

**PENNSYLVANIA
DEPARTMENT OF HUMAN
SERVICES
OFFICE OF MENTAL HEALTH AND
SUBSTANCE ABUSE SERVICES**



CompKit

Competency to Proceed Training Resources

*A Comprehensive Approach to Competency
Restoration Training for Criminal Clients*

CompKit was developed in 2005-2006 by Florida State Hospital, Chattahoochee, Florida and adapted for use by the District of Columbia. This version has been further modified for Pennsylvania's Use: February 2019

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SECTION ONE:

INTRODUCTION TO THE COMPKIT COMPETENCY RECOVERY SYSTEM

Competency restoration is a major concern to forensic hospitals, jails, and courts. More rapid restoration has implications for facilitating timely legal determinations for individuals with mental illness as well as reducing crowding in jails and decreasing costs. Psychotropic medications and competency training are the principal treatments used for competency restoration. CompKit is designed to address the needs for materials and methods to provide effective competency training and was developed by Florida State Hospital. It has been adapted by other jurisdictions including District of Columbia, Texas and Hawaii.¹

I. Description of CompKit

Competency training of legal concepts involves the need to translate and simplify legal jargon and to present material at a reading level suitable for the learner. CompKit is designed to support staff as they lead individualized and group instruction for defendants who present at a variety of learner levels. Thus, instructional materials are provided in a variety of formats to reflect the different learning needs of different populations as well as differing cultural considerations, mental statuses, cognitive functioning and educational achievement levels. Additionally, instructional materials include games, a movie, and other activities designed to increase participation and adapt to a range of learning styles.

¹ CompKit was developed at Florida State Hospital after analyzing data of persons committed as incompetent to proceed (stand trial). Subsequent to this analysis, CompKit was compiled from new resources developed at Florida State Hospital and from existing documentation adapted from national sources. Two core elements were developed by Florida State Hospital staff, the *Instructor's Manual for Teaching Factual Knowledge* and the *Instructors Manual for Teaching Rational Understanding and Decision Making*, began in use in 2003 and revised in 2006. The *Consumer's Competency Classroom Workbook* was adapted in 2003 from original materials developed by Colorado Mental Health Institute. Video training materials were developed for CompKit to help address divergent learning styles and enhance motivation, and *Fast Facts* was designed for use in a variety of instructional and individual settings. CompKit entered hospital-wide use in Florida in 2006 and has been revised and updated every subsequent year.

Many professionals at Florida State Hospital and at other agencies contributed to CompKit. CompKit was created as part of a Florida State Hospital strategic plan to make competency recovery faster and more thorough. The hospital created a team to coordinate development of CompKit. The team was initially comprised of: Steve Lacy, Operations Review Specialist; Wayne Anderson, Ph.D., Senior Psychologist; Ellen R. Resch, Ph.D., Director of Psychology Training, Dialectical Behavior Therapy, and Substance Abuse Services; and Lawrence V. Annis, Ph.D., Psychological Services Director. It has been adopted and modified by other jurisdictions to reflect their statutes and practices, and we have revised to reflect Pennsylvania statutes and practices while remaining true to the original CompKit.

The materials in this manual include those for use by the instructor and the individuals.

A. Instructor Materials

CompKit includes materials for clinicians who are involved in competency restoration efforts. The information in the following sections can be used for lesson planning, classroom instruction, and related activities.

Section Two: Instructor’s Manual for Teaching Factual Knowledge -

Provides thirteen teaching modules governing the teaching of all aspects of factual knowledge required for competency. The manual includes checklists, vocabulary list, and screening tests some of which have been modified to reflect differences in learning styles or capacities. Please note that not all modules may not need to be used for all individuals as not all individuals have the same deficits in the required factual knowledge.

Section Three: Instructor’s Manual for Teaching Rational Understanding and Decision-making – This section includes two mock trial transcripts and vignettes to prompt discussions for teaching rational understanding and decision-making. In addition, a group study guide is included.

Section Four: 1:1 Competency Instructions and Workbook – This workbook is a 1:1 staff person’s resource guide for providing comprehensive training for competency issues. It has instructions and lesson plans for working in a 1:1 manner on competency restoration and includes tests. It is not intended to be given to the individual although tests may be handed out as may some fact sheets that are included.

Section Five: Documentation- This provides a template for a progress notes for use by group leaders or individual staff who are working with individuals on competency restoration.

Section Six: Appendices of Specialized Materials – This section includes additional competency group tools such as games and word searches, materials for cognitively-impaired individuals and additional competency resources and materials for instructors.

Section Seven: Client Handouts (see below)

B. Client Materials (Section Seven)

These documents are designed to be provided directly to individuals for their use. Updated one-page brochures for individuals containing the same text are available.

Competency to Proceed Fast Facts Brochure – Fast Facts is designed to be a portable and streamlined reference to competency information that learners can review at their own pace.

Individual’s Pocket Guide to Competency– The Pocket Guide is a workbook that teaches competency skills through text, quizzes, and a word game.

Plea Bargains – Describes the individual’s role in the plea bargain process. A tri-fold brochure for individuals containing the same text is included as an insert.

Staying Free – Provides guidance on probation and how adjustments to lifestyle can help a person live happier and stay out of jail.

II. CONSIDERATIONS FOR COMPETENCY INSTRUCTORS

In planning competency restoration strategies, instructors should consider that individuals are likely to have individual differences in learning styles and educational backgrounds and that differences in cultural backgrounds may also affect learning. This section provides instructors with guidance on assessing an individual’s capacity for restoration, developing specific strategies reflecting the individual’s readiness and incorporating them into specific lesson plans and group activities.

A. Instructor’s Assessment of Individual Learning Needs

Client Readiness for Instruction: Instructors should consider whether the individual has the emotional stability, behavioral stability, and cognitive ability necessary for him or her to benefit from competency instruction.

Learning Styles: Different individuals may learn in different modalities. For example, some individuals learn best by visual means. Others may learn best if they hear or read the information. It is important to present material in a variety of teaching modalities or mediums to be sure that each individual benefits. For example, instructors should offer written material, and present the same material by auditory and visual means.

Cultural Considerations: Cultural differences and backgrounds may play a part in determining how a person might best learn new material. For example, individuals who were raised in other countries may not have the familiarity with the American legal system or may distrust the legal system.

Educational Achievement Level: Clients vary widely in the level of formal education that they have achieved. For this reason, instructors should be aware of the diversity of education levels likely to be in their client population and take measures to accommodate a wide range of achievement levels.

B. Instructional Strategies

Duration of instruction. The time frame for instruction should be based on the

individual client's learning capacity and the program's learning conditions. Instruction is typically four or five days per week and should be calibrated to the individual's clinical and cognitive functioning but should not exceed 45 minutes per group or individual session.

Sequence of Instruction. We have found it is more effective to go through CompKit from beginning to end and that handouts, workbooks, and video instruction are most effective when integrated into an instructor-led class rather than when the individual receives the materials without guidance and instruction.

Teaching Specific Areas. Situations may arise in which it is not necessary to teach the entire competency package. In these situations, the competency instructor may wish to select specific curriculum components to use in addressing the specific needs of the individual.

Maintenance. Following initial instruction, many individuals receive maintenance instruction to help them maintain their new knowledge and skills. Maintenance instruction need not be daily.

Access to materials outside class. The instructional brochures are designed to be useful to individuals in a variety of settings. We find it helpful to provide them to individuals in class, go over the contents, and encourage the individuals to keep the documents with them when they return to their residential setting. Fast Facts should be made freely available in individuals' residences, waiting areas, and institutional activity settings, but there is a tendency for the brochures to be lost among the jumbles of magazines and other materials that inevitably accumulate in these places. Consequently, offer the Fast Facts brochure to individuals at least weekly during competency training and on demand.

After teaching ends. Three of the four client brochures address fundamentals of the criminal justice process, and the fourth addresses staying out of jails and courtrooms. Individuals may be offered these brochures to keep with them when they go back to jail to await adjudication. Each brochure is presented on a single sheet of standard paper with no staples or binding, which is a format generally acceptable to detention facilities.

C. Facilitating Learning

Collaboration with service providers. While it is possible for competency instruction to proceed independently of other events in an individual's life, two-way communication with treatment and residential service providers can accelerate learning and help overcome barriers to both competency attainment and psychiatric recovery. Instructors who know of issues in individuals' lives outside of the competency classroom (e.g., medication adjustment, suspected substance use, hostility and agitation in the residential setting, relationship challenges) can adjust their approach to encourage participation, reduce classroom stress, and avoid potential conflicts that can carry over into other settings. At the same time, instructors may have information regarding individuals' demeanor and participation in the classroom that have implications for safety and

recovery in the learners' other life settings. The instructor may identify simple factors such as needing glasses that can have significant impact on competency attainment and on an individual's life.

Specific offenses. Our competency instructors must be familiar with all the charges faced by each individual in their class. This includes charges other than the primary charge if present.

Access to treatment plans and competency evaluation reports. Competency instructors should have access to information from individuals' competency evaluation reports and treatment plans, so they can focus training on specific areas of perceived weakness.

Improving competency instruction. We recommend that whenever possible, programs that provide competency restoration services maintain a forum for instructors to address challenges and share best practices and success stories.

III. Challenges for Instructors

Individuals unprepared for instruction. Some individuals may not display the ability or interest needed to benefit from competency instruction. Individuals who are not able to demonstrate sufficient self-control may be disruptive to class. It is helpful to establish behavioral and psychiatric stability minimums for participation in classroom and individual instruction.

Section Two:

INSTRUCTOR'S MANUAL FOR TEACHING FACTUAL KNOWLEDGE

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Module 1

COMPETENCY EDUCATION

Goals of competency education

This manual is designed to help clients achieve competency restoration by:

1. Providing the client with accurate information about the criminal justice system;
2. Setting social and behavioral expectations for the client's cooperation and participation in the criminal justice system;
3. Monitoring progress in stabilization of the client's mental disorder;
4. Monitoring progress towards ability to understand the criminal justice system.

Competency education sessions

At the beginning of each group or individual session, staff will remind the client(s) that a successful outcome for each session requires:

- Attention
- Concentration
- Behavioral cooperation in group
- Social cooperation in group

Expectations at each session

Staff will remind clients at the beginning of each session of the following expectations:

- That their participation and progress are documented in a medical record note;
- That they will be expected to participate in group discussions and associated activities;
- That they will acquire a clearer understanding of the criminal justice system as a result of their participation.

Factors that can limit the effectiveness of competency education

Staff may observe and should document these or other similar symptoms or behaviors in clients who are experiencing difficulty in the sessions:

- Impaired attention
- Impaired concentration
- Impaired thought process
- Hallucinations
- Guardedness
- Delusional beliefs involving individual's specific legal circumstances

Handling disruptive behavior in sessions

1. Staff will ask client to bring behavior in line with expectations.
2. If compliance is not achieved, the client should be excused from that session and informed that he or she will have an opportunity to resume appropriate participation at the next scheduled session.

Module 2

GENERAL CLASSIFICATION OF INCOMPETENT TO STAND TRIAL (IST) INDIVIDUALS

Many of our IST individuals can be loosely classified in terms of their competency status in one of the following ways:

1. **ADVANCED/MAINTENANCE:** These individuals have successfully completed the competency evaluation or are close to doing so. Their knowledge is sufficient and their behavior is appropriate. Education sessions should focus on coping strategies, jail re-entry, and continuing treatment in jail and beyond.
2. **DELUSIONAL/IRRATIONAL:** These individuals have an adequate awareness of their charges, the courtroom proceedings, and the likely outcome but they distort or misinterpret the reality of their particular situations. Education sessions should focus on reducing the irrational thoughts and increasing more realistic views of current legal situation.
3. **LOW-FUNCTIONING:** These individuals may be limited in their ability to comprehend or retain information. They require education that is remedial and information that is repeated in simple terms. However, these individuals must nonetheless do more than simply repeat information to show that they understand it.
4. **PSYCHOTIC/CONFUSED:** These individuals may not be able to understand or communicate information because of disorganized or delusional thinking. They need treatment intervention to improve their mental status in order to meaningfully participate in competency education. They may benefit from individual, rather than group, competency education until mental status has stabilized.
5. **DISRUPTIVE:** These individuals may display attention-seeking, impulsive, uncontrollable or belligerent behavior that impedes ability to learn and retain information. The goal with these individuals is to secure their appropriate participation through reinforcement. If not, they may have to be excused from the session. They may also benefit from individual, rather than group, competency education.

Module 3

COMPETENCY TO STAND TRIAL CRITERIA

Staff teaching the competency education classes should reassure individuals that they do not have to be “perfect” to be competent. They can have some symptoms or some problems as long as they are able to function adequately in the six areas below.

Staff should also remind individuals that in Pennsylvania, only a judge can determine whether an individual is competent. The hospital provides an opinion in the competency report, but the judge must rule on that opinion before the individual is determined to be competent to stand trial.

1. **NATURE OF CHARGES:** The individual needs to know his or her charge(s). The individual does not need to know the exact legal terminology for the charge(s) (example: individual may know she is accused of taking a car that does not belong to her, but not the legal name of his/her offense e.g. theft over \$1000). The individual should also be able to identify whether it is a felony or misdemeanor. The individual should understand the difference between being accused of committing an offense and being found guilty of the offense.

Note: It is not appropriate for instructors to discuss the individual’s actual charge in the competency education group setting. When this is needed, it should be done on an individual, private basis. The group discussion should be for general education, with use of examples and hypothetical situations.

2. **KNOWLEDGE OF POSSIBLE PLEAS, CONSEQUENCES, AND PENALTIES:** The individual needs to know the various plea options, consequences of each plea, and possible penalties. While sentencing guidelines in PA may result in different penalties depending on the individual’s situation, the individual should be aware of likely sentences based on the degree of felony or misdemeanor.

As above, competency education group sessions are not the place to discuss an individual’s actual situation and instead, he or she should be encouraged to discuss these concerns with his or her attorney.

3. **KNOWLEDGE OF COURT PROCEDURES:** The individual needs to know the roles and functions of the courtroom personnel (i.e., judge, jury, prosecutor, defense attorney), the difference between a trial and a plea bargain, and other relevant terms (i.e., evidence, witness, and rights of the defendant), as well as understanding of court process (e.g.,

prosecution goes first to presents evidence and witnesses, followed by defense's presentation of evidence and witnesses.)

4. **CAPACITY TO DEMONSTRATE RATIONAL UNDERSTANDING:** The individual must be able to explain his or her charges, intended plea and rationale, specific potential witnesses and evidence, and reasoned considerations of particular defenses and potential advantages of a plea bargain in light of evidence.

Note: The individual's specific responses should be considered in assessing rational understanding but specific references or discussions about charges **MUST NOT** be documented. It is helpful to provide a hypothetical scenario about a comparable charge to assist in making this determination. Additional guidance concerning teaching rational understanding and decision-making can be found in Section Three of the CompKit.

5. **CAPACITY TO ASSIST ATTORNEY:** The individual must be able to rationally discuss charge(s) with his or her attorney, disclose pertinent information, testify relevantly, and challenge witnesses. The individual must be able to discuss the specifics of his or her case in an organized manner with sufficient attention and concentration.
6. **CAPACITY FOR APPROPRIATE BEHAVIOR:** The individual must be able to demonstrate appropriate behavior in court. This includes ability to attend, listen, and follow courtroom proceedings.

Module 4

OVERVIEW OF COMPETENCY TO STAND TRIAL

What does Incompetent to Stand Trial mean?

It means that your judge committed you for treatment of mental illness in order to ensure you understand your charge(s) and are able to move forward with your case.

After you were charged with your crime, someone noticed that you may have been experiencing symptoms that impaired your ability to proceed with your case. It might have been your lawyer, the prosecutor, the jail mental health staff, or the judge. Based on an evaluation by a psychiatrist or psychologist, the judge ordered you for competency restoration.

How can I leave here?

You are evaluated and based on that, a report is sent to the judge and lawyers. You are either reported as competent to stand trial, incompetent to stand trial, or you need further evaluation . Based on the report, the judge will determine whether you are returned to the jail, sent back to the hospital, or released.

What is a competency evaluation?

It is an evaluation conducted by a psychologist or a psychiatrist who is not on your treatment team. It is not a “test” that you take in writing. It is a face-to-face interview with the evaluator, but there is more to it than your answers to questions. The evaluator reads your records, and also talks to others who know you or may have information about your competency (e.g., your treatment team, your attorney).

The evaluator wants to know if you understand what happens in court and if your mental health symptoms are responding to treatment. The evaluator will observe your behavior and listen to how you communicate. Records will indicate what your day-to-day behavior on the units and in activities is like. Other staff will give information about whether you are cooperating and trying to improve in the hospital and in competency groups.

The evaluator will send a report to court with an opinion about whether you are competent to stand trial or not. Copies of the report go to your attorney, the prosecutor, the judge, and the clerk of court, who puts them in your case file.

The evaluation report contains information about how well you understand your legal case and your defense options, how well you make decisions, about whether you are able to work with

your attorney. The report describes your treatment and your progress and behavior in the hospital.

The court uses this information to decide if you understand enough about your legal situation and if you are likely to cooperate with your lawyer and participate in the court process. If so, the judge will decide that you are competent to stand trial and your case will move forward. You will be transported back to court for a hearing and the judge will tell you what happens next.

What do I need to know about court?

Know your charge. Know how much time you could get if you are found guilty or plead guilty. If you don't know, talk to your lawyer, evaluator, group leader, or treatment team.

Know what the judge does. The judge is in charge of the courtroom. The judge makes sure your case is handled fairly and that the rules of law are obeyed by everyone. The judge is impartial or neutral, not for you or against you. The judge is there to hear evidence from both sides. The judge can decide whether you are guilty or not guilty. The judge gives a sentence if you are guilty.

Know about the prosecutor. This is the government attorney who presents evidence against you to the court. The prosecutor wants to prove you guilty.

Know about your lawyer, your defense attorney. The job of your attorney is to represent your case in court and to defend you against your charge(s).

Know about the jury, if applicable. A jury is a panel of people (usually 12) from the community that listens to the evidence for you and the evidence against you. They are impartial, or neutral, or unbiased. They decide if you are guilty or not, based on the evidence.

Know about the pleas. You will have to enter a plea, an answer to the charge. Your attorney's job is to help to look at the possible outcomes of each plea, and to help you decide which plea is best in your case.

- A plea of **not guilty** means you are innocent, that you did not do it. If you make this plea, then you will go to trial and the case will be decided based on the evidence and witnesses. Your lawyer's job is to advise how strong the evidence is against you, and what your chances would be at trial.
- A plea of guilty means you did it. Usually, you make this plea as part of a **plea bargain**, based on the advice of your attorney. A plea bargain is where you admit you did it, in exchange for a lesser offense. In return, you may get a lesser sentence. The details of each plea agreement are different; talk to your attorney about what may be offered in your case. You waive, or give up, certain rights when you plead guilty. You give up the right to a trial, and you lose the right to appeal.
- A plea of **no contest**, also called *nolo contendere*, means that you do NOT admit guilt for the crime of which you are accused; however, you agree to the facts presented by the prosecution/government. In a No Contest plea, the result is the exact SAME as a guilty

plea. It will appear on your criminal record and you will receive the SAME sentence as you would for a normal guilty plea.

- A plea of **not guilty by reason of insanity** means that you are saying you are not responsible for your crime because you were mentally ill when it happened (you did not know what you did was wrong). If you make this plea, you will have mental health evaluations and doctors will testify in court about your mental condition. You will admit to having a mental problem. You will probably be sent to a hospital for long-term treatment.
- A plea of **guilty but mentally ill** means you are saying that you are guilty but were experiencing a mental illness at the time but that you are responsible for your actions (you know what you did was wrong). If you are found guilty but mentally ill, the judge may order you to receive treatment for your mental illness in a hospital or you could be sent to jail. You could be sent to the hospital initially and when your symptoms improve, you could then be sent to jail for the rest of your sentence.

You should understand how to behave politely in court. You can be cited for contempt of court if you are disruptive, if you speak out of turn, or if you lose emotional control. You must pay attention and concentrate on what is going on. Your appearance is important. Tidy clothing and clean, neat grooming will make a positive impression.

How soon do I leave here, once I pass?

The Court decides when you get to leave the hospital.

What happens after my competency evaluation is completed?

After your competency evaluation, the judge will review the report and decide whether you need to have a hearing at court if one of the attorneys requests it. This hearing might be very brief and be part of another hearing in your case.

If you the judge determines that you are competent to stand trial, you may be return to jail, to the community, or back to the hospital.

If the judge decides that you are not competent after your evaluation, you probably will be returned to the hospital for more treatment and another evaluation.

When will I leave jail?

That depends on the outcome of your case. If you are found not guilty, or if the charges are dropped, or if you are given time served, you are free. If you are convicted, you might have more time in jail or you might begin probation.

On probation, you have certain rules you have to follow. These might include reporting to

your probation officer, not leaving the area, not using alcohol or drugs, and reporting to the mental health center. If you break the rules, you are violating probation and may return to court for further action.

Module 5

VOCABULARY LIST FOR COMPETENCY TO PROCEED

Incompetent to Stand Trial (IST): You did not understand court proceedings, you were not able to work with your attorney, or your mental health symptoms were affecting your behavior and ability to understand your charge.

Defendant: The person who has been charged with a crime. The person may also be referred to as client.

Alleged Offense: The crime a person is accused of committing.

Arrest: When the police arrest someone, they usually hold that person. When you are arrested, you must answer to the charges made against you.

Character Witness: Someone who comes to court to testify about your good character. This is a witness for you.

Conviction: When someone is found guilty of the crime they are accused of committing.

Court: The place where the trial takes place.

Court Reporter: The person who types the words spoken at each hearing.

Crime: A crime is committed when a person breaks the law.

Evidence: Anything that supports a person's guilt or innocence at a trial. Evidence can be testimony from witnesses, DNA, physical objects such as guns, knives, fingerprints, video cameras, or written documents.

Felony: A more serious crime. A felony can be punished by a sentence of a year to life in prison.

Incarceration: To be locked up against your will (in prison/jail).

Judge: The person who presides over the courtroom. He/she keeps order in the court, makes sure both sides are treated fairly, helps the jury understand the rules of the courtroom and how to make decisions, gives the verdict in a "bench trial," and sentences those who are found guilty.

Jury: A group of people (usually 12 unless a smaller number is agreed to) from the community

who hear a trial. Each person is selected based on their ability to make fair decisions. If there is any evidence that they cannot be fair, they are not selected. They are instructed in how the court system works, how to evaluate evidence, and how to work together. This group of people gives the verdict when there is a jury trial, and must all agree on the verdict.

Misdemeanor: A less serious crime punishable by jail time of less than a year.

Perjury: Telling of a lie on purpose under oath.

Plea: The answer to the charges made against you. There are five (5) different ways to plead. They are guilty, not guilty, no contest, or not guilty by reason of insanity.

Guilty: You did the crime.

Not guilty: You didn't do the crime.

No Contest: You do not admit guilt, but you agree to the facts presented by the prosecution.

Not Guilty by Reason of Insanity (NGRI): You didn't know that you were doing anything wrong at the time of the crime.

Guilty but Mentally Ill: You were suffering from a mental illness at the time, but you are guilty of the crime.

Plea Bargain: When the judge, prosecutor, and your defense attorney allow you to plead guilty to a less serious crime and likely receive a lighter sentence.

Probation: You go home, but you are under the supervision of a probation officer. You must follow the rules the judge has set up for you.

Defense Attorney: The attorney who represents the accused in court. Their job is to give you advice on how to proceed with your case. It is very important to be able to talk to your defense attorney and trust their legal advice.

Sentence: The sentence is the punishment for being found guilty. If you are found guilty, the judge sentences you. The punishment could be prison, jail, time served, a fine, suspended sentence, or probation.

Suspended Sentence: The judge puts your sentence on hold until you successfully complete probation. If you violate a condition of probation, the judge could order you to serve your sentence in jail/prison.

Prosecutor: This attorney's job is to try to prove you are guilty of the crime that you have been charged with. Their job is to represent the government in court.

Testify: Speaking in court under oath.

Trial: The legal proceedings held in the courtroom to decide if a person is guilty, not guilty, guilty but mentally ill, or not guilty by reason of insanity.

Verdict: The verdict is the decision made by a jury (if there is a jury trial) or by a judge (if there is a bench trial). The verdict describes whether the judge or jury finds a person guilty, not guilty, guilty but mentally ill, or not guilty by reason of insanity.

Module 6

APPRECIATION OF CHARGES

The following should be reviewed with the defendant to test his knowledge.

1. I am charged with _____
_____.
2. What the police say I did is _____

_____.
3. My charge(s) is/are _____.
4. For crimes like the ones I am charged with, the maximum penalty or worst sentence can be up to _____.
5. If I admit to the court that I did the crime, I am pleading _____ .
6. If I do not admit to the crime, I am pleading _____.
7. If I committed a crime and I am also mentally ill, I am pleading _____.
8. If I committed a crime because I was mentally ill and did not know the difference between right and wrong, I am pleading _____
_____.
9. When I am on probation, I can hang out at a bar and do drugs without getting into trouble.
True _____ False _____
10. When I am on probation, I can move to another city, but only if I have the permission of my probation officer. True _____ False _____
11. Pleading NGRI is a great way to beat your charges, because no one can do anything to you afterwards. True _____ False _____

Module 7

APPRECIATION OF POSSIBLE PENALTIES

The instructor will remind clients that Pennsylvania has sentencing guidelines for the courts to voluntarily follow. The following information is generally accurate, but each individual's background and circumstances may influence the decision in her case.

MISDEMEANOR: A criminal offense punishable by less than a year in jail.

FELONY: A criminal offense punishable by imprisonment between one year and life.

The instructor should remind the defendant of the following:

You must talk and work with your lawyer to understand what the possible penalties are for your case.

Module 8

UNDERSTANDING THE ADVERSARIAL NATURE OF THE LEGAL PROCESS

OBJECTIVE: To orient the individual to the roles of court personnel and their responsibilities in the courtroom.

TECHNIQUE: Lecture, Question/Answer, visual aid, handouts. You may not get through all this material in one group session.

The instructor should note the following:

When you go to court, there are several courtroom personnel who have well-defined responsibilities and roles. The following information will help orient you to these people and how their roles affect you.

1. Who can tell me what the Judge does? [group discussion]

The judge acts like a referee. The judge is responsible for keeping order in the courtroom and making sure the rules are interpreted fairly. If there is a jury and you are found guilty, the judge decides what punishment to give and if you will get jail or prison time. If there is no jury, the judge decides whether you committed the crime and if you did, imposes the sentence on you. The judge is neutral, he/she is not for or against you. The judge's decisions are based on the facts presented in court.

[Using the courtroom visual aid (see below), ask who can identify where the judge sits and how the judge is dressed. Once identified, ask the individual to place the judge in the appropriate place on the diagram.]

2. Who can tell me who makes up the Jury and what their job is? [group discussion]

If you have a trial by jury, there will be 12 citizens from the area, where the crime was committed, who are selected by your defense attorney and the prosecutor. They will decide whether you are guilty or not guilty. The people who make up the jury are ordinary people who are registered to vote and are not supposed to be

for you or against you. The jury is neutral. The jury listens to everything that is said in court and then makes a decision. The jury's decisions are based on the facts presented in court.

[Ask who can identify where the jury is seated in the courtroom and place the representative jury in the appropriate place on the diagram. Visual Aids]

3. Who can tell me what the Defense Attorney does? [group discussion]

The defense attorney is your lawyer and his/her job is to show the judge and jury that you are not guilty of the charges. If you are found guilty, he/she will try to get you as light a punishment or sentence as possible. Your lawyer will speak for you in court and is the only person who can call you to testify. Before you go to court, your lawyer should talk to you and give you advice about what to do when you are in court.

[Ask who can identify where the defense attorney is located in the courtroom diagram and place in the appropriate place in the diagram]

4. Who can tell me what the Prosecutor does? [group discussion]

The prosecutor tries to prove to the judge or jury that you did the crime and if you are found guilty, he or she tries to see that you are punished and that you get a lot of time. Also, if your defense attorney has called on you to testify, the prosecutor can ask you questions.

[Ask who can identify where the state's attorney is located in the courtroom diagram and place in the appropriate place in the diagram]

5. Who can tell me who can be a witness at your trial? [group discussion]

A witness is any person who has information about the crime. They may have seen you do the crime, or they may know you did not do it. The police who arrested you may also be witnesses. Witnesses are required to come to court and tell what they know about the crime. It is important that you know who the witnesses are that can help your case and who the witnesses are that can hurt your case.

[Ask who can identify where the witness will sit when the witness testifies about your case, and place in the appropriate place in the diagram]

6. Who can tell me who the Client is in your case? [group discussion]

You are the client. A client is the person who has been charged with the crime. When you are in the courtroom, you should listen carefully to everything that is said, so if something is said you don't understand you can ask your defense attorney what it means.

[Ask who can show where the Client sits in the courtroom diagram and place in the appropriate place in the diagram]

**7. Who can tell me what two sides are represented in the courtroom?
[discussion]**

The government's side is represented by the prosecutor and your side is represented by your defense attorney. It is important to remember that once the police have become involved and charges have been filed, the government is bringing the charges against you. It's not the victim who brings the charges.



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Module 9

QUESTIONS ABOUT THE JURY

The instructor should ask the following questions of the group:

1. The Jury is a group of _____ people from the community who listen to evidence in a trial.
 - a. 5 to 6
 - b. 12
 - a. Voters Registration list
 - b. The phone book

2. A person cannot be on a jury if he or she:
 - a. makes fair decisions
 - b. is unfair
 - c. has made up his or her mind before hearing the evidence in the case
 - d. both b and c

3. Juries give the verdict:
 - a. always
 - b. never
 - c. when there is a jury trial
 - d. only on Mondays

4. Who selects the jury?
 - a. The Prosecutor and Defense Attorney
 - b. The client
 - c. The marshal
 - d. Hospital employees

5. In a jury trial, the client can only be convicted:
 - a. if the majority of the jury votes “guilty”
 - b. if the majority of the jury and the judge votes “guilty”
 - c. if all of the jurors vote “guilty”
 - d. if the public defender says so

Module 10

ABILITY TO SHOW APPROPRIATE COURTROOM BEHAVIOR

OBJECTIVE: To ensure each group member understands how to behave in the courtroom.

TECHNIQUES: Lectures, Question/Answer

1. When you appear in court, it is very important you behave in a calm, respectful manner.
2. What will happen if you disrupt the courtroom proceedings by being loud, argumentative, or demanding? [Group Discussion]
3. If you disrupt the courtroom, you can be physically removed from the courtroom which could cause your hearing to be postponed.
4. Who can tell me what the additional charge is called? [Group Discussion]

You can be charged with Contempt of Court and face additional punishment. Also, it is important to remember if you act out in court it is possible you might be headed back to the hospital as Incompetent to Stand Trial. This is because since to be considered competent you must be able to control your behavior in court to be found competent.

5. Who can tell me how you should dress to go to court? [Group Discussion]

First impressions are important. So, if you appear in court dirty, poorly groomed, and dressed in old ragged clothing, you won't make a good impression. So, it is important to be clean, have your hair combed, your beard shaved or groomed, and wear your best clothes. You may even want to wear a tie and jacket, if you have one.

6. It is important to remember you should not speak out in court, even if you hear something you don't agree with or you think is unfair.

Who can tell me what you should do in court if someone says something that is not true? [Group Discussion]

You should whisper quietly to your attorney or write her/him a note.

7. Who can tell me when it is OK for you to speak incourt?

[Group Discussion]

Remember, your attorney is your spokesperson and represents your interests. You may speak in court if you have been called to testify by your attorney.

BEHAVIORAL CHECKLIST

Date: _____ Individual's name _____

Please circle **Y** for 'yes' or **N** for 'no'

- | | | |
|---|---|---|
| 1. Cooperates with staff most of the time | Y | N |
| 2. Expresses needs/concerns appropriately | Y | N |
| 3. Attends groups/activities on a fairly regular basis | Y | N |
| 4. Usually takes medications willingly when administered | Y | N |
| 5. Interacts with others and demonstrates appropriate social skills | Y | N |
| 6. Calls family members/friends | Y | N |
| 7. Speaks to his attorney on the phone | Y | N |
| 8. Able to discuss current events | Y | N |
| 9. Interacts appropriately with staff and/or other individuals | Y | N |
| 10. Exhibits disruptive/problematic behaviors toward staff | Y | N |
| 11. Has conflicts with other individuals. | Y | N |
| 12. Prone to fight and become aggressive on the unit | Y | N |
| 13. Appears to be responding to internal stimuli | Y | N |
| 14. Voices bizarre thoughts or has unusual behaviors | Y | N |
| 15. Participates in group and correctly answers questions about court | Y | N |

Module 11

COMPETENCY EDUCATION REVIEW

1. What is a trial?

A trial takes place in court. A trial is where you are found not guilty, guilty, guilty but mentally ill, or not guilty by reason of insanity of the charge.

2. Who represents you and defends you in court?

My lawyer. Another word for lawyer is attorney.

