

**Restoration to Competency  
Program**

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**Innovations in Programming:  
Providing Restoration to Competency  
Services in the Pima County Jail**

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**Restoration Team**

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- **Dr. Debra Joseph**  
Psy. D., R.N. Lead Forensic Psychologist
- **Dr. Michael Christiansen**  
Ph. D., Forensic Psychologist
- **Patricia Grauly, Program Manager**
- **Two Forensic Social Workers**
- **Rene Quihuis, RTC Corrections Specialist**
- **Marco Chavez, Corrections Officer**
- **Gary Fennema, Admin. Support Specialist**
- **Contract Psychiatrist, Psychometrist, and Interpreter**

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**What is Competency?**

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- **Competency is a legal term**
  - An individual must be competent to stand trial
  - **Dusky v. United States: Supreme Court of the United States, decided April 18<sup>th</sup>, 1960-**The competency standard for standing trial; The defendant must have "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding" and a "rational as well as factual understanding of the proceedings against him."
    - Meaning they can assist their attorney in providing a rationale defense
- **Competency is not a medical diagnosis**
  - A judge, not a doctor, determines who is competent
    - However, doctors evaluate individuals and offer competency opinions to the judge

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## Who is Incompetent?

- **Defendants who cannot:**
  - Assist their attorney in their defense
  - Do not know roles of the individuals in the court system (judges, attorneys, etc.)
  - Do not know what it means to enter a guilty plea
  - Do not know appropriate behavior in the court
  - Suffers from a mental disease, defect, or disability preventing them from being able to rationally and factually assist their counsel in the preparation and presentation of their defense.

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## Who is Incompetent?

- **Competency is usually affected by:**
  - Mental Illness
  - Traumatic Brain Injuries
  - Organic Brain Disorders
  - Cognitive Issues/Mental Retardation/Borderline Intellectual Functioning
  - Learning Disabilities
  - Long Term Drug/Alcohol Use

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## Competency versus Mental Illness

- You can have a mental illness, disease or defect and still be competent to stand trial
- You can be incompetent and not mentally ill

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### How is Someone Found Incompetent?

- An individual is charged with a criminal offense
- Someone associated with their case (usually their defense attorney) believes the defendant is incompetent
  - Files a “Rule 11” motion with the court to request the defendant be evaluated
- Judge reviews the Rule 11 request and decides if the defendant should be evaluated

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### How is Someone Found Incompetent?

- If the judge decides there is cause, he or she will order the defendant to be evaluated
  - Evaluations are usually done by 1 psychologist and 1 psychiatrist. If a disagreement a third evaluation can be ordered.
- The evaluators interview the person and review assorted records that are provided to them
  - The evaluator offers an opinion to the judge regarding the defendants competency to stand trial.

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### How is Someone Found Incompetent?

- The judge reviews the evaluations/opinions and rules regarding the defendant’s competency
  - If competent, the person returns to normal criminal justice proceedings
  - If incompetent, the judge will order the defendant into the Restoration to Competency (RTC) Program
  - If incompetent and non-restorable the judge dismisses charges without prejudice.

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## About the RTC Program

- **If found incompetent but restorable:**
  - **Restoration work is then undertaken by the “Restoration Team”**
  - **Psychologist evaluates the individual and creates a “restoration plan”**
    - Orders testing to rule out cognitive and or psychiatric impairment/malingering. Examples include the Test of Malingered Memory, Structured Interview of Reported Symptoms, Miller Forensic Assessment of Symptoms, MMPI, Greens Word Memory Test.
    - Provides updates to the Court
  - **Social Worker educates the inmate on the criminal justice system**
    - Observes and documents behaviors relating to competency

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## Restoration to Competency Program

- **Starting August 1<sup>st</sup>, 2007 Pima County in-custody RTC Program was implemented.**
  - **Prior to this program**
    - **All defendants requiring inpatient admission went to the Arizona State Hospital (ASH)**
    - **Community restoration for defendants who are not a threat to public safety-ordered by the court.**

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## Why Do Some Inmates Still Go to the State Hospital?

