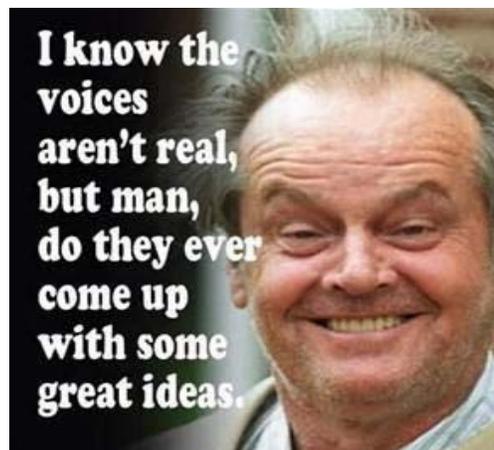
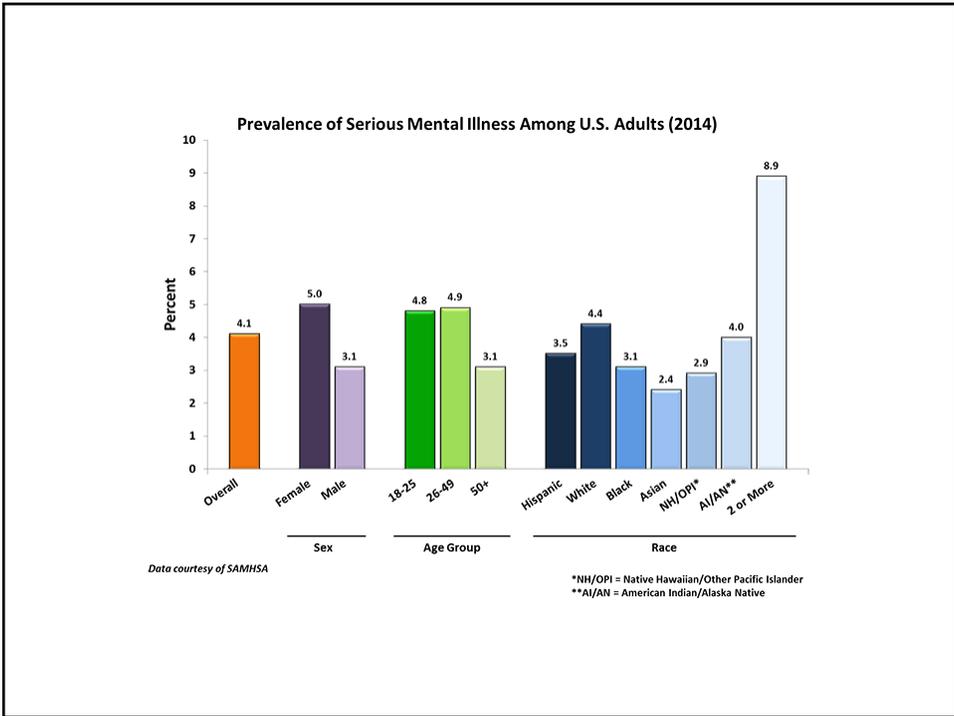
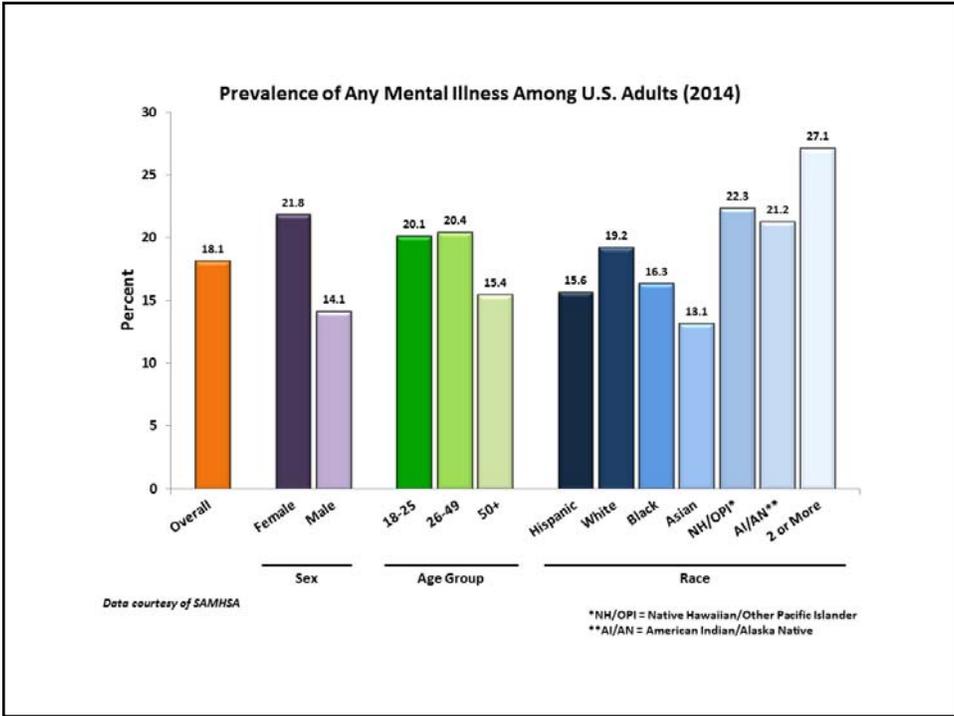


