

Each year, many people with mental illness come in contact with the criminal justice system. This video is one in a series designed to train defense attorneys for a better understanding of how to best represent a client with mental illness.

A lack of understanding of mental illness can contribute to delays in court proceedings, longer stays in jail, and frequent probation for mentally ill defendants. So here are the top ten things to know when representing such a client.

Mental illness and intellectual and developmental disabilities are not the same. Whereas intellectual and developmental disabilities are permanent conditions that typically begin before age 18, mental illness involves disturbances in thought processes and emotions, and may be temporary or episodic.

Mental illness and incompetence are not synonymous, and you should be concerned about both. Competence to stand trial is different than mental illness. Some who are fit for trial may still have serious mental illness. Even if your client does not have a competence issue, there may still be significant mental health issues that should be explored.

You owe your client zealous representation. It's your ethical obligation. As part of that obligation, you may explore your client's case for mental health issues and bring appropriate motions. Mental illness affects his or her case. If you have reason to suspect your client is not competent, request an evaluation because he or she may not be able to make informed decisions, such as whether to enter into a plea bargain agreement or proceed to trial.

An insanity defense may be appropriate. Take time to ask about your client's mental illness so you can explore legal and medical options. It may help you decide if an insanity defense makes sense.

Mitigate, mitigate, mitigate. Part of your job is to reveal your client's impairments and disabilities that limit his or her judgment. Conditions that inspire compassion without justifying the crime can be powerful mitigation evidence. Such evidence can lead to a shorter sentence, or possibly probation in lieu of incarceration.

Your client's mental condition relates to your duty to provide effective assistance of counsel. Failure to request assistance from a qualified mental health professional when indicated can be a violation of the defendant's Sixth Amendment right to effective assistance of counsel. Remember that your client's mental illness may impact your obligation to advocate on their behalf.

Overcome your own prejudices before you hurt your client and their case. It's a common misconception that mental state defenses are attempts by the defendant to deny

responsibility for their actions. This denial of psychiatric disability can influence the attitudes of both judges and juries. It's your job to overcome any cynicism or stigma associated with mental health issues in criminal cases.

Mental illnesses are neuro-biological brain diseases. Mental illness is a medical illness that can be diagnosed, treated, and managed. You do a disservice to your client by representing it any other way.

Incarceration can be harmful to people with mental illness. Jails can be hard on the stability of those with mental illness. Not only can it worsen their condition, they're more likely to be victimized by other inmates. They're also unable to access certain medications in a jail setting. Be sure to visit with your client and communicate about the case while they're incarcerated.

Don't let your client get caught in the revolving door. Many adults with mental illness are arrested for minor offenses related to their illness, and often cycle through the court system. This revolving door is not only a burden to the criminal justice system, it's also costly. If you don't properly explore your client's mental illness, you may lose the opportunity to help them get better so they don't re-offend.

While it's important to get your client out of jail quickly, it's equally important to keep him or her from returning to jail. Don't set them up to fail. As an attorney, it's important to understand mental illness so you can better serve your clients who are affected by it.