- **Defendants may be transferred to to the Arizona State Hospital (ASH)**
  - **Complicated co-morbid medical issues**

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### About the RTC Program

- **The RTC Program is not a treatment program, it only evaluates, assesses, and educates the individual in restoration**
  - All treatment (medical and psychiatric care) is provided by the jail medical provider.
  - Psychiatrist assigned to the RTC program for continuity of care during restoration.
  - Psychiatrist communicate with the medical staff to provide information that is relevant to their treatment efforts
- **Doctor's Client = their Patient**
- **RTC's Client = the Court (no confidentiality)**

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### About the RTC Program

- **Roles of the RTC Correctional Officers:**
  - **Transport inmates in RTC to and from the RTC Program**
  - **Provide additional security to RTC team**
  - **Gather collateral information on inmates**
    - Video from the units
    - Telephone conversations
    - Visitation Videos
    - Observations by other officers

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### How Does the RTC Program Work?

- **When the RTC Program receives an inmate that has been ordered into the program...**
  - **Several initial assessments are completed**
  - **Preliminary (baseline) testing is performed**
  - **A restoration plan is developed**
    - The restoration plan outlines what the person's competency deficiencies are, and what type of restoration services the inmate will receive

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### **How Does the RTC Program Work?**

- **The Restoration Team communicates with the PCADC health care provider (ConMed)**
  - Ensures the defendant is getting appropriate behavioral health care, as needed
  - Monitors compliance with psychiatric/medical medications
  - Other medical treatment or testing as needed

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### **How Long Is Someone in the RTC Program?**

- **By law, the RTC program is 15 months**
  - If progressing, then the RTC program can request up to 21 months
- **Length of stay varies by individual**

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### **Where are Inmates in the RTC Program Housed?**

- **There is no special unit specifically designated for RTC inmates**
- **Many RTC inmates are housed in 1-Sierra**
  - Have complex behavioral health issues or require added support/observation
- **Other RTC defendants housed in the general population, depending on their security classification**

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## When Does the Defendant Complete the Program?

- **The RTC Psychologist determines when someone has been “restored”**
  - **RTC Psychologist offers an opinion regarding “competency” to the Judge**
    - If “Competent” then the defendant can return to their criminal proceedings
    - If not competent and non-restorable a Title 36 petition is filed or Title 14 guardianship may be recommended.
- **Psychologist will send a final report to the court, and discharge the inmate from the program**
  - **However, the inmate will still remain in custody (unless a judge orders release)**

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## What is Non-Restorable?

- **Not all inmates can be restored to competency**
  - **Common non-treatable conditions:** Significant cognitive disorders/unremitting psychiatric conditions
- **When is a defendant “non-restorable?”**
  - The psychologist determines that no further treatment or restoration will return the defendant to competency
  - The defendant’s charges are dismissed without prejudice.
    - Most often they are referred for Court Ordered Treatment (Title 36)

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## How does the RTC Program Benefit Pima County?

- **Benefits to the County:**
  - **Total program savings: Over \$2.5 million**
    - Saved approximately \$85K to PCSD (reduced transportation costs)
  - **Program operating in one location (continuity)**
- **Benefits to the System:**
  - **Inmates are receiving a quality program**
  - **Average length of stay may be less**
  - **Admission process short**
    - Avg days to enter ASH is 30 days
- **Benefits to the Defendant:**
  - **Continuity of context of competency (medications, milieu)**
  - **Continuity of social support (treatment provider, family, friends)**
  - **Elimination of delay in entry to program (speedy trial, treatment)**

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### How Does the RTC Program Benefit Pima County?

- **Benefits to the Court:**
  - More convenient access between attorney's and clients
  - Restoraion program located in the jail system
  - Quality information provided monthly
- **Benefits to the Jail:**
  - Increased security over a hospital setting
  - Saves Sheriff's Department transport and personnel costs

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### Questions?

- **Contact the RTC Team at:**
  - Main number: 520-351-8093
  - Fax: 520-351- 8097
  - Or by email: [Debra.Joseph@sheriff.pima.gov](mailto:Debra.Joseph@sheriff.pima.gov)

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