# MENTAL HEALTH COMMITMENTS

Court – Clerk Conference  
July 12, 2016

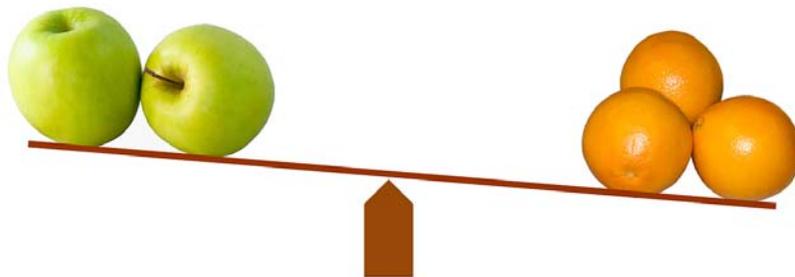
Why talk about mental health?





## LEARNING OBJECTIVES

- Be familiar with Indiana law governing detentions and commitments;
- Understand the role of the Court and clerk in processing mental health cases;
- Be able to make appropriate referrals and provide necessary information about the process to people seeking help.



## RIGHTS OF SOCIETY

10th AMENDMENT POLICE POWERS

COMMON-LAW *PARENS PATRIAE*

## RIGHTS OF THE INDIVIDUAL

RIGHT TO TREATMENT:

- APPROPRIATE TO NEEDS AND ACCORDING TO PROFESSIONAL STANDARDS
- 5th and 14th AMENDMENT RIGHTS TO FREEDOM FROM UNREASONABLE RISK OF HARM
- 4th AMENDMENT RIGHT TO CONFIDENTIALITY

## RIGHTS OF THE INDIVIDUAL

- RIGHT TO REFUSE TREATMENT:
- FREEDOM FROM DEPRIVATION OF LIBERTY WITHOUT DUE PROCESS
- LEAST RESTRICTIVE ENVIRONMENT
- FIRST AMENDMENT RIGHT TO FREEDOM OF THOUGHT
- 8TH AMENDMENT RIGHT TO FREEDOM FROM CRUEL AND UNUSUAL PUNISHMENT

## KEY DEFINITIONS

## Definition of Mentally Ill

### **MENTAL ILLNESS IC 12-7-2-130**

A psychiatric disorder which substantially impairs thinking, feeling, or behavior and impairs ability to function.

**NOTE: INCLUDES INTELLECTUAL DISABILITY  
AND ADDICTION**

## DANGEROUS IC 12-7-2-53

- “**DANGEROUS**,” for purposes of IC 12-26, means a condition in which an individual as a result of mental illness, presents a **substantial risk** that the individual will harm the individual or others.

## GRAVELY DISABLED IC 12-7-2-96

- “**GRAVELY DISABLED**”, means a condition in which an individual, as a result of mental illness, is in danger of coming to harm because the individual:
  - 1) Is unable to provide for that individual’s food, clothing, shelter, or other essential human needs; or
  - 2) Has a substantial impairment or an obvious deterioration of that individual’s judgment, reasoning, or behavior that results in the individual’s inability to function independently.

