



Factors that predict murder defendants' competence to stand trial

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ABSTRACT

One hundred sixty-three homicide case files from The Center for Forensic Psychiatry in Ypsilanti, Michigan were examined for evidence of factors associated with the outcomes of Competency to Stand Trial (CST) evaluations. Of the socio-demographic, legal, and clinical factors investigated, only three were significant. Defendants with lower IQs were more likely to be found incompetent to stand trial, and those with more property crime arrests were more likely to be found competent to stand trial. Additionally, defendants who were found incompetent to stand trial were more likely to be accused of killing an intimate or relative.

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1. Introduction

The United States adopted England's legal tradition of refusing to proceed with criminal trials when defendants appear to be incompetent. Dating back to the 14th century, British common-law courts declined to pursue charges against someone considered a "lunatic" or "idiot" or who was unable to enter a plea (Bonnie & Grisso, 2000). In the event that someone failed to enter a plea, the courts attempted to find whether the defendant was "mute of malice" or "mute by visitation of God," with the latter being excused from trial (Melton et al., 2007). Proceeding in a criminal court case with an incompetent defendant poses a number of risks to the defendant and the legitimacy of the criminal justice system as a whole. Defendants who are unable to understand court proceedings and communicate with their attorneys to assist in their defense face an unfair risk of conviction (Bonnie & Grisso, 2000). Proceeding with a trial when a defendant lacks the aforementioned capacities also violates the 6th and 14th Amendments of the constitution. Given the over-representation of individuals with mental illness and intellectual disabilities in the nation's jails, it is not surprising that there are instances when it is appropriate to question defendants' ability to participate in the trial process.

The landmark court case that set the modern standard for competency to stand trial (CST), also known as fitness to stand trial, in the United States is *Dusky v. United States*. Milton Richard Dusky was indicted for kidnapping and entered a plea of not guilty. His appointed counsel requested a competency hearing; the forensic evaluator diagnosed Dusky with schizophrenia. The trial judge ruled that Dusky was

competent to stand trial, and he was convicted. Upon appeal, a panel of judges from the 8th Circuit Court of Appeals ruled that the trial judge made the decision on competency without sufficient information. The verdict was reversed, and the case remanded back to the lower court for re-trial. Again, Dusky was found competent to stand trial and was convicted of kidnapping (*Dusky v. US, 1961*). Dusky appealed again, and the case was heard by the Supreme Court. The court ruled that the trial judge's finding that Dusky was "oriented to time and place and [has] some recollection of events" is not sufficient for trial competency, and that the test for competency should be "whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding – and whether he has a rational as well as factual understanding of the proceedings against him" (*Dusky v. United States, 1962*, p. 403). This ruling established the two-pronged test that has become the minimum standard in federal, and most state, criminal courts. Four years after *Dusky*, The Supreme Court provided clarification about the court's responsibility to delay a criminal trial so that a competency hearing may take place. In instances where there is evidence that casts doubt on the defendant's fitness to stand trial, failure to hold a competency hearing violates the Fourteenth Amendment (*Pate v. Robinson, 1966*).

The question of competence may be raised by various participants in criminal proceedings. Defense attorneys may request a competency hearing when there is concern about the defendant's ability to understand the proceedings and work alongside counsel. Jail staff may raise the issue if a pretrial detainee is in such a state that the jail requires assistance from an outside mental health facility. Prosecutors and judges may also request a hearing if they have concerns about the defendant's ability to participate in a trial (Bonnie & Grisso, 2000). But it is also possible for the prosecution to request such a hearing for strategic reasons.

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A finding of incompetency could ensure that the defendant remains in custody, albeit at a psychiatric institution, prior to trial. The prosecution might prefer this when an inmate is likely to make bail (Bonnie & Grisso, 2000).

CST decisions are separate and distinct from questions of insanity and criminal responsibility. The question of competency is an issue of defendants' present ability to understand the criminal trial process and work with defense counsel. Since criminal trials are processes that can take months or years, competency issues can be raised multiple times, as a person's ability to fulfil the Dusky prongs changes due to medication compliance and other factors (Melton et al., 2007). The most recent estimate of the number of competency assessments conducted each year was provided by Bonnie and Grisso (2000) who analyzed data from the early 1980s. At that time, there were approximately 1.2 million felony indictments, and about 5% (60,000) of those included defendants whose competency was called into question.

The purpose of the current study is to add to the literature on factors predictive of competency recommendations and decisions. To this end, researchers examined case files of 163 homicide defendants in Michigan who underwent competency evaluations from 1979 through 1999 at the Center for Forensic Psychiatry in Ypsilanti, Michigan, U.S.A.

2. Literature review

Researchers and clinicians have identified three sets of variables that are potentially associated with competency recommendations by forensic mental health professionals and rulings by criminal court judges: socio-demographic characteristics of defendants, clinical characteristics of defendants, and legal and criminal history factors. The relationship between victims and offenders has been addressed in the homicide and violent crime literature and well as sentencing research but has not been included in the literature on competency to stand trial. The most important piece of research on CST thus far has been the meta-analysis conducted by Pirelli, Gottdiener, and Zapf (2011). The researchers incorporated 68 studies from 1967 through 2008 in their analysis. These studies included data on 6428 incompetent and 19,711 competent defendants. The following literature review excludes any individual study that was used as part of Pirelli et al. meta-analysis, as those findings will be presented as part of the study's results.