If I cannot afford to hire a private attorney, the Court will appoint an attorney to represent me at no cost to me.

3. What is the job of your lawyer?

He or she defends me against the charge (tries to get me off).

4. Who is against you in court?

The prosecutor is against me.

5. What is the job of the prosecutor?

He or she tries to prove me guilty of the charges, to convict me, to get me time.

6. What does the judge do?

The judge presides over the court. The judge keeps order and makes sure rules of law are obeyed. If there is no jury, the judge decides if I am guilty or not guilty. If I am guilty, the judge gives the sentence.

7. Which side is the judge on?

The judge is not on either side (neutral, impartial). The judge listens to evidence from both sides (my defense attorney and the prosecutor).

8. What are the pleas?

Guilty	I did it as charged
Not Guilty	I did not do it—I am innocent
No Contest	I do not admit guilt, but agree to the facts presented by the prosecution.
Guilty but Mentally Ill	I was suffering from a mental illness at the time but I am guilty of the crime.
Not Guilty By Reason of Insanity	I was not responsible for what I did because I was mentally ill at the time

9. What is plea bargaining?

You can make a plea bargain instead of going to trial. Your lawyer helps you set up a plea bargain and advises you if it is a good deal. You plead guilty or no contest to a less serious charge. In return, you may get a lesser charge that could result in a lesser penalty/sentence.

10. What is evidence?

Evidence is facts or witnesses or things which help prove that I did the crime or that I was innocent of the crime (people, weapons, fingerprints, cameras).

11. How do you defend a plea of not guilty?

I must be able to raise doubt about the evidence against me. I can offer a statement, an alibi, evidence, or witnesses.

12. What is the jury? What do they do?

A jury is 12 people from the community who are chosen to decide a case.

13. What happens if you are found guilty?

I could be sentenced to time served, a suspended sentence, a fine, probation, jail, or prison. The choice is based on my charge and my background.

14. What happens if you are found not guilty by reason of insanity?

I would probably be committed to a hospital for treatment of mental illness.

Module 12

REVIEW OF ESSENTIAL VOCABULARY FOR CLIENTS

Vocabulary Words

Acceptable Client Definitions

- 1) Court
 - a. Where trial is held
 - b. Where you go to see if you are found guilty or not
 - c. Where the judge and everybody meets to decide if you are innocent or guilty

- 2) Not Guilty/Innocent
 - a. You did not do the crime
 - b. Your charges are gone
 - c. You will be free because you didn't do anything wrong

- 3) Trial
 - a. Hearing to see if you are guilty of crime(charge)
 - b. Hearing with judge and jury to decide if you are guilty or not
 - c. Hearing with lawyer, judge, jury, witnesses to try to prove you are innocent

- 4) Accuse
 - a. Blame
 - b. Charge someone
 - c. To say somebody did something against the law

- 5) Competent
 - a. Able to understand court procedures
 - b. You understand about laws, trial, and how to help yourself in court.
 - c. You know your rights and how to help your lawyer defend you

- 6) Defend
 - a. Help someone
 - b. Protect someone
 - c. Your lawyer helps you get out of trouble

- 7) Jury
 - a. 12 people who listen to testimony (evidence) decide if you are guilty or not
 - b. 12 people picked to listen and decide if you are innocent or guilty
 - c. People who are not for you or against you; they just decide if you are guilty or not, 12 people

- 8) Misdemeanor
 - a. Small crime
 - b. Not too serious crime
 - c. You got a charge but it is not too bad
 - d. Sentence is up to 1 year

- 9) Police
 - a. Enforces laws and arrests people
 - b. Officers of the law who can arrest you when you break the law
 - c. People who keep the law and arrest you if you do bad things

- 10) Witness
 - a. Tells what he knows about the case
 - b. Person who testifies for you or against you
 - c. Someone asked to tell what they know about the crime

- 11) Testimony
 - a. What witnesses say about the case (crime)
 - b. What a person tells when he is on the stand under oath
 - c. Telling in court what you know about the case (charges)

- 12) Courtroom Clerk
 - a. Calls people up to the witness stand and swears them in
 - b. Makes sure people follow the schedule in the court

- 13) Competency Hearing
 - a. Hearing with judge, lawyers, and doctors to see if you know enough to face your charge
 - b. Hearing to see if you are able or understand enough to have a trial

- 14) Client
 - a. Person accused of committing a crime
 - b. Person blamed for a crime
 - c. Person charged with a crime

- 15) Sentence Reduction
 - a. Cutting down the time you have to serve
 - b. The judge cuts the length of your prison time

- 16) Cross-Examination
 - a. Other side's lawyer (prosecutor) asks you questions
 - b. The lawyer who is against you asks you questions

- 17) Appeal
 - a. Ask for a new trial, may not get it
 - b. Ask for another trial
 - c. Your lawyer tries to help you get another trial

- 18) Community
- a. Where people live
 - b. Place like your neighborhood where people live
- 19) Court Reporter
- a. Types everything said in trial
 - b. Takes down everything that happens during court (trial)
- 20) Probation
- a. Not go to jail but do time in the community
 - b. Stay at home but report to probation officer and do what he says
- 21) Not Competent
- a. Not able to understand about laws and court
 - b. Not able to help your lawyer or understand what to do
- 22) Lawyer
- a. Person trained in law, lawyer for each side, for you and against you
 - b. Your lawyer helps you, other lawyer (prosecutor) tries to prove you did the crime
- 23) Judge
- a. Listens to the case, tells jury about law and sentences you if you are guilty
 - b. He's not for you or against you, he listens and makes sure things go right. He can sentence you if you are guilty
- 24) Guilty
- a. Jury says you did the crime
 - b. Person committed the crime
- 25) Fine
- a. When you have to pay money to get out of trouble
 - b. Money to pay as punishment for breaking the law
- 26) Laws
- a. Rules we all have to go by
 - b. Written rules to protect us and tell us how to act
- 27) Felony
- a. Big charge
 - b. Serious charge like rape, murder
 - c. Big crime with a long sentence, 1 year to life
- 28) Crime
- a. Breaking the law
 - b. When you do something against the law
 - c. Murder, rape, grand theft, burglary, like that

- 29) Prosecutor
 - a. Lawyer for the other side
 - b. Person trying to convict you
 - c. Lawyer trying to prove you did it

- 30) Rights
 - a. Right to remain silent, right to have a lawyer, right to make a phone call
 - b. Laws to protect us and keep it fair
 - c. Right to have a trial, make an appeal

- 31) Evidence
 - a. Things from the scene of a crime to show what happened
 - b. Things they have, like your fingerprints, a gun or knife to show you did it

- 32) Sentence
 - a. After found guilty the judge decides punishment
 - b. If the jury says you are guilty, the judge can give you prison time, fine, or probation

- 33) Warrant
 - a. A piece of paper signed by the judge giving the police the right to arrest you or search you
 - b. A search warrant and an arrest warrant, piece of paper used by police

- 34) Verdict
 - a. Decision by the jury (or judge) of guilty or innocent
 - b. What the jury decides, if they think you are guilty or not

- 35) Perjury
 - a. Lying in court
 - b. Not telling the truth under oath

Notes to Instructor: These identified vocabulary words are also used as a part of the pre and post-tests done by the competency instructor during the course of instruction. While there are other client acceptable definitions, assessing a client's understanding of these terms will be case specific.

This terminology along with courtroom procedures is taught throughout the major areas of the course content and repeated often as is needed when working with those diagnosed with cognitive or intellectual disabilities.

Module 13

COMPETENCY SCREENING TEST (select either a or b)

1. When a lawyer shows the jury things which come from the crime scene, she/he is showing:
 - a) evidence
 - b) testimony
2. If you did not do anything wrong, you are:
 - a) not guilty
 - b) guilty
3. When you tell what you know about the crime, you are:
 - a) testifying
 - b) prosecuting
4. The person who sits in front of the court and makes decisions about what will happen during the trial is the:
 - a) jury
 - b) judge
5. When you are guilty of doing something wrong, but you can go home and not to jail, this is called:
 - a) perjury
 - b) probation
6. The person who is accused of committing a crime is the:
 - a) client
 - b) complainant
7. The person who tells what he/she knows about a crime is the:
 - a) witness
 - b) lawyer
8. The people who hear what happened and decide about whether the person is guilty or not are the:
 - a) witnesses
 - b) jury
9. Incarceration is:
 - a) putting someone in prison
 - b) telling a person he can go home

10. The person in court who tries to prove you did something wrong is the:
 - a) prosecutor
 - b) bailiff
11. When you are convicted, you are found:
 - a) innocent
 - b) guilty
12. An oath is:
 - a) the place where the witnesses stand
 - b) promising to “tell the truth, the whole truth and nothing but the truth”
13. A continuance is:
 - a) holding the court date off for a while
 - b) what they show in court to prove you are guilty
14. A felony is:
 - a) breaking a law that isn't very serious
 - b) breaking a major law
15. When your lawyer asks you questions about the crime, you should:
 - a) refuse to answer
 - b) answer the questions
16. A verdict is:
 - a) a decision that the jury makes
 - b) the length of time you must go to jail
17. If you are blamed for breaking a law, you should:
 - a) get a lawyer
 - b) get angry
18. When your lawyer asks you to tell the court what you know, it is called:
 - a) incarceration
 - b) direct examination
19. If you are given a subpoena, you:
 - a) must go to court
 - b) will be sent to jail
20. Cross examination is the time when:
 - a) the other lawyer asks you questions
 - b) your lawyer asks you questions
21. When you are in the courtroom, you should:
 - a) let everyone know what you think about what he or she is saying

- b) sit quietly or talk in a soft voice to your lawyer
22. The place where people go to hear about a crime is called the:
a) judge's chambers
b) court
23. When you do not agree with your lawyer, you should:
a) not say anything
b) tell him what really happened
24. Penalties are:
a) money you pay to your lawyer
b) punishment for doing something wrong
25. A sentence is:
a) the amount of time that you must be punished
b) the way that a lawyer talks
26. When someone lies to the judge, you should:
a) call him or her a liar
b) tell your lawyer the truth
27. If you are arrested for a crime, you should talk:
a) only to your lawyer about the crime
b) to everyone about the crime
28. The place where you sit and tell what you know about the crime is:
a) a witness stand
b) a jail
29. A witness stand is:
a) the place where you sit and tell what you know about the crime
b) the way you stand in front of a jury
30. If the jury decides you are guilty, your punishment will:
a) be life in prison
b) depend on what you did wrong
31. If the jury says you are not guilty, the judge will:
a) tell you to pay \$500
b) let you go free

Section Three

INSTRUCTOR'S MANUAL FOR TEACHING RATIONAL UNDERSTANDING AND DECISION-MAKING

LIST OF MODULES

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Module 1

Mock Trial #1

Goal: The individual will “walk through” the legal process with the sample scenario.

Objective: The individuals will participate in a mock trial, by taking on a courtroom role in a sample case.

Lesson:

1. The instructor will read the following situation about Jane (or John for men’s class) to the group. (Note to instructor: change names in the event there is a Jane or John in the class.)

Scenario: Jane has been accused of “assault and battery of a police officer”. She was in an argument with her husband when the police were called. When the police officers came to assess the situation, a police officer tried to calm her down. She was drunk at the time and started yelling at the police officer. After feeling frustrated with him, she punched him. The police officer arrested her and took her to jail.

2. Set up classroom as a court would be set-up to include place for judge, courtroom clerk/bailiff, prosecutor, defense attorney, client, witness and jurors. Ask the class for volunteers for the following roles: judge, courtroom clerk, prosecutor, client, defense attorney, court reporter, police officer (witness), any other witnesses, and jury members.
3. Read the following narrative, having discussion time for “role playing” over instance where “pauses” are indicated in the narrative below.

Narrative:

Jane’s trial is about to take place. Everyone except the judge enters and sits in the courtroom. The bailiff arrives and asks everyone to “Please rise. Ladies and gentlemen the Honorable _____”. The judge walks in and allows everyone to be seated.

(PAUSE)

The courtroom clerk announces the case “The United States vs. Jane Doe”. The judge calls court into session.

(PAUSE)

The client, Jane, sits with her defense attorney. She will let her attorney speak for her in court

today because her defense attorney has studied law and knows best how to represent her. She will not speak out in court but will talk to her defense attorney quietly if she needs to say something. The defense attorney has spent time preparing Jane's case and gathering evidence and witnesses that will prove her innocence.

The prosecutor is representing the government. He/she is trying to convict Jane of the crime of "assault on a police officer". The prosecutor has to give facts (evidence, witnesses) that will prove she is guilty beyond a reasonable doubt.

The judge is preparing to hear Jane's case too and has prepared the jury to consider only absolute facts to prove Jane's guilt. The judge will remain in control of the courtroom during the trial and will make sure everyone is "playing by the rules". The court reporter will type every word spoken in Jane's trial. The trial is about to begin.

The judge calls the prosecution first to give the opening statement, as to how he/she will prove Jane's guilt.

(PAUSE)

The judge calls the defense attorney to give an opening statement, regarding how he/she is going to defend his/her client.

(PAUSE)

The prosecutor then presents his/her case, stating facts that prove that Jane is guilty of the crime. The prosecutor will call the police officer to the stand, and the courtroom clerk will swear him/her in. The prosecutor will question the police officer and show any other evidence he/she has.

(PAUSE)

The defense attorney cross-examines the police officer, asking questions to discredit the police officer.

(PAUSE)

The prosecutor makes closing statements.

(PAUSE)

The defense attorney presents his/her case, stating reasons why Jane shouldn't be found guilty. She was harassed by the police officer and was defending herself. She/he brings Jane to the witness stand.

(PAUSE)

The defense attorney calls his/her client to the witness stand.

(PAUSE)

The prosecutor cross-examines.

(PAUSE)

Jane will be careful how to testify in court. She will not go on and on into too many details. She will answer questions to the point, directly.

(PAUSE)

Closing statements will be given by each side.

(PAUSE)

The jury will deliberate over the trial and come to a unanimous decision regarding whether Jane is guilty or not guilty. The evidence should prove beyond a reasonable doubt that Jane is guilty of the crime she has been accused of committing. If they vote her “guilty” the jury can recommend a sentence but the judge always gives the sentence.)

(PAUSE)

The verdict will be read and the sentence given, if applicable, and the court is dismissed by the judge.

(PAUSE)

4. Make closing remarks on how the trial went and how it would compare to a real trial. Allow time for discussion.

Module 2

Rational Decision-Making Vignettes¹

Note to Instructors: The following vignettes should be used to prompt discussions during a group session. They should be modified however, in the event that a vignette closely resembles the circumstances of an offense for which an individual in the group is charged. The vignettes are designed to address different aspects of decision-making that the individual will have to undertake during the course of the case.

Vignette 1: Steve

Steve has been sending letters to Lori for almost four months. He writes that he loves her, but he also threatens to harm her if she does not love him back. After getting her phone number from friends, Steve starts calling Lori and hanging up. Steve also starts following Lori to restaurants and stores. Lori is afraid of Steve and was warned that he might hurt her, so she called the police and reported Steve's actions. After talking to Steve, the police arrest him and charge him with Stalking.

Question:

Even though Steve does not think he did anything wrong, his defense attorney tells him that he clearly broke the law and will be found Guilty if his case goes to trial.

- 1) Were Steve's actions inappropriate/wrong? In what way?
- 2) Is there a possibility that he would be convicted of Stalking? Why?
- 3) What evidence might make Steve appear guilty?

¹ We recommend that you change names in the vignettes to ensure no individual in the group has the same name.

Vignette 2: Luke

Luke has been feeling scared of his mother for months. He believes that she is possessed by the Devil and will kill him tomorrow as a sacrifice. One night, Luke gets his brother's gun and shoots his mother while she is sleeping. She screams, runs to the kitchen, and calls the police. The police come and take her to the hospital where she recovers. Luke is charged with Attempted Murder.

Questions:

- 1) What should Luke tell his defense attorney about his case? What should he tell about how he was thinking and feeling? Why should he do this?
- 2) The Prosecutor offers Luke a deal (a plea bargain) of 5 years in prison if he pleads guilty to Aggravated Assault (attacking a person with the intent to do serious harm). What should Luke consider before deciding whether to accept? Who should he talk to about this?
- 3) To be found guilty of Attempted Murder what does the prosecutor have to prove?
- 4) What if Luke's defense attorney recommends that he think about an NGRI plea? To have him found NGRI, what does Luke's defense attorney have to show? What should Luke consider in deciding about an NGRI plea?

Vignette 3: Bob

Bob was arrested and charged with Battery on a Law Enforcement Officer after he hit a police officer who stopped him on the street. There were two other people (witnesses) who saw Bob hit the police officer. The officer had a cut on his chin after being hit, and Bob's knuckles were bruised. The worst penalty Bob can get if he is found guilty is five years in prison. The Prosecutor offers a deal (plea bargain) where Bob would have to spend four months in jail and then be on Probation for one year.

Questions:

- 1) Does the government have a strong case against Bob? Why or why not?
- 2) What evidence can be used to prove that he is guilty?
- 3) If you were Bob, would you accept the plea bargain? Explain.
- 4) If you were Bob, would you plead Not Guilty and take the case to trial?
- 5) Why or why not?

Vignette 4: Tom

The police came to Tom's house because neighbors complained that he was playing his music too loud. When the police got to his house they asked if they could come inside. Tom said "Yes". In the living room, police spotted a crack pipe and an empty bag on the table. The police arrested Tom for Possession of Drug Paraphernalia and Possession of Cocaine. Tom told the Police that the stuff was not his.

Questions:

- 1) Does the government (Prosecution) have a strong case against Tom on the Possession of Drug Paraphernalia charge? What about the Cocaine Possession charge? Explain your answer.
- 2) How might you plead (i.e., Guilty, Not Guilty, No Contest, Not Guilty by Reason of Insanity, Guilty but Mentally Ill) on these charges?
- 3) If Tom was under the influence of drugs/high when he got arrested, could he plead NGRI to the charges and win?

Vignette 5: Dave

Dave is arrested by police on Sunday morning and is charged with Theft. The police say that Dave stole a car from a gas station the previous night (Saturday night) and crashed it into a telephone pole two miles from his house. The police found Dave's fingerprints on the car door and were able to track him down because he has a criminal record and a past charge for Grand Theft Auto. Dave tells police that he was home alone all night on Saturday, but Dave's neighbor told police that he saw Dave running up to his house at 2:00 a.m., one hour after the car was reported stolen. Dave claims that the police are always messing with him, trying to frame him, and that they are involved in a conspiracy to put him behind bars. Dave's neighbor is a 65-year old retired store clerk. He is not an enemy of Dave's, has no criminal record, and has no bad feelings toward him.

Questions:

- 1) What evidence does the government have against Dave?
- 2) Who would be a more believable witness, Dave or his neighbor (neighbor does not have a criminal record)? Explain.
- 3) What if the neighbor had been a 23-year old with a long criminal record who had conflicts with Dave in the past? Explain.
- 4) The worst penalty Dave could get is 15 years if he is found Guilty. Should he consider a plea bargain of three years in prison? Why or why not? What if Dave had five past convictions for Car Theft?
- 5) If Dave's case goes to trial, how likely is he to win (be found Not Guilty) by claiming that he was framed? Why do you think Dave is accusing the police of framing/conspiring against him?

Module 3

Mock Trial #2

STEPS IN MOCK TRIAL

1. JUDGE enters.
2. COURTROOM CLERK calls the case.
3. JUDGE states that the court is in session.
4. PROSECUTOR makes his or her opening statement.
5. DEFENSE ATTORNEY makes his opening statement:
6. PROSECUTOR calls witnesses.
 - A. Direct Examination:
 - B. Cross Examination:
7. DEFENSE ATTORNEY calls witnesses:
 - A. Direct Examination
 - B. Cross Examination
8. PROSECUTOR makes closing statement
9. DEFENSE ATTORNEY makes closing statement
10. JUDGE/JURY decides on a verdict

**MOCK TRIAL
STATE VS. HENRY JACKSON**

On November 2, 1991 at approximately 2:00 p.m., Mr. Henry Jackson test drove a 1988 Ford Pick-up at Blue's Auto Sales. Mr. Joseph Blue, owner of Blue's Auto Sales, and Mr. Jackson could not come to terms on the 1988 Ford Pick-up, and the two exchanged words, Mr. Blue states that Mr. Jackson called him a 'rip-off artist' and told him that he could get the 1988 Ford pick-up if he really wanted it. On November 2, 1991 at 9:00 p.m., Mr. Blue made a trip back to his business to check on things as he usually does. When Mr. Blue arrived, he noticed one of his vehicles missing from his car lot and it was the same 1988 Ford pick-up that Mr. Jackson drove earlier that day. He then called the police to report the incident. The prosecution states that Mr. Henry Jackson is guilty of Grand Theft Auto and the evidence against him makes it clear beyond a reasonable doubt that he is guilty. The defense states that they have witnesses as to Mr. Jackson's whereabouts between the hours of 6:00-9:00 p.m., the time the truck went missing from Blue's Auto Sales. Mr. Jackson does not deny the comments he made to Mr. Blue but states he did not steal the truck.

JUDGE: Prosecution, you may go ahead with your opening statement.

PROSECUTION OPENING STATEMENT

On the afternoon of November 2, 1991, Mr. Henry Jackson did come to Blue's Auto Sales and he did test drive a 1988 Ford pick-up truck. Mr. Blue made Mr. Jackson a reasonable offer after negotiating on the price for approximately fifteen minutes. Mr. Jackson was in no way reasonable and told Mr. Blue that he was a "rip-off artist" and that he could get the truck if he really wanted it. We will prove that Mr. Jackson had no intentions of buying the truck and test driving it was just part of his plan to steal the truck later that night.

JUDGE: Defense you may give your opening statement.

DEFENSE OPENING STATEMENT

It is true that Mr. Jackson did in fact test drive a 1988 Ford pick-up truck at Blue's Auto Sales. Mr. Jackson had good intentions to buy the truck but Mr. Blue's price on the 1988 Ford truck was too high. Mr. Jackson does not own a vehicle at this time but recently acquired a part time job to buy a vehicle. The client Mr. Jackson was upset when he and Mr. Blue could not make a deal and he does not deny the comments he made to Mr. Blue, but the client has witnesses for his whereabouts at the alleged time the truck was stolen. Mr. Jackson did not steal the truck and he should not be convicted of a crime he did not commit.

JUDGE: Prosecution call your first witness please.

PROSECUTOR: I call Joe Blue to the stand.

COURTROOM CLERK: Raise your right hand and state your name.

WITNESS: Joseph B. Blue

COURTROOM CLERK: Do you swear to tell the truth, the whole truth, and nothing but the truth?

WITNESS: I do.

COURTROOM CLERK: You may be seated.

DIRECT EXAMINATION

PROSECUTOR:

Q. State your name please?

A. Joseph B. Blue

Q. How old are you Mr. Blue?

A. I am 56.

Q. What do you do for a living?

A. I own a car sales dealership.

Q. What is the name of your dealership?

A. Blue's Auto Sales.

Q. How long have you been in business for yourself?

A. For almost 15 years.

Q. What did you do before you went into business for yourself?

A. I was a car salesman for Henry's Chevrolet.

Q. Why did you leave Henry's Chevrolet?

A. It was my dream to own my own business, I had saved up some money so I pursued my dream.

Q. In other words, you have been in car sales since you started working?

A. Yes, that is right.

Q. Have you ever had any trouble dealing with potential buyers prior to November 2,

1991?

A. No, I have not.

Q. Could you describe to the court, the incident between you and Mr. Henry Jackson on November 2, 1991?

A. Well, I noticed Mr. Jackson looking at a 1988 Ford pick-up on the lot and I walked up to him and asked him if he would like to test drive it. He said that he had just got a job and was interested in buying, and we took it for a test drive. When we got back, we talked price on the truck. I came down \$2,000 off the original price and told him that was as low as I could go. Mr. Jackson then exploded, "you are a rip-off artist and the whole town will know it". As he was walking off the lot he made this comment, "I can get that truck if I want it", and he left.

Q. Is there any doubt in your mind that Mr. Jackson returned later that night and stole the 1988 Ford pick-up truck?

DEFENSE ATTORNEY: Objection your Honor! He is leading the witness.

JUDGE: Sustained.

Q. Do you Mr. Blue, have any doubt that Mr. Jackson stole the truck later that night.

A. No, there is not.

PROSECUTOR: Thank you Mr. Blue. I have no further questions.

JUDGE: You may cross examine.

CROSS EXAMINATION

DEFENSE ATTORNEY:

Q. Mr. Blue, you said you have been in car sales for a good part of your life?

A. Yes, that is correct.

Q. You also stated that you have never had trouble dealing with potential buyers prior to November 2, 1991, correct?

A. Yes, that is correct.

Q. Mr. Blue, you mean to tell me that you have never had an angry customer call you names or make simple threats towards you?

A. No, I cannot say that.

Q. Well, you told the court that you had never had any trouble with potential buyers prior to November 2, 1991. Let me ask you; is it unusual for an angry customer to make remarks such as the ones Mr. Jackson made to you on that day?

A. No, but...

Q. No buts, Mr. Blue! Just answer the question yes or no.

A. No.

DEFENSE ATTORNEY: Thank you Mr. Blue, I have no further questions.

JUDGE: Does that conclude the evidence from Mr. Blue?

DEFENSE ATTORNEY: It does your Honor.

JUDGE: You may step down Mr. Blue. You may proceed with your next witness.

PROSECUTOR: I call, Mrs. Mary May to the stand.

COURTROOM CLERK: Raise your right hand and state your name.

WITNESS: Mary M. May

COURTROOM CLERK: Do you swear to tell the truth, the whole truth and nothing but the truth?

WITNESS: I do.

COURTROOM CLERK: You may be seated.

PROSECUTOR:

Q. What do you do for a living Mrs. May?

A. I sell cars for Mr. Joe Blue.

Q. How long have you been working for Mr. Blue?

A. For about 8 years.

Q. So you know Mr. Blue pretty well?

A. Yes, I consider Mr. Blue a good friend as well as my boss.

Q. So could you tell the court, what kind of a personality Mr. Blue has?

A. Mr. Blue is one of the friendliest people I know, he gets along well with his customers and I have never heard him say a harsh word to anyone.

Q. Were you working the day Mr. Henry Jackson came to Blue's Auto Sales?

A. Yes, I was.

Q. Did you overhear the conversation between Mr. Blue and Mr. Jackson?

A. Yes, I did.

Q. Well Mrs. May could you tell the court what you heard?

A. Well, Mr. Blue and Mr. Jackson talked for about fifteen minutes after they arrived back from test driving the truck. Mr. Blue was describing the features on the truck etc. and Mr. Jackson said, "Let's talk price." Mr. Blue and Mr. Jackson negotiated for about 10 minutes and Mr. Blue said "this is as low as I can go". Mr. Jackson really seemed to be upset and called Mr. Blue a rip-off artist. He also stated that he could get the truck if he wanted it and he left.

Q. Have you ever seen anyone react this way during your car sales experience?

A. No, I have not.

Q. Did it appear to you that Mr. Jackson would go to any length to get that truck?

A. Yes it did.

PROSECUTOR: Thank you, that's all. Your witness.

CROSS EXAMINATION

DEFENSE ATTORNEY:

Q. Mrs. May, you told the court that you have never seen anyone upset after not coming to terms with a car salesman, right?

A. Yes.

Q. You can honestly say that you have never seen anyone upset, Mrs. May?

A. Well, I guess I should clarify myself. I have never seen anyone as upset as Mr. Jackson was that day.

Q. Mrs. May, would you say that the final offer Mr. Blue made to Mr. Jackson was reasonable, or was it still a little high?

A. The offer was reasonable; however, Mr. Blue was going to make some money off the car. That is what he is in business to do.

Q. I understand Mr. Blue is trying to make a living, but he also has a reputation of taking advantage of his customers. What would you say to this Mrs. May?

A. I have been working for Mr. Blue for about 8 years, and sure there have been unsatisfied customers, but Mr. Blue is just trying to make a living just like anyone else in business.

Q. Is it possible that Mr. Blue's offer to Mr. Jackson was a little high and Mr. Jackson may have been insulted by his final offer?

A. Yes, I guess it is possible.

Q. And this would explain Mr. Jackson's behavior on the day of November 2, 1991?

A. Yes, I guess it may.

Q. So Mr. Blue made an insulting offer to Mr. Jackson, he then became angry and made a few comments he should not have made. Does this prove that Mr. Jackson is guilty beyond a reasonable doubt?

A. No.

DEFENSE ATTORNEY: Thank you, Ms. May. I have no further questions.

JUDGE: Mrs. May you may step down. Does that conclude the evidence from Mrs. May?

DEFENSE ATTORNEY: It does you Honor.

JUDGE: Does that conclude the testimony from Mr. Blue's side?

PROSECUTOR: Yes, it does your Honor.

JUDGE: We will recess until 8:30 a.m. tomorrow morning. When court resumes, it will be called to order again by the courtroom clerk.

JUDGE: You may proceed with evidence from Mr. Jackson's side.

DEFENSE ATTORNEY: Thank you. The defense calls Mike Jackson to the stand.

COURTROOM CLERK: Please raise you right hand and state your name.

WITNESS: Michael Jackson

COURTROOM CLERK: Do you swear to tell the truth, the whole truth and nothing but the truth?

WITNESS: I do.

COURTROOM CLERK: You may be seated.

DIRECT EXAMINATION

DEFENSE ATTORNEY:

Q. Will you state your name to the court?

A. Michael K. Jackson.

Q. How old are you Mr. Jackson?

A. I am 22 years old.

Q. Could you tell the court in detail what you were doing between the hours of 6:00-9:00 p.m. on November 2, 1991?

A. Yes sir, about 5:30 p.m., I along with several other friends including Henry Jackson went down to the city park to shoot basketball. We played for about 2 hours and then we went to a friend's house to get something to eat and drink. We played cards after we ate until about 11:00 p.m. and then we all went home.

Q. Was Mr. Henry Jackson with the group the entire evening?

A. Yes he was.

Q. What do you think about the allegations against Mr. Jackson?

A. They are impossible because he was with me the entire evening and there is no way he could have stolen that truck.

DEFENSE ATTORNEY: Thank you Mr. Jackson. That is all I have.

JUDGE: You may cross examine.

CROSS EXAMINATION

PROSECUTOR:

Q. You stated that your name was Michael K. Jackson correct?

A. Yes I did.

Q. Is there any relation between you and the client Henry Jackson?

A. Yes sir, we are brothers.

Q. Do the two of you live in the same house?

A. No sir, I live at home with my parents and Henry lives on his own.

Q. You told the court that after playing basketball for a couple of hours that you and your friends went to another friend's house until 11:00 p.m. correct?

A. Yes sir, we did.

Q. Was there any time during this period that the two of you were separated?

A. No sir, not that I can remember.

Q. Not that you can remember! Was there any drinking going on at your friend's house?

A. Yes, we did drink a little.

Q. So, you, your brother and your friends were drinking right?

A. Yes.

Q. So, it is possible that you and your brother Henry may have been separated because you were all drinking and were not in the right state of mind to know if someone had left, correct?

A. We were drinking, but we were not drunk. I was not separated from my brother.

Q. I will ask you again Mr. Jackson, was there any drinking going on in the house the night of November 2, 1991?

A. Yes.

PROSECUTOR: No further questions, your Honor.

JUDGE: Does that conclude the evidence from Michael Jackson?

PUBLIC DEFENDER: Yes, you Honor.

JUDGE: Mr. Jackson you may step down. You may call your next witness.

PUBLIC DEFENDER: I call Henry Jackson to the stand.

COURTROOM CLERK: Raise your right hand and state your name.

WITNESS: Henry L. Jackson.

COURTROOM CLERK: Do you swear to tell the truth, the whole truth and nothing but the truth?

WITNESS: I do.

COURTROOM CLERK: You may be seated.

DIRECT EXAMINATION

PUBLIC DEFENDER:

Q. State your name to the court.

A. Henry L. Jackson

Q. How old are you Mr. Jackson?

A. I am 25.

Q. Do you have a job Mr. Jackson?

A. I work part-time at McDonalds.

Q. You recently acquired the job and you wanted to buy a vehicle correct?

A. Yes sir.

Q. You went to Blue's Auto Sales and test drove a 1988 Ford pick-up, correct?

A. Yes sir.

Q. Mr. Jackson could you tell the court about the incident between you and Mr. Blue after test driving the truck?

A. Well, I test drove the truck and when we got back to the car lot I asked Mr. Blue how much he wanted for the truck. He said that the price was listed on the truck.

Q. Does Mr. Blue have the prices listed on the vehicles?

A. No, he does not.

Q. Proceed with telling the court about the incident between you and Mr. Blue.

A. Well, we talked price and we could not make a deal. I got frustrated and told him he was a rip-off artist and that I could get that truck if I really wanted it.

Q. Did Mr. Blue provoke you to make these comments?

A. Well, he insulted me. He was trying to make a killing off me buying the truck.

Q. Your brother testified that you were with him and other friends on November 2, 1991, from 5:00-11:00 p.m.?

A. Yes, I was.

Q. Mr. Jackson, I am going to ask you straight forward, did you steal the 1988 Ford pick-up truck from Blue's Auto Sales?

