

Tackling the question of competency

■ Faking mental illness uncommon, evaluations a weak area, expert says.

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Marion County Judge Evan Dee Goodman remembers the case well.

In his early years as a judge, he was faced with a defendant who acted visibly disturbed in court. But the second the man was trans-

ferred to a mental health facility, his illness was seemingly nonexistent.

The man was released only to be arrested again and again, arriving in front of a judge and sent back for medical attention. Finally, Goodman sentenced the man to jail time and hasn't heard from him since.

"Deciphering who's legitimately

mentally ill and who's using illness as an excuse to get away, that's a tough job," he says.

But it takes understanding the faces of mental illness, he says, taking time to learn, and, of course, relying on the professionals entrusted to do mental evaluations.



On WSBT-TV

See an interview with the author of the series at 5:30 p.m. today.

See **COMPETENCY/A9**

Competency: Faking mental illness uncommon

"The job of the judge is to be the neutral, impartial arbitrator of the evidence," he says.

Considering a defendant's competency to stand trial versus his or her mental state at the time of a crime are completely separate.

Competency to stand trial, explains Notre Dame law professor Michael Jenuwine, is a person's ability to assist an attorney and understand court proceedings.

"Not guilty by reason of insanity" means the person had a varied reality while the crime was committed and could not distinguish right from wrong.

Competency is much easier to prove, says Jenuwine, an attorney who specializes in mental health law and has a doctorate in psychology.

Although malingering, or faking an illness, is always a concern, in Jenuwine's experience, the behavior is not common.

"I've never found someone malingering," he says. "It's not as prevalent as the community believes."

Inaccurate court-appointed mental evaluations can be an issue for defendants who may be mentally ill, according to Jenuwine. In Indiana, he says, doctors are not adequately trained in forensics, the expertise of dealing with the legal system, police work and legal proceedings.

The American Board of Pro-

About this series

These articles were researched using many sources compiled over several months, including interviews with people involved; public records and those provided by family members regarding Nicholas Rice's criminal case and psychiatric history; media accounts; and videotape filmed in the Elkhart County Jail.

For previous stories in the series, see southbendtribune.com.

Professional Psychology lists no forensic specialists in the state, according to its Web site, www.abpp.org.

In Michigan, five are listed, and in Illinois, three.

And doctors who are appointed to do mental evaluations are scarce, says local attorney David Keckley.

"It has become increasingly difficult to find and maintain (doctors) who are willing to do this work," he says.

In St. Joseph County, four doctors are listed as being available for the tasks, according to Angie Cantrell, St. Joseph County mental health clerk.

The number was higher when Cantrell started in her position six years ago, she says, but because of relocations and other

reasons, the names have declined.

Cantrell could not give personal contact information of the available doctors, referring questions to the area mental health facility Madison Center.

Madison Center staff said no doctors at their facility are court-appointed for evaluations.

Court-appointed doctors at Oaklawn psychiatric hospital in Goshen declined to discuss even general questions about evaluations.

Some public defenders who deal often with clients having evaluations, such as Elkhart County attorney R. Brent Zook, believe the assessments are not lengthy or comprehensive enough.

"I would like to see evaluations done more extensively than an interview," he says.

Using more objective testing and more indicators would be a start, he adds.

To ensure correct judgments, it also takes medical professionals working with court officials to guarantee their findings are understood, Judge Goodman says. This could mean doctors coming to court to testify instead of just sending written assessments.

He believes greater knowledge now exists about mental illness than in his early years as a judge but that most people in the legal field still have poor understanding.

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