



# DMH Forensic Services

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# DMH Forensic Services Overview

- **JAIL/ARREST DIVERSION PROGRAMS**
  - (CIT/CO-RESPONSE)
- **COURT CLINICS AND COURT-ORDERED EVALUATIONS**
- **INPATIENT FORENSIC AND OTHER SPECIALIZED EVALUATIONS\***
- **SPECIALTY COURT SERVICES**
- **FORENSIC TRANSITION TEAM (FTT)\***

# DMH FORENSIC SERVICES

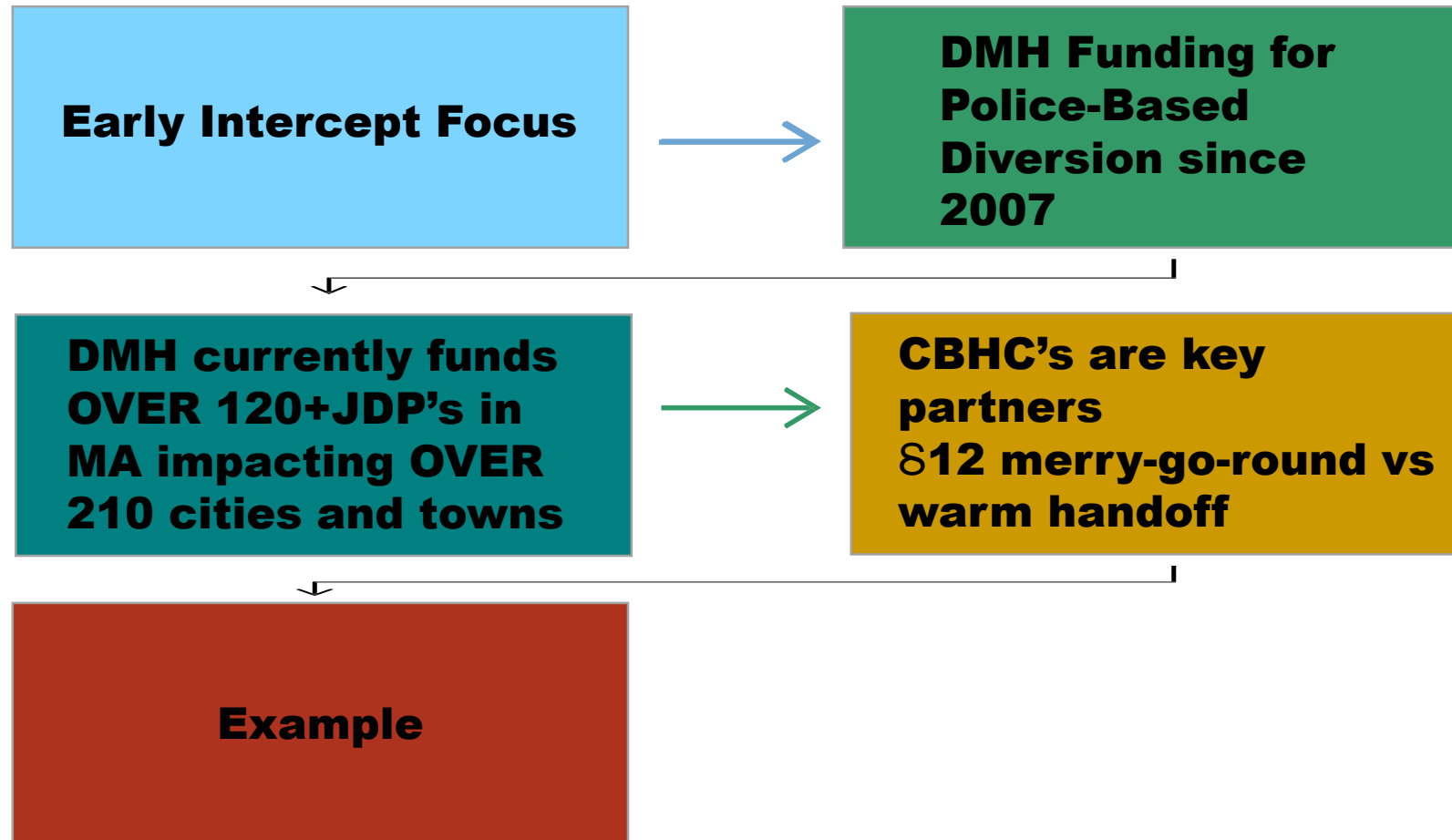


## **Forensic Mental Health Services**



**is involved at the  
intersection between  
behavioral health and  
across multiple points  
in the justice system**

# POLICE-BASED JAIL DIVERSION



# WHY JAIL DIVERSION MATTERS

**Disproportionate percentage of people with SMI (serious mental illness) in jail: about 14.5% of males, 31% of females**