A. No, I have never stolen anything in my life!

DEFENSE ATTORNEY: That's all I have, thank you Mr. Jackson.

JUDGE: You may cross examine.

CROSS EXAMINATION

PROSECUTOR:

Q. Mr. Jackson, will you clarify to the court what you mean when you say that Mr. Blue insulted you?

A. He acted like I was stupid and that I knew nothing about the price of cars.

Q. Mr. Jackson, what do you say about the truck being stolen the same day you had test

driven it?

A. I don't know how to explain it, but I didn't do it. It must have been a coincidence.

Q. Mr. Jackson, your brother has stated that the two of you were drinking with your friends. Were you drinking?

A. Yes, I was.

DEFENSE ATTORNEY: Objection your Honor, the prosecutor is intimidating the witness.

JUDGE: Sustained. You know the rules of the court Mr. Williams.

Q. Mr. Jackson, when people drink they often do things that they don't remember. You were drinking and you may have stolen the truck and didn't even know it, considering the state of mind you were in. Your brother has testified on your behalf, but he was in the same condition you were in. How is the court supposed to believe your testimony knowing these facts?

A. I have no explanation for that, but I know that I am not guilty.

PROSECUTOR: No further questions your Honor. The prosecution rests.

DEFENSE ATTORNEY: The defense rests.

JUDGE: Prosecution you may go ahead with your closing statement.

PROSECUTION CLOSING STATEMENT

I have to question the defense testimony, both Mr. Henry Jackson, the Client, and Mr. Michael Jackson, the defenses' witnesses were in a drunken state of mind on the night of November 2, 1991. Sure, Michael has testified that he was with Henry the entire night but they were both drunk and may not be absolutely sure of what they were doing. Mr. Henry Jackson had no intentions of buying a new truck and test driving it was only part of the plan to steal the truck later that night. Mr. Henry Jackson is guilty of Grand Theft Auto and should be prosecuted to the fullest extent of the law.

JUDGE: The defense may give its closing statement.

DEFENSE CLOSING STATEMENT

The client Mr. Henry Jackson does not deny the comments he made to Mr. Blue. In fact, Mr. Blue provoked the comments by insulting Mr. Jackson's intelligence about automobiles. It is not unusual for customers to become angry and make comments like these, but, in no way does this indicate that Mr. Jackson stole the truck. These comments are the only evidence the prosecution has to go on and it is not enough to prove beyond a reasonable doubt that Mr. Jackson stole the truck. The client has witnesses as to his

whereabouts at the time of the alleged crime. Mr. Jackson was across town with friends. Remember jury, to convict someone the evidence must prove beyond a reasonable doubt that he is guilty. The client is not guilty and should not be convicted of a crime that he did not commit.

JUDGE: Jury, you have heard conflicting testimony from both sides. It is your duty as a jury to find the facts and apply the law. You will now return to the jury room and decide on a verdict. This court is recessed.

Module 4

Review Test

NAME _____

DATE _____

TESTER _____

1. Competent
2. Not Competent
3. Competency Hearing
4. Laws
5. Rights – name some of the rights of an accused person.
6. Crime
7. Client
8. Accuse
9. Defend
10. What is the job of the defense lawyer?
11. What ways can a client help his lawyer?
12. Trial

Module 5

COMPETENCY GROUP STUDY GUIDE

SELF-AWARENESS

1. What is your name?
2. How old are you?
3. When were you born? Month, Day, Year
4. What is your marital status?
Single (Never Married), Married, Separated, Divorced, Widowed
5. What is the time of day?
6. What is the day of the week?
7. What is the date? Month, Day, Year

8. Where are you?
9. How long have you been here?
10. When were you admitted? Month, Day, Year
11. In what town are you?
12. In what state are you?

13. Why are you in the hospital?
14. Do you believe that you need to be in the hospital?
15. Do you believe that you need to take medication?
16. How does your medication help you? (with your thoughts, with your mood)
17. Do you believe that you have a mental illness?
18. Do you believe that other people think that you have a mental illness?

19. Do you believe that your thoughts are sometimes strange or make no sense?
20. Do you sometimes do things that are strange or make no sense?
21. Do you sometimes say things that are strange or make no sense?

22. How is your sleep?
23. How is your appetite?
24. How is your mood?
25. Do you sometimes get depressed?
26. Do you sometimes get anxious or nervous?
27. Do you sometimes have problems with concentration?
28. Do you sometimes hear voices or noises that other people do not hear?
29. Do you sometimes see things that other people do not see?

30. Do you believe that anyone is trying to harm you?
31. Do you sometimes have thoughts about harming someone else?
32. Do you sometimes have thoughts about harming yourself?

LEGAL SITUATION

1. What are your charges?
2. What does the police report say you did?
3. What evidence do the police have against you?
4. Are your charges serious?
5. What might happen if you are found guilty of these charges?
6. What is a felony?
 - A felony is a very serious crime.
 - The punishment for a felony is one year or more in prison.
7. What is a misdemeanor?
 - A misdemeanor is a less serious crime than a felony.
 - The punishment for a misdemeanor is less than one year in jail.
8. Do you think you will have a fair trial?
9. Do you have a lawyer?
10. Have you had any contact with your lawyer?
11. Do you trust your lawyer?
12. Why did the judge send you to the hospital?
 - The judge sent you to the hospital because he or she believed that you were incompetent to proceed in the legal system.
13. What is Incompetent to Stand Trial (IST)?
 - IST means that the judge believed that, because of your mental condition, you were not ready to proceed with your case.
14. What is competent to stand trial mean?
 - Competent to stand trial means that your mental condition will not interfere with you having a fair trial and you are ready to move forward with your case.
 - A competent person understands courtroom procedures, has a rational mind, has a stable mood, and can control his or her behavior.
 - If you are competent to stand trial, you will return to court to face your charges.

COURTROOM PROCEDURES

1. What is a crime?
 - A crime is committed when someone breaks the law, even if someone does not know about the law that was broken.
2. What is a trial?
 - A trial is a legal proceeding held in a courtroom to decide if a client is guilty, not guilty, guilty but mentally ill, or not guilty by reason of insanity.
3. What is a competency hearing?
 - When the judge listens to both sides and makes a determination about whether

you are competent to stand trial.

4. Please list the important people who are in the courtroom during a trial.
 - The following underlined words represent who will be in the courtroom.
5. What is a client?
 - A client is a person who has been charged with a crime.
6. What does the judge do?
 - The judge presides over the courtroom.
 - He or she keeps order in the court, makes sure both sides are treated fairly, and helps the jury understand the rules of the courtroom and how to make decisions.
 - The judge sometimes gives the verdict and always sentences the guilty.
7. What does the jury do and how many people are on the jury? Where do members of the jury come from?
 - The jury is 12 people from the community who are selected to hear a trial.
 - Each jury member is selected based on their ability to make fair decisions.
 - The judge instructs the jury as to how the court system works.
 - The jury, when present, gives the verdict.
8. What does the defense attorney do?
 - The defense attorney represents and defends you in court.
 - The job of the defense attorney is to get the best possible verdict for the client.
9. Why do you need to trust your defense attorney?
 - The defense attorney is on your side and can provide valuable legal advice.
10. What should you do if you cannot work with your defense attorney?
 - If you cannot work with your attorney, you can ask the judge to assign you a different attorney.
11. What does the prosecutor do?
 - The prosecutor tries to prove you are guilty.
 - The job of the prosecutor is to convict you of a crime and get the maximum sentence.
 - The prosecutor can also offer you a plea bargain.
12. What does it mean to testify? What is testimony?
 - When someone testifies, or gives testimony, he or she answers questions from the defense attorney, the prosecutor, or both.
 - Witnesses give testimony and sometimes the client testifies in court.

13. What do witnesses do?
- Witnesses tell what they know about a crime.
 - Witnesses testify for or against the client.
14. What is a character witness?
- A character witness knows the client personally and can testify about the client's good character.
 - A character witness always testifies for the client.
15. What is cross examination?
- Cross examination is when a witness, or character witness, answers questions from the opposing lawyers – the defense attorney and the prosecutor.
16. What is evidence?
- Evidence is anything that gives proof of a client's guilt or innocence.
 - Evidence can be testimony from witnesses, objects such as weapons, fingerprints, DNA samples, or written documents.
17. What does the court reporter do?
- The court reporter types everything that is said during the trial.
18. Are the following courtroom personnel for you, against you or neutral?

Courtroom Personnel	FOR YOU	AGAINST YOU	NEUTRAL
Judge			X
Jury			X
Prosecutor		X	
Defense Attorney	X		
COURTROOM CLERK			X
Court Reporter			X
Witnesses	X	X	
Character Witnesses	X		

19. Please list the pleas from which you can choose?

The following underlined words represent the four pleas.

20. What does not guilty mean?
Not guilty means that the client says that he or she did not do the crime.
21. What does guilty mean?
Guilty means that the client says that he or she did the crime.

22. What does no contest mean?
- No contest, or nolo contendere, means that the client will not say that he or she is guilty or not guilty.
 - If a client pleads no contest, the judge will review the available evidence and determine whether the client is guilty or not guilty.
 - If the client pleads no contest, he or she will not have a trial by jury, he or she will not face his or her accuser, and he or she may not ask for an appeal (a second or higher opinion).
23. What does not guilty by reason of insanity mean?
- This means that the client did the crime but, at the time of the crime, the client either did not know that the action was wrong or could not control his or her behavior due to a mental disease or mental defect.
24. What does guilty but mentally ill mean?
- This means you did the crime and were mentally ill at the time but you still knew what you were doing was wrong.
25. Which pleas result in a trial?
- If a client pleads not guilty, or not guilty by reason of insanity, there will be a trial. If a client pleads guilty or guilty but mentally ill, the judge will give the sentence. If a client pleads no contest, the judge will give the verdict and the sentence.
26. What is a plea bargain?
- A plea bargain is a deal where the client pleads guilty or no contest to a less serious charge and receives a less serious punishment than if he/she were found guilty at trial. The client, the defense attorney, the prosecutor, and the judge must approve of the plea bargain.
27. What is a verdict?
- The verdict is the decision on whether the client is guilty, not guilty, guilty but mentally ill or not guilty by reason of insanity.
28. Who makes the verdict?
- The jury or if there is no jury, the judge decides the verdict.
29. What is a sentence and who gives the sentence?
- The sentence is the punishment given by the judge to the guilty.
30. What is an appeal?
- An appeal is when the defense attorney or the state attorney asks a higher court for a second opinion about the verdict or the sentence.
31. What is probation?

- Probation is when a client is supervised in the community. The convicted person can live in the community but is under the supervision of a Probation Officer. The convicted person must follow the rules that the judge has arranged. After a specified amount of time the convicted person can go free.

32. What happens if you violate probation?

- If the convicted person did not follow the rules that the judge ordered, then he/she can be charged with a probation violation and sentenced to prison.

COURTROOM BEHAVIOR

1. How should you behave in court?

- You should be polite, quiet, and well-mannered.

2. How should you dress for court?

- You should be clean and wear appropriate clothing.

3. When should you speak in court?

- In court, you should speak only when asked a direct question and your attorney advises you to respond.

4. What should you do if you need to say something during the hearing?

- You should whisper to your attorney or write your attorney a note.

5. What should you do if you become angry in court?

- You should quietly explain to your attorney what is wrong.

6. What is contempt of court?

- Contempt of court is a charge that could result from a client misbehaving in court.

7. What is perjury?

- Perjury is lying under oath. If a client or witness testifies and is caught intentionally giving false information, he or she could be charged with perjury.

8. What is the 5th Amendment?

- The 5th Amendment of the U.S. Constitution protects people from incriminating themselves in court. If a client or witness is testifying and does not want to answer a question because the answer makes the client or witness appear guilty, he or she can plead the 5th and refuse to answer.

Section Four

Instructor's Manual & Materials for One-to-One Restoration Efforts

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Working One-on-One with Individuals on Competency to Proceed

Working in a one-to-one manner is one of our most valuable tools in helping our individuals become competent to stand trial. The staff member observes the individual's progress, provides the treatment team with that information and how the individual learns and thinks, and provides valuable documentation in the medical record about the restoration efforts for the neutral evaluator. This section of the manual is broken down into three sections:

1. Handouts that **can** be given to the individuals¹
 - a. Pocket Study Guide;
 - b. Plea Bargains handout;
 - c. Staying Free handout;
 - d. Fun facts brochure
2. A blank 1:1 Competency Workbook (**for the staff member's use only**);
3. A sample Complaint and Affidavit in Support of an Arrest Warrant and
4. Completed 1:1 Competency Workbook based on the Complaint and Affidavit (**for the staff member's use only**). The 1:1 Competency Workbook is **only to be used by the 1:1 staff member (not to be given out to the individual)**. It is a tool to guide the staff member in working the individual through their charges and their understanding of the legal process. An example of using the Workbook in conjunction with charges follows the Workbook; **it is only for the 1:1 staff member's use** to learn how to use the Workbook.

Remember that the individual is in a pretrial status; they have not been adjudicated for the crime(s) they are accused of committing. Notify the client that everything that is discussed is documented – nothing is confidential; however, you **MUST NOT** document if the individual makes statements that would constitute an admission to the allegations in the criminal complaint or specific details about circumstances surrounding the offense that could be used against him or her. Our job is to help the individual become competent, so he or she can proceed with his or her case; not to determine or provide evidence of their guilt or innocence or help them avoid/get legal consequences. We do not decide if the individual is competent; the court decides. We simply document our efforts toward restoration and our observations of their behavior and effort.

Thank you for using these materials and your individual work! Please talk with the treatment team if you have any questions about following the workbook or using any of the materials in your 1:1 work.

¹ These documents can also be found in Section Six, client handouts.

CompKit

Competency to Proceed Training Resources

HANDOUTS

CompKit was developed in 2005-2006 by
Florida State Hospital, Chattahoochee, Florida
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POCKET GUIDE TO COMPETENCY

WELCOME TO THE POCKET GUIDE TO COMPETENCY

The information in this workbook will help you learn what you need to know about the court and what happens to you there. Demonstrating knowledge about competency issues will speed up your return to court and help you have a fair trial. Your understanding of competency issues will be evaluated on an ongoing basis.

Why are you at the Hospital? How did you get here?

1. You have been **charged with a crime**. To be charged means the police suspect you have committed a crime and are holding you for trial.
1. The **judge** felt that you were not ready to go any further in the legal process. Because of this, the judge found you **Incompetent to Stand Trial**.
2. The judge based his or her decision on information from evaluators (psychologists or psychiatrists) who thought that you might have a mental illness that prevents you from helping your lawyer defend you. Having a mental illness could get in the way of you having a fair trial.
4. At some point in the judicial process, everything had to come to a stop due to your possible mental illness.
5. The Judge **committed you to the Hospital** so that, with treatment and training, you will be Competent to Stand Trial on your charge(s).

What can I do to be discharged from the hospital as soon as possible?

To speed up your discharge, you need to cooperate with treatment staff, take medication if prescribed, show good behavior, participate in treatment groups, and learn about your charge(s) and the court process.

What are some of the things I need to know to be Competent to Stand Trial?

1. Know and understand what you have been charged with.
2. Understand the maximum and minimum penalties you could get if you are found guilty.
3. Understand how the court works and the roles of people in the courtroom.
4. Be able to share facts with and trust your attorney.
5. Be able to show good behavior in court.
6. Be able to communicate well so you can provide useful testimony in court.

CRIMES AND PENALTIES

You have been charged with a crime. In order to be competent to proceed with a trial, you need to know what your crime is and how much time it carries.

Crimes are listed as either Misdemeanors or Felonies:

1. **MISDEMEANORS** are not as serious as felonies. If convicted, you may be sentenced to as much as one year in jail.
2. **FELONIES** are more serious crimes and carry longer potential sentences (from one year to life).

Know the Punishments Other than Prison

Sometimes, people do not get sentenced to prison, even if they are found guilty. This often happens if the charge is a less serious felony or if it is a first offense. You need to know what other things can happen to you besides prison. Some examples are listed below.

Probation: For misdemeanors and less serious felonies, you might get probation. This means you are free, but you cannot drink, use drugs, or commit any crimes. You will have to stay in Pennsylvania, check in with a probation officer, pay a fee, and possibly take drug tests.

CRIME QUIZ

1. A less serious crime is called a _____.
2. Misdemeanors are _____ serious than felonies.
3. Misdemeanors carry no more than _____ of jail time.
4. Felonies can carry time in _____.

Answers: 1. Misdemeanors;
2. Less;
3. One year;
4. Prison

Competency Search

Find the hidden words.

q l d m h c k k c w i c h w f i l n
 j a e p x k o m b r q s z i p n j t
 i w f o n g i n i o i w a t k c u p
 k y e j u r y o v s t m u n a o d r
 z e n m c i x r d i d x e e s m g o
 o r d w v o t w f e c e t s e p e b
 z i a i l j u w g h h t m s h e x a
 x u n t r w b r f d x k i e h t q t
 o f t p t r e a t m e n t o a e y i
 d x e f n i v c r v y f h j n n p o
 p u b l i c f d e f e n d e r t o n
 d z q l o i b d s c h a r g e s o r
 c o m m u n i t y f s e r v i c e n
 e g u i i t y v m h o s p i t a l n

Probation	Public Defender	Incompetent	Charges
Felony	Jury	Hospital	Crime
Conviction	Client	Witness	Judge
Misdemeanor	Guilty	Lawyer	
Community Service	NGI	Treatment	Court

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THE PEOPLE IN THE COURT ROOM AND THE COURT SYSTEM

Before you can be found competent, you need to know who works in the Court and what they do.

1. JUDGE

- A. The Judge keeps order in court. He or she makes sure you get a fair trial.
- B. The judge is like a “referee” who makes sure everyone follows the rules of the court. Just like a referee, the judge is neutral or impartial, which means he or she is on nobody’s side.
- C. Just like a referee can start and stop a game, the judge can start and stop the trial. He or she also tells people when it’s their turn to talk. Like a referee who settles arguments between opposing teams, the judge settles arguments between the lawyers (rules on or renders a decision). The judge can also expel people from court if they get out of line, just like a referee can throw a player out of the game.

The judge has other very important responsibilities:

- If the verdict is guilty, the judge decides the sentence.
- If the verdict is not guilty, the judge sets the client free.
- When there is no jury, the judge decides guilt or innocence (during a bench trial).

2. DEFENSE ATTORNEY

The defense attorney is the lawyer who is on your side in the trial. He/she is trying to protect you and their goal is to get you free, or if you are found guilty, get a reduced sentence for you.

The defense attorney is working for you and is on your side.

Before you can be found competent, you must show that you are able to work with your lawyer. While you are at the hospital, your ability to work with your treatment team and participate in treatment will be monitored; cooperating with treatment is usually a good sign that you can work with a lawyer.

You need to tell your lawyer your side of the case. Tell him or her what happened. Your lawyers can’t defend you very well if you don’t trust or talk to them! What you talk about with your attorney is private.

3. PROSECUTOR (PROSECUTING ATTORNEY)

The prosecutor is also called the prosecuting attorney. They present the government’s case against you. Their job is to prove to the judge or jury that you are guilty.

The prosecutor/prosecuting attorney is working against you and is not on your side.

4. CLIENT or DEFENDANT

The client, who is sometimes referred to as the defendant, is the person who has been charged with a

crime. You are the client in your criminal case. When you were charged with a crime, the police believed that you committed it. Your job is to work with your attorney to either show that you are not guilty or get the lightest possible sentence.

If you go to trial, you don't have to testify if you don't want to. This is a basic right of all citizens in the United States and is known as the Fifth Amendment. It guarantees that an accused person cannot be forced to testify against himself. He can choose to remain silent, and he is still considered to be innocent until proven guilty. So, if you decide not to talk, you can "Plead the Fifth" and remain silent. No one can make you testify if you don't want to, not even the judge.

5. JURY

The jury is made of 12 citizens, although you may agree to a lesser number. They are selected from the local community and asked to serve as part of their civic duty. The jury is instructed by the judge to pay attention to everything that goes on in trial.

The jury is neutral, impartial, and on nobody's side. The jury listens to both the prosecutor and defense attorney as they present their cases, including evidence and witnesses. The jury decides the verdict: Guilty, Not Guilty, Guilty but Mentally Ill or Not Guilty by Reason of Insanity.

You and your lawyer decide if you want a jury present (this is called a jury trial) Because it takes longer to have a jury trial, you may choose to plead your case in front of the judge, without a jury present, and the judge will decide if you are guilty or innocent. This is called a bench trial.

6. WITNESSES

A witness is a person who has information that is important to the trial. A witness is supposed to tell the truth. Witnesses tell what they saw and heard. A witness can be called by either the defense attorney or the prosecutor. If a witness is called by the defense attorney, it is usually because the defense attorney believes that witness will help show that you are innocent. If the prosecutor calls a witness, he or she probably believes that witness will help show you are guilty.

In the court, both sides can question the witnesses, regardless of who called them to the stand. For example, if the prosecutor calls someone to the stand that makes you look bad, then your defense attorney gets a chance to poke holes in their testimony (cross-examination).

OVERVIEW OF THE COURT SYSTEM

As we said before, the judge is like a referee, and the trial is like a sporting competition that two sides that are trying to win. This is why our court system is an adversarial system. This is because both lawyers "fight it out" and the judge and jury decide who is right. In order to win, you, the client, must know who is on your side. Remember that the defense attorney is on your side and you must be able to work with him or her in order to win.

JUDICIAL QUIZ

1. A judge is like a _____.
2. The _____ is a defense attorney appointed by the court when you have no money.

3. The defense attorney tries to prove you are _____.
4. The prosecutor tries to prove you are _____.
5. The jury decides if you are _____ or _____.
6. A witness provides _____ that is important to the trial.
7. You have to be able to _____ with your attorney.

Answers: 1. Referee;
2. Public Defender;
3. Help;
4. Guilty;
5. Guilty or Innocent;
6. Evidence/Testimony;
7. Work

HOW YOU SHOULD ACT IN COURT

In court, appearances are very important. Dress your best. Wear your best clothes. Be neat and clean. Make sure you take a bath or shower, have your hair neat and combed.

Be polite and quiet in court. Be seated when everyone else is sitting and stand only when asked to. Do not let your behavior disrupt the trial. Speak in a low voice to your attorney.

Listen to what the witnesses for the prosecution are saying. If someone tells a lie about you don't yell out or object. Lean over and tell your attorney or write him or her a note about it so he or she can handle it. Your lawyer is supposed to do all the talking for you!

THINGS YOU DEFINITELY DO NOT WANT TO DO:

Don't show up looking sloppy, dirty, or under the influence of drugs or alcohol!

Don't fail to appear – they can put a warrant out for your arrest if you don't show up! Don't speak out of turn or interrupt!

Don't yell out responses!

Never raise your hand and ask if you can talk!

Don't act like people do on TV court shows! People on TV court shows speak out of turn, interrupt, and talk back to the judge – in real life these people can be thrown in jail for how they act!

Don't lie! If you get caught lying, you can be charged with Perjury, which means more jail or prison time. It's better to say nothing (plead the Fifth) than lie.

REMEMBER: IF YOU DO NOT ACT RIGHT IN COURT THE JUDGE CAN FIND YOU IN CONTEMPT OF COURT. THIS CAN HAVE SERIOUS CONSEQUENCES FOR YOU!!!!

COURTROOM QUIZ

1. You should dress your _____ when you go to court.
2. Be polite and _____ in court.
3. If someone lies about you, you should _____ the correct answer to your lawyer.

Answers: 1. Best;
2. Quiet;
3. Whisper/write down;

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PLEA AND PLEA BARGAINING HANDOUT

Pleas

Before you can be found competent, you must know the five pleas, what happens when you make each plea, and you must know what a plea bargain is. Based on what you tell your lawyer, your lawyer will give you advice about how to plead. You should carefully consider your lawyer's advice.

There are five pleas that you can make:

GUILTY

You admit you **did the crime**. You give up your Fifth Amendment right not to incriminate yourself. There will be no trial and no appeal. If you plead guilty, you will be sentenced.

NOT GUILTY

You are saying that you **did not do** what you are charged with. You go to trial in court. If you win at the trial, you go free. If you lose, you get sentenced.

NOT GUILTY BY REASON OF INSANITY (NGI)

This is a special plea that says you are **not guilty** because at the time of the crime, you didn't know the difference between right and wrong due to a mental illness. If you prove you were NGRI, you will most likely go to a mental hospital for treatment. You will stay in the hospital until the judge feels you've had enough treatment and are ready to go back to the community. The judge makes this decision when you are no longer a grave danger to self or others due to mental illness. This can sometimes take several years and can last longer than a prison sentence.

GUILTY BUT MENTALLY ILL

This is a special plea where you say you did what you are charged with, that you were mentally ill at the time, but you were not so mentally ill that you did know what you were doing was wrong. If you make this plea the judge will sentence you and decide if you should go to the hospital for treatment or to jail.

NO CONTEST (NOLO CONTENDERE)

You don't fight the charges. You don't say you did the crime and you don't say you didn't do it, but you agree to the facts presented by the prosecution. You let the judge decide. When you enter this plea, the judge will treat you as if you pleaded guilty and you will be sentenced.

PLEA BARGAIN

This is a deal between the prosecutor, your lawyer, and you. The prosecutor, your lawyer, you and the judge must agree to the bargain in order for it to happen.

Your lawyer may tell you to accept a plea bargain.

In a plea bargain, you agree to plead guilty or no contest to a charge that is not as serious as your original charge OR to one or more charges in exchange for others being dismissed. Here is an easy way to remember it: you plead guilty or no contest to get less time.

Prosecutors usually like to agree to a plea bargain because the courts are overloaded with cases, and plea bargaining is one way to settle cases quickly.

PLEA QUIZ

1. The five pleas are guilty, not guilty, _____, _____ and _____.
2. If I plead _____, _____ or _____, I will be sentenced.
3. If I plead _____ and the judge or jury agrees, I will probably be sent to the hospital. I may also be sent to the hospital if I plead _____
4. If I plead _____, I will go to trial. If I win, I go free; if I lose, I will be sentenced.
5. In a plea bargain, I will plead _____ or _____, in order to get less ____.

- Answers:
1. Guilty but mentally ill, No contest, Not Guilty by Reason of Insanity
 2. Guilty, No Contest or Guilty but Mentally Ill
 3. Not Guilty by Reason of Insanity; Guilty but Mentally Ill
 4. Not Guilty
 5. Guilty, No Contest, time

OVERALL REVIEW: WHAT DO I KNOW?

1. What am I charged with?

2. Is it a misdemeanor or felony? _____

3. How much time could I get if I'm found guilty? _____

4. Which lawyer is trying to help me? _____

5. Which lawyer is trying to convince the jury that I am guilty? _____

6. What does the judge do in court? _____

7. Who is supposed to decide whether I am guilty, not guilty, or not guilty by reason of insanity?

—

8. What does a witness do in trial? _____

9. Should I trust my lawyer? _____

10. How can I help my lawyer defend me? _____

11. If I hear a witness give wrong information, how do I let my lawyer know? _____

12. How should I act in court? _____

13. List the five pleas: _____

14. If you agree to a plea bargain, what are the pleas you usually enter? _____

15. Who is the client in your case? _____

COMPETENCY KIT
Competency to Stand Trial Training Resources

Staying Free Handout

After you go to court, the following things might happen as a result of a trial or a plea bargain:

- **Not guilty** - You can be found not guilty and set free.
- **Time served** - You could be found guilty, get a sentence of time served, and set free.
- **Probation** - You could be found guilty, get a sentence of probation, and let out of jail. Probation lets you live in the community, maybe at home, or with a family member, or in a group home. You have to follow rules set by the judge and report regularly to a probation officer. The probation officer can visit you unexpectedly where you live.
- **Jail** - You could be found guilty, be sentenced to some months in jail. After release from jail, you would be set free or released on probation.
- **Prison** - You could be found guilty, be sentenced to some years in prison, and after prison, set free or released on probation. After you are set free, it is up to you to stay free. This is true if you are on probation or not on probation.

What do I have to do if I get probation?

The judge can order you to do many things if you are on probation. Some things the judge could order:

- Wear an electronic ankle monitor.
- Be at home except when you're at work, school, church, a doctor's appointment, a mental health appointment, or the probation office.
- Be tested for alcohol and drug use any time your probation officer requests it.
- See your probation officer whenever you're told.
- Go to mental health or substance abuse treatment.
- Get and keep a job.
- Pay restitution (fees you pay to the court for the victim's for injury, loss, or damaged property).
- Pay court costs.
- Pay for your probation supervision.
- The judge and your probation officer may also tell you some other things you have to do.
- **If you are on probation and you don't do what you're supposed to do, you will be arrested and go to jail.**

What are things I can't do if I get probation?

The judge can order you to not do many things if you're on probation. Some of the things the judge can order:

- You can't drink alcohol.
- You can't use drugs.
- You can't touch or own a gun.
- You can't move to another address without permission from your probation officer.

- You can't travel out of the area without permission from your probation officer.
- You can't go near the victim of the crime you were convicted of. You can't go near the victim's home, or near the victim's family if there is a stay away order in place.
- You can't go near a business related to your crime or near a school related to the crime either if there is a stay away order (from a location) in place.

The judge and your probation officer may also tell you some other things that you can't do.

If you are on probation and you do something you're not supposed to do, you will be arrested and go to jail.

Probation or no probation, what do I have to do to stay free?

Be smart and stay free

- **Be thoughtful.** Think before you act or say something. If you do unwise things, you will get in trouble, the police will arrest you, and they will take you to jail. An unwise thing is holding a bag because somebody says to you "Do not look in the bag" and "I will give you \$20 to stand there with the bag in your hand while I go see somebody." The police don't care if you don't know that drugs, stolen property, or a gun is in the bag. The guy who told you to hold the bag might even want you to go to jail!
- **Have nice friends.** Hang around with people who have jobs, care for their family, obey the law, and don't do illegal drugs.
- **Find somebody who will listen to you.** Talking about your thoughts to somebody you trust can help you make good decisions.
- **Obey the law.** If police see you break the law, they will arrest you and take you to jail. If a citizen sees you break the law or thinks you are "acting suspicious," the citizen will tell the police. Then the police will come, arrest you and take you to jail. If you threaten family members, steal from them, or bring drugs home, a family member might tell the police. They might tell somebody else who will tell the police. Then the police will arrest you and take you to jail.
- **Meet the conditions of your probation.** Do everything the judge orders and probation officer requests.

Get a life and stay free

- **Get a regular life.** Find a job you can do and stick with it. Practice a regular routine every day. Don't overspend your money or your credit. Ask for help if you need it. Keep your emergency phone numbers.
- **Stay healthy.** Go to your doctor and mental health appointments. Take your medication. Don't take other people's medication. Tell the doctor or the nurse if you have problems. Call the emergency telephone number if you have an emergency. Eat healthy food. Go outside in the daytime.
- **Don't use drugs.** If you do drugs, sooner or later you'll do something stupid, get robbed, hurt, arrested, overdose, killed, or violate probation. Don't take street drugs or abuse your prescriptions.

- **Stay away from people who sell drugs and use drugs or alcohol excessively.** People who do drugs and sell drugs act stupid and get in trouble. They might try to cut a deal with the police by telling them you use or sell drugs even if you don't. If police have seen you with people who use and sell drugs, they will think you use or sell drugs even if nobody says you do.
- **Don't carry a gun or knife.** Carrying a knife or gun makes it look like you're ready to hurt, kill or rob somebody. If the police find out you have a weapon on you, they will arrest you and take you to jail.
- **Don't wander around at night.** If a citizen sees you wandering around at night and thinks you are acting suspicious, they will tell the police and you'll get arrested. Or the police might see you wandering around at night and think you're on your way to rob or attack somebody, get drugs, or sell drugs. They could arrest you and take you to jail.

Treat police nice and stay free

- **Don't break the law.**
- **Remember that you have a record.** The police may not believe you if you say you did nothing wrong. They may arrest you and take you to jail.
- **Show the police you respect them.** If the police think you are lying, or you don't respect them, they might arrest you and take you to jail. When they ask you a question or tell you to do something:
 - stand straight.
 - face the police when they are talking.
 - don't keep looking around.
 - look the police in the eye.
- **Obey the police.** Do what the police say
 - even when you think they stopped you for no reason.
 - even if you have been good, very good, bad, or very bad.
 - even if are making you late.
 - Even if the police seem rude to you.
- **When you see or talk to the police, NEVER do these not-so-smart things:**
 - Touch police with your hand, not even a finger.
 - Grab the police by the arm, hand, or anywhere else.
 - Put your hand in your pocket or in your shirt like you're going to pull something out.
 - Call the police bad names.
 - Tell the police they are stupid or don't know what they're talking about.
 - Tell the police they are not doing their job right.
 - Walk away from the police when they're talking to you.

\

What do I need to know about the court?

The court system is **adversarial**. That means that there are two sides in the case and both sides try to win the case. The Client (you) and the defense attorney are on one side and the Prosecutor is on the other side against you.