## FORMS OF COMMITMENT OR DETENTION

- **IMMEDIATE DETENTION**- 24 hours
- **EMERGENCY DETENTION** - 72 hours
- **TEMPORARY COMMITMENT**- not expected to exceed 90 days
- **REGULAR COMMITMENT** - expected to exceed 90 days

## IMMEDIATE DETENTION

- Police & Probable Cause to believe mental illness & Dangerous or Gravely Disabled
- Transportation to Appropriate Facility (where can receive appropriate care in least restrictive setting necessary)  
*See In Re: Contempt of Wabash Valley Hospital (Ind.Ct.App. 2005).*
- Cannot be to State Hospital
- 24 Hours

## EMERGENCY DETENTION IC 12-26-5

- Petitioner alleging mental illness & dangerousness or grave disability & doctor's statement (can be without examination) & Court Order to transport to appropriate facility.

OR

- If already at facility, Petitioner & doctor's statement.
- 72 Hours.
- Cannot be to State Hospital

- Detention is authorized for 72 hours.
- Saturday, Sunday & legal holidays are excluded.
- Facility must report to the court.
- Must release or secure a hearing.
- Successive 72 hour detentions are NOT permitted.

## TEMPORARY COMMITMENT IC 12-6-6

- Petitioner alleging mental illness & dangerousness or grave disability & doctor's statement (examination in past 30 days) & hearing and Court Order.
- Clear and convincing evidence.
- Not expected to exceed 90 days.
- Renewable only once.
- CMHC approval if to state hospital.

- Application must be completed by 3 persons.
- Petitioner must complete page 1 and SIGN the application.
- A PHYSICIAN must complete the physician's emergency statement.
- A judge must sign the endorsement authorizing the detention order (warrant).

## REGULAR COMMITMENT IC 12-26-7

- **Petitioner alleging mental illness & dangerousness or grave disability & doctor's statement (examination in last 30 days) & hearing and Court Order.**
- **Clear and convincing evidence.**
- **Expected to exceed 90 days.**
- **Up to one (1) year, renewable by periodic report, unlimited number of renewals.**
- **CMHC approval if to state hospital.**

## OUTPATIENT COMMITMENT IC 12-26-14-1 to -6

- May be temporary or regular in duration.
- Outpatient provider must agree.
- Elements are same as for inpatient commitment & likely to comply & not likely to be dangerous or gravely disabled if complies.
- Revocation by Court Order of transport to facility and Court hearing.

## OUTPATIENT STATUS

### IC 12-26-14-7 to -10

- Inpatient commitment administratively converted to outpatient status, without additional Court Order, for duration of commitment period.
- Transportation to facility and administrative hearing conducted by DMHA.

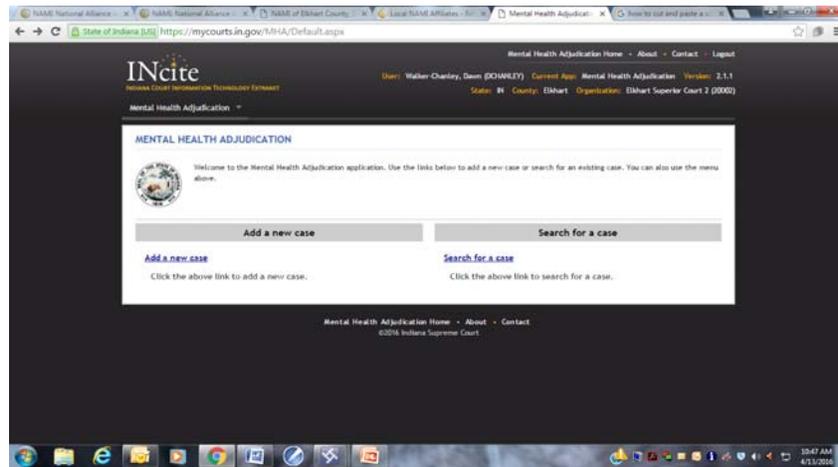
## NATIONAL INSTANT CRIMINAL BACKGROUND CHECKS SYSTEM (NICS)

- Extension of Brady Bill concept to limit who can legally purchase handguns.
- NICS improvement Amendment Acts (U.S. Congress, 2007) required states to come into compliance with greater reporting to NICS of adjudications of mental defect, using financial incentives and penalties.

