

Home | DCO | ... | Clinician

## Involuntary Commitment

District Court Judges—2 013 Summer Conference

---

Mark Botts  
School of Government, UNC Chapel Hill  
919-962-8204  
[botts@sog.unc.edu](mailto:botts@sog.unc.edu)  
<http://www.sog.unc.edu/node/858>

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician

## Objectives—Recording Findings of Fact that Support Your Order

---

1. Know what kind of facts must be recorded to support your conclusions of law and Order
  - a. Must support all definitional parts of the criteria
  - b. Must be sufficiently descriptive
2. Know that you cannot rely on physicians to know the above and give you sufficient facts in reports and testimony

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician

## Distinction

- Involuntary Commitment
  - Court ordered
  - Generally requires a finding of danger to self or others
- Voluntary admission
  - Adults: No judicial involvement
  - Minors: Requires judicial concurrence that the minor is mentally ill and in need of treatment

---

---

---

---

---

---

---


---

Home | PDFs | ... | Clinician

### Due Process

- Criteria—The grounds for court-ordered treatment.
- Procedure—The process for obtaining court-ordered treatment.

Because the commitment statutes provide for a drastic remedy, those that use them must do so with "care and exactness." *In re Ingram*, 74 N.C. App. 579 (1985), quoting *Samons*, 9 N.C. App. 490 (1970).



---

---

---

---

---

---


---

---

Home | PDFs | ... | Clinician

### The Magistrate Role

Reasonable grounds to believe the respondent probably meets the criteria for commitment



---

---

---

---

---

---

---

---

Home | PDFs | ... | Clinician

### The District Court Role

Clear, cogent, and convincing evidence that the respondent meets the criteria for commitment



---

---

---

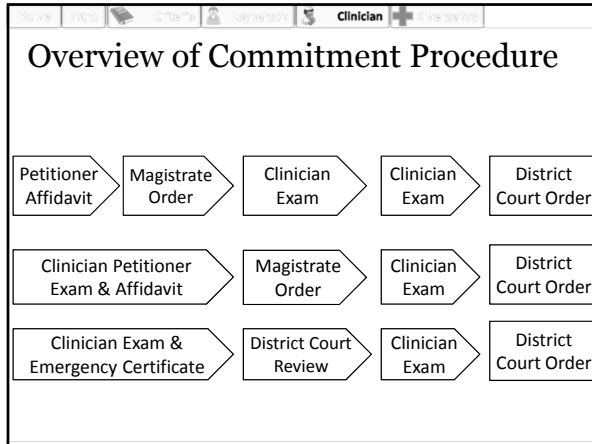
---

---

---

---

---




---

---

---

---

---

---

---

---

---

---

### Magistrate Role

1. Petition for Involuntary Commitment
2. Magistrate's Custody Order

---

---

---

---

---

---

---

---

---

---

### The Clinician's Examination Form

Section III: Recommendation

**SECTION III - RECOMMENDATION FOR DISPOSITION**

Inpatient Commitment for \_\_\_\_\_ days (respondent must be mentally ill and dangerous to self or others)

Outpatient Commitment (respondent must meet ALL of the first four criteria outlined in Section I, Outpatient)  
Proposed Outpatient Treatment Center or Physician: (Name) \_\_\_\_\_  
(Address and Phone Number) \_\_\_\_\_

Substance Abuse Commitment (respondent must meet both criteria outlined in Section I, Substance Abuse)

Release respondent pending hearing - Referred to \_\_\_\_\_

Hold respondent at 24-hour facility pending hearing - Facility \_\_\_\_\_

recommended treatment \_\_\_\_\_

**Substance Abuse.** It is my opinion that the respondent is:  a substance abuser  dangerous to himself or others

(1st Exam - Physician or Psychologist; 2nd Exam - If 1st exam done by Physician, 2nd exam may be done by Qual. Prof.)