**1 in 16 people have a SMI, but people with SMI are 3-4x as likely to be in jail**



**Opportunity to engage with treatment through probation and specialty court services**



**Case Example**

# PUBLIC SAFETY

**People with mental illness are much more likely to be victims than perpetrators of violence**



**Skillful intervention and finding appropriate options for treatment may be more effective AND require less time**



**Less use of force and more focus on effective de-escalation techniques and approaches that manage, not inflame the crisis**



**People with untreated mental illness are 16x more likely to be fatally shot by law enforcement during an encounter**

# **COURT CLINICS**

## **AND COURT ORDERED EVALUATIONS**

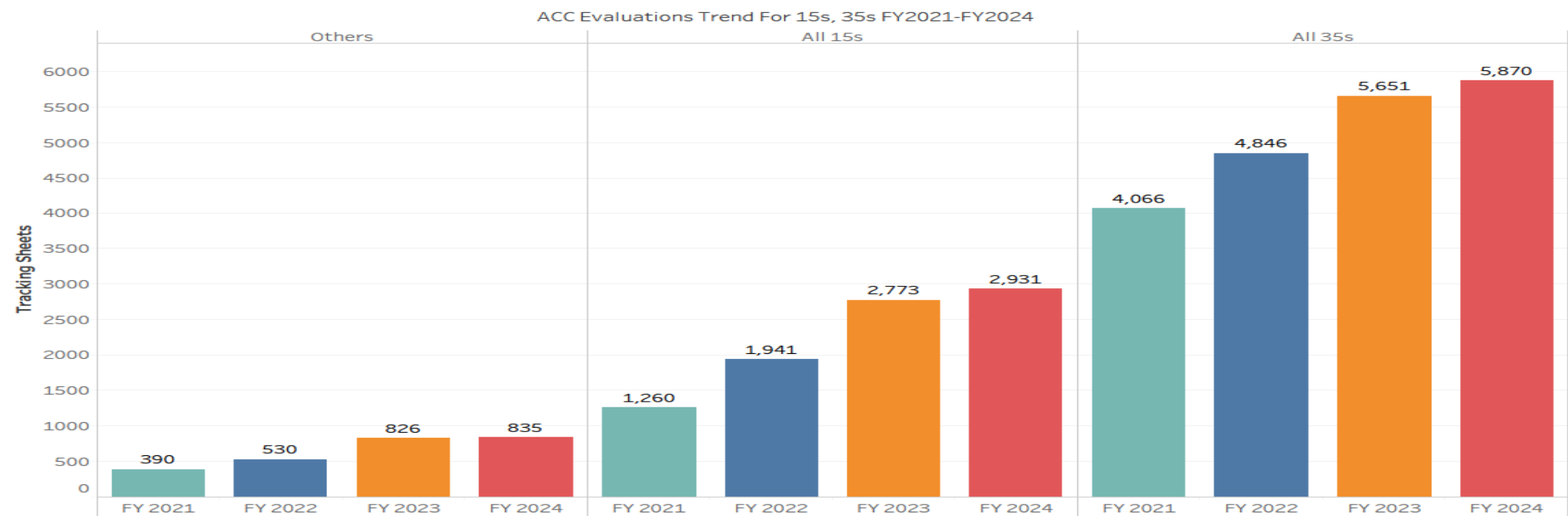
❖ **COURT CLINICS ARE THE**

❖ **“EMERGENCY ROOM”**

❖ **OF STATE FORENSIC MENTAL HEALTH EVALUATIONS**



# Statewide Statutory Trends



\*This total is from the old database since the tracking sheet started in November 2020. Therefore, missing data for the tracking sheets was added from the totals of the old database. FY2020 totals=6,879. Pre pandemic totals for FY2019= 9,840. FY2024 is 204 evaluations below pre-pandemic levels. The percentage shown below the totals is the % change from the previous year.