- Prior to 2007, Indiana had only been reporting felony convictions.
- Indiana Code Amendments of 2009 require reporting by Courts of persons the subject of temporary and regular commitments, ICST's NGRI's, an GBMI's.

- Reports of adjudications go to NICS via an INcite application available to courts.
- Detentions and guardianships are excluded by state law from NICS reporting.
- A provider does not violate confidentiality laws by responding to courts for NICS reporting purposes. (IC 16-39-2-8).

# INCITE Reporting Requirements



<http://www.namiindiana.org/>



## RESOURCES

- I can't find the NAMI map?
- <http://namielkhart.org/>
- <http://www.namiindiana.org/find-nami-near-you>



**nami** Indiana  
CRIMINAL JUSTICE  
National Alliance on Mental Illness

Mental Illness and  
Communication Skills

Indiana Court/Clerk  
Conference  
July 12, 2016



**nami** Indiana  
CRIMINAL JUSTICE  
National Alliance on Mental Illness

**Disclaimer**

Today's presentation is for informational purposes and should not be construed, and does not constitute, medical or legal advice.



## Your safety is ALWAYS first

- Your safety is ALWAYS first
- Never sacrifice your safety or the safety of others to gain rapport with any individual
- The items discussed today are to enhance your skills, not replace them
- Always use and trust your own judgment and training



## Mood (Affective) Disorders

- | Unipolar                      | Bipolar         |
|-------------------------------|-----------------|
| ○ Major Depressive Disorder   | ○ Type I        |
| ○ Dysthymia                   | ○ Type II       |
| ○ Seasonal Affective Disorder | ○ Rapid Cycling |
| ○ Postpartum Depression       | ○ Cyclothymic   |
|                               | ○ Mixed         |

## Thought Disorders

### Schizophrenia

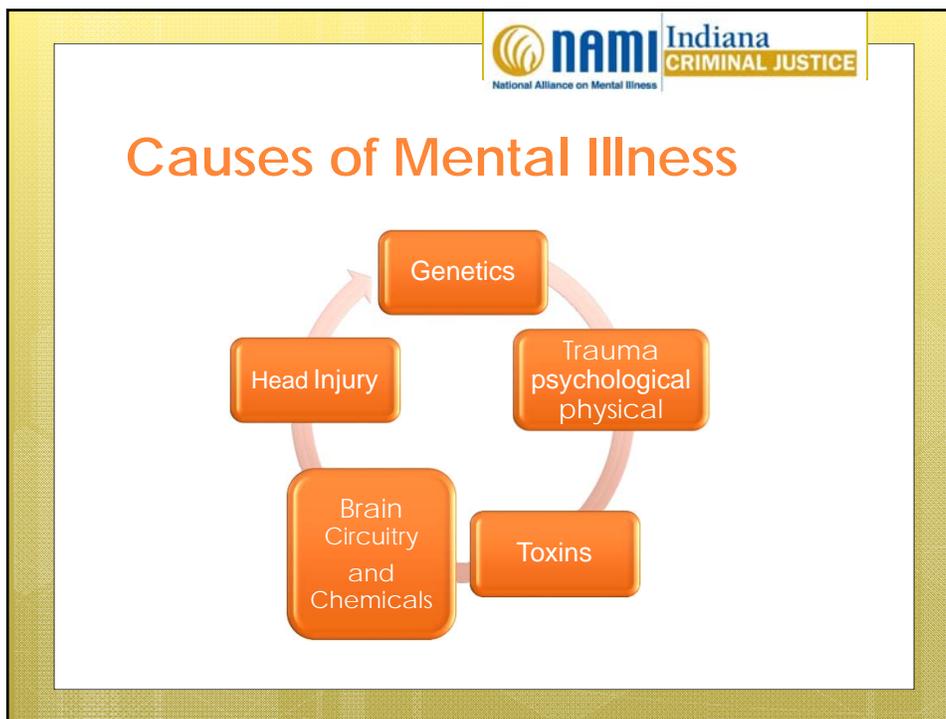
- Psychosis: Delusions and Hallucinations
- Negative Symptoms: withdrawal, flat affect
- Cognitive: lack of insight, memory problems