The Judge:

- Keeps order in the court.
- Makes sure everyone follows the rules of the court.
- Is **neutral** or **impartial**. He or she is not on either side and does not help one side more than the other.
- Passes sentence if the client is found guilty.
- Sets the client free if the verdict is Not Guilty.
- Decides if the client is guilty or not guilty when the trial is a “bench” trial (no jury.)

The Defense Attorney:

- Is the lawyer who is for you, on your side.
- Does his or her best to get you free.
- Is trying to protect you.
- Tries to get you a reduced sentence if you are found or plead guilty.

The Prosecutor:

- Is against you and is NOT on your side at any time.
- His/her job is to prove you are guilty.

Pleas

- **Guilty:** I did the crime.
- **Not Guilty:** I did NOT do the crime.
- **Not Guilty by Reason of Insanity (NGI):** At the time of the crime, I was mentally ill and did not understand that what I was doing was wrong.
- **Guilty but mentally ill-**I did the crime and was mentally ill but knew what I was doing
- **No contest:** I don’t admit guilt but agree to the facts presented by the prosecution.

Plea Bargain

A deal between the State Attorney, your defense attorney, and you. The judge has to agree with the plea bargain. It usually results in a sentence less than you would have gotten without a plea bargain.

Behavior in Court

While you are at the Hospital, we check your behavior to be sure that you can behave properly in court: being calm, quiet, and paying attention.

Ability to Testify

You must be able to speak in an organized way and answer questions. You have to know to tell the truth in court, but you do not have to say anything that makes you look guilty (incriminates you).

Pennsylvania Department of Human Service

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Competency to Proceed Training Resources

Competency Fast Facts Brochure

Why am I at the Hospital?

1. You have been charged with a crime.
2. The judge felt that you were not ready to go through the legal process. Because of this, the judge found you **incompetent to proceed**.
3. The judge decided this because he or she felt that you might have a mental illness that keeps you from helping your lawyer defend you in court.
4. The Judge ordered that you come to the hospital for treatment of your mental illness and training about the court system. This is so that you can become **competent to proceed** and go back to court.

What do I have to do to go back to court?

You must be competent to go ahead with your case in court. This means that you must show that you are **competent to proceed**. To be competent to proceed, you must:

1. Factually and rationally understand your legal situation. This means:
 - a. You must know the charges against you;

what the police say that you did.

- b. You must know the possible sentences or penalties for a person found guilty of your charges.
 - c. You must understand that the court system is an **adversarial** system. You must show that you understand how the court system works and what the people who work in the court do.
2. Be able to work with your defense attorney (lawyer) and make decisions about your defense in a rational way. This means:
- a. You must be able to provide accurate and important information about your case to your lawyer.
 - b. You must be able to behave appropriately in court.
 - c. You must be able to testify and give evidence in court to defend yourself, if necessary.

What can I do to become competent to proceed and leave the hospital as soon as possible?

1. Cooperate with treatment.
2. Take the medication that the doctor says you need.
3. Be on your best behavior.
4. Participate in the groups where they talk about court and the people in court.
5. Know about:
 - my charges,
 - my possible penalties, and
 - the court.

What do I need to know about my charges?

Crimes are either **misdemeanors** or **felonies**:

Misdemeanors are less serious than felonies. Misdemeanors are such crimes as loitering, trespassing, assault, simple battery, and some traffic offenses. They can carry sentences up to a year.

Felonies are more serious crimes. Being charged with a felony is a very serious matter. Felonies are crimes such as battery on a law enforcement officer, armed robbery, burglary of an occupied structure, battery, aggravated assault rape, and murder. They can carry sentences of a year to life in prison.

Possible punishments without prison time

- **Probation**
- **Jail Confinement (1 year or less)**
- **Time Served**
- **A fine**

If found not guilty: No punishment.

Competency to Proceed Training Resources

1:1 COMPETENCY WORKBOOK EXAMPLE

Instructions: This is an example of how to use the IIC's charges and affidavit in conjunction with the 1:1 Competency Workbook. Please review this and the answers to better understand how to utilize the workbook in your 1:1 work. This is NOT to be given to the individual.

For 1:1 Use Only – Do Not Give to the IIC

This is the Competency Workbook of: (insert name) _____

Suggested Introduction to Read to the IIC

You are at (insert name of Hospital) Hospital because the judge has found you "Incompetent to Stand Trial." This means:

- 1) The judge believed that you suffer from a mental illness and
- 2) The judge believed that, because of your mental illness:
 - you do not understand your current legal situation and/or
 - you are not able to go through the criminal court process with rational understanding of the process.

This Workbook gives you information about the law and courtroom procedures. You must learn this information to do well in treatment and get out of the hospital. Your Hospital's competency evaluator and your Treatment Team will decide when they believe you are ready to leave the hospital and go back to Court. When that happens, the evaluator will send a report to the judge, your lawyer, the prosecutor, and others responsible for helping continue your care after you leave Hospital.

This workbook is adapted from original materials developed by Colorado Mental Health Institute and D.C. Saint Elizabeths Hospital.

Review the charges and legal paperwork with the defendant. Below are sample legal documents highlighting key elements that should be reviewed with the individual. You should review the actual documents with the individual.

Charge #1

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION
INFORMATION

DCTN: _____
Lockup No: _____
Case No: _____
Citation Date: _____

The United States Attorney for the District of Columbia informs the Court that within the District of Columbia:

Defendant's Name: Mr. X
(First) (MI) (Last) (PDD) (CCNO) (DOB)

Also Known As: _____
(First) (Middle) (Last)

Address: _____

1 On or about March 1, , within the District of Columbia, **Mr. X** wrongfully obtained and used property of value, belonging to National Gallery of Art, consisting of merchandise, with the intent to appropriate the property for his own use and to deprive National Gallery of Art of a right to and benefit of the property. **(Second Degree Theft, in violation of 22 D.C. Code, Sections 3211, 3212(b) (2001 ed.))**

Co-Defendants:

This is the Charge. The official name of the charge is in the parentheses and in bold letters.

Rule 105: Judge: SALERNO

This is the Judge

United States Attorney for the District of Columbia

By: Assistant United States Attorney	Date: March 2, 2017
By Officer: _____	Badge No.: _____
PSA: 101 Domestic <input type="checkbox"/>	

Gerstein Affidavit – Charge 1

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION
UNITED STATES

VS

MR. X

CCN #: :

Arrest Number:

The event occurred on 03/01/2017 at approximately 11:20 at NATIONAL GALLERY OF ART - WEST BUILDING, MADISON DRIVE NW, WASHINGTON, DC 20565

Defendant MR. X was previously involved in a shoplifting case. An alert employee observed the defendant removing items that were for sale from a gift shop and concealing them inside his jacket. The defendant was confronted by the listed witness who summoned security to the scene. Lieutenant Walker responded and met with the witness.

These are the details that led to the charge. This is where you would review what the evidence and witnesses are with the IIC

The event and acts described above occurred primarily in the District of Columbia and were committed as described by defendant(s) listed in the case caption.

Subscribed and sworn before me this 03/01/2017

GLENDINNING, DANIEL / 275 / 275 (03/01/2017) E-SIGNATURE
Police Officer / Badge# / CAD#

CLANTON, SHERICE / 163 (03/01/2017) E-SIGNATURE
Unit / Witness / Deputy Clerk

GLENDINNING, DANIEL / 275 / 275
Printed Name of Member / Badge# / CAD#

CLANTON, SHERICE / 163
Printed Name of Witness / Deputy Clerk

The foregoing statement was made under penalty of criminal prosecution and punishment for false statements pursuant to D.C. Code 22-2405

Page 1 of 1

Stay Away/No Contact Order

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION**

UNITED STATES OF AMERICA

Intake Date:

v.

Lock Up No. :

Mr. X

Criminal Case No.:

PDID NO.:

DCTN:

This is a stay away order issued in this case and what he is required to do.

STAY AWAY / NO CONTACT ORDER

You, the defendant in this case, **MUST** obey the following conditions, which are being imposed **IN ADDITION** to any other conditions that the Court may impose pursuant to D.C. Code Section 23-1321. You **MUST** abide by these conditions until this case is disposed of or until they are changed by the Court.

NO ASSAULTIVE, THREATENING, ABUSIVE, HARASSING, OR STALKING BEHAVIOR TOWARD

YOU ARE TO STAY AWAY FROM THE PERSONS LISTED BELOW: Names and addresses (if applicable) of victims/witnesses

YOU, THE DEFENDANT, ARE TO HAVE NO CONTACT WITH ANY OF THE PERSONS NAMED ABOVE BY ANY MEANS WHATSOEVER. THIS MEANS THAT YOU SHALL REMAIN AT LEAST 100 YARDS AWAY FROM THEM, THEIR HOME, AND/OR THEIR PLACE OF EMPLOYMENT, AND THAT YOU SHALL NOT COMMUNICATE OR EVEN ATTEMPT TO COMMUNICATE WITH ANY OF THESE PERSONS NAMED ABOVE, EITHER DIRECTLY OR THROUGH ANY OTHER PERSON (EXCEPT THROUGH YOUR LAWYER), BY TELEPHONE, WRITTEN MESSAGE, ELECTRONIC MESSAGE, PAGER, OR ANY FORM OF SOCIAL MEDIA, OR OTHERWISE.

YOU must obtain a police escort to retrieve belongings from

YOU ARE TO STAY AWAY FROM THE FOLLOWING PLACES OR AREA(S):
National Gallery of Art & area bounded by Constitution Ave, Pennsylvania Ave, 3rd Street, 9th Street & Madison Drive, NW

A check here means a map is attached. Area(s) Affected

YOU MUST ALSO OBSERVE THE FOLLOWING CONDITION(S):

ANY VIOLATION OF ANY OF THESE CONDITIONS, OR ANY OTHER CONDITION IMPOSED BY THE COURT, MAY RESULT IN IMMEDIATE NOTIFICATION BEING MADE TO THE COURT AND COULD RESULT IN YOUR PROSECUTION FOR CONTEMPT OF COURT THE REVOCATION OF YOUR RELEASE PURSUANT TO D.C. CODE SECTION 23-1329, AND/OR YOUR DETENTION PENDING FINAL DISPOSITION OF THIS CASE.

DATE:

SO ORDERED:

Signature of Defendant

Signature of Judicial Officer

Order for Competency Evaluation – Charge #1



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CRIMINAL DIVISION

UNITED STATES OF AMERICA

v.

Case No.:

PDID #:

Mr. X
Defendant

Here is the court order about what we are ordered to do.

ORDER FOR FULL COMPETENCY EXAMINATION

The Court having received a report from the preliminary screening examination of the defendant, any arguments by the parties, and any other information available to the Court, the Court finds further examination is necessary for defendant to proceed with this matter.

WHEREFORE, it is hereby, this 14th day of December, 2017,

ORDERED that the defendant shall submit to a full competence examination by a psychiatrist or psychologist affiliated with the Department of Mental Health, pursuant to D.C. Code §24-531.03(c) (4)(B); and it is,

FURTHER ORDERED that a full competence examination shall be conducted

- the Courthouse cellblock if the Defendant is detained.
- in Room 5650 of the Courthouse if the Defendant is on personal recognizance.

OR

- at Saint Elizabeth's Hospital. The Court, having found that the defendant's placement in an inpatient treatment facility is necessary in order to conduct an adequate examination, or that the defendant is unlikely to comply with an order for an outpatient examination, this examination shall be conducted on an inpatient basis, and the defendant is committed to Saint Elizabeth's Hospital for the purpose of such examination; and it is

FURTHER ORDERED that this matter is set for a status hearing on report from the Department of Mental Health concerning the defendant's competence on 01/12/2018, (if inpatient examination, or if defendant is detained, 30 days, plus a possible 15 day extension, if good cause shown; if outpatient examination, 45 days).

SPECIAL INSTRUCTIONS:

Here is the name of his lawyer

Judge ROBERT A. SALERNO

cc: AUSA (AAG)
Defense Counsel:

Defendant:

Name: Ms CHANTAL E JEAN-BAPTISTE

Address: _____

Address: 840 1st Street, N.E. 3rd Floor

Washington, DC 20002

Phone: _____

Phone: (202)-556-3512



CDCMH-2

Charge #2

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION
INFORMATION**

DCTN: _____
 Lockup No: _____
 Case No: _____
 Citation Date: _____

The United States Attorney for the District of Columbia informs the Court that within the District of Columbia:

Defendant's Name: Mr. X

(First)	(MI)	(Last)	(PDID)	(CCNO)	(DOB)
Also Known As:					
(First)	(Middle)	(Last)			
Address: _____					

- 1 On or about May 4, 2017, within the District of Columbia, Mr. X, previously having been released pursuant to the provisions of Title 23 of the District of Columbia Code in Superior Court Case Number _____, a misdemeanor case, willfully failed to appear before the Court as required. (**Bail Reform Act, in violation of 23 D.C. Code, Section 1327(a) (2001 ed.)**)
- 2 On or about May 4, 2017, within the District of Columbia, Mr. X, previously having been released pursuant to the provisions of Title 23 of the District of Columbia Code in Superior Court Case Number _____, a misdemeanor case, willfully failed to appear before the Court as required. (**Bail Reform Act, in violation of 23 D.C. Code, Section 1327(a) (2001 ed.)**)
- 3 On or about May 4, 2017, within the District of Columbia, Mr. X, previously having been released pursuant to the provisions of Title 23 of the District of Columbia Code in Superior Court Case Number _____, a misdemeanor case, willfully failed to appear before the Court as required. (**Bail Reform Act, in violation of 23 D.C. Code, Section 1327(a) (2001 ed.)**)

Co-Defendants:

Here are the other charges that he is also referred to us for competency restoration and evaluation. The official name of the charge is in the parentheses and in bold letters.

Rule 105: Judge: _____

United States Attorney for the District of Columbia

By: Assistant United States Attorney	Date: May 5, 2017
By Officer:	Badge No.:
PSA: 207 Domestic <input type="checkbox"/>	

Gerstein Affidavit – Charge #2

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION
UNITED STATES

VS
Mr. X
CCN #:

Arrest Number:

The event occurred on 05/04/2017 at approximately 15:45 at TREASURY ANNEX / US DEPARTMENT OF THE TREASURY, 1500 PENNSYLVANIA AVENUE NW, WASHINGTON, DC 20229

The incident occurred on Thursday, May 4, 2017 in the 1500 Block of Pennsylvania Avenue, NW at approximately 15:45 hours.

D1 (Mr. X , who is known to AO (Ofc. M. Miranda/USSS#1169) was observed walking south of the Treasury Annex. D1 advised AO that he did not attend court yesterday due to him not knowing the courts address. AO requested an NCIC check through the USSS Joint Operations Center utilizing D1's verbal identifiers. D1 returned with three (3) Bench Warrants out of D.C. for "Failure to Appear" (all issued by Judge Salerno.

D1 was arrested by AO for "Failure to Appear X3" and was transported to MPD 2D for processing.

Here are the details of the offenses that led to the charges

The event and acts described above occurred primarily in the District of Columbia and were committed as described by defendant(s) listed in the case caption.

Subscribed and sworn before me this 05/04/2017

MIRANDA, MATTHEW / U09841 / 1109841 (05/04/2017) E-SIGNATURE

CREPEZZI, GERALD / U07424 (05/04/2017) E-SIGNATURE

Police Officer / Budget# / CAD#

Unit:

Witness / Deputy Clerk

MIRANDA, MATTHEW / U09841 / U09841

CREPEZZI, GERALD / U07424

Printed Name of Member / Budget# / CAD#

Printed Name of Witness / Deputy Clerk

The foregoing statement was made under penalty of criminal prosecution and punishment for false statements pursuant to D.C. Code 22-3405

Pg. 1 of 1

Order for Competency Evaluation – Charge #2



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CRIMINAL DIVISION

UNITED STATES OF AMERICA

v.

Mr. X
Defendant

Case No.:
PDID #:

Here is what
we are ordered
to do

ORDER FOR FULL COMPETENCY EXAMINATION

The Court having received a report from the preliminary screening examination of the defendant, any arguments by the parties, and any other information available to the Court, the Court finds further examination is necessary for defendant to proceed with this matter.

WHEREFORE, it is hereby, this 14th day of December, 2017.

ORDERED that the defendant shall submit to a full competence examination by a psychiatrist or psychologist affiliated with the Department of Mental Health, pursuant to D.C. Code §24-531.03(c) (4)(B); and it is,

FURTHER ORDERED that a full competence examination shall be conducted

- the Courthouse cellblock if the Defendant is detained.
 in Room 5650 of the Courthouse if the Defendant is on personal recognizance.

OR

- at Saint Elizabeth's Hospital. The Court, having found that the defendant's placement in an inpatient treatment facility is necessary in order to conduct an adequate examination, or that the defendant is unlikely to comply with an order for an outpatient examination, this examination shall be conducted on an inpatient basis, and the defendant is committed to Saint Elizabeth's Hospital for the purpose of such examination; and it is

FURTHER ORDERED that this matter is set for a status hearing on report from the Department of Mental Health concerning the defendant's competence on 01/12/2018, (if inpatient examination, or if defendant is detained, 30 days, plus a possible 15 day extension, if good cause shown; if outpatient examination, 45 days).

SPECIAL INSTRUCTIONS: _____

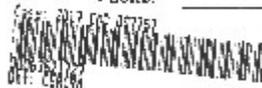
cc: AUSA (AAG)
Defense Counsel:

Name: Ms CHANTALE JEAN-BAPTISTE
Address: 840 1st Street, N.E. 3rd Floor
Washington, DC 20002
Phone: (202)-556-3512

Here is the
name of
his lawyer

Judge ROBERT A. SALERNO

Defendant: _____
Address: _____
Phone: _____



CDCMH-2

Lesson 1: Things you need to remember about your legal case

Review Complaint and Affidavit In Support Of An Arrest Warrant with the individual. The individual can keep a copy of the complaint and affidavit.

You will want to remember this information. You will be tested it later.

1. The letters "IST" stand for? *"Incompetent to Stand Trial."*
 2. You have been charged with (accused of) _____
Second-Degree Theft and 3 violations of the Bail Reform Act (from the two Charges pages – the Second-Degree Theft is on Charge #1 and the 3 Bail Reform Acts are on Charges #2).

 3. This means *I am accused of stealing stuff from the National Gallery of Art and of not showing up to court when I was supposed to appear.*

 4. You are facing a possible maximum sentence of up to _____
1 year in jail

 5. The judge who sent you here is the Honorable *Judge Robert A. Salerno (from the court order)* _____
- He ruled that you were incompetent on (date): *December 14, 2017 (from the Court Order date)* _____

Self-Test for Lesson 1

Question 1: What does IST mean? *Incompetent to Stand Trial*

Question 2: What are you charged with? *Second Degree Theft and 3 violations of the Bail Reform Act*

Question 3: What is the maximum sentence you could get? *Up to 1 year*

Question 4: What is the name of your attorney? *Chantal Jean-Baptiste*

Question 5: What is the name of your Forensic Consult Service Evaluator?

Question 6 Choose *true* or *false*?

You can go back to court without a report from the hospital.

Answer: *false*

Question 7 How do you contact your attorney? *By telephone*

Question 8 The letters IST mean (choose one):

- a. Nothing
- b. Incompetent to Stand Trial
- c. I'm So Tall

Answer: *b*

Lesson 2: What is "Incompetent to Stand Trial?"

The term *Incompetent to Stand Trial* may be confusing. The words have nothing to do with whether you are intelligent or not, or whether you are able to hold a job or take care of your money.

The word "incompetent" means "can't" "not able to" or "not capable of." If you are *incompetent* to play baseball you *are not able to* play baseball.

"Incompetent to stand trial" means "incompetent to proceed with your trial." You will not go back to court until you become competent.

The Constitution of the United States guarantees your right to a fair trial. If you cannot understand what happens in court, it won't be fair, and you won't be allowed to have a trial.

The Supreme Court says that you must have "sufficient present ability to consult with your lawyer with a reasonable degree of rational understanding" to have a fair trial. If you don't have this "ability" and the judge won't let you go to trial, you are "incompetent to stand trial."

The judge is the person who finds you incompetent, usually after a doctor recommends this.

IN SUMMARY,

- (1) YOU ARE *INCOMPETENT TO STAND TRIAL* IF YOU CAN'T UNDERSTAND SOMETHING IMPORTANT YOU NEED TO KNOW TO DEFEND YOURSELF IN COURT OR CAN NOT THINK, SPEAK, OR UNDERSTAND CLEARLY.
- (2) YOU WON'T HAVE A TRIAL UNTIL YOU ARE FOUND COMPETENT.
- (3) ONLY THE JUDGE CAN FIND YOU COMPETENT.

Self-Test for Lesson Two

Question 1: *What is Incompetent to Stand Trial?*

Answer: You are incompetent to stand trial if you can't understand something important you need to understand to defend yourself in court or you cannot think, speak, or understand clearly.

Question 2: *Incompetent to Stand Trial* means (choose one):

- a. Your constitutional rights are violated
- b. Your lawyer got together with the Prosecutor to make a deal to get you out of jail
- c. You don't understand what you need to understand to defend yourself in court or cannot think, speak, or understand clearly.

Answer: c

Question 3: You can go to trial on the charges (Choose one):

- a. Whenever you want
- b. Never
- c. After being found competent by the doctor
- d. After being found competent by the judge

Answer: d

Lesson 3: Understanding roles, where people sit

You can't be competent in baseball if you don't know the difference between a pitcher and a catcher. You can't be competent in court if you don't know the difference between a defense attorney and a prosecutor/prosecuting attorney.

This lesson will concentrate on "who does what" and what some words mean.

Self-Test for Lesson 3:

Below is a picture of a courtroom. On this picture, you show or write:

1. Where does the judge sit?
2. Where does the jury sit?
3. Where will you sit?
4. Where will your lawyer sit?
5. Where will the prosecutor sit?
6. Where will the witness sit to testify?
7. Where do the people watching the trial sit?



Lesson 4: Understanding roles, what people do

Here are some jobs that people have:

Judge (*"The Bench", "Your Honor," "The Court"*) - The "boss" of the court. The judge:

- (1) Decides about rules of law (example: "That evidence is not admissible").
- (2) Issues orders (example: "I order an evaluation for competency").
- (3) Instructs the jury about the law.
- (4) Sets dates for hearings and trials.
- (5) Decides guilt or innocence in a bench trial (if you don't choose a jury trial).
- (6) Decides on a penalty or sentence if you are found guilty (in most cases).

Lawyer (*attorney, counselor*) - A person with a law degree who knows a lot about the law. He/she knows the courtroom rules and how to argue a case.

Defender (*defense lawyer, defense attorney, public defender*) –

- The lawyer on your side
- Is paid to defend you
- Works to show that you are not guilty
- Works to get you off easy
- Works to get you a light penalty if you are found guilty.

Prosecutor (*Prosecuting attorney, prosecuting lawyer, government's attorney*)

- A lawyer against you
- Is paid to prosecute you
- Tries to prove that you are guilty
- Tries to get you a hard or heavy penalty if you are found guilty.

Witness - A person who may know something about what you did or didn't do. A witness will testify from the witness stand, answering questions from both lawyers.

Expert Witness - A person who is accepted by the court as an authority on a particular subject. For example, testifying psychiatrists and psychologists are usually considered expert witnesses, even if you think they are wrong.

Courtroom Clerk - An employee of the court who acts as a secretary for the judge and keeps track of what's going on, schedules hearings, and so on. This person announces what happens in court.

Court Reporter - A person who makes a word for word record (a transcript) of everything official that goes on during a trial.

Jury - A group of people (usually 12 persons but can be fewer) who sit in the court room, hear the testimony and evidence, and decide if you are "guilty" or "not guilty." All have to agree.

Here are some words that you might hear in court and what they mean:

Court (*courtroom*) - Place where the hearings and trials happen.

Trial - An occasion when the court, with or without a jury, decides if you are guilty or not guilty, and decides on the penalty.

Hearing - An occasion when a judge officially hears witnesses testify and officially hears the lawyers' arguments about the case.

Self-Test for Lesson 4

GENERAL QUESTIONS

Question 1: What does the judge do during the trial?

Answer: (1) Decides about rules of law (example: "That evidence is not admissible").
(2) Issues orders (example: "I order an evaluation for competency").
(3) Instructs the jury about the law.
(4) Sets dates for hearings and trials.
(5) Decides guilt or innocence in a bench trial (if you don't choose a jury trial).
(6) Decides on penalty or sentence if you are found guilty.

Question 2: What does the jury do?

Answer: Finds the client guilty or not guilty

Question 3: What will the prosecutor do?

Answer: Try to put you in jail or have you pay a big fine

Question 4: What do the witnesses do?

Answer: They answer questions about the case

Question 5: What do people watching the trial do?

Answer: They sit and watch the trial

Question 6: What will your lawyer do?

Answer: Defend you, show the charges against you are not true.

MULTIPLE CHOICE (Circle One)

1. A place where the hearings and trials happen:
 - a. the hospital
 - b. the prosecutor's office
 - c. the court (courtroom)

2. A person who knows a lot about laws and courtroom rules and how to argue a case in court:
 - a. lawyer
 - b. courtroom clerk
 - c. court reporter

3. An employee of the court who announces events.
 - a. witness
 - b. lawyer
 - c. courtroom clerk

4. A person who makes a word for word record of everything official that goes on during a hearing or trial.
 - a. recorder
 - b. courtroom clerk
 - c. lawyer

5. A lawyer who is paid to defend you.
 - a. prosecutor
 - b. the judge
 - c. defense attorney

6. A person who may know something about what you did or didn't do.
 - a. lawyer
 - b. witness
 - c. courtroom clerk

7. An employee of the court who acts as a secretary for the judge and keeps track of what is going on, schedules, and so on.
 - a. court reporter
 - b. prosecutor
 - c. courtroom clerk

8. A person whose special knowledge is accepted as evidence in the court.
- a. secretary
 - b. judge
 - c. expert witness
9. A lawyer who is paid to prosecute you, to prove that you are guilty and get a hard or heavy penalty if you are guilty
- a. prosecutor
 - b. defense attorney
 - c. judge
10. An occasion when the judge officially hears witnesses testify and the lawyers argue but not about guilt or innocence:
- a. trial
 - b. hearing
 - c. court

Answers: 1) c 2) a 3) c 4) a 5) c 6) b 7) c 8) c 9) a 10) b

Lesson 5: Understanding Court Procedure and Proceedings

There are several things you need to know about court proceedings.

1. You are accused of doing something wrong, a violation of the law.
2. The prosecutor filed charges with the court.
3. The "charge" is written on a piece of paper and says what law you are accused of breaking.
4. You are called a "client" when you are charged.
5. If you plead "not guilty" there will be a trial to determine if you are guilty or not guilty. The procedure is set up as "The Government" against you or "The People" against you.
6. In a trial the judge (or jury, if you have a jury trial) decides if you really did commit a crime.
7. You have a defense attorney to help you. He or she tries to show you are not guilty, or, if you are found guilty, that you should get a light or easy penalty or sentence.
8. The United States government will have a prosecuting lawyer (prosecutor) to argue against you. He or she will try to prove that you are guilty, that what you did was very bad, and that you deserve a harsh or heavy sentence.
9. The prosecutor may ask *witnesses* to testify. The prosecutor will ask witnesses questions to try to get evidence that you did what you are charged with. The defense attorney may ask those same witnesses their own questions to try to show you did not do it (cross-examination).
10. The defense attorney may ask *witnesses* to testify. The defense attorney will ask the witness questions to try to get evidence that you did NOT do the crime with which you are charged. The prosecuting lawyer (prosecutor) can question your witnesses to try to prove you DID do the crime.
11. In a trial, the Government has the "burden of proof." It is up to the prosecution to prove that you are guilty. You don't have to prove you are not guilty. You only need to show that the prosecution did not prove you are guilty. Officially, **you are considered not guilty until the prosecutor proves that you are guilty.**
12. When you are found incompetent to stand trial. This means that you may be sent to the hospital until you are competent. This happens before the trial and does not mean that you are guilty.

Self-Test for Lesson 5

GENERAL QUESTION

Question 1: Finish the sentence: When someone says that they are innocent until proven guilty, they mean that.....

Right Answers:

- The government has the burden of proof. You are not guilty until the government proves that you are guilty.
- They have to show you did it.
- You are not guilty until the judge or the jury decides you are guilty.

MULTIPLE CHOICE (choose as many as apply)

1. If you have been charged with a crime, this means:

- a. you did nothing wrong.
- b. the prosecutor wrote to the court stating what law you are breaking.
- c. the judge has proof you did something bad.
- d. you have been found guilty.

2. To keep from being found guilty when charged with a crime, you have to:

- a. write the court stating what law you are accused of breaking.
- b. admit you did something wrong.
- c. go to court and defend yourself against the charges.
- d. do nothing.

3. Witnesses can be:

- a. called by the defense to show you didn't break the law.
- b. called by the prosecutor to show you broke the law.
- c. asked questions by both defense and prosecution.
- d. asked questions only by the person who calls them to the witness stand to talk.

4. The Government has the "burden of proof". This means:

- a. the client is not guilty until proven guilty.
- b. the client has to prove he or she is not guilty.
- c. the client only has to show that the government didn't have enough evidence to prove guilt.

5. In court it is:

- a. the "government" against the client.
- b. you against the judge.
- c. you against the witness.

6. If you are found incompetent to stand trial, you may:

- a. be held in a mental hospital for life.
- b. be held sent to a mental hospital until you are ready to return to court and work with your attorney.
- c. leave whenever you want.

7. It is the job of the prosecutor:

- a. to present evidence that you are guilty.
- b. to present evidence that you are not guilty.
- c. to testify in court.

8. It is the job of the defense attorney:

- a. to present evidence that you are guilty.
- b. to present evidence that you are not guilty.
- c. to testify in court.

9. The person charged with a crime is the

- a. Client or defendant.
- b. prosecution.
- c. witness.

10. To find you not guilty, the defense attorney has to show:

- a. you didn't do what they say you did.
- b. you did it but didn't mean to do it.
- c. the prosecution hasn't proven for sure that you did it.

11. If you have a trial, who decides if you are guilty?

- a. the judge if you have a bench trial.
- b. the jury if you have a jury trial.
- c. the witness.
- d. the prosecution.

Answers: 1:b, 2:c 3:a,b,c 4:a,c 5:a 6:b 7:a 8:b 9:a 10:c 11:a,b

Lesson 6: Understanding Court Procedures and Pleas

When you go to court, the judge will ask, "How do you plead?" This means he's asking if you have an answer for the charge against you. There are five kinds of "pleas." What you plead will make a difference in court proceedings. What you plead may make a difference in your sentence. Below is a list of pleas.

Guilty - You admit that you **did** what you were accused of doing. If you plead guilty, you give up your right to a trial and the judge will pass sentence.

Not Guilty - You say that you **did not do** what you were accused of doing. If you plead not guilty there will be a trial to determine if you are guilty or not guilty.

No Contest ("Nolo Contendere") – You do NOT admit guilt for the crime you are accused; however, you agree to the facts presented by the prosecution/government. In a No Contest plea the result is the exact SAME as a guilty plea. It will appear on an individual's criminal record as a no contest plea and he or she will receive the SAME sentence as they would for a normal guilty plea. If you plead No Contest, you give up the right to a trial and the judge will decide what happens; you put yourself on the mercy of the Court(Judge).

Guilty but Mentally Ill- You are saying that did the act but suffered from a mental illness at the time although you did know what you were doing was wrong. If this plea is accepted, the judge will sentence you and you may be sent to a hospital, jail or prison.

Not Guilty by Reason of Insanity" (NGI or NGRI) -You are saying that if you did do the act you are accused, you are not responsible for it because, at the time of the crime:

- 1) You suffered from a mental illness and
- 2) You could not tell the difference between right or wrong because of your mental illness.

If this plea is accepted by the Judge, you may be committed to a hospital for treatment for mental illness if you are a grave danger to yourself or others. You may be committed for longer than you could have been sentenced, but your committed will be reviewed to determine if you remain a grave danger to self or others.

Self-Test for Lesson 6

MATCH THE WORD WITH THE DEFINITION

1. "Not Guilty by Reason of Insanity" plea
2. "Guilty" plea
3. No Contest (Nolo Contendre)
4. "Not Guilty" plea
- a. You do not admit guilt for the crime you are accused; however, you agree to the facts presented by the prosecution/ government.
- b. You admit you did what you are accused of doing.
- c. You are saying you did not do what you are accused of doing.
- d. You are saying you did the act of which you are accused but you are not responsible for it because of mental illness.
-
- ```
graph LR; 1[1. "Not Guilty by Reason of Insanity" plea] --> d[d. You are saying you did the act of which you are accused but you are not responsible for it because of mental illness.]; 2[2. "Guilty" plea] --> b[b. You admit you did what you are accused of doing.]; 3[3. No Contest (Nolo Contendre)] --> c[c. You are saying you did not do what you are accused of doing.]; 4[4. "Not Guilty" plea] --> a[a. You do not admit guilt for the crime you are accused; however, you agree to the facts presented by the prosecution/ government.];
```

### State what the following terms mean:

- a. Not Guilty by reason of Insanity (NGRI):
- b. Not Guilty:
- c. No Contest (Nolo Contendre):
- d. Guilty:
- e. Guilty but mentally ill

**If you do not know the answers, read the definitions again.**

## Lesson 7: Court procedure and outcomes

There are several possible outcomes to your court case. Some are penalties, which are ways that the state can use to punish you. Others are not punishment or penalties but are ways of forcing you to get treatment or do something else.