# ESSEX COUNTY COURTS SYSTEM

- 7 DISTRICT COURTS
  - Gloucester, Haverhill, Ipswich, Lawrence, Newburyport, Peabody, Salem
- 3 SUPERIOR COURTS
  - Lawrence, Newburyport, Salem
- 4 JUVENILE COURT
  - Lawrence, Lynn, Newburyport, Salem
- 2 FAMILY AND PROBATE COURT
  - Lawrence, Salem

# COURT CLINIC EVALUATIONS

- **Evaluations are completed by:**
  - **DFP's (Designated Forensic Professionals)**
  - **QSW's (Qualified Social Workers)**
  - **CJCC's (Certified Juvenile Court Clinicians)**

# EVALUATIONS continued....

- **MGL CHAPTER 123, §15A AND §15B**
- **§15A SCREENING**– OUTPATIENT COMPETENCY TO STAND TRIAL (CST) OR CRIMINAL RESPONSIBILITY (CR) EVALUATIONS
- **§15B – INPATIENT COMMITMENT** FOR EVALUATION PURPOSES (CST AND/OR CR) – 20 TO 40 DAYS

# COMPETENCY

## LEGAL BASIS FOR COMPETENCY TO STAND TRIAL

**IN MASSACHUSETTS, A DEFENDANT IS FOUND COMPETENT TO STAND TRIAL IF HE HAS "SUFFICIENT PRESENT ABILITY TO CONSULT WITH HIS LAWYER WITH A REASONABLE DEGREE OF RATIONAL UNDERSTANDING, AND IF HE HAS A RATIONAL AS WELL AS FACTUAL UNDERSTANDING OF THE PROCEEDINGS AGAINST HIM"**

*(COMMONWEALTH V. VAILES, 1971)*

# COMPETENCY Continued...

## WHY DOES COMPETENCY MATTER?

**CASE EXAMPLE**

**WHAT HAPPENS IF  
SOMEONE IS FOUND  
INCOMPETENT?**

**WHAT IF THE  
DEFENDANT REMAINS  
INCOMPETENT?**

# COMPETENCY continued...

## CST AND CR TIMELINES

**Competency reports look at whether the defendant is competent *NOW*: can be found Incompetent to Stand Trial and then later found CST**

**Criminal responsibility looks at the mental status at the time of the crime**

**Example of CR**

# COMPETENCY continued...

**NGI: NOT GUILTY  
BY REASON OF  
INSANITY**

Less than 0.1% and only 25% succeed

What happens when someone is found NGI? Where do they go?

Why are there so few NGI's?

Public perception vs. Reality

# COMPETENCY continued...

**Massachusetts  
legal criteria  
for being  
found NOT  
criminally  
responsible:**

**Inability to appreciate  
wrongfulness due to mental  
illness or mental defect at the  
time of the crime**

**Inability to conform conduct due  
to mental illness or mental  
defect at the time of the crime**



# FORENSIC HOSPITALIZATION

- ❖ **Where do people go when they are forensically hospitalized?**
- ❖ **How long are they hospitalized?**
- ❖ **Where do people go once they have completed the forensic hospitalization?**
- ❖ **Why are some people with mental illness hospitalized after a crime, and why are some not?**
- ❖ **Does this occur before or after sentencing?**

# FORENSIC HOSPITALIZATION

## DMH INPATIENT UNITS

**Solomon Carter  
Fuller (SCF), Boston**

**Worcester  
Recovery Center  
and Hospital  
(WRCH)**

**Hawthorne Mental  
Health Units,  
Tewksbury State  
Hospital**

**Metro Boston  
Mental Health Units  
at Lemuel Shattuck  
Hospital (LSH)**

**(contracted) Mtn.  
View/Valley Springs  
(Holyoke)**

**Taunton State  
Hospital**

# FORENSIC HOSPITALIZATION

**DMH  
ADULT  
INPATIENT**

**AGE 19 AND OVER**

**EVALUATION AND COMMITMENT FOR TREATMENT**

**FORENSIC CASES COMPRISE NEARLY ALL  
ADMISSIONS**

**Civil and voluntary patients**

**Pre-arraignment 18a for prisoners in custody**

# FORENSIC HOSPITALIZATION

## SECTION

## 16'S

**§16 (a): Court ordered inpatient evaluation of a criminal defendant after a finding of incompetence to stand trial (IST) or not guilty by reason of insanity**



**§16(b) and §16(c): Court ordered commitment for continued treatment of a person who has previously been found either IST or NGI. Need to be deemed a risk to self or others**



**§16(b) commitment – up to 6 months; §16(c) commitment – up to 1 year**



**Periodic competency re-evaluations (§17a)**

# Specialty Court Key elements

Key elements to an effective program include:

- intensive probation supervision
- frequent drug testing
- participation in treatment and therapeutic activities
- careful monitoring of progress by the Judge and specialty session team
- Personal accountability

# FORENSIC HOSPITALIZATION

## **§18: TRANSFER OF PRISONERS IN NEED OF HOSPITALIZATION BY REASON OF MENTAL ILLNESS:**

### **§18A TRANSFER**

- **COURT-ORDERED INPATIENT EVALUATION OR COMMITMENT OF A PRISONER IN NEED OF TREATMENT. MOSTLY DONE AT HOC. RARELY FROM COURT**
- **MOST GO TO BSH AND REQUIRE STRICT SECURITY AS THEY ARE INCARCERATED**
- ***WOMEN PRISONERS COME TO DMH FACILITIES***

# CIVIL HOSPITALIZATIONS

## **MGL CHAPTER 123, §12**

§ 12A- allows for the involuntary transportation of an individual to a hospital for evaluation of their need for commitment due to the risk if harm to self or others by reason of mental illness.

- **WHO CAN PETITION ON A § 12A:**

a physician, qualified psychologist or psychiatrist, psychiatric nurse practitioner, licensed independent social worker, or a police officer.

- **WHAT SHOULD BE INCLUDED ON A 12A:**

**DETAIL, DETAIL AND MORE DETAIL** Describe what you saw and heard from the individual; how many times have you responded; share police reports with ER clinicians who will be evaluating (usually much later in the day) and provide them with your name and contact number which these evaluators are obligated to call make a full assessment.

# CIVIL HOSPITALIZATIONS

## §12B AND §12E

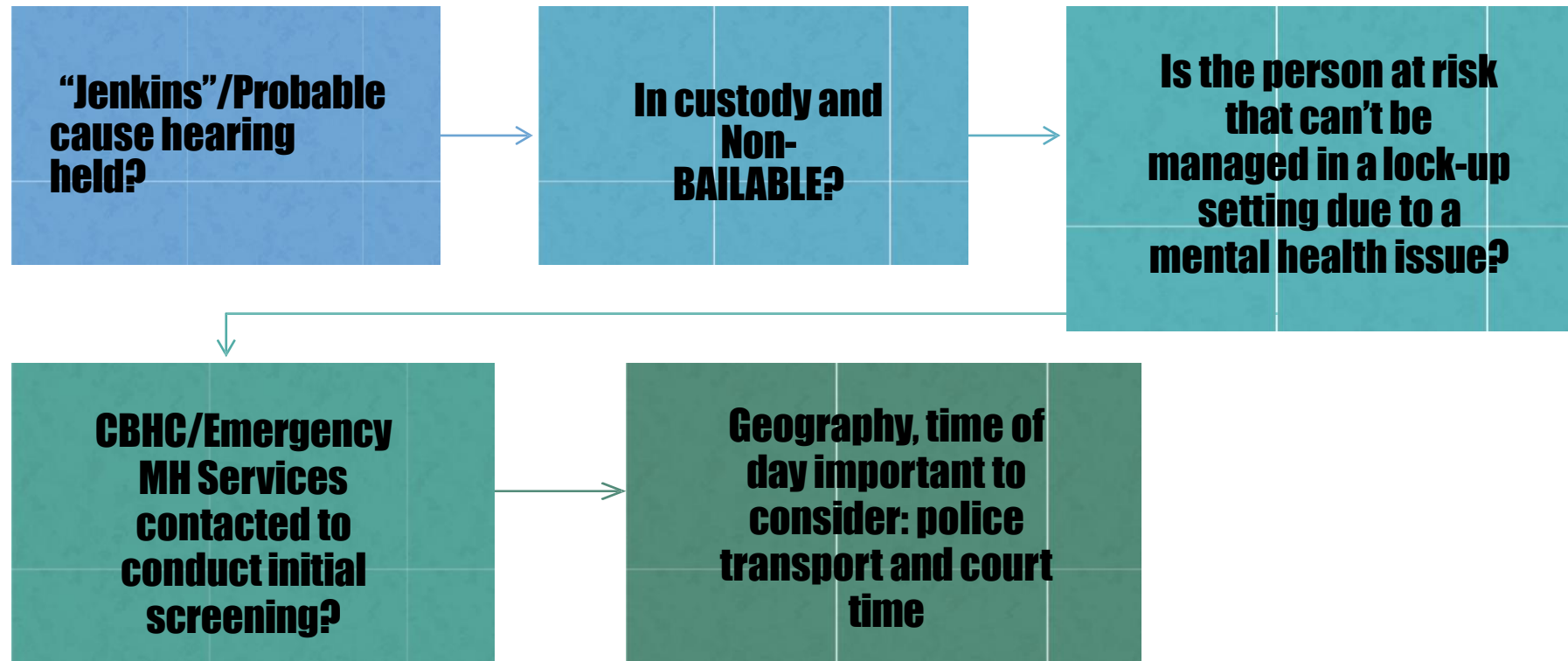
- 12B-APPLICATION ONLY BY A PHYSICIAN DESIGNATED WITH AUTHORITY TO ADMIT TO FACILITY FOR UP TO 3 BUSINESS DAYS FOR A PERIOD OF INVOLUNTARY HOSPITALIZATION DUE TO IMMINENT RISK TO SELF OR OTHERS OR INABILITY TO CARE FOR SELF *DUE TO MENTAL ILLNESS*
- 12E- ANY PERSON MAY APPLY THROUGH THE COURT FOR A FOUR-DAY HOSPITALIZATION AT A PSYCHIATRIC FACILITY DUE TO RISK TO SELF OR OTHERS BY REASON OF MENTAL ILLNESS.
  - MOST TIMES THE 12E IS CONVERTED TO A 12A
  - THE 12E PROCESS HAS MANY FLAWS THAT DON'T WORK WITH THE CURRENT MENTAL HEALTH ACUTE CARE SYSTEM