### Schizoaffective

- Schizophrenia  
+  
Mood Disorder

## Anxiety Disorders

- **Generalized Anxiety Disorder** (extreme worry)
- **Obsessive Compulsive Disorder** (unwanted recurrent thoughts, impulses, rituals)
- **Post Traumatic Stress Disorder** (flashbacks, intrusive thoughts)
- **Panic Disorder** (intense fear with physical symptoms)
- **Social Anxiety Disorder** (embarrassment, fear of judgment)





## Treatment and Recovery

- Ideal treatment is individualized and patient-centered, often involving multiple types of treatment
- Recovery is possible
- Keys to recovery include a stable and safe home, meaningful daily activities, and Community (relationship that provide love and support)



## Communication Skills



The biggest communication problem is we do not listen to understand.  
We listen to reply.

GeniusQuotes.net



## What drives behavior during a crisis?

- Fear of being out of control
- Fear of your response
- Fear of unknown consequences
- Fear of stigma
- Fear of loss (job, relationships, respect, home, family, friends, freedom)

## Empathic Understanding

- The ability to understand another's concerns and feelings
- Leads to compassion
- Sets the stage for successful crisis resolution

Carkhuff, R. (1969). *Helping and human relations. Vol. I: Selection and training*. New York: Holt, Rinehart, and Winston; Gilliland, B.E., James, R.K., & Bowman, J.T. (1989). *Theories and strategies in counseling and psychotherapy* (2<sup>nd</sup> ed.). Englewood Cliffs, NJ: Prentice Hall; Regini, C. (2004). Crisis intervention for law enforcement negotiators. *FBI Law Enforcement Bulletin*, 73, 10, 1-6.

## Emotional Communication

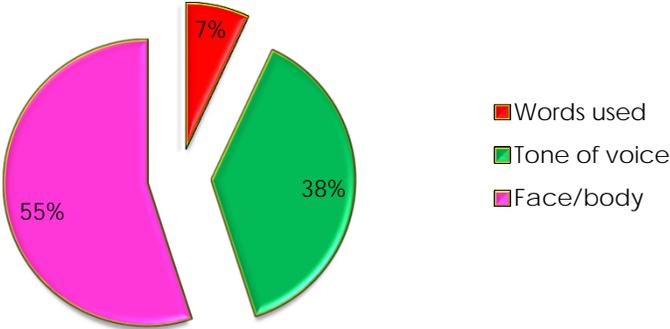
Albert Mehrabian established the importance of 3 elements in any face-to-face communication:

- Words Used
- Tone of Voice
- Body Language
- Congruence Among ALL 3 is essential for effective communication

Mehrabian, A. (1971). Nonverbal betrayal of feeling. *Journal of Experimental Research in Personality*, 5, 64-73.



## Emotions and Communication



Category	Percentage
Words used	7%
Tone of voice	38%
Face/body	55%

Mehrabian, A. (1971). Nonverbal betrayal of feeling. *Journal of Experimental Research in Personality*, 5, 64-73.



## Active Listening: The Key to Empathic Understanding



"...they have to know that you care, before they care what you know."

Sheeler, R. (2013). Nonverbal communication in medical practice. In D. Matsumoto, M.G. Frank, & H.S. Hwang (Eds.), *Nonverbal communication: Science and Applications* (pp237-246). Los Angeles: Sage.



## Your Verbal Crisis Playbook: 4 Winning Plays

- Introduce Yourself
- Ask for the person's name
- Express to the person the emotions you are seeing
- Summarize the information they are providing you



## Active Listening Skills

- Emotion Labeling (E/L)
- Paraphrasing (P)
- Mirroring/Reflecting
- Summary
- Open Ended Questions
- Minimal Encouragers
- Effective Pauses

## Emotion Labeling

- Statement of *emotions* heard.

"You sound angry..."

"You seem hurt..."

"I hear loneliness..."

"You sound betrayed...abandoned."



Adverse reaction? - Easy to back off of:

"I didn't say you were angry, I said you sound angry." (Soft delivery)

## Paraphrasing

Put meaning in *your* own words.