Below is a list of some outcomes:

**Dismissed** - The judge decides there is not enough evidence or other problem with the prosecution's case and drops the charges. You are finished with the criminal charges and may be free to go.

**Acquittal** - You have a trial and are found not guilty. You are finished with the criminal charges and may be free to go.

**Fine** - An amount of money that you have to pay to the court. There could also be court costs.

**Sentence** - A length of time that you would have to spend in jail or prison.

**Probation** – Instead of sentencing you to jail or prison, the Judge orders that you do some things and do not do others. If put on probation, you must report to a probation officer on a regular basis, take urine or blood tests, and possibly pay fines and restitution. You CANNOT do things like leave the area without the permission of your probation officer. You cannot commit crimes, use alcohol or street drugs, or possess weapons. You may be ordered to go to a hospital or clinic for treatment while on probation. If you do not follow the probation orders of the Judge, you can be sent to jail or prison.

**Hospitalization (NGRI)** - You probably go to mental health treatment, probably in a hospital, until you are well and safe. This commitment will be reviewed at times set by a statute lasts until your mental illness is stable and you are not dangerous to yourself or others.

**Suspended Sentence** - The judge has found you guilty and has imposed a sentence, but because he/she thinks that you can straighten out says you don't have to serve the sentence. You might have to report to a probation officer.

**Plea Bargain** - If you plead guilty or no contest to a charge (often a lesser charge), the prosecutor agrees to give you an easier penalty. He/she may drop other charges. You, the government, and the Judge must agree.

## Self-Test for Lesson 7

**MULTIPLE CHOICE (Circle one; correct answers in yellow)**

1. A Plea Bargain is:
  - a. You go to trial
  - b. The witness says you did what you are charged with
  - c. **You plead guilty to a lesser charge and others are dropped**
  
2. A "Guilty" Plea is:
  - a. You go to trial
  - b. **You admit you did what you are charged with**
  - c. You don't admit you did anything wrong
  
3. A "Not Guilty" Plea is:
  - a. You admit you did what you are charged with
  - b. **You tell the judge you didn't do what you are charged with**
  - c. You agree to a lesser charge and the others are dropped
  
4. An "Acquittal" is:
  - a. You plead guilty to a lesser charge and others are dropped
  - b. **You go to trial and are found not guilty**
  - c. The judge believes you can straighten out and doesn't sentence you
  
5. A "Hospitalization" is:
  - a. **The court sends you to the hospital until you are better**
  - b. You agree to go to the hospital on a voluntary basis
  - c. You agree to go to the hospital if you get worse

Answers: 1) c 2) b 3) b 4) b 5) a

## Lesson 8: Relating to your attorney

To be competent, you should be able to work with your attorney in your defense. This means you have to be able to talk with your attorney to discuss how to defend you. This includes giving your attorney the information you have, listening to his/her ideas, and really thinking about them.

Answer the following questions to see if you are able to talk with your attorney: Finish the following sentence: When I prepare to go to court with my lawyer...

A right answer is one that shows you plan to talk with your lawyer about how to defend yourself. These are some right answers:

"We will have long talks"

"I will tell my lawyer the truth"

"We will prepare for court"

"I need a lawyer to help me because I do not know the laws as well as lawyers do."

Talk about your answer to this question with someone on your treatment team.

Finish the following sentence: What I like most about my lawyer is...

A right answer is one that mentions if the lawyer is a good or bad lawyer. Another right answer is one that says whether or not the lawyer is interested in the case. Examples of right answers are:

"How good he is" "He is trying to help"

"He really listens and understands"

If you disagree with something your lawyer says you should ask him or her "WHY do you think that?" rather than getting mad, firing them, or arguing.

## Self-Test for Lesson 8

Question 1: Finish the following sentence: When I prepare to go to court with my lawyer,

Answer: Read the right and wrong answers above

"We will have long talks"

"I will tell my lawyer the truth" "We will prepare for court"

"I need a lawyer to help me because I do not know the laws as well as lawyers do."

Question 2: Finish the following sentence: What concerns Mr. W. most about his lawyer?

*Answer:* Read the right and wrong answers above

" How good she is"

"She is trying to help"

"She really listens and understands"

## **Lesson 9: Appreciating the charges**

To be competent, you must know what you are charged with, and you must know what the charges mean.

### **Self-Test for Lesson 9**

**Question 1:** What are your charges?

Client should correctly answer the charges.

**Question 2:** What do they mean?

Example: I'm accused of stealing stuff from the grocery store and for not showing up at court when I was supposed to.

*Answer:* If you don't know the answer, look at page 1 of the workbook. You will talk about this with your treatment team.

## Lesson 10: Realistically Consider a Legal Defense

To be competent, you must consider how you are going to defend yourself against the charges.

You must

1. Recognize what the charges are
2. Consider different pleas
3. Know the information the prosecutor has against you.
4. Be able to make clear decisions based on all the information available

Here is a situation to think about. It may not be like your situation but answering questions about it will help you become competent.

Situation: Suppose you are charged with a crime. You know you have some responsibility because you accepted a stolen item, and the evidence against you seems pretty strong. Your lawyer says the prosecutor has offered a plea bargain. What things should you consider in deciding whether to accept or not.

Right Answer: A reason that has to do with: (a) how good the bargain is.  
the lawyer's advice.  
what a conviction would look like on my record. (d) how strong the evidence is

For example:

"Look at evidence and how good the deal is and what the judge did in the past

Here is another situation to consider:

How will you handle preparing to go to court with your lawyer?

Right Answer: Something that shows you are going to cooperate. For example:

"I will ask him what he thinks about the evidence against me."

"I will tell the truth"

"We will have long talks"

## Self-Test for Lesson 10

**Question 1:** Suppose you are charged with a crime. You know you have some responsibility because you accepted a stolen item, and the evidence against you seems strong. Your lawyer says the prosecutor has offered a plea bargain. What should you consider in deciding whether to accept or not?

- how good the bargain is.
- my lawyer's advice
- how the court has handled deals like this in the past
- how strong the evidence is against me

*Answer:* read the material above

**Question 2:** Finish the Sentence: When I prepare to go to court with my lawyer:

I will work with her to figure out how to defend myself

*Answer:* Read the material above

## Lesson 11: Appropriate courtroom behavior

To be competent, you have to be able to control yourself enough to understand what is going on. You must be able to behave appropriately in court.

Answer the following questions:

*Question:* Why do people stand up when the judge comes in or goes out?

*Right Answer:* Something having to do with respect. For example:

"To be nice."

"To show respect."

*Question:* What will you do during the trial?

*Right Answer:* Something that shows you will be seated, be quiet, listen, and follow what your attorney says. For example:

"Be quiet and listen"

"Do what my attorney says"

"Pay attention"

## Self-Test for Lesson 11

**Question 1:** Why do people stand up when the judge comes in or goes out?

*To show the judge some respect*

*Answer:* Read the material above

**Question 2:** What will you do during the trial?

*Try to stay cool and collected and listen to my lawyer and what's being said*

*Answer:* Read the material above

## Lesson 12: Sharing Information with Your Lawyer and Participating in Defense Strategy

To be competent, you must be able share important facts with your lawyer and help plan your legal defense. This means you and your lawyer:

1. Talk about ideas that defend you from the charges.
2. Work out a solution calmly when you disagree.

Answer the following questions to see if you can help your lawyer with legal ideas:

*Question:* How can you help your lawyer defend you?

Right Answer: Something that shows you can give information that helps your case. For example:

"By telling him the whole story of what happened" "Answer questions"  
"Listen and tell him what I think"  
"Criticize the evidence"

*Question:* If you disagree with your lawyer about your defense, what are some things to do?

*Right Answer.* Something that shows you can talk and cooperate. For example:

"Calmly tell my point."  
"Ask my lawyer more questions."  
"Tell my lawyer I want to give it some thought and talk again."

## **Lesson 13: Appreciating the possible penalties**

To be competent, you must realistically consider the possible penalties if you are found guilty. If you deny that there are penalties, or if you deny that there are charges, you are not competent.

### **Self-Test for Lesson 13**

**Question 1:** What is the maximum sentence if you are found guilty?

*Answer:* It depends on how serious your charge is.

## Lesson 14: Describing relevant facts

Usually, to be competent, you must be able to describe the events that led to your arrest. If you cannot remember all of the events, you should be able to say what you do and do not know.

In meeting with your treatment team, describe in a few sentences about what led to your arrest:

*They say I stole something from the gift shop at the museum and that I didn't show up for my hearing.*

Have this reviewed by your IST 1:1 staff member or psychologist. Your psychologist may write comments about whether or not this is enough for competency. If you need more, they will tell you what you may need to do differently.

## Lesson 15: Challenging witnesses

To be competent, you should be able to (quietly) tell your lawyer that someone on the witness stand gave information that isn't right.

**Question 1:** Finish the Sentence: If a witness testifying against me gave incorrect evidence in court, I would:

*Right Answer:* Something showing that you recognized it was wrong and did something appropriate about it. For example:

"quietly tell my lawyer that the witness was perjuring himself."

"write a note to my lawyer."

"quietly get my lawyer's attention and write her a note."

## **Self-Test for Lesson 15**

Go over the questions above and answer them again.

## Lesson 16: Testify relevantly

To be competent, you must be able to testify in court if you want to. This means you must understand what "testify" means. To see if you do, answer the following question:

**Question:** Finish the Sentence: If you are testifying in court and are questioned by your defense attorney, you will:

*Right Answer:* Something that shows you will answer questions to the best of your ability. For example:

"I would try to give a truthful answer."

"If I do not remember, I will not make anything up. I will just say what I remember."

"I will not lie."

## Lesson 17: Likely outcome of a trial

To be competent, you should be able to understand some likely outcomes in your case. This is so you can make a good decision about what to plead and how to defend yourself.

What do you think is most likely to happen in your case? How do you think things will end up?

*I'm going to get my charges dismissed.*

Why do you think that this is most likely to happen?

*The docs here haven't been able to find me competent because I'm sick.*

Have your 1:1 staff member review what you said.

## Lesson 18: Review

Below is a list of competency criteria. Use this to make notes. Your therapist may want to write in this, showing you what needs more work.

**Name:**

**Date:**

### Criteria A: Understand the Facts of Your Legal Situation

1. You should understand the charges against you, the actions you are accused, and the seriousness of the charges.:

Example:

*The government says I committed 2<sup>nd</sup> degree theft because I'm accused of stealing some stuff at the gift shop. I could go to jail for up to a year.*

2. You should understand the possible penalties if you are found guilty. You should know the range of penalties from the least harsh to the worst

Example:

*If I'm not competent, then my charges might be dropped or they might "Jackson" me and send me to the hospital. They might find me guilty and send me to jail for up to a year.*

3. You should understand the adversarial nature of the legal system. This includes basic roles of the opposing sides; it's you and your attorney against the government's attorney, the prosecutor. You should also understand court procedures and the role of various people in court.

*The government's trying to find me guilty. My lawyer is trying to help me get off. There is a judge who is managing the trial and who will decide what my penalty is if I'm found guilty. The jury is there to decide if I'm guilty or not.*

## **Criteria B: Participate or Assist in Defense with Rational Understanding**

1. You should be able to provide your attorney with important available facts about your case. You should be able to give a consistent, rational, and relevant account of the facts.

Example:

*I told the police that I didn't do it, that it wasn't me that stole the stuff, but they knew that I'd been caught shoplifting before. That lady at the store said she saw me put something in my jacket. She's going to testify against me.*

2. You should be able to show appropriate or correct behavior in court. You should be able to conduct yourself at a hearing or trial without disruptive or disrespectful behavior. In the hospital, you will show this by managing behavior to avoid trouble.

Example:

*I need to be quiet and respectful in court. If I have a question or a comment about something, I need to tell my lawyer.*

3. You should be able to testify truthfully. What you say should be clear, relevant, and something you agree with.



# Section Four

## Instructor's Manual & Materials for One-to-One Restoration Efforts

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## Working One-on-One with Individuals on Competency to Proceed

Working in a one-to-one manner is one of our most valuable tools in helping our individuals become competent to stand trial. The staff member observes the individual's progress, provides the treatment team with that information and how the individual learns and thinks, and provides valuable documentation in the medical record about the restoration efforts for the neutral evaluator. This section of the manual is broken down into three sections:

1. Handouts that **can** be given to the individuals<sup>1</sup>
  - a. Pocket Study Guide;
  - b. Plea Bargains handout;
  - c. Staying Free handout;
  - d. Fun facts brochure
2. A blank 1:1 Competency Workbook (**for the staff member's use only**);
3. A sample Complaint and Affidavit in Support of an Arrest Warrant and
4. Completed 1:1 Competency Workbook based on the Complaint and Affidavit (**for the staff member's use only**). The 1:1 Competency Workbook is **only to be used by the 1:1 staff member (not to be given out to the individual)**. It is a tool to guide the staff member in working the individual through their charges and their understanding of the legal process. An example of using the Workbook in conjunction with charges follows the Workbook; **it is only for the 1:1 staff member's use** to learn how to use the Workbook.

Remember that the individual is in a pretrial status; they have not been adjudicated for the crime(s) they are accused of committing. Notify the client that everything that is discussed is documented – nothing is confidential; however, you **MUST NOT** document if the individual makes statements that would constitute an admission to the allegations in the criminal complaint or specific details about circumstances surrounding the offense that could be used against him or her. Our job is to help the individual become competent, so he or she can proceed with his or her case; not to determine or provide evidence of their guilt or innocence or help them avoid/get legal consequences. We do not decide if the individual is competent; the court decides. We simply document our efforts toward restoration and our observations of their behavior and effort.

Thank you for using these materials and your individual work! Please talk with the treatment team if you have any questions about following the workbook or using any of the materials in your 1:1 work.

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<sup>1</sup> These documents can also be found in Section Six, client handouts.

# **CompKit**

## **Competency to Proceed Training Resources**

### **HANDOUTS**

CompKit was developed in 2005-2006 by  
Florida State Hospital, Chattahoochee, Florida  
This revision for Pennsylvania Use:  
February 2019

## POCKET GUIDE TO COMPETENCY

### WELCOME TO THE POCKET GUIDE TO COMPETENCY

The information in this workbook will help you learn what you need to know about the court and what happens to you there. Demonstrating knowledge about competency issues will speed up your return to court and help you have a fair trial. Your understanding of competency issues will be evaluated on an ongoing basis.

#### **Why are you at the Hospital? How did you get here?**

1. You have been **charged with a crime**. To be charged means the police suspect you have committed a crime and are holding you for trial.
1. The **judge** felt that you were not ready to go any further in the legal process. Because of this, the judge found you **Incompetent to Stand Trial**.
2. The judge based his or her decision on information from evaluators (psychologists or psychiatrists) who thought that you might have a mental illness that prevents you from helping your lawyer defend you. Having a mental illness could get in the way of you having a fair trial.
4. At some point in the judicial process, everything had to come to a stop due to your possible mental illness.
5. The Judge **committed you to the Hospital** so that, with treatment and training, you will be Competent to Stand Trial on your charge(s).

#### **What can I do to be discharged from the hospital as soon as possible?**

To speed up your discharge, you need to cooperate with treatment staff, take medication if prescribed, show good behavior, participate in treatment groups, and learn about your charge(s) and the court process.

#### **What are some of the things I need to know to be Competent to Stand Trial?**

1. Know and understand what you have been charged with.
2. Understand the maximum and minimum penalties you could get if you are found guilty.
3. Understand how the court works and the roles of people in the courtroom.
4. Be able to share facts with and trust your attorney.
5. Be able to show good behavior in court.
6. Be able to communicate well so you can provide useful testimony in court.

## CRIMES AND PENALTIES

You have been charged with a crime. In order to be competent to proceed with a trial, you need to know what your crime is and how much time it carries.

Crimes are listed as either Misdemeanors or Felonies:

1. **MISDEMEANORS** are not as serious as felonies. If convicted, you may be sentenced to as much as one year in jail.
2. **FELONIES** are more serious crimes and carry longer potential sentences (from one year to life).

### Know the Punishments Other than Prison

Sometimes, people do not get sentenced to prison, even if they are found guilty. This often happens if the charge is a less serious felony or if it is a first offense. You need to know what other things can happen to you besides prison. Some examples are listed below.

**Probation:** For misdemeanors and less serious felonies, you might get probation. This means you are free, but you cannot drink, use drugs, or commit any crimes. You will have to stay in Pennsylvania, check in with a probation officer, pay a fee, and possibly take drug tests.

### CRIME QUIZ

1. A less serious crime is called a \_\_\_\_\_.
2. Misdemeanors are \_\_\_\_\_ serious than felonies.
3. Misdemeanors carry no more than \_\_\_\_\_ of jail time.
4. Felonies can carry time in \_\_\_\_\_.

Answers: 1. Misdemeanors;  
2. Less;  
3. One year;  
4. Prison

# Competency Search

Find the hidden words.

q l d m h c k k c w i c h w f i l n  
 j a e p x k o m b r q s z i p n j t  
 i w f o n g i n i o i w a t k c u p  
 k y e j u r y o v s t m u n a o d r  
 z e n m c i x r d i d x e e s m g o  
 o r d w v o t w f e c e t s e p e b  
 z i a i l j u w g h h t m s h e x a  
 x u n t r w b r f d x k i e h t q t  
 o f t p t r e a t m e n t o a e y i  
 d x e f n i v c r v y f h j n n p o  
 p u b l i c f d e f e n d e r t o n  
 d z q l o i b d s c h a r g e s o r  
 c o m m u n i t y f s e r v i c e n  
 e g u i i t y v m h o s p i t a l n

|                   |                 |             |         |
|-------------------|-----------------|-------------|---------|
| Probation         | Public Defender | Incompetent | Charges |
| Felony            | Jury            | Hospital    | Crime   |
| Conviction        | Client          | Witness     | Judge   |
| Misdemeanor       | Guilty          | Lawyer      |         |
| Community Service | NGI             | Treatment   | Court   |

# THE PEOPLE IN THE COURT ROOM AND THE COURT SYSTEM

Before you can be found competent, you need to know who works in the Court and what they do.

## 1. JUDGE

- A. The Judge keeps order in court. He or she makes sure you get a fair trial.
- B. The judge is like a “referee” who makes sure everyone follows the rules of the court. Just like a referee, the judge is neutral or impartial, which means he or she is on nobody’s side.
- C. Just like a referee can start and stop a game, the judge can start and stop the trial. He or she also tells people when it’s their turn to talk. Like a referee who settles arguments between opposing teams, the judge settles arguments between the lawyers (rules on or renders a decision). The judge can also expel people from court if they get out of line, just like a referee can throw a player out of the game.

The judge has other very important responsibilities:

- If the verdict is guilty, the judge decides the sentence.
- If the verdict is not guilty, the judge sets the client free.
- When there is no jury, the judge decides guilt or innocence (during a bench trial).

## 2. DEFENSE ATTORNEY

The defense attorney is the lawyer who is on your side in the trial. He/she is trying to protect you and their goal is to get you free, or if you are found guilty, get a reduced sentence for you.

*The defense attorney is working for you and is on your side.*

Before you can be found competent, you must show that you are able to work with your lawyer. While you are at the hospital, your ability to work with your treatment team and participate in treatment will be monitored; cooperating with treatment is usually a good sign that you can work with a lawyer.

You need to tell your lawyer your side of the case. Tell him or her what happened. Your lawyers can’t defend you very well if you don’t trust or talk to them! What you talk about with your attorney is private.

## 3. PROSECUTOR (PROSECUTING ATTORNEY)

The prosecutor is also called the prosecuting attorney. They present the government’s case against you. Their job is to prove to the judge or jury that you are guilty.

*The prosecutor/prosecuting attorney is working against you and is not on your side.*

## 4. CLIENT or DEFENDANT

The client, who is sometimes referred to as the defendant, is the person who has been charged with a

crime. You are the client in your criminal case. When you were charged with a crime, the police believed that you committed it. Your job is to work with your attorney to either show that you are not guilty or get the lightest possible sentence.

If you go to trial, you don't have to testify if you don't want to. This is a basic right of all citizens in the United States and is known as the Fifth Amendment. It guarantees that an accused person cannot be forced to testify against himself. He can choose to remain silent, and he is still considered to be innocent until proven guilty. So, if you decide not to talk, you can "Plead the Fifth" and remain silent. No one can make you testify if you don't want to, not even the judge.

## 5. JURY

The jury is made of 12 citizens, although you may agree to a lesser number. They are selected from the local community and asked to serve as part of their civic duty. The jury is instructed by the judge to pay attention to everything that goes on in trial.

The jury is neutral, impartial, and on nobody's side. The jury listens to both the prosecutor and defense attorney as they present their cases, including evidence and witnesses. The jury decides the verdict: Guilty, Not Guilty, Guilty but Mentally Ill or Not Guilty by Reason of Insanity.

You and your lawyer decide if you want a jury present (this is called a jury trial) Because it takes longer to have a jury trial, you may choose to plead your case in front of the judge, without a jury present, and the judge will decide if you are guilty or innocent. This is called a bench trial.

## 6. WITNESSES

A witness is a person who has information that is important to the trial. A witness is supposed to tell the truth. Witnesses tell what they saw and heard. A witness can be called by either the defense attorney or the prosecutor. If a witness is called by the defense attorney, it is usually because the defense attorney believes that witness will help show that you are innocent. If the prosecutor calls a witness, he or she probably believes that witness will help show you are guilty.

In the court, both sides can question the witnesses, regardless of who called them to the stand. For example, if the prosecutor calls someone to the stand that makes you look bad, then your defense attorney gets a chance to poke holes in their testimony (cross-examination).

## OVERVIEW OF THE COURT SYSTEM

As we said before, the judge is like a referee, and the trial is like a sporting competition that two sides that are trying to win. This is why our court system is an adversarial system. This is because both lawyers "fight it out" and the judge and jury decide who is right. In order to win, you, the client, must know who is on your side. Remember that the defense attorney is on your side and you must be able to work with him or her in order to win.

## JUDICIAL QUIZ

1. A judge is like a \_\_\_\_\_.
2. The \_\_\_\_\_ is a defense attorney appointed by the court when you have no money.

3. The defense attorney tries to prove you are \_\_\_\_\_.
4. The prosecutor tries to prove you are \_\_\_\_\_.
5. The jury decides if you are \_\_\_\_\_ or \_\_\_\_\_.
6. A witness provides \_\_\_\_\_ that is important to the trial.
7. You have to be able to \_\_\_\_\_ with your attorney.

Answers: 1. Referee;  
2. Public Defender;  
3. Help;  
4. Guilty;  
5. Guilty or Innocent;  
6. Evidence/Testimony;  
7. Work

## HOW YOU SHOULD ACT IN COURT

In court, appearances are very important. Dress your best. Wear your best clothes. Be neat and clean. Make sure you take a bath or shower, have your hair neat and combed.

Be polite and quiet in court. Be seated when everyone else is sitting and stand only when asked to. Do not let your behavior disrupt the trial. Speak in a low voice to your attorney.

Listen to what the witnesses for the prosecution are saying. If someone tells a lie about you don't yell out or object. Lean over and tell your attorney or write him or her a note about it so he or she can handle it. Your lawyer is supposed to do all the talking for you!

### THINGS YOU DEFINITELY DO NOT WANT TO DO:

Don't show up looking sloppy, dirty, or under the influence of drugs or alcohol!

Don't fail to appear – they can put a warrant out for your arrest if you don't show up! Don't speak out of turn or interrupt!

Don't yell out responses!

Never raise your hand and ask if you can talk!

Don't act like people do on TV court shows! People on TV court shows speak out of turn, interrupt, and talk back to the judge – in real life these people can be thrown in jail for how they act!

Don't lie! If you get caught lying, you can be charged with Perjury, which means more jail or prison time. It's better to say nothing (plead the Fifth) than lie.

**REMEMBER: IF YOU DO NOT ACT RIGHT IN COURT THE JUDGE CAN FIND YOU IN CONTEMPT OF COURT. THIS CAN HAVE SERIOUS CONSEQUENCES FOR YOU!!!!**

### **COURTROOM QUIZ**

1. You should dress your \_\_\_\_\_ when you go to court.
2. Be polite and \_\_\_\_\_ in court.
3. If someone lies about you, you should \_\_\_\_\_ the correct answer to your lawyer.

Answers: 1. Best;  
2. Quiet;  
3. Whisper/write down;

**COMPETENCY KIT**  
**Competency to Proceed Training Resources**

***PLEA AND PLEA BARGAINING HANDOUT***

**Pleas**

Before you can be found competent, you must know the five pleas, what happens when you make each plea, and you must know what a plea bargain is. Based on what you tell your lawyer, your lawyer will give you advice about how to plead. You should carefully consider your lawyer's advice.

There are five pleas that you can make:

**GUILTY**

You admit you **did the crime**. You give up your Fifth Amendment right not to incriminate yourself. There will be no trial and no appeal. If you plead guilty, you will be sentenced.

**NOT GUILTY**

You are saying that you **did not do** what you are charged with. You go to trial in court. If you win at the trial, you go free. If you lose, you get sentenced.

**NOT GUILTY BY REASON OF INSANITY (NGI)**

This is a special plea that says you are **not guilty** because at the time of the crime, you didn't know the difference between right and wrong due to a mental illness. If you prove you were NGRI, you will most likely go to a mental hospital for treatment. You will stay in the hospital until the judge feels you've had enough treatment and are ready to go back to the community. The judge makes this decision when you are no longer a grave danger to self or others due to mental illness. This can sometimes take several years and can last longer than a prison sentence.

**GUILTY BUT MENTALLY ILL**

This is a special plea where you say you did what you are charged with, that you were mentally ill at the time, but you were not so mentally ill that you did know what you were doing was wrong. If you make this plea the judge will sentence you and decide if you should go to the hospital for treatment or to jail.

**NO CONTEST (NOLO CONTENDERE)**

You don't fight the charges. You don't say you did the crime and you don't say you didn't do it, but you agree to the facts presented by the prosecution. You let the judge decide. When you enter this plea, the judge will treat you as if you pleaded guilty and you will be sentenced.

**PLEA BARGAIN**

This is a deal between the prosecutor, your lawyer, and you. The prosecutor, your lawyer, you and the judge must agree to the bargain in order for it to happen.

Your lawyer may tell you to accept a plea bargain.

In a plea bargain, you agree to plead guilty or no contest to a charge that is not as serious as your original charge OR to one or more charges in exchange for others being dismissed. Here is an easy way to remember it: you plead guilty or no contest to get less time.

Prosecutors usually like to agree to a plea bargain because the courts are overloaded with cases, and plea bargaining is one way to settle cases quickly.

## **PLEA QUIZ**

1. The five pleas are guilty, not guilty, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.
2. If I plead \_\_\_\_\_, \_\_\_\_\_ or \_\_\_\_\_, I will be sentenced.
3. If I plead \_\_\_\_\_ and the judge or jury agrees, I will probably be sent to the hospital. I may also be sent to the hospital if I plead \_\_\_\_\_
4. If I plead \_\_\_\_\_, I will go to trial. If I win, I go free; if I lose, I will be sentenced.
5. In a plea bargain, I will plead \_\_\_\_\_ or \_\_\_\_\_, in order to get less \_\_\_\_.

- Answers:
1. Guilty but mentally ill, No contest, Not Guilty by Reason of Insanity
  2. Guilty, No Contest or Guilty but Mentally Ill
  3. Not Guilty by Reason of Insanity; Guilty but Mentally Ill
  4. Not Guilty
  5. Guilty, No Contest, time

## OVERALL REVIEW: WHAT DO I KNOW?

1. What am I charged with?

---

---

2. Is it a misdemeanor or felony? \_\_\_\_\_

3. How much time could I get if I'm found guilty? \_\_\_\_\_

---

4. Which lawyer is trying to help me? \_\_\_\_\_

5. Which lawyer is trying to convince the jury that I am guilty? \_\_\_\_\_

---

6. What does the judge do in court? \_\_\_\_\_

---

7. Who is supposed to decide whether I am guilty, not guilty, or not guilty by reason of insanity?

—

8. What does a witness do in trial? \_\_\_\_\_

---

9. Should I trust my lawyer? \_\_\_\_\_

10. How can I help my lawyer defend me? \_\_\_\_\_

---

11. If I hear a witness give wrong information, how do I let my lawyer know? \_\_\_\_\_

---

12. How should I act in court? \_\_\_\_\_

13. List the five pleas: \_\_\_\_\_

---

14. If you agree to a plea bargain, what are the pleas you usually enter? \_\_\_\_\_

---

15. Who is the client in your case? \_\_\_\_\_

**COMPETENCY KIT**  
**Competency to Stand Trial Training Resources**

*Staying Free Handout*

After you go to court, the following things might happen as a result of a trial or a plea bargain:

- **Not guilty** - You can be found not guilty and set free.
- **Time served** - You could be found guilty, get a sentence of time served, and set free.
- **Probation** - You could be found guilty, get a sentence of probation, and let out of jail. Probation lets you live in the community, maybe at home, or with a family member, or in a group home. You have to follow rules set by the judge and report regularly to a probation officer. The probation officer can visit you unexpectedly where you live.
- **Jail** - You could be found guilty, be sentenced to some months in jail. After release from jail, you would be set free or released on probation.
- **Prison** - You could be found guilty, be sentenced to some years in prison, and after prison, set free or released on probation. After you are set free, it is up to you to stay free. This is true if you are on probation or not on probation.

***What do I have to do if I get probation?***

The judge can order you to do many things if you are on probation. Some things the judge could order:

- Wear an electronic ankle monitor.
- Be at home except when you're at work, school, church, a doctor's appointment, a mental health appointment, or the probation office.
- Be tested for alcohol and drug use any time your probation officer requests it.
- See your probation officer whenever you're told.
- Go to mental health or substance abuse treatment.
- Get and keep a job.
- Pay restitution (fees you pay to the court for the victim's for injury, loss, or damaged property).
- Pay court costs.
- Pay for your probation supervision.
- The judge and your probation officer may also tell you some other things you have to do.
- **If you are on probation and you don't do what you're supposed to do, you will be arrested and go to jail.**

***What are things I can't do if I get probation?***

The judge can order you to not do many things if you're on probation. Some of the things the judge can order:

- You can't drink alcohol.
- You can't use drugs.
- You can't touch or own a gun.
- You can't move to another address without permission from your probation officer.

- You can't travel out of the area without permission from your probation officer.
- You can't go near the victim of the crime you were convicted of. You can't go near the victim's home, or near the victim's family if there is a stay away order in place.
- You can't go near a business related to your crime or near a school related to the crime either if there is a stay away order (from a location) in place.

The judge and your probation officer may also tell you some other things that you can't do.

**If you are on probation and you do something you're not supposed to do, you will be arrested and go to jail.**

*Probation or no probation, what do I have to do to stay free?*

**Be smart and stay free**

- **Be thoughtful.** Think before you act or say something. If you do unwise things, you will get in trouble, the police will arrest you, and they will take you to jail. An unwise thing is holding a bag because somebody says to you "Do not look in the bag" and "I will give you \$20 to stand there with the bag in your hand while I go see somebody." The police don't care if you don't know that drugs, stolen property, or a gun is in the bag. The guy who told you to hold the bag might even want you to go to jail!
- **Have nice friends.** Hang around with people who have jobs, care for their family, obey the law, and don't do illegal drugs.
- **Find somebody who will listen to you.** Talking about your thoughts to somebody you trust can help you make good decisions.
- **Obey the law.** If police see you break the law, they will arrest you and take you to jail. If a citizen sees you break the law or thinks you are "acting suspicious," the citizen will tell the police. Then the police will come, arrest you and take you to jail. If you threaten family members, steal from them, or bring drugs home, a family member might tell the police. They might tell somebody else who will tell the police. Then the police will arrest you and take you to jail.
- **Meet the conditions of your probation.** Do everything the judge orders and probation officer requests.

*Get a life and stay free*

- **Get a regular life.** Find a job you can do and stick with it. Practice a regular routine every day. Don't overspend your money or your credit. Ask for help if you need it. Keep your emergency phone numbers.
- **Stay healthy.** Go to your doctor and mental health appointments. Take your medication. Don't take other people's medication. Tell the doctor or the nurse if you have problems. Call the emergency telephone number if you have an emergency. Eat healthy food. Go outside in the daytime.
- **Don't use drugs.** If you do drugs, sooner or later you'll do something stupid, get robbed, hurt, arrested, overdose, killed, or violate probation. Don't take street drugs or abuse your prescriptions.