# **CONSIDERATIONS REGARDING § 12 AT TIME OF POLICE ENCOUNTER**

- **SIGNIFICANT VIOLENCE AT TIME OF INCIDENT TRIGGERING THE 911 CALL:**
  - **ASSAULT WITH SIGNIFICANT INJURY TO VICTIM(S)**
  - **USE OF WEAPON(S)**
- **LEVEL OF POLICE INTERVENTION REQUIRED AT THE SCENE:**
  - **SWAT RESPONSE OR CRISIS NEGOTIATORS CALLED TO SCENE**
  - **USE OF K9 OFFICER OR TASER TO SUBDUE THE INDIVIDUAL**
- **ANY KNOWN HISTORY OF PAST VIOLENCE, ELOPEMENT OR OTHER HIGH-RISK BEHAVIOR**

# 18A PRE-ARRAIGNMENT PROTOCOL: ISSUES FOR POLICE TO CONSIDER



# **§35 PROCESS**

- **PETITION IN THE CLERK'S OFFICE AT ANY DISTRICT OR JUVENILE COURT**
  - **QUALIFIED PETITIONERS: POLICE OFFICERS, PHYSICIANS, COURT OFFICIALS (UNDERSTOOD TO BE PROBATION OFFICER), SPOUSE, LEGAL GUARDIAN OR BLOOD RELATIVE**
  - **PETITION AS EARLY IN THE DAY AS POSSIBLE**
- **PETITION GOES BEFORE THE JUDGE**
  - **PETITIONER MAY BE REQUIRED TO TESTIFY**
  - **IF PETITION IS GRANTED, WARRANT OF APPREHENSION MAY BE ISSUED**
  - **WARRANT ACTIVE FOR 5 BUSINESS DAYS, DURING BUSINESS HOURS**
  - **WARRANT DOES NOT GUARANTEE COMMITMENT IS ALLOWED**
- **PERSON IS APPREHENDED AND BROUGHT TO THE COURT, WHERE THEY ARE ASSIGNED AN ATTORNEY**
- **COURT CLINICIAN STARTS EVALUATION: INTERVIEWS, COLLATERALS, RECORDS**
- **CLINICIAN PROVIDES A RECOMMENDATION TO THE COURT REGARDING CRITERIA FOR COMMITMENT**

# CIVIL COMMITMENT §35'S

**Civil Commitment of Substance Abuser for up to 90 days, because of imminent serious risk to self or to others because of alcohol or drug use.**

**Who can petition? Spouse, blood relative, guardian, police officer, physician or court official**

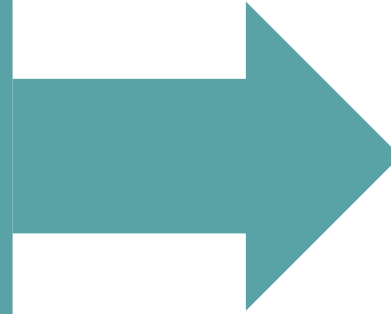
**Can be either an adversarial process or "Uncontested"**

