THE MacARTHUR ADJUDICATIVE COMPETENCE STUDY

May 2004 Update of the Executive Summary

Clinical norms for the MacArthur Competence Assessment Tool - Criminal Adjudication (MacCAT-CA) were developed in an NIMH-funded study conducted from 1996-1998. Primary results from that investigation appeared in:


A comprehensive report of both the original MacArthur studies and the NIMH study has been published in book form:


The MacCAT-CA is now commercially available for clinical use; it may be obtained from Psychological Assessment Resources (PAR), www.parinc.com

Subsequent research using the MacCAT-CA with adult criminal defendant appears in:

Although the MacCAT-CA was not developed or normed for use with adolescent populations, it has been used as a research measure with adolescents in:


For further work on the competence of juveniles as criminal defendants, see the Research Network on Adolescent Development and Juvenile Justice, at http://www.mac-adoldev-juvjustice.org/

EXECUTIVE SUMMARY

February 2001

In 1994, the American Bar Association's Criminal Justice Mental Health Standards noted that "the issue of present mental incompetence, quantitatively speaking, is the single most important issue in the criminal mental health field." The most recent estimates are that between 24,000 and 60,000 forensic evaluations of criminal defendants for "competence to stand trial" are performed every year in the United States. The quality of these evaluations has substantial ramifications: an evaluator's failure to identify an existing impairment could compromise the fairness of the ensuing adjudication, and an evaluator's erroneous finding of incompetence could lead to a suspension of the criminal proceedings and to a period of compulsory confinement and treatment.

Given the importance of assessments of competence to stand trial and the frequency with which courts refer competence questions to mental health professionals, it is not surprising that a voluminous legal and mental health literature has been generated on this topic. Nevertheless, much remains unknown about criminal defendants' "adjudicative competence" -- a more appropriate term than "competence to stand trial," given that approximately 90 percent of all criminal cases in the United States are resolved by means of guilty pleas, rather than at trial -- and a firm empirical basis for the clinical assessment of competence has yet to be established.
The primary obstacle to progress in this area is the absence of structured and standardized research measures for the assessment of abilities related to adjudicative competence. The MacArthur Adjudicative Competence Study, supported by the Research Network on Mental Health and the Law of the John D. and Catherine T. MacArthur Foundation, was designed to develop such measures and to use them to provide information to clinicians and policy makers to help them address questions about the adjudicative competence of criminal defendants.

During its initial phase, beginning in 1988, the project did three things. First, it articulated a coherent legal theory of what "competence" means in the context of the social purposes that legal rules for determining competence are meant to further. Second, it built upon the psycholegal assessment strategy pioneered by the MacArthur Treatment Competence Study (see Executive Summary) to design and pilot test a research instrument to measure the capacities identified by the theory as essential to adjudicative competence. Finally, the project conducted the first epidemiological surveys of the prevalence of impairments in decision-making competence among the general population of criminal defendants.

Following these activities, the full-scale adjudicative competence study was conducted with 366 adult male defendants and 106 adult female defendants recruited from Florida and Virginia. These included several groups: randomly-selected pre-trial jail detainees; defendants who were currently receiving mental health services in jail; and defendants recently admitted to state forensic hospitals for restoration of competence.

**Results**

**The following findings were among the study's most important results:**

- Approximately 10 percent of all criminal defendants are perceived by their attorneys as having potentially impaired competence. Defendants of doubtful competence, compared to defendants whose competence is not in question, are much less helpful to their attorneys in establishing the facts of their case and much less actively involved in making decisions about their defense. Nonetheless, defendants of doubtful competence are usually not referred by their attorneys for a formal mental health evaluation.

- A defendant may need several different capacities to be competent to proceed with criminal adjudication -- the capacities to make choices, to understand information, to think rationally about alternative courses of action, and to appreciate one's situation as a criminal defendant. It is not sufficient to assess only one capacity to evaluate adjudicative competence: a defendant with mental disorder may not have an impairment on the assessed capacity, even though other capacities required for adjudicative competence are impaired.

- A person whose competence is impaired for one legal purpose (e.g., accepting or refusing treatment) does not necessarily lack competence for other legal purposes (e.g., adjudicating his or her criminal case). Conversely, a person who is competent for one legal purpose may have impairments in competence for other legal purposes.
While no clinical diagnosis by itself indicates incompetence, competence-related impairments regarding criminal adjudication are strongly associated with symptoms of severe mental disorder, and particularly with a diagnosis of schizophrenia. However, many defendants with severe mental disorder are nonetheless competent to proceed with adjudication.

When defendants hospitalized for restoration of competence were re-tested with our instruments, significant improvement in decision making abilities was observed for those defendants who were treated and referred back to court as having been restored to competence.

Whether defendants are seen as legally competent or incompetent for their cases to proceed to adjudication will depend on which legal tests for adjudicative competence are adopted in a particular adjudication. Empirical information is now available to inform judges and legislators as they set these standards.

Implications

After the study described above had been successfully concluded, the project set about developing a brief (30 minute), user-friendly, "clinical" version of its lengthy research instrument. Standard statistical item-reduction techniques, as well as consideration of legal face-validity, were employed. The 22-item clinical instrument that resulted -- the MacArthur Competence Assessment Tool - Criminal Adjudication (MacCAT-CA) -- was field-tested on a sample of 107 criminal defendants in a jail and in a forensic hospital in Virginia and found to possess psychometric integrity. In 1996, a grant was awarded by the National Institute of Mental Health to Drs. Norman Poythress and Robert Nicholson to conduct an eight-state study of the MacCAT-CA, with over 700 hospitalized and jailed defendants as subjects.

The MacCAT-CA is now available for clinical use. It can be obtained from Psychological Assessment Resources, P.O. Box 998, Odessa, FL (http://www.parinc.com).

Research on the adjudicative competence of juvenile offenders, conducted by the MacArthur Program on Adolescent Development and Juvenile Justice, is in progress (for a description, see the website: http://www.mac-adoldev-juvjustice.org).

Publications


1. The Working Group responsible for conducting this research consists of Norman Poythress, Ph.D., Steven K. Hoge, M.D., Richard J. Bonnie, LL.B., John Monahan, Ph.D., and Marlene Eisenberg, Ph.D. Requests for further information should be sent to Norman Poythress, Department of Law and Mental Health, University of South Florida, 13301 Bruce B. Downs Blvd, Tampa, Florida 33612-3899 USA (e-mail: poythres@hal.fmhi.usf.edu).

2. The legal standard for "competence to stand trial" has not changed since the United States Supreme Court enunciated it in 1960: "The test will be whether [the defendant] 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 a factual understanding of the proceedings against him" (Dusky v. Unites States, 362 U.S. 402). Competence focuses on the defendant's "present ability" to proceed to adjudication, and is to be distinguished from retrospective inquiries regarding criminal responsibility (such as the insanity defense) which focus on the defendant's mental state at the time of the offense.

Return to top | MacArthur Home

Last modified Feb., 2001