"...restatement...giving the meaning in another form."

Webster's Collegiate Dictionary

- Used for brief confirmations of meaning and to display attentiveness
  - Subject - "She's always talking and doesn't pay attention to what I say."
  - You - "She doesn't listen to you."

## Mirroring/Reflecting

- Brief follow along  
Repeating the last few words  
Good initial technique - helps  
you get oriented to the subject.



Subject - *"She doesn't pay attention to what I say to her and it makes me angry."*

You - *"It makes you angry."*

## Summary

- Periodically covering the main points

*HIS or HER STORY + HIS or HER FEELINGS*

- In YOUR words -

*"Ok, what you've told me so far is this....and as a result, you feel.....  
Do I understand you correctly?"*

## Open Ended Questions /Statements

Responses that require more than a "yes" or a "no"

- "What else?" "How?" "When?"
- "Tell me more about..."
- "I'd like to hear more....."
- Benefits
  - Conveys your interest in listening;
  - Gives more freedom of response;
  - Limits feelings of interrogation;
  - Draws out longer response.



## Minimal Encouragers

Brief responses (sounds) that indicate your presence and are listening

- "Uh-huh...really?...yeah..."
- "OK, etc."
- Best used when the person is talking through an extended thought or for an extended period of time.
- People want to know that you are there & listening.



## Minimal Encouragers

### Use wisely:

- May invite opportunity for our minds to wander or be distracted.
- Are *also* what the subject is used to hearing when the listener is simply waiting for the chance to speak.

*(Effective in combination with another skill such as paraphrasing, or mirroring / reflecting.)*

*Timing is important.*

## Effective Pauses (silence)

- Immediately *before* or *after* saying something meaningful.
- Help focus thought and interaction.
- Help show the subject that conversation is a turn taking process
- Can also be an appropriate response to anger (wait until the subject asks if you are still there).



## How to respond to hallucinations/delusions

- Focus on how the experience is making the individual **feel**
- Do not pretend to share/experience the hallucination or delusion
- Do not argue or try to talk them out of it



## What Active Listening is Not:

- Advice
- Judgment
- Persuasion
- What you have done or would do in similar circumstances
- Injecting your values
- Problem-Solving or "Fixing" the situation



## De-escalation

- Losing control of one's behavior is an unpleasant and frightening experience.
- Most acting out is not premeditated, rather it is an explosion of built-up energy.
- You are simply the object of the explosion because you happen to be present at the time.

## Voice

- Studies have shown that the WAY something is said (tone, inflection, rate) can be **5x** more important than WHAT is said.
- Your tone of voice, demeanor & projected sincerity are more important than any single phrase that you may use.



## Phrases That Damage Rapport

### ○ "Calm Down"

- This may be perceived as an order which may provoke intense anger.

### ○ "I Understand"

- Often the phrase that others use to interrupt them in order to jump into problem solving.
- Often is a well intentioned, but counter-productive shortcut.
- You may in fact understand, however understanding must be *demonstrated* to maintain rapport.

## Phrases That Damage Rapport

### ○ "Why?"

- Feels accusatory, creates defensiveness.

### ○ "You Should"

- A judgmental (advice giving) statement. Implies a superiority of the advice giver and may cause the receiver to feel inadequate.

### ○ "You Shouldn't"

Ditto

### ○ "At Least"

- No Silver Linings





## Better Phrases

Instead Of:	Try:
<ul style="list-style-type: none"> <li>○ "Calm down"</li> <li>○ "I understand"</li> <li>○ "You should(n't)..."</li> <li>○ "Why?"</li> <li>○ Advice</li> </ul>	<ul style="list-style-type: none"> <li>○ "I can see how upset you are."</li> <li>○ "Help me understand."</li> <li>○ "What's causing that?"</li> <li>○ "I appreciate you sharing that with me."</li> </ul>



## Delivery

- Good tone of voice
  - Not harsh, sarcastic or punishing.
- Choice of words
  - Non-threatening, nonjudgmental
- Effective Pauses
  - Set up delivery & gain the subject's attention.
- The "I" portion
  - The key to making it less accusatory.
  - The use of "I" phrases can be helpful. ("I feel concerned when I hear you say that," "I'd like to contact someone who could help.")



