trend towards a lower standard (Olley, 1998; R. v. Whittle, 1994).

A number of jurisdictions establish mental illness as a requisite for a determination of incompetence to stand trial (Bonnie & Grisso, 2001; Criminal Code of Canada, 1985), but this is not the case with competency to waive interrogation rights.