- **Stay away from people who sell drugs and use drugs or alcohol excessively.** People who do drugs and sell drugs act stupid and get in trouble. They might try to cut a deal with the police by telling them you use or sell drugs even if you don't. If police have seen you with people who use and sell drugs, they will think you use or sell drugs even if nobody says you do.
- **Don't carry a gun or knife.** Carrying a knife or gun makes it look like you're ready to hurt, kill or rob somebody. If the police find out you have a weapon on you, they will arrest you and take you to jail.
- **Don't wander around at night.** If a citizen sees you wandering around at night and thinks you are acting suspicious, they will tell the police and you'll get arrested. Or the police might see you wandering around at night and think you're on your way to rob or attack somebody, get drugs, or sell drugs. They could arrest you and take you to jail.

*Treat police nice and stay free*

- **Don't break the law.**
- **Remember that you have a record.** The police may not believe you if you say you did nothing wrong. They may arrest you and take you to jail.
- **Show the police you respect them.** If the police think you are lying, or you don't respect them, they might arrest you and take you to jail. When they ask you a question or tell you to do something:
  - stand straight.
  - face the police when they are talking.
  - don't keep looking around.
  - look the police in the eye.
- **Obey the police.** Do what the police say
  - even when you think they stopped you for no reason.
  - even if you have been good, very good, bad, or very bad.
  - even if are making you late.
  - Even if the police seem rude to you.
- **When you see or talk to the police, NEVER do these not-so-smart things:**
  - Touch police with your hand, not even a finger.
  - Grab the police by the arm, hand, or anywhere else.
  - Put your hand in your pocket or in your shirt like you're going to pull something out.
  - Call the police bad names.
  - Tell the police they are stupid or don't know what they're talking about.
  - Tell the police they are not doing their job right.
  - Walk away from the police when they're talking to you.

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CompKit

Competency to Proceed Training Resources

Competency Fast Facts Brochure

*What do I need to know about the court?*

The court system is **adversarial**. That means that there are two sides in the case and both sides try to win the case. The Client (you) and the defense attorney are on one side and the Prosecutor is on the other side against you.

**The Judge:**

- Keeps order in the court.
- Makes sure everyone follows the rules of the court.
- Is **neutral** or **impartial**. He or she is not on either side and does not help one side more than the other.
- Passes sentence if the client is found guilty.
- Sets the client free if the verdict is Not Guilty.
- Decides if the client is guilty or not guilty when the trial is a “bench” trial (no jury.)

**The Defense Attorney:**

- Is the lawyer who is for you, on your side.
- Does his or her best to get you free.
- Is trying to protect you.
- Tries to get you a reduced sentence if you are found or plead guilty.

**The Prosecutor:**

- Is against you and is NOT on your side at any time.
- His/her job is to prove you are guilty.

**Pleas**

- **Guilty:** I did the crime.
- **Not Guilty:** I did NOT do the crime.
- **Not Guilty by Reason of Insanity (NGI):** At the time of the crime, I was mentally ill and did not understand that what I was doing was wrong.
- **Guilty but mentally ill-**I did the crime and was mentally ill but knew what I was doing
- **No contest:** I don’t admit guilt but agree to the facts presented by the prosecution.

**Plea Bargain**

A deal between the State Attorney, your defense attorney, and you. The judge has to agree with the plea bargain. It usually results in a sentence less than you would have gotten without a plea bargain.

**Behavior in Court**

While you are at the Hospital, we check your behavior to be sure that you can behave properly in court: being calm, quiet, and paying attention.

**Ability to Testify**

You must be able to speak in an organized way and answer questions. You have to know to tell the truth in court, but you do not have to say anything that makes you look guilty (incriminates you).

*Why am I at the Hospital?*

1. You have been charged with a crime.
2. The judge felt that you were not ready to go through the legal process. Because of this, the judge found you **incompetent to proceed**.
3. The judge decided this because he or she felt that you might have a mental illness that keeps you from helping your lawyer defend you in court.
4. The Judge ordered that you come to the hospital for treatment of your mental illness and training about the court system. This is so that you can become **competent to proceed** and go back to court.

*What do I have to do to go back to court?*

You must be competent to go ahead with your case in court. This means that you must show that you are **competent to proceed**. To be competent to proceed, you must:

1. Factually and rationally understand your legal situation. This means:
  - a. You must know the charges against you; what the police say that you did.
  - b. You must know the possible sentences or penalties for a person found guilty of your charges.
  - c. You must understand that the court system is an **adversarial** system. You must show that you understand how the court system works and what the people who work in the court do.
2. Be able to work with your defense attorney (lawyer) and make decisions about your defense in a rational way. This means:
  - a. You must be able to provide accurate and important information about your case to your lawyer.
  - b. You must be able to behave appropriately in court.
  - c. You must be able to testify and give evidence in court to defend yourself, if necessary.

***What can I do to become competent to proceed and leave the hospital as soon as possible?***

1. Cooperate with treatment.
2. Take the medication that the doctor says you need.
3. Be on your best behavior.
4. Participate in the groups where they talk about court and the people in court.
5. Know about:
  - my charges,
  - my possible penalties, and
  - the court.

***What do I need to know about my charges?***

Crimes are either **misdemeanors** or **felonies**:

**Misdemeanors** are less serious than felonies. Misdemeanors are such crimes as loitering, trespassing, assault, simple battery, and some traffic offenses. They can carry sentences up to a year.

**Felonies** are more serious crimes. Being charged with a felony is a very serious matter. Felonies are crimes such as battery on a law enforcement officer, armed robbery, burglary of an occupied structure, battery, aggravated assault rape, and murder. They can carry sentences of a year to life in prison.

**Possible punishments without prison time**

- **Probation**
- **Jail Confinement (1 year or less)**
- **Time Served**
- **A fine**

**If found not guilty:** No punishment.

## Competency to Proceed Training Resources

# 1:1 COMPETENCY WORKBOOK EXAMPLE

**Instructions:** This is an example of how to use the IIC's charges and affidavit in conjunction with the 1:1 Competency Workbook. Please review this and the answers to better understand how to utilize the workbook in your 1:1 work. This is NOT to be given to the individual.

For 1:1 Use Only – Do Not Give to the IIC

This is the Competency Workbook of: (insert name) \_\_\_\_\_

### Suggested Introduction to Read to the IIC

You are at (insert name of Hospital) Hospital because the judge has found you "Incompetent to Stand Trial." This means:

- 1) The judge believed that you suffer from a mental illness and
- 2) The judge believed that, because of your mental illness:
  - you do not understand your current legal situation and/or
  - you are not able to go through the criminal court process with rational understanding of the process.

This Workbook gives you information about the law and courtroom procedures. You must learn this information to do well in treatment and get out of the hospital. Your Hospital's competency evaluator and your Treatment Team will decide when they believe you are ready to leave the hospital and go back to Court. When that happens, the evaluator will send a report to the judge, your lawyer, the prosecutor, and others responsible for helping continue your care after you leave Hospital.

This workbook is adapted from original materials developed by Colorado Mental Health Institute and D.C. Saint Elizabeths Hospital.

**Review the charges and legal paperwork with the defendant.** Below are sample legal documents highlighting key elements that should be reviewed with the individual. You should review the actual documents with the individual.

### Charge #1

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**CRIMINAL DIVISION**  
**INFORMATION**

DCTN: \_\_\_\_\_  
Lockup No: \_\_\_\_\_  
Case No: \_\_\_\_\_  
Citation Date: \_\_\_\_\_

The United States Attorney for the District of Columbia informs the Court that within the District of Columbia:

Defendant's Name: Mr. X  
(First) (MI) (Last) (PDD) (CCNO) (DOB)

Also Known As: \_\_\_\_\_  
(First) (Middle) (Last)

Address: \_\_\_\_\_

1 On or about March 1, , within the District of Columbia, **Mr. X** wrongfully obtained and used property of value, belonging to National Gallery of Art, consisting of merchandise, with the intent to appropriate the property for his own use and to deprive National Gallery of Art of a right to and benefit of the property. **(Second Degree Theft, in violation of 22 D.C. Code, Sections 3211, 3212(b) (2001 ed.))**

Co-Defendants:

This is the Charge. The official name of the charge is in the parentheses and in bold letters.

Rule 105:  Judge: SALERNO

This is the Judge

United States Attorney for the District of Columbia

|                                            |                     |
|--------------------------------------------|---------------------|
| By: Assistant United States Attorney       | Date: March 2, 2017 |
| By Officer: _____                          | Badge No.: _____    |
| PSA: 101 Domestic <input type="checkbox"/> |                     |

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# Gerstein Affidavit – Charge 1

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION  
UNITED STATES

VS

MR. X

CCN #: :

Arrest Number:

The event occurred on 03/01/2017 at approximately 11:20 at NATIONAL GALLERY OF ART - WEST BUILDING, MADISON DRIVE NW, WASHINGTON, DC 20565

Defendant MR. X was previously involved in a shoplifting case. An alert employee observed the defendant removing items that were for sale from a gift shop and concealing them inside his jacket. The defendant was confronted by the listed witness who summoned security to the scene. Lieutenant Walker responded and met with the witness.

These are the details that led to the charge. This is where you would review what the evidence and witnesses are with the IIC

The event and acts described above occurred primarily in the District of Columbia and were committed as described by defendant(s) listed in the case caption.

Subscribed and sworn before me this 03/01/2017

GLENDINNING, DANIEL / 275 / 275 (03/01/2017) E-SIGNATURE  
Police Officer / Badge# / CAD#

CLANTON, SHERICE / 163 (03/01/2017) E-SIGNATURE  
Unit / Witness / Deputy Clerk

GLENDINNING, DANIEL / 275 / 275  
Printed Name of Member / Badge# / CAD#

CLANTON, SHERICE / 163  
Printed Name of Witness / Deputy Clerk

The foregoing statement was made under penalty of criminal prosecution and punishment for false statements pursuant to D.C. Code 22-2405

Page 1 of 1

# Stay Away/No Contact Order

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION**

**UNITED STATES OF AMERICA**

**Intake Date:**

v.

**Lock Up No. :**

*Mr. X*

**Criminal Case No.:**

**PDID NO.:**

**DCTN:**

This is a stay away order issued in this case and what he is required to do.

## STAY AWAY / NO CONTACT ORDER

You, the defendant in this case, **MUST** obey the following conditions, which are being imposed **IN ADDITION** to any other conditions that the Court may impose pursuant to D.C. Code Section 23-1321. You **MUST** abide by these conditions until this case is disposed of or until they are changed by the Court.

**NO ASSAULTIVE, THREATENING, ABUSIVE, HARASSING, OR STALKING BEHAVIOR TOWARD**

**YOU ARE TO STAY AWAY FROM THE PERSONS LISTED BELOW:** Names and addresses (if applicable) of victims/witnesses

**YOU, THE DEFENDANT, ARE TO HAVE NO CONTACT WITH ANY OF THE PERSONS NAMED ABOVE BY ANY MEANS WHATSOEVER. THIS MEANS THAT YOU SHALL REMAIN AT LEAST 100 YARDS AWAY FROM THEM, THEIR HOME, AND/OR THEIR PLACE OF EMPLOYMENT, AND THAT YOU SHALL NOT COMMUNICATE OR EVEN ATTEMPT TO COMMUNICATE WITH ANY OF THESE PERSONS NAMED ABOVE, EITHER DIRECTLY OR THROUGH ANY OTHER PERSON (EXCEPT THROUGH YOUR LAWYER), BY TELEPHONE, WRITTEN MESSAGE, ELECTRONIC MESSAGE, PAGER, OR ANY FORM OF SOCIAL MEDIA, OR OTHERWISE.**

**YOU must obtain a police escort to retrieve belongings from**

**YOU ARE TO STAY AWAY FROM THE FOLLOWING PLACES OR AREA(S):**  
National Gallery of Art & area bounded by Constitution Ave, Pennsylvania Ave, 3rd Street, 9th Street & Madison Drive, NW

**A check here means a map is attached.** Area(s) Affected

**YOU MUST ALSO OBSERVE THE FOLLOWING CONDITION(S):**

**ANY VIOLATION OF ANY OF THESE CONDITIONS, OR ANY OTHER CONDITION IMPOSED BY THE COURT, MAY RESULT IN IMMEDIATE NOTIFICATION BEING MADE TO THE COURT AND COULD RESULT IN YOUR PROSECUTION FOR CONTEMPT OF COURT THE REVOCATION OF YOUR RELEASE PURSUANT TO D.C. CODE SECTION 23-1329, AND/OR YOUR DETENTION PENDING FINAL DISPOSITION OF THIS CASE.**

**DATE:**

**SO ORDERED:**

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Signature of Judicial Officer

# Order for Competency Evaluation – Charge #1



## SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CRIMINAL DIVISION

UNITED STATES OF AMERICA

v.

Case No.:

PDID #:

Mr. X  
Defendant

Here is the court order about what we are ordered to do.

### ORDER FOR FULL COMPETENCY EXAMINATION

The Court having received a report from the preliminary screening examination of the defendant, any arguments by the parties, and any other information available to the Court, the Court finds further examination is necessary for defendant to proceed with this matter.

WHEREFORE, it is hereby, this 14th day of December, 2017,

ORDERED that the defendant shall submit to a full competence examination by a psychiatrist or psychologist affiliated with the Department of Mental Health, pursuant to D.C. Code §24-531.03(c) (4)(B); and it is,

FURTHER ORDERED that a full competence examination shall be conducted

- the Courthouse cellblock if the Defendant is detained.
- in Room 5650 of the Courthouse if the Defendant is on personal recognizance.

OR

- at Saint Elizabeth's Hospital. The Court, having found that the defendant's placement in an inpatient treatment facility is necessary in order to conduct an adequate examination, or that the defendant is unlikely to comply with an order for an outpatient examination, this examination shall be conducted on an inpatient basis, and the defendant is committed to Saint Elizabeth's Hospital for the purpose of such examination; and it is

FURTHER ORDERED that this matter is set for a status hearing on report from the Department of Mental Health concerning the defendant's competence on 01/12/2018, (if inpatient examination, or if defendant is detained, 30 days, plus a possible 15 day extension, if good cause shown; if outpatient examination, 45 days).

SPECIAL INSTRUCTIONS:

Here is the name of his lawyer

Judge ROBERT A. SALERNO

cc: AUSA (AAG)  
Defense Counsel:

Defendant:

Name: Ms CHANTAL E JEAN-BAPTISTE

Address: \_\_\_\_\_

Address: 840 1st Street, N.E. 3rd Floor

Washington, DC 20002

Phone: \_\_\_\_\_

Phone: (202)-556-3512



CDCMH-2

# Charge #2

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION  
INFORMATION**

DCTN: \_\_\_\_\_  
Lockup No: \_\_\_\_\_  
Case No: \_\_\_\_\_  
Citation Date: \_\_\_\_\_

The United States Attorney for the District of Columbia informs the Court that within the District of Columbia:

Defendant's Name: Mr. X

|                |          |        |       |        |       |
|----------------|----------|--------|-------|--------|-------|
| (First)        | (MI)     | (Last) | (PID) | (CCNO) | (DOB) |
| Also Known As: |          |        |       |        |       |
| (First)        | (Middle) | (Last) |       |        |       |
| Address: _____ |          |        |       |        |       |

- 1 On or about May 4, 2017, within the District of Columbia, Mr. X, previously having been released pursuant to the provisions of Title 23 of the District of Columbia Code in Superior Court Case Number \_\_\_\_\_, a misdemeanor case, willfully failed to appear before the Court as required. (**Bail Reform Act, in violation of 23 D.C. Code, Section 1327(a) (2001 ed.)**)
- 2 On or about May 4, 2017, within the District of Columbia, Mr. X, previously having been released pursuant to the provisions of Title 23 of the District of Columbia Code in Superior Court Case Number \_\_\_\_\_, a misdemeanor case, willfully failed to appear before the Court as required. (**Bail Reform Act, in violation of 23 D.C. Code, Section 1327(a) (2001 ed.)**)
- 3 On or about May 4, 2017, within the District of Columbia, Mr. X, previously having been released pursuant to the provisions of Title 23 of the District of Columbia Code in Superior Court Case Number \_\_\_\_\_, a misdemeanor case, willfully failed to appear before the Court as required. (**Bail Reform Act, in violation of 23 D.C. Code, Section 1327(a) (2001 ed.)**)

Co-Defendants:

Here are the other charges that he is also referred to us for competency restoration and evaluation. The official name of the charge is in the parentheses and in bold letters.

Rule 105:  Judge: \_\_\_\_\_

United States Attorney for the District of Columbia

|                                            |                   |
|--------------------------------------------|-------------------|
| By: Assistant United States Attorney       | Date: May 5, 2017 |
| By Officer:                                | Badge No.:        |
| PSA: 207 Domestic <input type="checkbox"/> |                   |

# Gerstein Affidavit – Charge #2

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION  
UNITED STATES

VS  
Mr. X

CCN #:

Arrest Number:

The event occurred on 05/04/2017 at approximately 15:45 at TREASURY ANNEX / US DEPARTMENT OF THE TREASURY, 1500 PENNSYLVANIA AVENUE NW, WASHINGTON, DC 20229

The incident occurred on Thursday, May 4, 2017 in the 1500 Block of Pennsylvania Avenue, NW at approximately 15:45 hours.

D1 ( Mr. X ) who is known to AO (Ofc. M. Miranda/USSS#1169) was observed walking south of the Treasury Annex. D1 advised AO that he did not attend court yesterday due to him not knowing the courts address. AO requested an NCIC check through the USSS Joint Operations Center utilizing D1's verbal identifiers. D1 returned with three (3) Bench Warrants out of D.C. for "Failure to Appear" ( all issued by Judge Salerno.

D1 was arrested by AO for "Failure to Appear X3" and was transported to MPD 2D for processing.

Here are the details of the offenses that led to the charges

The event and acts described above occurred primarily in the District of Columbia and were committed as described by defendant(s) listed in the case caption.

Subscribed and sworn before me this 05/04/2017

MIRANDA, MATTHEW / U09841 / 1109841 (05/04/2017) E-SIGNATURE

CREPEZZI, GERALD / U07424 (05/04/2017) E-SIGNATURE

Police Officer / Budget# / CAD#

Unit:

Witness / Deputy Clerk

MIRANDA, MATTHEW / U09841 / U09841

CREPEZZI, GERALD / U07424

Printed Name of Member / Budget# / CAD#

Printed Name of Witness / Deputy Clerk

The foregoing statement was made under penalty of criminal prosecution and punishment for false statements pursuant to D.C. Code 22-3405

Pg. 1 of 1

# Order for Competency Evaluation – Charge #2



## SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CRIMINAL DIVISION

UNITED STATES OF AMERICA

v.

*Mr. X*  
Defendant

Case No.:  
PDID #:

Here is what  
we are ordered  
to do

### ORDER FOR FULL COMPETENCY EXAMINATION

The Court having received a report from the preliminary screening examination of the defendant, any arguments by the parties, and any other information available to the Court, the Court finds further examination is necessary for defendant to proceed with this matter.

WHEREFORE, it is hereby, this 14th day of December, 2017.

ORDERED that the defendant shall submit to a full competence examination by a psychiatrist or psychologist affiliated with the Department of Mental Health, pursuant to D.C. Code §24-531.03(c) (4)(B); and it is,

FURTHER ORDERED that a full competence examination shall be conducted

- the Courthouse cellblock if the Defendant is detained.  
 in Room 5650 of the Courthouse if the Defendant is on personal recognizance.

OR

- at Saint Elizabeth's Hospital. The Court, having found that the defendant's placement in an inpatient treatment facility is necessary in order to conduct an adequate examination, or that the defendant is unlikely to comply with an order for an outpatient examination, this examination shall be conducted on an inpatient basis, and the defendant is committed to Saint Elizabeth's Hospital for the purpose of such examination; and it is

FURTHER ORDERED that this matter is set for a status hearing on report from the Department of Mental Health concerning the defendant's competence on 01/12/2018, (if inpatient examination, or if defendant is detained, 30 days, plus a possible 15 day extension, if good cause shown; if outpatient examination, 45 days).

SPECIAL INSTRUCTIONS: \_\_\_\_\_

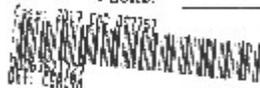
cc: AUSA (AAG)  
Defense Counsel:

Name: Ms CHANTALE JEAN-BAPTISTE  
Address: 840 1st Street, N.E. 3rd Floor  
Washington, DC 20002  
Phone: (202)-556-3512

Here is the  
name of  
his lawyer

Judge ROBERT A. SALERNO

Defendant: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_



CDCMH-2

# Lesson 1: Things you need to remember about your legal case

Review Complaint and Affidavit In Support Of An Arrest Warrant with the individual. The individual can keep a copy of the complaint and affidavit.

You will want to remember this information. You will be tested it later.

1. The letters "IST" stand for? *"Incompetent to Stand Trial."*
  2. You have been charged with (accused of) \_\_\_\_\_  
*Second-Degree Theft and 3 violations of the Bail Reform Act (from the two Charges pages – the Second-Degree Theft is on Charge #1 and the 3 Bail Reform Acts are on Charges #2).*  
\_\_\_\_\_
  3. This means *I am accused of stealing stuff from the National Gallery of Art and of not showing up to court when I was supposed to appear.*  
\_\_\_\_\_  
\_\_\_\_\_
  4. You are facing a possible maximum sentence of up to  
*1 year in jail*  
\_\_\_\_\_
  5. The judge who sent you here is the Honorable *Judge Robert A. Salerno (from the court order)*  
\_\_\_\_\_
- He ruled that you were incompetent on (date): *December 14, 2017 (from the Court Order date)*  
\_\_\_\_\_

# Self-Test for Lesson 1

**Question 1:** What does IST mean? *Incompetent to Stand Trial*

**Question 2:** What are you charged with? *Second Degree Theft and 3 violations of the Bail Reform Act*

**Question 3:** What is the maximum sentence you could get? *Up to 1 year*

**Question 4:** What is the name of your attorney? *Chantal Jean-Baptiste*

**Question 5:** What is the name of your Forensic Consult Service Evaluator?

---

**Question 6** Choose *true* or *false*?

You can go back to court without a report from the hospital.

Answer: *false*

**Question 7** How do you contact your attorney? *By telephone*

**Question 8** The letters IST mean (choose one):

- a. Nothing
- b. Incompetent to Stand Trial
- c. I'm So Tall

Answer: *b*

## Lesson 2: What is "Incompetent to Stand Trial?"

The term *Incompetent to Stand Trial* may be confusing. The words have nothing to do with whether you are intelligent or not, or whether you are able to hold a job or take care of your money.

The word "incompetent" means "can't" "not able to" or "not capable of." If you are *incompetent* to play baseball you *are not able to* play baseball.

"Incompetent to stand trial" means "incompetent to proceed with your trial." You will not go back to court until you become competent.

The Constitution of the United States guarantees your right to a fair trial. If you cannot understand what happens in court, it won't be fair, and you won't be allowed to have a trial.

The Supreme Court says that you must have "sufficient present ability to consult with your lawyer with a reasonable degree of rational understanding" to have a fair trial. If you don't have this "ability" and the judge won't let you go to trial, you are "incompetent to stand trial."

The judge is the person who finds you incompetent, usually after a doctor recommends this.

### IN SUMMARY,

- (1) YOU ARE *INCOMPETENT TO STAND TRIAL* IF YOU CAN'T UNDERSTAND SOMETHING IMPORTANT YOU NEED TO KNOW TO DEFEND YOURSELF IN COURT OR CAN NOT THINK, SPEAK, OR UNDERSTAND CLEARLY.
- (2) YOU WON'T HAVE A TRIAL UNTIL YOU ARE FOUND COMPETENT.
- (3) ONLY THE JUDGE CAN FIND YOU COMPETENT.

## Self-Test for Lesson Two

**Question 1:** *What is Incompetent to Stand Trial?*

**Answer:** You are incompetent to stand trial if you can't understand something important you need to understand to defend yourself in court or you cannot think, speak, or understand clearly.

**Question 2:** *Incompetent to Stand Trial* means (choose one):

- a. Your constitutional rights are violated
- b. Your lawyer got together with the Prosecutor to make a deal to get you out of jail
- c. You don't understand what you need to understand to defend yourself in court or cannot think, speak, or understand clearly.

*Answer: c*

**Question 3:** You can go to trial on the charges (Choose one):

- a. Whenever you want
- b. Never
- c. After being found competent by the doctor
- d. After being found competent by the judge

*Answer: d*

## Lesson 3: Understanding roles, where people sit

You can't be competent in baseball if you don't know the difference between a pitcher and a catcher. You can't be competent in court if you don't know the difference between a defense attorney and a prosecutor/prosecuting attorney.

This lesson will concentrate on "who does what" and what some words mean.

### Self-Test for Lesson 3:

Below is a picture of a courtroom. On this picture, you show or write:

1. Where does the judge sit?
2. Where does the jury sit?
3. Where will you sit?
4. Where will your lawyer sit?
5. Where will the prosecutor sit?
6. Where will the witness sit to testify?
7. Where do the people watching the trial sit?



## Lesson 4: Understanding roles, what people do

Here are some jobs that people have:

**Judge** (*"The Bench", "Your Honor," "The Court"*) - The "boss" of the court. The judge:

- (1) Decides about rules of law (example: "That evidence is not admissible").
- (2) Issues orders (example: "I order an evaluation for competency").
- (3) Instructs the jury about the law.
- (4) Sets dates for hearings and trials.
- (5) Decides guilt or innocence in a bench trial (if you don't choose a jury trial).
- (6) Decides on a penalty or sentence if you are found guilty (in most cases).

**Lawyer** (*attorney, counselor*) - A person with a law degree who knows a lot about the law. He/she knows the courtroom rules and how to argue a case.

**Defender** (*defense lawyer, defense attorney, public defender*) –

- The lawyer on your side
- Is paid to defend you
- Works to show that you are not guilty
- Works to get you off easy
- Works to get you a light penalty if you are found guilty.

**Prosecutor** (*Prosecuting attorney, prosecuting lawyer, government's attorney*)

- A lawyer against you
- Is paid to prosecute you
- Tries to prove that you are guilty
- Tries to get you a hard or heavy penalty if you are found guilty.

**Witness** - A person who may know something about what you did or didn't do. A witness will testify from the witness stand, answering questions from both lawyers.

**Expert Witness** - A person who is accepted by the court as an authority on a particular subject. For example, testifying psychiatrists and psychologists are usually considered expert witnesses, even if you think they are wrong.

**Courtroom Clerk** - An employee of the court who acts as a secretary for the judge and keeps track of what's going on, schedules hearings, and so on. This person announces what happens in court.

**Court Reporter** - A person who makes a word for word record (a transcript) of everything official that goes on during a trial.

**Jury** - A group of people (usually 12 persons but can be fewer) who sit in the court room, hear the testimony and evidence, and decide if you are "guilty" or "not guilty." All have to agree.

**Here are some words that you might hear in court and what they mean:**

***Court*** (*courtroom*) - Place where the hearings and trials happen.

***Trial*** - An occasion when the court, with or without a jury, decides if you are guilty or not guilty, and decides on the penalty.

***Hearing*** - An occasion when a judge officially hears witnesses testify and officially hears the lawyers' arguments about the case.

# Self-Test for Lesson 4

## GENERAL QUESTIONS

**Question 1:** What does the judge do during the trial?

*Answer:* (1) Decides about rules of law (example: "That evidence is not admissible").  
(2) Issues orders (example: "I order an evaluation for competency").  
(3) Instructs the jury about the law.  
(4) Sets dates for hearings and trials.  
(5) Decides guilt or innocence in a bench trial (if you don't choose a jury trial).  
(6) Decides on penalty or sentence if you are found guilty.

**Question 2:** What does the jury do?

*Answer:* Finds the client guilty or not guilty

**Question 3:** What will the prosecutor do?

*Answer:* Try to put you in jail or have you pay a big fine

**Question 4:** What do the witnesses do?

*Answer:* They answer questions about the case

**Question 5:** What do people watching the trial do?

*Answer:* They sit and watch the trial

**Question 6:** What will your lawyer do?

*Answer:* Defend you, show the charges against you are not true.

## MULTIPLE CHOICE (Circle One)

1. A place where the hearings and trials happen:
  - a. the hospital
  - b. the prosecutor's office
  - c. the court (courtroom)
  
2. A person who knows a lot about laws and courtroom rules and how to argue a case in court:
  - a. lawyer
  - b. courtroom clerk
  - c. court reporter
  
3. An employee of the court who announces events.
  - a. witness
  - b. lawyer
  - c. courtroom clerk
  
4. A person who makes a word for word record of everything official that goes on during a hearing or trial.
  - a. recorder
  - b. courtroom clerk
  - c. lawyer
  
5. A lawyer who is paid to defend you.
  - a. prosecutor
  - b. the judge
  - c. defense attorney
  
6. A person who may know something about what you did or didn't do.
  - a. lawyer
  - b. witness
  - c. courtroom clerk
  
7. An employee of the court who acts as a secretary for the judge and keeps track of what is going on, schedules, and so on.
  - a. court reporter
  - b. prosecutor
  - c. courtroom clerk

8. A person whose special knowledge is accepted as evidence in the court.
- a. secretary
  - b. judge
  - c. expert witness
9. A lawyer who is paid to prosecute you, to prove that you are guilty and get a hard or heavy penalty if you are guilty
- a. prosecutor
  - b. defense attorney
  - c. judge
10. An occasion when the judge officially hears witnesses testify and the lawyers argue but not about guilt or innocence:
- a. trial
  - b. hearing
  - c. court

Answers: 1) c    2) a    3) c    4) a    5) c    6) b    7) c    8) c    9) a    10) b

## Lesson 5: Understanding Court Procedure and Proceedings

There are several things you need to know about court proceedings.

1. You are accused of doing something wrong, a violation of the law.
2. The prosecutor filed charges with the court.
3. The "charge" is written on a piece of paper and says what law you are accused of breaking.
4. You are called a "client" when you are charged.
5. If you plead "not guilty" there will be a trial to determine if you are guilty or not guilty. The procedure is set up as "The Government" against you or "The People" against you.
6. In a trial the judge (or jury, if you have a jury trial) decides if you really did commit a crime.
7. You have a defense attorney to help you. He or she tries to show you are not guilty, or, if you are found guilty, that you should get a light or easy penalty or sentence.
8. The United States government will have a prosecuting lawyer (prosecutor) to argue against you. He or she will try to prove that you are guilty, that what you did was very bad, and that you deserve a harsh or heavy sentence.
9. The prosecutor may ask *witnesses* to testify. The prosecutor will ask witnesses questions to try to get evidence that you did what you are charged with. The defense attorney may ask those same witnesses their own questions to try to show you did not do it (cross-examination).
10. The defense attorney may ask *witnesses* to testify. The defense attorney will ask the witness questions to try to get evidence that you did NOT do the crime with which you are charged. The prosecuting lawyer (prosecutor) can question your witnesses to try to prove you DID do the crime.
11. In a trial, the Government has the "burden of proof." It is up to the prosecution to prove that you are guilty. You don't have to prove you are not guilty. You only need to show that the prosecution did not prove you are guilty. Officially, **you are considered not guilty until the prosecutor proves that you are guilty.**
12. When you are found incompetent to stand trial. This means that you may be sent to the hospital until you are competent. This happens before the trial and does not mean that you are guilty.

# Self-Test for Lesson 5

## GENERAL QUESTION

**Question 1:** Finish the sentence: When someone says that they are innocent until proven guilty, they mean that.....

*Right Answers:*

- The government has the burden of proof. You are not guilty until the government proves that you are guilty.
- They have to show you did it.
- You are not guilty until the judge or the jury decides you are guilty.

## MULTIPLE CHOICE (choose as many as apply)

1. If you have been charged with a crime, this means:

- a. you did nothing wrong.
- b. the prosecutor wrote to the court stating what law you are breaking.
- c. the judge has proof you did something bad.
- d. you have been found guilty.

2. To keep from being found guilty when charged with a crime, you have to:

- a. write the court stating what law you are accused of breaking.
- b. admit you did something wrong.
- c. go to court and defend yourself against the charges.
- d. do nothing.

3. Witnesses can be:

- a. called by the defense to show you didn't break the law.
- b. called by the prosecutor to show you broke the law.
- c. asked questions by both defense and prosecution.
- d. asked questions only by the person who calls them to the witness stand to talk.

4. The Government has the "burden of proof". This means:

- a. the client is not guilty until proven guilty.
- b. the client has to prove he or she is not guilty.
- c. the client only has to show that the government didn't have enough evidence to prove guilt.

5. In court it is:
  - a. the "government" against the client.
  - b. you against the judge.
  - c. you against the witness.
  
6. If you are found incompetent to stand trial, you may:
  - a. be held in a mental hospital for life.
  - b. be held sent to a mental hospital until you are ready to return to court and work with your attorney.
  - c. leave whenever you want.
  
7. It is the job of the prosecutor:
  - a. to present evidence that you are guilty.
  - b. to present evidence that you are not guilty.
  - c. to testify in court.
  
8. It is the job of the defense attorney:
  - a. to present evidence that you are guilty.
  - b. to present evidence that you are not guilty.
  - c. to testify in court.
  