## Reasons a person might not respond to your instructions or questions:

- Confusion
- Depression
- Hearing voices (internal stimuli)
- Autism
- Medical crisis
- Other



## WHEN TO CALL 911

- If the situation causes you to fear for your safety or the safety of others.
- Some communities have a CIT program.

**CIT** (Crisis Intervention Team) officers have received specialized training to respond to individuals experiencing a mental health crisis.



## Listening vs. Problem-Solving

Let's watch a video!



**Remember:**

**"It's not about the  
nail."**



## After you have:

- Listened
- De-escalated the situation
- Developed a rapport
- **THEN** you can seek to persuade.
- Offer choices which are all acceptable to you
- Demonstrate honesty and respect

## Any last questions?





**THANK YOU!**

*Find help. Find hope. Find NAMI.*

[www.namiindiana.org](http://www.namiindiana.org)

[www.facebook.com/namiindiana.criminaljustice](https://www.facebook.com/namiindiana.criminaljustice)

## Active Listening/Verbal De-Escalation Skills Communicating in a Crisis

Your safety is always first. Call 911 if there is a safety concern or risk of harm.

Empathic Understanding:

Words Used: 7%

Tone of Voice: 38%

Facial Expressions/Body Language: 55%

Four Winning Plays:

Introduce Yourself

Ask the Person's name

Express the emotions you see in them

Summarize what they tell you by:

- ⊙ Emotion Labeling
- ⊙ Paraphrasing
- ⊙ Mirroring/Reflecting
- ⊙ Summary
- ⊙ Open Ended Questions
- ⊙ Minimal Encouragers
- ⊙ Effective Pauses

Avoid:

- ⊙ Advice
- ⊙ Judgment
- ⊙ Persuasion
- ⊙ What you have done or would do in similar circumstances
- ⊙ Injecting your values
- ⊙ Problem-Solving or "Fixing" the situation (Remember: It's not about the nail.)

**Instead of:**

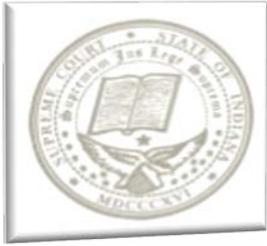
- ⊙ "Calm down"
- ⊙ "I understand"
- ⊙ "You should(n't)..."
- ⊙ "Why?"
- ⊙ Advice

**Try:**

- "I can see how upset you are."
- "Help me understand."
- "What's causing that?"
- "I appreciate you sharing that with me."

If an individual is experiencing a delusion or hallucination, do not argue or pretend to experience it also. Focus on how that experience is making them feel.

# MENTAL HEALTH ADJUDICATION



## Trial Court Technology

Indiana Supreme Court, Division of State Court Administration  
30 South Meridian St., Suite 500

Project Manager: *LaJuan Epperson*



### Mental Health Adjudication Legislation

- o NICS Improvement Amendments Act of 2007
- o Public Law 110-209 – INCite’s Mental Health Adjudication reporting system for the electronic transmission of information related to involuntary mental commitments
- o Courts, through the division, must report information regarding every person who fits one or more of the MH Adjudication profiles in civil or criminal cases
- o Per NICS – As a requirement, you must have DOB added to each MH case

### Sample Case

[VIEW CASE DETAIL - 27C01-1406-MH-000043](#)

#### Case Information

Processed:	No (Modified)	Residence:	IN	Driver's License:	
Case Number:	27C01-1406-MH-000043	Height:		State ID:	
First Name:	M.	Weight:		D.O.C. ID:	
Middle Name:	Todd	Race:	Unknown	Passport ID:	
Last Name:	N.	Hispanic:		FBI ID:	
Suffix:		Gender:	Unknown		
Alias:		Hair Color:			
Date of Birth:	06/18/1967	Eye Color:			
SSN:					
Statute(s):	<input type="checkbox"/> The person has been civilly committed under IC 12-26-6-8. <input checked="" type="checkbox"/> The person has been found to be mentally ill and either dangerous or gravely disabled under IC 12-26-7-5. <input type="checkbox"/> The person has been found guilty but mentally ill under IC 35-36-2-5. <input type="checkbox"/> The person has been found not responsible by reason of insanity under IC 35-36-2-4. <input type="checkbox"/> The person has been found incompetent to stand trial under IC 35-36-3-1. <input type="checkbox"/> The person has been found incompetent to stand trial or has been found not guilty by reason of lack of mental responsibility pursuant to Articles 50a and 72b of the Uniform Code of Military Justice (U.C.M.J.), 10 U.S.C. 850a and 876b.				