2.1. Socio-demographic characteristics of defendants

Research on competency to stand trial in the United States and Canada has produced mixed findings when evaluating the potential impact of gender and race on CST recommendations and rulings. In their meta-analysis, Pirelli, Gottdiener, and Zapf (2011) found that sex was not significant when they examined 18 studies that included sex as a possible predictor of competency. But when only four Canadian studies were analyzed, females were twice as likely as males (OR = 2.03) to be found incompetent. Ho (1999) studied CST decisions for a sample of developmentally disabled defendants (n = 288) and found gender to be associated with competency rulings. Male defendants who were also developmentally disabled were more likely to be adjudicated incompetent than females. This relationship remained statistically significant even after controlling for additional demographic and psychiatric variables. Advokat, Guidry, Burnett, Manguno-Mire, and Thompson (2012) and Gay, Ragatz, and Vitacco (2015) did not find gender to be a predictor of competency recommendations in their analysis of defendants in the United States (sample sizes of 58 cases and 257 CST evaluations respectively).

Pirelli, Gottdiener, and Zapf (2011) analyzed the results of 22 studies and reported that racial minorities were approximately 1.5 times more likely (OR = 1.39) to be found IST than their white counterparts. More recently, Advokat, Guidry, Burnett, Manguno-Mire, and Thompson (2012) and Gay, Ragatz, and Vitacco (2015) found no relationship between race or ethnicity and fitness to stand trial. Kois, Pearson,

Chauhan, Goni, and Saraydarian (2013) also did not find race to be a predictor of the outcome of competency evaluations in their analysis of 291 evaluations of women housed in a hospital forensic unit.

As with sex and race, findings examining the relationship between the age of adult defendants and competency recommendations/rulings have also been mixed. Pirelli, Gottdiener, and Zapf (2011) found that IST defendants tended to be about three years older than CST defendants (n = 22 studies). Gay, Ragatz, and Vitacco (2015) found an eight-year difference between offenders found IST (mean = 42 years) and CST (mean = 34 years). Other researchers have not reported a relationship between age and competency recommendations or rulings (Advokat, Guidry, Burnett, Manguno-Mire, & Thompson, 2012; Ho, 1999; Kois, Pearson, Chauhan, Goni, & Saraydarian, 2013).

Employment, marital status, and education are other socio-demographic variables that were included in a few CST studies. Pirelli, Gottdiener, and Zapf (2011) found married defendants to be 1.5 times less likely to be ruled incompetent than unmarried individuals in the 10 studies that they reviewed with a measure of marital status. Advokat, Guidry, Burnett, Manguno-Mire, and Thompson (2012) did not find marital status to be a predictor of fitness to stand trial in competency cases in Louisiana, nor did Kois, Pearson, Chauhan, Goni, and Saraydarian (2013) in their study of female defendants in New York. Education was not associated with fitness decisions in the previous studies that measured this variable (Advokat, Guidry, Burnett, Manguno-Mire, & Thompson, 2012; Gay, Ragatz, & Vitacco, 2015; Pirelli, Gottdiener, & Zapf, 2011). Pirelli, Gottdiener, and Zapf (2011) found that unemployment tended to be associated with IST. Specifically, unemployed defendants were twice as likely (OR = 2.07) to be found unfit to stand trial compared to those who were employed (n = 8 studies). Advokat, Guidry, Burnett, Manguno-Mire, and Thompson (2012) and Kois, Pearson, Chauhan, Goni, and Saraydarian (2013), however, also studied employment status and competency decisions and found no relationship.

2.2. Clinical characteristics of defendants

Individuals diagnosed with psychotic disorders tend to be the most likely to be evaluated as incompetent by forensic professionals and deemed incompetent to stand trial by judges. Likelihood of being recommended or ruled IST tends to vary by type of disorder. Pirelli, Gottdiener, and Zapf (2011) reported that defendants diagnosed with a psychotic disorder were nearly eight times more likely (OR = 7.96, n = 25 studies) to be found unfit to stand trial. An exception to mental health diagnoses being associated with IST may be personality disorders. Gay, Ragatz, and Vitacco (2015) found personality disorders to be related to greater chances of being found competent, but the authors cautioned that they tested with a small sample size (n = 36). Active psychotic symptoms at the time of the evaluations have been found in some studies to be better predictors of competency examination outcomes than the actual psychiatric diagnosis (Gay, Ragatz, & Vitacco, 2015; Kois, Pearson, Chauhan, Goni, & Saraydarian, 2013). Kois and colleagues found that psychotic symptoms (OR = 29.48) predicted results of competency evaluations even after controlling for other clinical and legal variables, such as primary DSM diagnosis, medication compliance, and charge severity. While most studies found either mental health diagnosis or mental health symptoms to be a predictor of competency findings, Advokat, Guidry, Burnett, Manguno-Mire, and Thompson (2012) found no differences in recommendations for those with different psychiatric symptoms or those with Axis I or II disorders.

Pirelli, Gottdiener, and Zapf (2011) and Gay, Ragatz, and Vitacco (2015) reported that defendants with lower IQ's, tended to be more likely to be found unfit to stand trial. In a review of seven studies, Pirelli et al. found that CST defendants tended to score an average of 5 IQ points higher than IST defendants, for an OR of 0.67. Advokat, Guidry, Burnett, Manguno-Mire, and Thompson (2012) found no difference in IQ between defendants found IST versus those deemed competent.

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