9. The person charged with a crime is the
  - a. Client or defendant.
  - b. prosecution.
  - c. witness.
  
10. To find you not guilty, the defense attorney has to show:
  - a. you didn't do what they say you did.
  - b. you did it but didn't mean to do it.
  - c. the prosecution hasn't proven for sure that you did it.
  
11. If you have a trial, who decides if you are guilty?
  - a. the judge if you have a bench trial.
  - b. the jury if you have a jury trial.
  - c. the witness.
  - d. the prosecution.

Answers: 1:b, 2:c 3:a,b,c 4:a,c 5:a 6:b 7:a 8:b 9:a 10:c 11:a,b

## Lesson 6: Understanding Court Procedures and Pleas

When you go to court, the judge will ask, "How do you plead?" This means he's asking if you have an answer for the charge against you. There are five kinds of "pleas." What you plead will make a difference in court proceedings. What you plead may make a difference in your sentence. Below is a list of pleas.

**Guilty** - You admit that you **did** what you were accused of doing. If you plead guilty, you give up your right to a trial and the judge will pass sentence.

**Not Guilty** - You say that you **did not do** what you were accused of doing. If you plead not guilty there will be a trial to determine if you are guilty or not guilty.

**No Contest ("Nolo Contendere")** – You do NOT admit guilt for the crime you are accused; however, you agree to the facts presented by the prosecution/government. In a No Contest plea the result is the exact SAME as a guilty plea. It will appear on an individual's criminal record as a no contest plea and he or she will receive the SAME sentence as they would for a normal guilty plea. If you plead No Contest, you give up the right to a trial and the judge will decide what happens; you put yourself on the mercy of the Court(Judge).

**Guilty but Mentally Ill**- You are saying that did the act but suffered from a mental illness at the time although you did know what you were doing was wrong. If this plea is accepted, the judge will sentence you and you may be sent to a hospital, jail or prison.

**Not Guilty by Reason of Insanity" (NGI or NGRI)** -You are saying that if you did do the act you are accused, you are not responsible for it because, at the time of the crime:

- 1) You suffered from a mental illness and
- 2) You could not tell the difference between right or wrong because of your mental illness.

If this plea is accepted by the Judge, you may be committed to a hospital for treatment for mental illness if you are a grave danger to yourself or others. You may be committed for longer than you could have been sentenced, but your committed will be reviewed to determine if you remain a grave danger to self or others.

## Self-Test for Lesson 6

### MATCH THE WORD WITH THE DEFINITION

1. "Not Guilty by Reason of Insanity" plea
2. "Guilty" plea
3. No Contest (Nolo Contendre)
4. "Not Guilty" plea
- a. You do not admit guilt for the crime you are accused; however, you agree to the facts presented by the prosecution/ government.
- b. You admit you did what you are accused of doing.
- c. You are saying you did not do what you are accused of doing.
- d. You are saying you did the act of which you are accused but you are not responsible for it because of mental illness.
- 
- ```
graph LR; 1[1. "Not Guilty by Reason of Insanity" plea] --> d[d. You are saying you did the act of which you are accused but you are not responsible for it because of mental illness.]; 2[2. "Guilty" plea] --> b[b. You admit you did what you are accused of doing.]; 3[3. No Contest (Nolo Contendre)] --> c[c. You are saying you did not do what you are accused of doing.]; 4[4. "Not Guilty" plea] --> a[a. You do not admit guilt for the crime you are accused; however, you agree to the facts presented by the prosecution/ government.];
```

State what the following terms mean:

- a. Not Guilty by reason of Insanity (NGRI):
- b. Not Guilty:
- c. No Contest (Nolo Contendre):
- d. Guilty:
- e. Guilty but mentally ill

If you do not know the answers, read the definitions again.

Lesson 7: Court procedure and outcomes

There are several possible outcomes to your court case. Some are penalties, which are ways that the state can use to punish you. Others are not punishment or penalties but are ways of forcing you to get treatment or do something else.

Below is a list of some outcomes:

Dismissed - The judge decides there is not enough evidence or other problem with the prosecution's case and drops the charges. You are finished with the criminal charges and may be free to go.

Acquittal - You have a trial and are found not guilty. You are finished with the criminal charges and may be free to go.

Fine - An amount of money that you have to pay to the court. There could also be court costs.

Sentence - A length of time that you would have to spend in jail or prison.

Probation – Instead of sentencing you to jail or prison, the Judge orders that you do some things and do not do others. If put on probation, you must report to a probation officer on a regular basis, take urine or blood tests, and possibly pay fines and restitution. You CANNOT do things like leave the area without the permission of your probation officer. You cannot commit crimes, use alcohol or street drugs, or possess weapons. You may be ordered to go to a hospital or clinic for treatment while on probation. If you do not follow the probation orders of the Judge, you can be sent to jail or prison.

Hospitalization (NGRI) - You probably go to mental health treatment, probably in a hospital, until you are well and safe. This commitment will be reviewed at times set by a statute lasts until your mental illness is stable and you are not dangerous to yourself or others.

Suspended Sentence - The judge has found you guilty and has imposed a sentence, but because he/she thinks that you can straighten out says you don't have to serve the sentence. You might have to report to a probation officer.

Plea Bargain - If you plead guilty or no contest to a charge (often a lesser charge), the prosecutor agrees to give you an easier penalty. He/she may drop other charges. You, the government, and the Judge must agree.

Self-Test for Lesson 7

MULTIPLE CHOICE (Circle one; correct answers in yellow)

1. A Plea Bargain is:
 - a. You go to trial
 - b. The witness says you did what you are charged with
 - c. **You plead guilty to a lesser charge and others are dropped**

2. A "Guilty" Plea is:
 - a. You go to trial
 - b. **You admit you did what you are charged with**
 - c. You don't admit you did anything wrong

3. A "Not Guilty" Plea is:
 - a. You admit you did what you are charged with
 - b. **You tell the judge you didn't do what you are charged with**
 - c. You agree to a lesser charge and the others are dropped

4. An "Acquittal" is:
 - a. You plead guilty to a lesser charge and others are dropped
 - b. **You go to trial and are found not guilty**
 - c. The judge believes you can straighten out and doesn't sentence you

5. A "Hospitalization" is:
 - a. **The court sends you to the hospital until you are better**
 - b. You agree to go to the hospital on a voluntary basis
 - c. You agree to go to the hospital if you get worse

Answers: 1) c 2) b 3) b 4) b 5) a

Lesson 8: Relating to your attorney

To be competent, you should be able to work with your attorney in your defense. This means you have to be able to talk with your attorney to discuss how to defend you. This includes giving your attorney the information you have, listening to his/her ideas, and really thinking about them.

Answer the following questions to see if you are able to talk with your attorney: Finish the following sentence: When I prepare to go to court with my lawyer...

A right answer is one that shows you plan to talk with your lawyer about how to defend yourself. These are some right answers:

"We will have long talks"

"I will tell my lawyer the truth"

"We will prepare for court"

"I need a lawyer to help me because I do not know the laws as well as lawyers do."

Talk about your answer to this question with someone on your treatment team.

Finish the following sentence: What I like most about my lawyer is...

A right answer is one that mentions if the lawyer is a good or bad lawyer. Another right answer is one that says whether or not the lawyer is interested in the case. Examples of right answers are:

"How good he is" "He is trying to help"

"He really listens and understands"

If you disagree with something your lawyer says you should ask him or her "WHY do you think that?" rather than getting mad, firing them, or arguing.

Self-Test for Lesson 8

Question 1: Finish the following sentence: When I prepare to go to court with my lawyer,

Answer: Read the right and wrong answers above

"We will have long talks"

"I will tell my lawyer the truth" "We will prepare for court"

"I need a lawyer to help me because I do not know the laws as well as lawyers do."

Question 2: Finish the following sentence: What concerns Mr. W. most about his lawyer?

Answer: Read the right and wrong answers above

" How good she is"

"She is trying to help"

"She really listens and understands"

Lesson 9: Appreciating the charges

To be competent, you must know what you are charged with, and you must know what the charges mean.

Self-Test for Lesson 9

Question 1: What are your charges?

Client should correctly answer the charges.

Question 2: What do they mean?

Example: I'm accused of stealing stuff from the grocery store and for not showing up at court when I was supposed to.

Answer: If you don't know the answer, look at page 1 of the workbook. You will talk about this with your treatment team.

Lesson 10: Realistically Consider a Legal Defense

To be competent, you must consider how you are going to defend yourself against the charges.

You must

1. Recognize what the charges are
2. Consider different pleas
3. Know the information the prosecutor has against you.
4. Be able to make clear decisions based on all the information available

Here is a situation to think about. It may not be like your situation but answering questions about it will help you become competent.

Situation: Suppose you are charged with a crime. You know you have some responsibility because you accepted a stolen item, and the evidence against you seems pretty strong. Your lawyer says the prosecutor has offered a plea bargain. What things should you consider in deciding whether to accept or not.

Right Answer: A reason that has to do with: (a) how good the bargain is. the lawyer's advice. what a conviction would look like on my record. (d) how strong the evidence is

For example:

"Look at evidence and how good the deal is and what the judge did in the past

Here is another situation to consider:

How will you handle preparing to go to court with your lawyer?

Right Answer: Something that shows you are going to cooperate. For example:

"I will ask him what he thinks about the evidence against me."

"I will tell the truth"

"We will have long talks"

Self-Test for Lesson 10

Question 1: Suppose you are charged with a crime. You know you have some responsibility because you accepted a stolen item, and the evidence against you seems strong. Your lawyer says the prosecutor has offered a plea bargain. What should you consider in deciding whether to accept or not?

- how good the bargain is.
- my lawyer's advice
- how the court has handled deals like this in the past
- how strong the evidence is against me

Answer: read the material above

Question 2: Finish the Sentence: When I prepare to go to court with my lawyer:

I will work with her to figure out how to defend myself

Answer: Read the material above

Lesson 11: Appropriate courtroom behavior

To be competent, you have to be able to control yourself enough to understand what is going on. You must be able to behave appropriately in court.

Answer the following questions:

Question: Why do people stand up when the judge comes in or goes out?

Right Answer: Something having to do with respect. For example:

"To be nice."

"To show respect."

Question: What will you do during the trial?

Right Answer: Something that shows you will be seated, be quiet, listen, and follow what your attorney says. For example:

"Be quiet and listen"

"Do what my attorney says"

"Pay attention"

Self-Test for Lesson 11

Question 1: Why do people stand up when the judge comes in or goes out?

To show the judge some respect

Answer: Read the material above

Question 2: What will you do during the trial?

Try to stay cool and collected and listen to my lawyer and what's being said

Answer: Read the material above

Lesson 12: Sharing Information with Your Lawyer and Participating in Defense Strategy

To be competent, you must be able share important facts with your lawyer and help plan your legal defense. This means you and your lawyer:

1. Talk about ideas that defend you from the charges.
2. Work out a solution calmly when you disagree.

Answer the following questions to see if you can help your lawyer with legal ideas:

Question: How can you help your lawyer defend you?

Right Answer: Something that shows you can give information that helps your case. For example:

"By telling him the whole story of what happened" "Answer questions"
"Listen and tell him what I think"
"Criticize the evidence"

Question: If you disagree with your lawyer about your defense, what are some things to do?

Right Answer. Something that shows you can talk and cooperate. For example:

"Calmly tell my point."
"Ask my lawyer more questions."
"Tell my lawyer I want to give it some thought and talk again."

Lesson 13: Appreciating the possible penalties

To be competent, you must realistically consider the possible penalties if you are found guilty. If you deny that there are penalties, or if you deny that there are charges, you are not competent.

Self-Test for Lesson 13

Question 1: What is the maximum sentence if you are found guilty?

Answer: It depends on how serious your charge is.

Lesson 14: Describing relevant facts

Usually, to be competent, you must be able to describe the events that led to your arrest. If you cannot remember all of the events, you should be able to say what you do and do not know.

In meeting with your treatment team, describe in a few sentences about what led to your arrest:

They say I stole something from the gift shop at the museum and that I didn't show up for my hearing.

Have this reviewed by your IST 1:1 staff member or psychologist. Your psychologist may write comments about whether or not this is enough for competency. If you need more, they will tell you what you may need to do differently.

Lesson 15: Challenging witnesses

To be competent, you should be able to (quietly) tell your lawyer that someone on the witness stand gave information that isn't right.

Question 1: Finish the Sentence: If a witness testifying against me gave incorrect evidence in court, I would:

Right Answer: Something showing that you recognized it was wrong and did something appropriate about it. For example:

"quietly tell my lawyer that the witness was perjuring himself."

"write a note to my lawyer."

"quietly get my lawyer's attention and write her a note."

Self-Test for Lesson 15

Go over the questions above and answer them again.

Lesson 16: Testify relevantly

To be competent, you must be able to testify in court if you want to. This means you must understand what "testify" means. To see if you do, answer the following question:

Question: Finish the Sentence: If you are testifying in court and are questioned by your defense attorney, you will:

Right Answer: Something that shows you will answer questions to the best of your ability. For example:

"I would try to give a truthful answer."

"If I do not remember, I will not make anything up. I will just say what I remember."

"I will not lie."

Lesson 17: Likely outcome of a trial

To be competent, you should be able to understand some likely outcomes in your case. This is so you can make a good decision about what to plead and how to defend yourself.

What do you think is most likely to happen in your case? How do you think things will end up?

I'm going to get my charges dismissed.

Why do you think that this is most likely to happen?

The docs here haven't been able to find me competent because I'm sick.

Have your 1:1 staff member review what you said.

Lesson 18: Review

Below is a list of competency criteria. Use this to make notes. Your therapist may want to write in this, showing you what needs more work.

Name:

Date:

Criteria A: Understand the Facts of Your Legal Situation

1. You should understand the charges against you, the actions you are accused, and the seriousness of the charges.:

Example:

The government says I committed 2nd degree theft because I'm accused of stealing some stuff at the gift shop. I could go to jail for up to a year.

2. You should understand the possible penalties if you are found guilty. You should know the range of penalties from the least harsh to the worst

Example:

If I'm not competent, then my charges might be dropped or they might "Jackson" me and send me to the hospital. They might find me guilty and send me to jail for up to a year.

3. You should understand the adversarial nature of the legal system. This includes basic roles of the opposing sides; it's you and your attorney against the government's attorney, the prosecutor. You should also understand court procedures and the role of various people in court.

The government's trying to find me guilty. My lawyer is trying to help me get off. There is a judge who is managing the trial and who will decide what my penalty is if I'm found guilty. The jury is there to decide if I'm guilty or not.

Criteria B: Participate or Assist in Defense with Rational Understanding

1. You should be able to provide your attorney with important available facts about your case. You should be able to give a consistent, rational, and relevant account of the facts.

Example:

I told the police that I didn't do it, that it wasn't me that stole the stuff, but they knew that I'd been caught shoplifting before. That lady at the store said she saw me put something in my jacket. She's going to testify against me.

2. You should be able to show appropriate or correct behavior in court. You should be able to conduct yourself at a hearing or trial without disruptive or disrespectful behavior. In the hospital, you will show this by managing behavior to avoid trouble.

Example:

I need to be quiet and respectful in court. If I have a question or a comment about something, I need to tell my lawyer.

3. You should be able to testify truthfully. What you say should be clear, relevant, and something you agree with.

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Competency to Proceed Training Resources

Documentation

Overview: Along with the factual and rational competency restoration interventions outlined in our manual, good documentation is a key component to competency restoration efforts. The forensic evaluators rely on **all** documentation in the medical record in order to make their opinion about the individual's competency to stand trial. Also, the prosecution and the defense attorneys may also have full access to documentation and will use **all** documentation to support or deny the hospital's opinion on the individual's competency to stand trial. Simply put, a single mistaken word/description or a generic cut-and-pasted note for every member of a competency group could be used to discredit all the restoration work that has been provided or the opinion of the neutral evaluator. Good, regular, and consistent progress notes are key to showing the competency restoration progress (or lack thereof) that has been provided and assists the treatment team with revising goals and interventions in treatment plan accordingly.

When you are writing your progress notes, think of answering these four broad questions:

1. **Who did the individual see?** (e.g., Chaplain, Case Worker, Attorney, Social Worker, Family Member)
2. **What did the individual say?** (e.g., preferences, frustrations, future plans, TV shows, sports, legal situation or status, unit policies and procedures, board game tactics or strategies)
3. **What did the individual do?** (e.g., read a paper or book, watched TV, used the phone (e.g., dial different numbers without assistance?), played game/s of cards, chess, followed-up previous conversations, requested forms/documents, asked for additional information, wrote a letter, coordinated a group activity)
4. **How did the individual do?** (was able to answer only some of the questions)

Simply answering these questions in your progress notes allows the independent evaluators to have clear information about how individual is progressing as a result of our treatment and competency restoration efforts.

When writing your notes, **be sure not to make any judgments/conclusions about the individual's competency** (e.g. 'Mr. X appears to be competent', 'therefore, Mr.

X is competent’) or document any details that the individual makes about the alleged crime (e.g. ‘Mr. X admitted that he stabbed Mr. Y.’, ‘Mr. X said that he stole the_____.’). Our legal role is to provide treatment and competency restoration and evaluation; we do not have a role in the individual’s legal situation otherwise.

It is important for us to remain neutral about the individual’s criminal allegations, as difficult as that can be given the nature of some of the allegations and the sometimes difficult behaviors that they display and/or the heart-wrenching stories we hear while they are under our care. We may go through a lot of strong feelings and reactions to the individual – these are normal reactions as compassionate caregivers. It is important to remain as objective as possible when describing behavior in your progress notes.

Competency Restoration Monthly Progress Note: Template

Individual's Name:	Type of Intervention (Group Name or 1:1 education)	Treatment Provider
Date(s) of all sessions held _____	Treatment Plan Goal	
# sessions Individual attended _____		
Name of Charge(s) (as described by individual; use quotes if possible)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Misdemeanor or felony (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Role of participants (judges, jury, attorneys, witnesses) (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Understanding of court procedures (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Understanding of verdicts and their meaning (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Understanding of pleas (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Understanding of plea bargaining (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Understanding of rights of defendants (specify individual's responses)		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Behavioral observations during restoration efforts		
Understanding of role of his attorney and description of relationship with attorney		
Did participate <input type="checkbox"/> Did not participate <input type="checkbox"/> Making progress <input type="checkbox"/> Not making progress <input type="checkbox"/>		
Signature:		Date

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Competency to Proceed Training Resources

Section Six

Appendices

Appendix A: Games and Other Tools for Competency Restoration Groups

Competency Matching Game
True or False Game
Competency Jeopardy Game
Competency Pictionary
Wheel of Competency
Competency Word Find and Answers
Competency Bingo
Competency Jenga
Competency Music
Competency Flashcards

Appendix B: Competency Tools for the Cognitively Impaired

Nonverbal Competency Packet # 1
Nonverbal Competency Packet # 2

Appendix C: Additional Competency Resource Materials

Competency Movies
Competency Study Guide 6th Grade reading level
Competency Study Guide 3rd Grade reading level

Appendix A: Competency Group Tools

Competency Matching Game

Evidence	
Police Officer	
	Person who asked you questions and investigated what happened
Judge	

	The boss in the courtroom
--	---------------------------

<p>Courtroom</p>	
<p>Good Courtroom Behavior</p>	<p>Whispering to your attorney</p>
<p>Defense Attorney</p>	<p>The attorney who helps you tell the judge what happened</p>
<p>Jury</p>	
	<p>12 people who determine the verdict</p>
<p>Guilty Plea</p>	<p>Saying, "I did the crime."</p>
<p>Not Guilty Plea</p>	<p>Saying, "I did not do the crime."</p>
<p>Not Guilty by Reason of Insanity</p>	<p>Saying, "I did the crime, but was not in my right mind at the time of the crime."</p>

Guilty but mentally ill	Saying I did the crime and knew what I was doing was wrong, but I was mentally ill at the time
Prosecuting or Government Attorney	The attorney accusing the client of doing something wrong
Hung Jury leads to this	Mistrial

TRUE or FALSE

Mark each sentence as (T) true or (F) false

- All jury members must agree on final verdict.
- You can request a jury trial.
- You can request a bench trial.
- You can request a different attorney to represent you.
- The judge determines the verdict in a jury trial.
- The judge determines the verdict in a bench trial.
- The jury determines the verdict in a jury trial.
- The jury determines the verdict in a bench trial.
- The judge determines sentencing in a jury trial.
- The jury determines sentencing in a jury trial.
- The judge determines sentencing in a bench trial.
- There are 4 possible pleas for a client.
- If there is a hung jury the client automatically goes home.
- The client/defendant can be called as a witness.
- The client/defendant must testify.
- There are usually 10 jury members in Pennsylvania
- It is okay for a client/defendant to yell in court if they are upset.
- The client whispering to the defense attorney is good courtroom behavior.
- The client does not give up rights if pleading Not Guilty by Reason of Insanity.
- During your trial, if the witness or prosecuting attorney are saying something you don't believe is true you should immediately stand up and correct them, so that they know the real facts.

Competency Jeopardy!

Authored by Lori L. Hauser, Ph.D., ABPP, Whiting Forensic Division, Connecticut Valley Hospital

Rules:

- Each team takes turns selecting /answering questions from the different categories and point totals.
- One person from each team selects/attempts to answer the question but can request help from their teammates **prior to any answer being given.**
- If a team gets a question incorrect, the next team **in order** gets a chance; if they miss it, too, then the next team **in order** gets a chance; **no calling out answers.**
- Points determined by question value

Category: Procedures

For 100 pts: Punishment for committing a crime; handed down by the judge (Answer: sentence)

For 200 pts: Statement made under oath in court regarding some aspect of a case (Answer: testimony)

BONUS (50pts each): What is an oath? (Answer: promise to tell the truth) What is it called when someone lies under oath? (Answer: perjury)

For 300 pts: Questioning by the opposing attorney on the witness stand (Answer: cross-examination)

For 400 pts: Agreement, or deal, made between the client/defense attorney and the prosecutor, in which the client agrees to plead guilty in exchange for a lesser charge and a reduced sentence (Answer: plea bargain)

BONUS (50pts each): Who must offer the plea bargain? (Answer: prosecutor). What do you give up by accepting a plea bargain? (Answer: right to trial and appeal)

For 500 pts: Court proceeding to determine whether a client is guilty or not guilty of a crime, where both sides present evidence to support their arguments (Answer: trial)

For 600 pts: Court appearance to determine if you understand your charges and the court process, and are able to work with your attorney to help with your defense (Answer: competency hearing)

Category: Roles

For 100 pts: Keeps order in the courtroom, makes sure rules are fairly interpreted, decides the verdict, and imposes sentence (Answer: judge)

BONUS (50pts each): If the judge does not decide the verdict, who does? (Answer: Jury) How many people make up a jury? (Answer: 12 unless a different number is agreed upon) How many of them have to agree? (Answer: unanimous)

For 200 pts: Attorney who works for the government, who tries to prove that you are guilty, and who seeks the maximum penalty if you are found guilty (Answer: prosecutor or prosecuting attorney)

For 300 pts: Person charged with (or accused of) a crime (Answer: client)

For 400 pts: Attorney who defends the client against the charges, who tries to get an acquittal (or not guilty verdict), and who seeks the minimum penalty if you are found guilty (Answer: defense attorney, public defender)

For 500 pts: Person who testifies in court about a case (Answer: witness)

BONUS (50pts each): Name and describe 3 types of witnesses
(Answer: Eyewitness: person who sees/hears the crime
Character: person who can speak about the client's character, nature, or personality
Expert: person who has advanced knowledge about a topic relevant to the case, who can offer an opinion on the matter at hand)

For 600 pts: Person who keeps a written record of everything that goes on in the courtroom (Answer: court reporter)

Category: Terms

For 100 pts: Violation of the law, of a criminal statute (Answer: crime)

For 200 pts: Crime punishable by one year or more in prison (Answer: felony)

For 300 pts: Anything that can be introduced in a court of law to prove a point or substantiate an argument (Answer: evidence)

BONUS (50pts each): Give 3 different examples of evidence
(Answer: Weapon, fingerprints, DNA, witness statement, confession, testimony, report, stolen goods, corpse)

For 400 pts: Able to understand the proceedings against him and to assist in his own defense; know your charges and the court process, and work with your attorney

(Answer:competent)

For 500 pts: Initial court appearance that involves formal reading of the charges and possible entering of a plea by the client (Answer: arraignment)

For 600 pts: Plea in which client does not accept guilt or responsibility for the crime but acknowledges that there is enough evidence to convict him if he went to trial (Answer: No Contest)

BONUS (50pts each): Name 3 other pleas:

(Answers:

Guilty (I did the crime; I accept responsibility for the crime)

Not guilty (I did not do the crime; I do not accept responsibility for the crime)

Not guilty by reason of insanity (I did the crime but I was not in my right mind at the time)

Guilty but Mentally Ill (I did the crime and was mentally ill but I knew what I was doing was wrong.

Nolo contendere (I'm not saying I did it; I'm not saying I didn't do it)

Category: Court Lines

For 100 pts: All rise. Court is now in session. The Honorable Frank Valdez presiding. (Answer: Courtroom clerk)

For 200 pts: Objection! Leading the witness. (Answer: attorney)

BONUS (50pts): Who would speak next and what would they say?

(Answer: Judge; sustained or overruled)

For 300 pts: We find the client guilty of Murder in the 1st Degree. (Answer: jury/jury foreman)

For 400 pts: Have you had a chance to discuss this plea bargain with your attorney? Do you fully understand its terms? Are you under the influence of any substance that would interfere with your ability to make decisions or enter into this agreement? (Answer: judge)

For 500 pts: In my professional opinion, I believe that Jane Doe is not yet competent to stand trial. (Answer: expert witness)

For 600 pts: I would like to plead the 5th Amendment, Your Honor. (Answer: client)

BONUS (50pts): What does pleading the 5th Amendment mean?

(Answer: Refusal to answer questions that will incriminate yourself)

Category: Rights

For 100 pts: the right to remain silent and the right to have an attorney (Answer: Miranda rights)

For 200 pts: 1st 10 amendments to the Constitution (Answer: Bill of Rights)

For 300 pts: client's right not to answer questions that would make him look guilty
(Answer: right to avoid self-incrimination, pleading the 5th, 5th Amendment)

For 400 pts: prohibition against being tried twice for the same crime (Answer: double jeopardy)

For 500 pts: two-word legal term for police officer's reasonable suspicion that crime
has been committed (Answer: probable cause)

For 600 pts: rights outlined by 6th Amendment (Answer: right to counsel, right to fair /
speedy public trial, right to confront / call witnesses)

Possible Final Jeopardy Questions

After the movie, Jim dropped off his girlfriend and arrived home at 9:45PM. At 10:05PM, two police officers knocked on his door and served him with a warrant for his arrest for a burglary that had occurred at 8:00PM that evening. A man fitting Jim's description was seen leaving a nearby house around the time of the burglary, and the police officers spotted several items in Jim's living room that fit the description of the stolen items.

What **two** pieces of evidence are in Jim's favor? (Answer: movie ticket stub, girlfriend alibi)

What **two** pieces of evidence are against Jim? (Answer: eyewitness, similar items in possession)

Competency Pictionary¹

(Instructor will write each of the words below on a piece of paper, and one member of a team will draw from the basket or hat to draw. After a team successfully guesses the picture drawn them will be asked a follow up question and can earn additional points if the answer the question correctly)

Rules

- Each team takes turns selecting /guessing words, with members rotating drawing the clues; each team guesses *only* their own words.
- Teams will have 60 seconds to draw/guess their words; members may call out answers throughout that period.
- If a team does not guess the word correctly by the end of the time period, the next team *in order* gets a chance; if they miss it, too, then the next team *in order* gets a chance; *no calling out answers*.
- 10 points for each correct word; 10 points for the follow-up question

Roles: Select one word from the below list to draw.

- Judge
 - What is the role of the judge?
- Defense attorney / public defender
 - What is the role of the public defender?
- Prosecutor
 - What verdict does the prosecutor seek in a trial?
- Jury
 - How many people make up the jury, and how many have to agree on a decision?
- Client
 - What is the role of a client?
- Court reporter
 - What does a stenographer do, and why is this important?
- Witness
 - List 3 types of witnesses and what they testify about.

Terms: Select one word from the below list to draw

- Evidence
 - What is evidence?
- Gavel
 - Who uses the gavel, and what for?
- Courtroom

¹ Authored by Lori L. Hauser, Ph.D., ABPP, Whiting Forensic Division Connecticut Valley Hospital

- What is another term for the place where the trial is held (Hint: Attorneys will ask for a 'change of this' if they want to try the case somewhere else)?
- Prison
 - Name 3 alternatives to prison as a sentence.
- Contempt
 - What is the maximum penalty for contempt of court?
- Bail
 - What percent of the bond does a client typically have to post to be released?

Procedures:

- Arrest
 - What do the police have to have (be able to establish) in order to arrest you?
- Arraignment
 - List 3 things that occur at the arraignment.
- Trial
 - How does the judge / jury decide the outcome of a trial?
- Oath / swearing in
 - Who swears the witnesses in?
- Testifying
 - What is testimony, and who provides it?
- Direct examination / cross examination
 - Who does the direct examination, and who does the cross-examination?
- Pleading the Fifth Amendment
 - What does pleading the 5th Amendment mean?

WHEEL OF COMPETENCY²

Rules:

- Each team takes turns spinning the wheel, with members rotating as the spinner/ selector of letters.
- Teams will continue to spin until they cannot guess a letter, lose a turn or go bankrupt, or guess the puzzle incorrectly.
- If a team guesses the puzzle incorrectly, the turn will pass to the next team ***in order***, and so on; ***no calling out answers***.
- Points determined by wheel spin.

Terms:

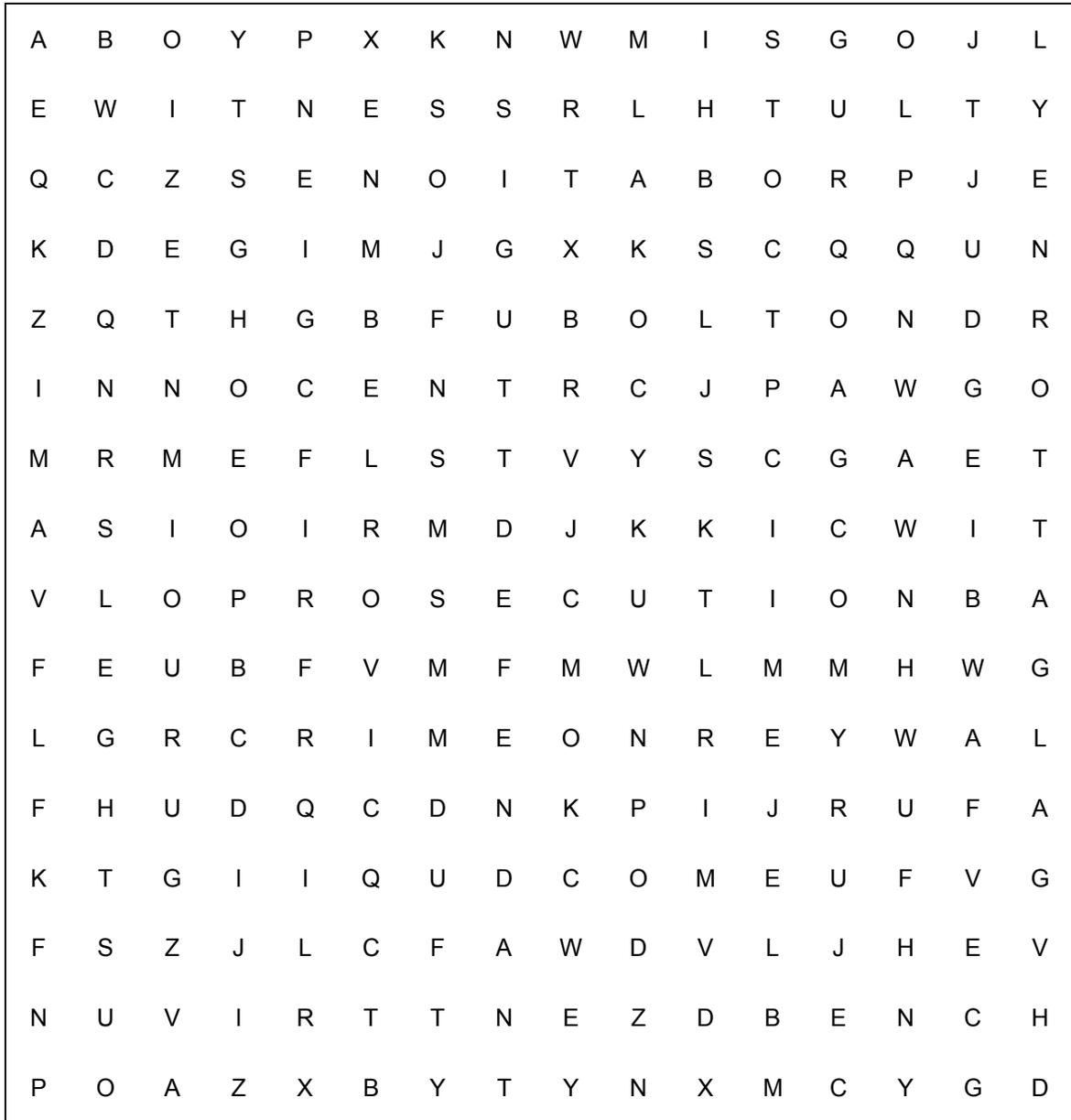
- Defense attorney
- Prosecutor / District attorney
- Client
- Court reporter
- Character / Expert witness
- Misdemeanors and felonies
- No Contest / Nolo contendere
- Burden / Standard of proof
- Arraignment

Actions / Processes / Statements:

- Pleading the Fifth Amendment
- Contempt of court
- Jury deliberation
- Competency to Proceed / hearing
- Objection sustained / overruled
- Plea bargaining
 - Cross-examination

² Authored by Lori L. Hauser, Ph.D., ABPP, Whiting Forensic Division, Connecticut Valley Hospital

COMPETENCY WORD FIND GAME³



³ Authored by Jonathan Dugdill, D.Clin.Psych., Saint Elizabeths Hospital

Witness Probation Attorney Bolton Innocent	Jury (twice!) Prosecution Lawyer Verdict Guilty	Client Bench Judge Crime
--	---	-----------------------------------

Word Find Answers

	W	I	T	N	E	S	S								Y	
					N	O	I	T	A	B	O	R	P	J	E	
						J								U	N	
							U	B	O	L	T	O	N	D	R	
I	N	N	O	C	E	N	T	R						G	O	
									Y					E	T	
							D								T	
V			P	R	O	S	E	C	U	T	I	O	N		A	
	E						F									
	G	R	C	R	I	M	E			R	E	Y	W	A	L	
		U	D				N					R				
			I	I			D					U				
				L	C		A					J				
					T	T	N					B	E	N	C	H
						Y	T									

Competency Bingo

Authored by Jessica Eddins, Psy.D., Saint Elizabeths Hospital

NOTE TO INSTRUCTOR: Instructor uses calling card to call out competency related terms. Clients are given bingo cards and will cover terms as they are called out and discussed.