Remove Disqualification  Edit

## ADJUDICATION REASONS

- CIVIL CASES ONLY
  - The person has been civilly committed under IC12-26-6-8 more than 72 hours and up to 90 days
  - The person has been found to be mentally ill and either dangerous or gravely disabled under IC 12-26-7-5 more than 90 days
- CRIMINAL CASES ONLY
  - The person has been found guilty but mentally ill under IC 35-36-2-5
  - The person has been found not responsible by reason of insanity under IC 35-36-2-3
  - The person has been found incompetent to stand trial under IC 35-36-3-1

**Do Not Report 72 Hour Holds**



## Odyssey CMS Cheat Sheet

**Topic:** Mental Health Adjudication Odyssey Interface  
**Updated:** 3/19/2015

**Summary:** This cheat sheet will instruct the user how a Mental Health Adjudicated (MHA) case is electronically created in the INCite MHA application through the interface with Odyssey CMS. The interface creates a case in the MHA application in INCite when the appropriate event is added to the MH case in Odyssey. The MHA case in INCite will be electronically reported to NICS as required by statute IN 35-36-2-4. You have the option to enter your events in Odyssey CMS or through the Mental Health Adjudication INCite application.

**\*PLEASE NOTE: 72 hour holds do not need to be reported – no event should be added.**

1. When adding a MH case in Odyssey ensure that the **Respondent's** party record consist of the Name, Address (State of Residence), and at least one numerical identifier such as the **Date of Birth, Social Security Number, or Driver's License Number.**

**Add A New Respondent**

**Name**  
 Person  Nickname  Business  
Title   
First   
Middle   
Last   
Suffix

**Description**  
Date of Birth        
Date of Death        
Gender   
Race   
Ethnicity

**Identifiers**  
Driver's License  State   
Social Security

**Address**  
 Standard U.S.  Standard U.S. with Attn.  Non-Standard U.S.  Foreign  
No.         
Unit  No.   
City  State  ZIP Code

**Phones and E-Mail**  
Home  Ext.   
Work  Ext.   
Fax  Ext.   
Cell  Ext.   
E-Mail  @



## Odyssey CMS Cheat Sheet

- When the person has been adjudicated, add the corresponding NICS event to the case.

**Add Event**

Type:  ▼

Date:

Order Signed:

Party:

Judicial Officer:  ▼

Due:   Completed:

Comment:

Docketable  Include on Appeal

▼

**quick links**

- ▶ Add Next
- ▶ Add Related
- ▶ Add Hearing
- ▶ Add Service
- ▶ Relationships

<b>NICSMI</b>	<i>NICS: Civil Commitment more than 90 days</i>
<b>NICSCC</b>	<i>NICS: Civil Commitment up to 90 days</i>
<b>NICSGMI</b>	<i>NICS: Guilty but Mentally Ill</i>
<b>NICSIST</b>	<i>NICS: Incompetent to Stand Trial</i>
<b>NICSNRRI</b>	<i>NICS: Not Responsible by Reason of Insanity</i>

- If the case in the MHA application has at least one numeric identifier when it is initially created in INCite, the information will be sent to NCIS. Once the record has been successfully recorded in the NICS database, the event below will post to the CCS in Odyssey CMS.

**NICSMH**      *NICS: Mental Health Adjudication Submitted Successfully to NICS*

- If the case is created in INCite *without* a numeric identifier, you must update the Mental Health case with the additional information. Once the numeric identifier has been added to the MHA case in INCite, the record will be sent to the NICS database when the updated case is saved. If the Odyssey CMS party record is updated the update ***will not*** flow down to the case in INCite.
- If a MHA case is manually entered into the INCite application, you may add the NICSM event below to the case in Odyssey CMS to show that the case was entered in INCite and submitted to NICS.

**NICSM**      *NICS: Information Manually Added to INCite*