**Average LOS varies**

**Case example**

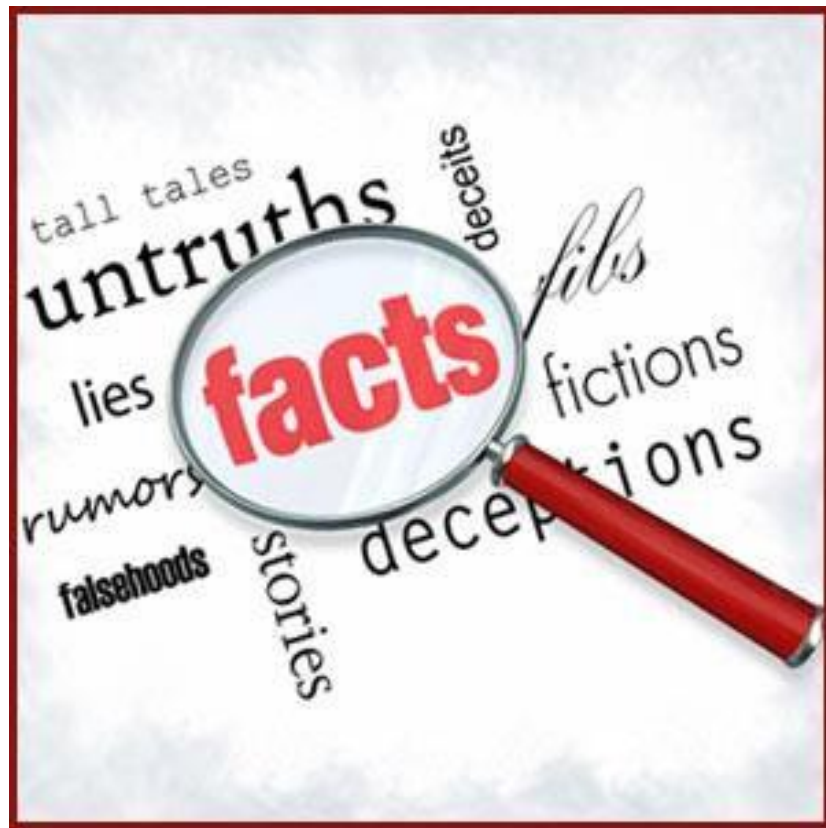
# COMMITMENT CRITERIA

**Needs to meet criteria for  
Substance Use Disorder**



**Needs to be at Imminent risk of  
harm to self or others or a very  
substantial imminent risk because  
of inability to care for self.**

# COLLATERAL DATA



- Other family members, friends, partners, etc.
- Providers
- Probation Officers
- Police incident reports
- CARIs
- Release of information
- ESP's
- Court clinic records
- Medical Records
- Observations from Court Officers
- Observations from Police Officers

*\*\*\* Admissibility of data: Hearsay, recency issues*

# **§ 35 TREATMENT FACILITIES**

- **WOMEN ON CIVIL §35'S GO TO:**

- **HIGH POINT - NEW BEDFORD**

- **DMH'S RAP (RECOVERY FROM ADDICTION PROGRAM)**

- **RCA – RCA DANVERS FACILITY**

- **BHN – NEW VIEW**

- **WOMEN ON “DUAL STATUS” MAY BE SENT TO MCI-FRAMINGHAM**

- **MEN ON CIVIL §35'S CAN GO TO:**

- **MEADOWBROOK IN BROCKTON (MATC)**

- **High Point -Plymouth**

- **DMH's RAP (RECOVERY FROM ADDICTION PROGRAM) IN TAUNTON**

- **RCA Danvers**

- **MASSACHUSETT'S ALCOHOL AND SUBSTANCE ABUSE CENTER (DOC FACILITY)**

# **BRIDGEWATER STATE HOSPITAL**

- **SOME STATUTORY OBLIGATIONS ARE SHARED WITH BRIDGEWATER (§15B'S, §16'S, AND §18'S THAT REQUIRE STRICT SECURITY).**
- **CONCEPT OF “STRICT SECURITY” - LEGAL TERMINOLOGY, NOT DEFINED -HOW DO OUR ACC STAFF VIEW IT?**
- **BSH, A DOC STATE HOSPITAL: MINIMUM, MAXIMUM, ITU, MED WEST/INFIRMARY**
- **BSH CHANGES UNDER VENDOR: WELLPATH 60 - 80 ADMISSIONS A MONTH AT BSH, MOSTLY 18A'S**



# Questions / Comments

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