- Inpatient commitment
- Outpatient commitment
- Substance abuse commitment

---

---

---

---

---

---

---

---



---

---

Home | PDFs | ... | Clinician +

### Three Kinds of Commitment Orders

1. Outpatient commitment → mental illness
2. Inpatient commitment → mental illness
3. Substance abuse commitment → alcohol/drug abuse



---

---

---

---

---

---

---

---

Home | PDFs | ... | Clinician +

### Criteria for Commitment

**Inpatient commitment**  
mental illness + dangerous to self or dangerous to others

**Substance abuse commitment**  
substance abuse + dangerous to self or dangerous to others

1. mental illness
2. substance abuse
3. dangerous to self
4. dangerous to others

---

---

---

---

---

---

---

---

Home | PDFs | ... | Clinician +

### Criteria for Outpatient Commitment

- Mentally ill
- Based on psychiatric history, in need of treatment to prevent further disability or deterioration that would predictably result in dangerousness
- Capable of surviving safely in the community
- Mental status negates ability to seek or comply with recommended treatment

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician +

### Mental Illness

**Elements for Minors**  
-A mental condition  
-That impairs age-adequate judgment and self-control  
-To a degree that treatment is advisable

**Elements for Adults**  
-An illness  
-That impairs judgment and self-control  
-To a degree that treatment is advisable

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician +

### Substance Abuse

The pathological use or abuse of alcohol or other drugs to a degree that impairs functioning...

- personal**
- social**
- occupational**

May also include a pattern of **tolerance** or **withdrawal**

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician +

### Dangerous to Self

Within the relevant past, the individual has:

- Acted in a way to show unable to care for self
- Attempted or threatened suicide
- Attempted or engaged in self-mutilation

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician +

### Dangerous to Self

- Unable to care for self + reasonable probability of serious physical debilitation
- Attempted or threatened suicide + reasonable probability of suicide
- Attempted or engaged in self-mutilation + reasonable probability of serious mutilation

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician +

### Dangerous to self

- A two prong test that requires a finding of:
  - a lack of self-care ability regarding one's daily affairs, and
  - a probability of serious physical debilitation resulting from the more general finding of lack of self-caring ability. In re Monroe, 49 N.C.App. 23 (1980).

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician +

Dorothy stopped taking her medication for mental illness. She has begun to experience visual and audio hallucinations and has ceased eating and bathing. You believe that she is unable to exercise judgment and discretion in the conduct of her daily responsibilities related to nourishment and medicine.

As you consider whether there is a reasonable probability that she will suffer serious physical debilitation in the near future, may you take into account that, two years ago, after exhibiting these same behaviors, she suffered serious dehydration and malnourishment requiring hospitalization?

A) Yes  
B) No

---

---

---

---

---

---

---

---

Home | DFO | ... | Clinician +

The respondent gets up 3 to 6 times a night and has unusual eating habits (sometimes fasts, sometimes eats a whole loaf of bread or whole chicken in one sitting, eats about 5 lbs. of sugar every 2 days).

Is the respondent dangerous to self?

A) Yes

B) No

---

---

---

---

---

---

---

---

Home | DFO | ... | Clinician +

### Dangerous to Others

Within the relevant past, the individual has:

1. Inflicted, attempted, or threatened serious bodily harm + reasonable probability of conduct repeating
2. Created a substantial risk of serious bodily harm + reasonable probability of conduct repeating
3. Engaged in extreme destruction of property + reasonable probability of conduct repeating

[more info]  
Previous episodes of dangerousness to others, when applicable, may be considered when determining whether there is a reasonable probability of the respondent's conduct repeating.

---

---

---

---

---

---

---

---

Home | DFO | ... | Clinician +

### Relevant Past

Acts are within the relevant past if they occur close enough to the present time to have probative value on the question whether the conduct will continue

---

---

---

---

---

---


---

---

Home | PDFs | ... | Clinician + ...

### Summary

- 1. Outpatient commitment**—mentally ill, capable of surviving in the community, in need of treatment to prevent dangerousness, and unable to seek treatment voluntarily
- 2. Inpatient commitment**—mentally ill + dangerous to self or others
- 3. Substance abuse commitment**—substance abuser + dangerous to self or others



---

---

---

---

---

---

---

---

Home | PDFs | ... | Clinician + ...

### Legally Sufficient Facts to Support Judicial Orders

- Magistrate Custody Order
- District Court Commitment Order

---

---

---

---

---

---

---

---

Home | PDFs | ... | Clinician + ...

### The Magistrate's Role



---

---

---

---

---

---

---

---



Home | DCO | ... | Clinician

### In re Ingram Petition

“Respondent has strange behavior and is irrational in her thinking. Leaves home and no one knows or her whereabouts, and at times spends the night away from home. Accuses husband of improprieties.”

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician

### “Just the facts, Ma’am”

Statute requires the affidavit to contain the facts on which the affiant’s opinion is based. **Mere conclusions do not suffice** to establish reasonable grounds for issuance of custody order. In re Ingram, 74 N.C. App. 579 (1985).

---

---

---

---

---

---

---

---

Home | DCO | ... | Clinician

### The Petition

- hearing voices, has not eaten for two days
- said he doesn’t deserve to live
- has not bathed in two weeks
- not taking medication for mental illness
- made mother sit still in a chair for two hours while saying he would bust her head with a hammer if she moved or tried to call mental health center

---

---

---

---

---

---

---

---

Home | DCM | ... | Clinician

## Information Must Be Factual

Conclusions (Opinions)	Facts	Descriptive Facts
<ul style="list-style-type: none"><li>• Violent</li><li>• Threatening</li><li>• Aggressive</li><li>• Assaulted someone</li></ul>		<ul style="list-style-type: none"><li>• Hit boss with a wrench</li><li>• Said he would cut brother while he slept</li><li>• Pushed Mom off the porch</li><li>• Held hammer in air saying he was going to bust mother's head</li></ul>

---

---

---

---

---

---

---

---

Home | DCM | ... | Clinician

## District Court Role

The trial court must record the facts that support its "ultimate findings," i.e., conclusions of law, that the respondent is mentally ill and dangerous to himself or others.

G.S. 122C-268(j).  
In Re Booker, 193 N.C. App. 433, 436 (2008)

---

---

---

---

---

---

---

---

Home | DCM | ... | Clinician

## Appellate Review of District Court Order

Conclusions of law (MI and Dangerous)

Do the facts recorded in order support court's conclusions of law?

Is there any competent evidence to support facts recorded in order?

---

---

---

---

---

---

---

---

Home | PDF | Print | Search | Log Out | Clinician

### In Re Whatley—Trial Court Findings

- Respondent was exhibiting psychotic behavior that *endangered her and her newborn child*. She is bipolar and was experiencing a manic stage.
- She was initially noncompliant in taking her medications but has been compliant the past 7 days.
- Respondent continues to exhibit disorganized thinking that causes her not to be able to *properly care for herself*. She continues to need medication monitoring.
- Respondent has been *previously* involuntarily committed

---

---

---

---

---

---

---

---

Home | PDF | Print | Search | Log Out | Clinician

### Physician Report Incorporated By Reference

- Patient admitted [with] psychosis while taking care of her two month old son.
- She has a [history of] Bipolar [disorder].
- She remains paranoid, disorganized, intrusive.
- She tells me that she does not plan to follow up as an outpatient.
- She has very poor insight [and] judgment and needs continued stabilization.

---

---

---

---

---

---

---

---

Home | PDF | Print | Search | Log Out | Clinician

### Appellate Court Decision

- Danger to self—Trial court’s findings do not demonstrate that there was a “reasonable probability of [respondent] suffering serious debilitation within the near future.”
- Danger to others—Findings that the respondent’s behavior “endangered” her newborn child and that she had been admitted with “psychosis while taking care of her two month old son” are inadequate to demonstrate “a reasonable probability that this conduct will be repeated.”

Court—In Re Whatley,  
COA 12-716, (N.C.App., Dec. 18, 2012)

---

---

---

---

---

---

---

---