Bingo Caller's Card

judge	Jury	prosecutor	defense attorney	trial	guilty	not guilty
not guilty by reason of insanity	client	misdemeanor	felony	plea bargain	evidence	eye witness (fact witness)
probation	suspended sentence	incarceration (in prison)	time served	Jury trial	bench trial	'Bolton Hearing'
hung jury	testify	expert witness	character witness	cross-examination	right to a trial & right to appeal	verdict
privilege (confidentiality)	competent to stand trial	not competent to stand trial	Saint Elizabeth's Hospital	contempt of court		

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Competency Bingo

bench trial	cross-examination	eyewitness (fact witness)	incarceration (jail/prison)	Saint 'Elizabeth's 'Hospital
JURY trial	client	felony	not guilty	verdict
time served	guilty	'Bolton 'Hearing	expert witness	right to a trial & right to appeal
competent to stand trial	contempt of court	defense attorney	misdemeanor	privilege (confidentiality)
Jury	prosecutor	trial	plea bargain	testify

Competency Bingo :

X --JICS/4 >---v- - v- - v- - i: - - i:r- - @-...:2!;; y

testify	privilege (confidentiality)	contempt of court	evidence	'Bolton 'Hearing
verdict	eye witness (fact witness)	trial	probation	cross- examination
Jury	Saint "Elizabeth's 'Hospital	suspended sentence	expert witness	JUry trial
character witness	bench trial	time serv ed	not guilty	competent to stand trial
right to a trial & right to appeal	defense attorney	misdemeanor	hung JUry	client

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Competency Bingo

prosecutor	plea bargain	judge	bench trial	eye witness (fact witness)
trial	Jury trial	"Elizabeth's Hospital	probation	suspended sentence
time served	evidence	testify	contempt of court	'Bolton Hearing
misdemeanor	client	felony	not guilty	cross-examination
right to a trial & right to appeal	not competent to stand trial	guilty	verdict	not guilty by reason of insanity

Competency Bingo

not guilty by reason of insanity	suspended sentence	Jury	not guilty	right to a trial & right to appeal
'Bolton Hearing	testify	guilty	probation	expert witness
felony	Saint 'Elizabeth's 'Hospital	JUry trial	eye witness (fact witness)	trial
verdict	evidence	privilege (confidentially)	prosecutor	contempt of court
plea bargain	bench trial	time served	defense attorney	misdemeanor

Competency Bingo

client	Jury trial	judge	contempt of court	not competent to stand trial
bench trial	evidence	prosecutor	hung JURY	trial
not guilty by reason of insanity	time served	privilege (confidentially)	felony	Saint Elizabeth's Hospital
probation	defense attorney	'Bolton Gflearing	eye witness (fact witness)	suspended sentence
testify	competent to stand trial	verdict	incarceration (jail/prison)	misdemeanor

Competency Bingo ;

not guilty by reason of insanity	plea bargain	cross - examination	'Bolton 'Hearing	expert witness
not competent to stand trial	Jury	felony	competent to stand trial	client
eye witness (fact witness)	character witness	bench trial	privilege (confidentiality)	guilty
misdemeanor	contempt of court	judge	prosecutor	JUry trial
testify	trial	right to a trial & right to appeal	Saint 'Elizabeth's 'Hospital	verdict

myfreebingocards.com

Competency Bingo

ple a bargain	bench trial	cross - examination	misdemeanor	suspended sentence
time served	'Bolton GJ-lear in g	character witness	privilege (confidentiality)	defense attorney
trial	judge	testify	p ro bat io n	felony
client	not competent to stand trial	prosecutor	verdict	expert witness
competent to stand trial	guilty	hung JUry	evidence	right to a trial & right to appeal

Competency Bingo

misdemeanor	judge	contempt of court	not guilty by reason of insanity	incarceration Gail/prison)
'Bolton 'Hearing	plea bargain	cross-examination	character witness	Saint 'Elizabeth's <Hospital
prosecutor	verdict	guilty	testify	eye witness (fact witness)
privilege (confidentiality)	Jury trial	trial	expert witness	time served
suspended sentence	client	Jury	evidence	competent to stand trial

Competency Jenga

Authored by Julie Barber, CTRS-RRT, Recreational Therapist, Saint Elizabeths Hospital and adapted to Pennsylvania

Directions:

1. The facilitator will number the jenga pieces from 1-55
2. As the individual draws blocks during the game, he or she will answer a question that corresponds to the number from the question sheet below.

1. WHAT ARE THE TWO LEVELS OF CHARGES?

Answer:

1. *Misdemeanor* (a less serious crime): Usually up to 1 year for each charge.
2. *Felony* (a more serious crime): From 1 year to life for each charge.

Check with your lawyer.

2. WHAT PLEA CAN YOU MAKE TO THE JUDGE? (There are three.)

Answer:

1. *Guilty*: Say that you did the crime.
2. *Not Guilty*: Say that you did not do the crime.
3. *Not Guilty by Reason of Insanity*: Say that you did the crime. But you were not in your right state of mind at the time.

3. WHAT DOES “PLEAD” MEAN?

Answer: “Plead” means to answer your charges in a set way.

4. WHAT HAPPENS IF YOU PLEAD “GUILTY” OR ARE FOUND “GUILTY”?

Answer: The judge sentences you to one of the following:

- Jail/Prison.
- Probation.
- Time Served.
- Suspended Sentence.

5. WHAT DOES PROBATION MEAN?

Answer: Probation means that someone watches over you. You get to go home and you have to follow some rules. Rules may be:

- Don't change your address without telling the court.

- Have your urine tested for drugs.
- Meet with your doctor.
- Report to a probation officer.

6. WHAT DOES TIME SERVED MEAN?

Answer: You get credit for the time you have spent in jail and in hospital. The judge says that you have been locked up enough already. You are set free.

7. WHAT DOES SUSPENDED SENTENCE MEAN?

Answer: You don't go to jail. The judge holds your sentence over you. You have to stay out of trouble. You may have to follow other rules. If you break these rules, the judge can send you straight to jail.

8. IF YOU PLEAD GUILTY, WHAT TWO RIGHTS DO YOU GIVE UP?

Answer:

- The right to a trial.
- The right to an appeal.

9. WHAT IS AN APPEAL

Answer: An appeal is when you ask the court for another trial.

10. WHAT HAPPENS IF YOU PLEAD “NOT GUILTY”?

Answer: The judge sets a date for trial

11. WHAT IS A TRIAL?

Answer: A court hearing to decide if you are guilty or not guilty.

12. WHAT ARE THE TWO KINDS OF TRIAL YOU CAN HAVE?

Answer: A **jury** trial or a **bench** trial.

13. WHAT IS A JURY TRIAL?

Answer: A trial where a jury decides if you are guilty or not guilty.

14. WHAT IS A BENCH TRIAL?

Answer: A trial where the judge decides if you are guilty or not guilty.

15. IF YOU CHOOSE TO HAVE A JURY TRIAL, WHAT IS THE JOB OF

THE JURY?

Answer: To listen and decide if you are guilty or not.

16. HOW MANY PEOPLE ARE ON A JURY?

Answer: usually 12.

17. HOW MANY PEOPLE ON THE JURY MUST AGREE?

Answer: All.

18. WHAT HAPPENS IF THE PEOPLE ON THE JURY CANNOT ALL AGREE?

Answer: A mistrial.

19. WHAT HAPPENS AFTER A MISTRIAL?

Answer: The case is thrown out, or you have another trial.

20. CAN A JUDGE GO AGAINST WHAT THE JURY SAYS?

Answer: No.

21. WHO HAS TO BE PRESENT AT A TRIAL?

Answer:

- Client (You).
- Defense Attorney (Your lawyer).
- Prosecuting Attorney (The government's lawyer).
- The judge.
- Witnesses.
- A jury, maybe.

22. WHO IS THE DEFENSE ATTORNEY?

Answer: Your lawyer. They speak for you. They try to show that you are **not** guilty.

23. WHO IS THE PROSECUTING ATTORNEY?

Answer: The government lawyer who tries to show that you **are** guilty.

24. WHAT IS A WITNESS?

Answer: Someone who speaks in court. Witnesses say they know something about what happened.

25. CAN YOU BE A WITNESS FOR YOURSELF?

Answer: Yes.

26. DO YOU *HAVE* TO BE WITNESS FOR YOURSELF?

Answer: No, you have the right to remain silent.

27. WHAT SHOULD YOU DO IF YOU DON'T AGREE WITH WHAT A WITNESS SAYS?

Answer: Quietly tell your lawyer. Your lawyer may ask more questions.

28. WHAT IS EVIDENCE? AND GIVE THREE TYPES?

Answer: Things that show what happened. It may be what a witness says. It may be what is on camera. It may be fingerprints, DNA, or a weapon, or other things.

29. WHO HAS THE “BURDEN OF PROOF” IN A TRIAL?

Answer: If you go to trial, you start out not guilty. The prosecuting attorney has to show you are guilty. You get to defend yourself with the help of your lawyer. Still, it's up to the other side to prove you are guilty.

30. WHAT HAPPENS IF THE JURY SAYS YOU ARE “NOT GUILTY”

Answer: You are set free.

31. IF YOU ARE ON PROBATION AND BREAK THE RULES, WHAT COULD HAPPEN?

Answer: You go back to court and speak to the judge.

1. The judge can send you to jail.

OR

2. The judge can keep you on probation. The judge may add more rules.

32. WHAT IS A PLEA BARGAIN?

Answer: A deal where you agree to say you are guilty. You may get a lesser sentence.

33. WHO MUST AGREE TO A PLEA BARGAIN?

Answer: You, your lawyer, the government's lawyer, and the judge.

34. HOW SHOULD YOU BEHAVE IN COURT?

Answer:

- Keep sitting next to your lawyer unless the judge tells you to do something else.
- Speak out loud only if you are asked.
- Listen carefully to what is happening.
- Talk to your lawyer by whispering.
- Be polite at all times.

35. WHY ARE YOU HERE?

Answer: The judge sent you here to get competent.

36. WHAT DOES BEING COMPETENT MEAN?

Answer: Competency, or being competent, means that

- you know enough,
- understand enough, and
- have enough skills to do something.

37. HOW DO YOU GET COMPETENT?

Answer: Study the competency guide and attend your competency groups. You will need to:

- Know your charges. Charges are the crimes the police say you did. You might not agree and that is OK.
- Know how the court works.
- Know the jobs of different people in court.
- Know who your lawyer is, and be to work with your lawyer.
- Know what the police said you did. This does not mean you did it.
- Know each plea and what happens when you make each one. (A plea is your choice of how to answer in court.)

38. WHAT IS A COMPETENCY EVALUATION?

Answer: A competency evaluation is when a doctor meets with to ask you questions. The questions will be about the things in this guide. The first competency evaluation is about 30 days after you first get here.

39. WHAT HAPPENS AFTER YOUR FIRST COMPETENCY EVALUATION?

Answer: The doctor writes a letter to the court. They tell the court if they think you

are competent. The judge has the final say.

40. WHAT HAPPENS IF THE JUDGE SAYS YOU ARE NOT COMPETENT?

Answer: You come back here to get competent. Another court date is set, usually after 30 more days. The doctor will come again and ask you questions.

41. WHAT HAPPENS IF THE JUDGE SAYS YOU ARE COMPETENT?

Answer: The court sets a date for a plea hearing. That is when you tell the court your plea.

42. WHAT COULD THE JUDGE DO WITH YOU WHILE YOU WAIT FOR THE PLEA HEARING?

Answer: One of the following:

- Release you on bond. (A bond is when someone pays some money to make sure you come back to court.)
- Release you on your own recognizance. (This means the court trusts you to come back to court on your own.)
- Have you wait in jail to come back to court.
- Have you wait here to come back to court.

43. WHAT DOES “NOT GUILTY BY REASON OF INSANITY” MEAN?

Answer: It means you did the crime. But mental illness kept you from telling right from wrong.

44. WHAT HAPPENS IF YOU ARE FOUND “NOT GUILTY BY REASON OF INSANITY”?

Answer: The prosecutor, your lawyer, you, the county administrator or another person may file a petition asking for you to be committed for treatment of your mental illness.

45. WILL I GET A HEARING IF SOMEONE PETITIONS FOR MY COMMITMENT?

Answer: YES you will get a hearing, to determine if .:

- If you are still mentally ill
- If you are a grave danger to yourself or others.

46. IF THE COURT SAYS YOU ARE STILL MENTALLY ILL AND DANGEROUS, WHAT HAPPENS NEXT?

Answer: You will be ordered for treatment in the least restrictive environment which may be at the hospital or in the community

47. HOW MUCH TIME COULD YOU SPEND HERE IF THE COURT SAYS YOU ARE STILL MENTALLY ILL?

Answer: You can be here for 90 days or up to a year depending on your charge, but your commitment could be extended after additional hearings.

48. WHAT HAPPENS IF YOU ARE NOT A CLEAR and PRESENT DANGER TO YOURSELF OR OTHERS?

Answer: You are set free.

49. WHAT DOES IT MEAN IF YOU PLEAD OR ARE FOUND GUILTY BUT MENTALLY ILL?

Answer: It means that you did the crime but that you were mentally ill at the time, but you still knew it was wrong to do the crime.

50. WHAT HAPPENS IF I PLEAD OR AM FOUND GUILTY BUT MENTALLY ILL?

Answer: The court will sentence you and then decide if you need treatment for your mental illness and if so, will send you to a hospital. If you do not need treatment then you will go to jail or prison.

51. WHAT DOES THE JUDGE DO?

Answer:

- The judge makes sure everyone follows the rules.
- If there is no jury, the judge says if you are guilty or not.
- The judge sentences people who are found guilty.
- The judge makes sure your trial is fair.

52. WHAT HAPPENS AFTER YOU HAVE BEEN EVALUATED BY A PSYCHIATRIST OR PSYCHOLOGIST TO SEE IF YOU ARE COMPETENT?

Answer: Staff write a letter to the court stating if they believe you are competent or not, but it is just what they think. The court makes the final decision.

53. IF THE COURT FINDS YOU COMPETENT FOR TRIAL, WHAT WILL THEY DO WITH YOU?

Answer: Set a date to enter a plea or a trial.

54. IF YOU ARE FOUND COMPETENT WHAT COULD THE COURT DO WITH YOU WHILE YOU ARE WAIT FOR YOUR PLEA HEARING?

Answer:

- Put you out on bond
- Release you on your own recognizance
- Put you in jail
- Send you back to hospital

55. WHAT IF AT YOUR NEXT HEARING YOU ARE FOUND NOT COMPETENT?

Answer: You return for more treatment. Another court date and evaluation will be scheduled.

Competency Music Therapy Tool

Authored by Kate Stanley, Music Therapist, Saint Elizabeths Hospital

This song takes place in a court room and describes the reaction (to the trial) of the wife of the client. It provides opportunities to discuss testimony, types of evidence, appropriate court room behavior, court room officials and procedure during a jury trial. The music video (available at <https://www.youtube.com/watch?v=CZRH68Ib1Ko> or by searching "Testify" by Common on YouTube) has a few brief scenes before the music that show the interrogation of the wife. Providers should note that the end of the song suggests the client was set up by his wife who was the perpetrator of the crime in question.

While this may give opportunities for a discussion around the rational aspects of competency, it may serve as a trigger and thus may not be an appropriate educational tool for everyone. The music accompanying the video is a censored version of the song which contains limited explicit language. This intervention was designed by a music therapist with the use of music by non-music therapist in mind.

"Testify" by Common

Competency Flashcards

The following pages include documents that can be used as flashcards during a competency group. Tracking and documenting the individuals' knowledge of the definitions will be important for evaluator in completing his or her assessment.

Directions: Print each page using one side only print option. Cut along the horizontal lines to separate the cards. Fold each card on the vertical middle line to create the flash card. The term should face the individual and the definition should face you.

Incompetent to Proceed

You did not understand the rules of the courtroom based on one or more reasons: you did not understand how the court works, you were not able to work with your attorney, you did not show good behavior, or you did not show a good emotional condition.

Defendant

The person who has been charged with a crime.

Alleged Offense

The crime a person is accused of committing.

Arrest

When the police arrest someone, they usually hold that person. When you are arrested, you must answer to the charges made against you.

Character Witness

Someone who comes to court to testify about your good character. This is a witness for you.

Contempt of Court

A separate charge resulting from any abnormal courtroom behavior such as crying, yelling, talking out of turn, or cursing

Convict

To find someone guilty of the crime they are accused of committing.

Court

The place where the trial takes place.

Court Reporter

The person who types the words spoken at each hearing.

Crime

A crime is when a person breaks the law.

Evidence

Anything that supports a person's guilt or innocence at a trial. Evidence can be testimony from witnesses, physical objects such as guns, knives, fingerprints, video cameras, or written documents.

Felony

A more serious crime. A felony can be punished by a sentence of a year to life in prison.

Incarceration

To be held in prison/jail.

Judge

The person who presides over the courtroom. He/she keeps order in the court, makes sure both sides are treated fairly, helps the jury understand the rules of the courtroom and how to make decisions, gives the verdict in a “bench trial,” and sentences those who are found guilty in either type of trial.

Jury

A group of 12 people from the community who hear a trial. Each person is selected based on their ability to make fair decisions. If there is any reason to believe that they cannot be fair, they are not selected. They are instructed in how the court system works, how to evaluate evidence, and how to work together. This group of people gives the verdict when there is a jury trial.

Misdemeanor

A less serious crime punishable by jail time.

Perjury

Telling of a lie on purpose under oath.

Plea

The answer to the charges made against you. There are four (4) different ways to plead. They are guilty, not guilty, no contest, or not guilty by reason of insanity.

Guilty

You did the crime.

Not guilty

You didn't do the crime.

No Contest

You do not admit guilt, but
you agree to the facts
presented by the
prosecution

Not Guilty by Reason of Insanity (NGRI)

You committed the crime but were not in the right state of mind at the time due to mental illness and did not know what you were doing was wrong.

Plea Bargain

When the judge, prosecutor, and your defense attorney allow you to plead guilty to a less serious crime and likely receive a lighter sentence.

Probation

You return to the community, but you are under the supervision of a probation officer. You must follow the rules the judge has set up for you.

Defense Attorney

The attorney who represents you in court. His or her job is to give you advice on how to proceed with your case. It is very important to be able to talk to your defense attorney and trust their legal advice.

Sentence

The punishment for being found guilty. If you are found guilty, the judge sentences you. The punishment could be prison/jail, time served, a fine, suspended sentence, probation, or a combination of the above.

Suspended Sentence

The judge puts your sentence on hold until you successfully complete probation.

Prosecutor or Government Attorney

This attorney's job is to convince the jury, or judge if there is no jury, to find the client guilty of the crime that he/she has been accused of committing. Their job is to represent the government in court.

Testify

Speaking in court under oath.

Trial

The legal proceedings held in the courtroom to decide if a person is guilty, not guilty, or not guilty by reason of insanity.

Verdict

The verdict is the decision made by a jury (if there is a jury trial) or by a judge (if there is a bench trial). The verdict describes whether the judge or jury finds a person guilty, not guilty, guilty but mentally ill or not guilty by reason of insanity.

Time Served

A sentence in which the person has already served time in jail prior to their sentencing date.

Bench Trial

This is a trial where the Judge in the case listens to the evidence and witnesses to determine whether the client is Guilty, Not Guilty, or Not Guilty By Reason of Insanity. This typically occurs in misdemeanor cases. A jury would not be making this decision.

Jury Trial

This is a trial where jurors listen to the evidence and witnesses to determine whether the client is Guilty, Not Guilty, or Not Guilty By Reason of Insanity. A judge would not be making this decision.

What Rights Do You Give Up If You Plead Guilty?

- The right to a trial.
- The right to an appeal.

Jackson Finding

A Jackson finding means that you were found Incompetent to Proceed and not likely to regain competence in the foreseeable future.

Hung Jury

When the jury cannot come to a unanimous decision.

Mistrial

1) a jury is unable to reach a verdict and there must be a new trial with a new jury; 2) there is a serious procedural error or misconduct that would result in an unfair trial, and the judge adjourns the case without a decision.

Competent

A person is considered to be competent to stand trial when:

- they are able to understand the court process to include knowing plea options (e.g., guilty, not guilty);
- who the players are in the court room (e.g., Judge, prosecuting attorney); and
- other fact-based areas associated with court.
- A person should also be able to rationally participate in the court progress in order to help their attorney defend them.

How Do You Become Competent?

- Know your charges.
- Know how court works and what happens in court
- Have knowledge about the roles of those working in the courtroom, those who the court can call to testify, and how to behave in the courtroom.
- Be able to work with your attorney also called the Defense Lawyer or Defense Attorney.
- Know the pleas and what could happen when you make each plea.

What are the two types of charges?

- Misdemeanor
 - Felony

What are the types of Pleas?

1. Guilty
2. Not Guilty
3. Not Guilty by Reason of Insanity
4. Guilty but Mentally Ill
5. No Contest

What are the two types of trials?

1. Jury Trial
2. Bench Trial

**How Many
People are on a
Jury?**

12 unless a
lower number
is agreed
upon

**Do all the people
in the jury have
to agree?**

Yes. If they cannot agree,
it is a hung jury and the
Judge may declare a
Mistrial.

**Who has to be in
court for a trial
to happen?**

1. You (Client)
2. Your lawyer (Defense Attorney)
3. The Government's Attorney (Prosecutor)
4. The Judge
5. Witnesses (if there are any)
6. A Jury (if it is a Jury trial)

Can you be a witness for yourself?

Yes

Do you have to be a witness for yourself?

- No. You do not have to be a witness for yourself.
- You would make this decision using advice from your attorney/lawyer.

How should you behave in court?

- Stay seated next to your lawyer (defense attorney) unless told to do otherwise by the Judge.
- Do not speak out of turn.
- Listen carefully to everything that is going on (the proceedings).
- Talk to your lawyer (defense attorney) by whispering or writing information down.
- Be polite and cooperative at all times.

Competency to Proceed Training Resources

**Appendix B: Materials
for Cognitively-Impaired
Individuals**

CompKit was developed in 2005-2006 by Florida State Hospital, Chattahoochee, Florida and modified for use by the District of Columbia. It has been further modified for use by Pennsylvania in February 2019

Nonverbal Competency Packet #1

Authored by Jonathan Dugdill, D.Clin.Psych., Saint Elizabeths Hospital

Competency



My charge(s) is called : _____

The police said !: _____



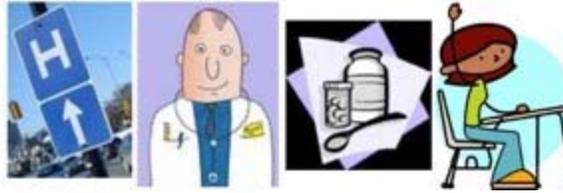
My Lawyer is: _____

Competency Hearing

Date: _____



2



- Hospital or jail
- More treatment
- Hearing rescheduled



Competent



Not Guilty By Reason of Insanity OR

Guilty but mentally ill



While you wait to enter your plea...



1. Jail



2. Release on bond



3. Release NO bond
"persona l recognize nc e"



Plea



Guilty

-



Not Guilty

-



-



+



Not Guilty By Reason of Insanity
Or
Guilty but mentally ill (sentenced, serve time
In jail or hospital, judge decides)

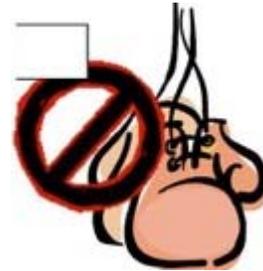




Pleading Guilty



NO appeal



Sentenced



1. Jail



2. Probation



served



3. Suspended Sentence

Pleading Not Guilty



Guilty

Sentenced



Not Guilty

Released



Pleading Not Guilty by Reason of Insanity



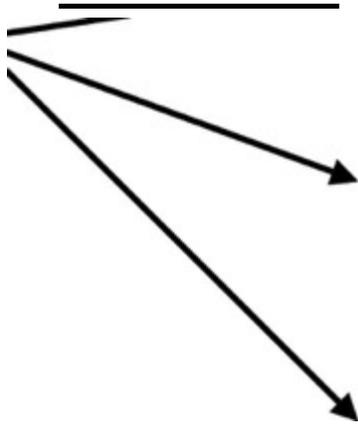
Guilty

Not Guilty By Reason of Insanity (may be released or committed to hospital)

Who is at a Trial



Judge



1. Sentences



2. If there is no jury decides if guilty or not guilty
Cannot overrule a jury's decision

Makes sure rules are followed

ROLES

- 1. you CAN
- 2. you CANT
- 3. you CAN
- 4. you c.A

1

Your lawyer (defense attorney)



- Helps you
- On your side
- Tries to prove you are not guilty

Prosecutor (government attorney)



- Against you
- Tries to prove you are guilty



Jury



Decides if guilty or not guilty



Witnesses

Knows something about the crime and speaks about it to the judge and jury



Evidence

Things to prove what happened

Nonverbal Competency Packet #2

*Authored by Julie Barber, CTRS-RRT, Recreational Therapist, Saint Elizabeths
Hospital*



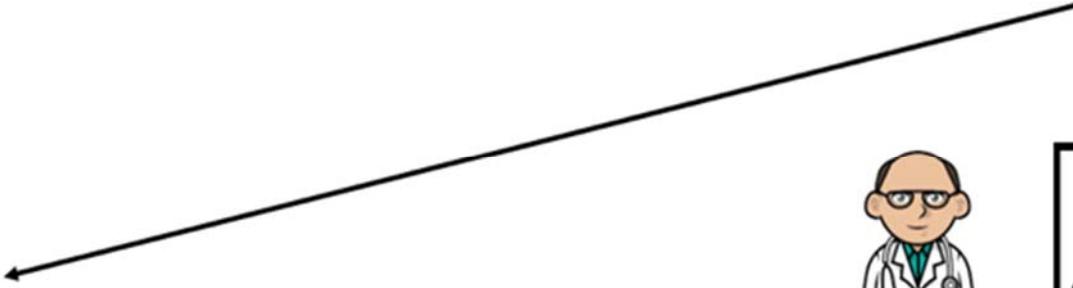
Arrest



Mental Health Concern Evaluation



Hospital



If Person is UNLIKELY to become competent to stand trial

Jackson Hearing



Treatment

Possible Civil Commitment as an inpatient or outpatient
** Reviewed at set times:



Arrest



Mental Health Concern Evaluation



Hospital



Once found
Competent- one
can enter a plea

Guilty

Give up:
1.
2.
Get:

NOT GUILTY OR
NGBRI OR Guilty
but Mentally Ill



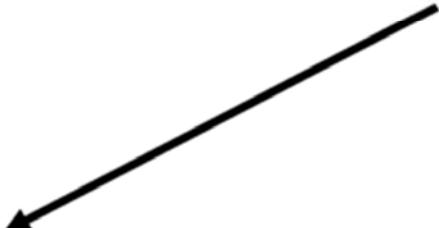
Judge's Duties
1.
2.
3.



Jury's Duties
1.
2.
3.

If all _____
Jurors cannot
agree, it is
called a _____,
and
_____ is

What is it called if
the jury trial has
no jury?



Jury Verdict

Not Guilty



Not Guilty By Reason of Insanity (NGBRI) or Guilty but Mentally Ill (sentenced and sent to hospital or jail)

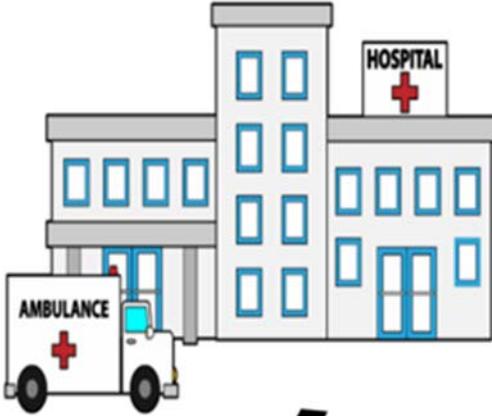
Guilty

(NGBRI)



0

- 1.
- 2.
- 3.
- 4.
- 5.



For how many days?

Hearing



NGBRI Status is reviewed

Stay under NGBRI status may be longer than sentence

Appendix C: Additional Competency Resource Materials & Handouts

CompKit was developed in 2005-2006 by Florida State Hospital, Chattahoochee, Florida and was revised by DC. This revision for Pennsylvania was completed in February 2019

Competency Movies

Authored by Lori L. Hauser, Ph.D., ABPP, Connecticut Valley Hospital

My Cousin Vinny

Scene 7: Learning the Procedure (27:00-35:00)

1. Who is that: bailiff, defense attorney, district attorney (prosecutor), stenographer, clients, judge
2. Who calls the case: clerk
3. What does he want him to say: guilty or not guilty
4. How does he expect him to present himself: suit/tie, comb hair
5. What is this procedure: arraignment
6. What is the defense attorney attempting to do: lay out his case, like at trial
7. What is contempt: misbehavior in the courtroom, punishable by 90 days in jail
8. How much will he have to pay to get bailed out: \$20

Scene 16: Opening Statements (1:13:00-1:18:00)

1. What is the prosecutor doing here, what is the purpose: opening statements, to provide an overview of the case (facts, evidence/witnesses to be presented, what they intend to prove)
2. Why does the prosecutor go first: because he bears the burden of proving the allegations
3. Who is this, why are there two: defense attorney, clients elected to hire separate attorneys

Scene 17: Questioning Sam Tipton (1:18:00-1:24:00)

1. Who is this, what type of witness is he, who is he a witness for: witness, eyewitness, prosecutor
2. What is this process called, and this process: direct examination, cross examination
3. What is the purpose of cross examination, what is he trying to do here: discredit the witness's story, poke holes in the theory laid out by the prosecutor

Scene 19: New Evidence (1:29:30-?)

1. Who is this, what type of witness is he, what kind of info will he offer: witness, expert witness, professional opinion about something relevant to the case
2. What is an objection, why wasn't his objection (lucid and well thought out) sustained: attorney's disagreement with something attempted to be introduced at trial, because the judge is the gatekeeper and can decide what will be introduced or not

Scene 21: Mona Lisa Vito (1:40:00-1:49:00)

1. Who is this, what type of witness is she, what kind of info will she offer: witness,

- expert witness, professional opinion about something relevant to the case
2. What is this called, why is it done: swearing in the witness, to ensure that the witness will tell the truth or risk perjury
 3. What is *voir dire*: asking questions of an expert witness to establish their credibility
 4. What is this process, why: direct examination, because it is his witness.
 5. Why would he ask her a question that pokes a hole in his own theory: because he has an alternate theory and knows what she is going to say (an attorney should never ask a witness a question he/she doesn't know the answer to, like the previous attorney found out.

Competency Study Guide (6th Grade Reading Level)

Authored by Jonathan Dugdill, D.Clin.Psych., Saint Elizabeths Hospital

Competency Study Guide

1. WHY ARE YOU HERE?

Answer: For mental observation and treatment to become competent for trial.

2. HOW DO YOU BECOME COMPETENT TO PROCEED?

Answer: You must...

- Know your charges.
- Know the court proceedings.
- Know the function of the people in court, such as a judge and jury.
- Be able to cooperate with your defense attorney.
- Know what the police said you did.
- Know the pleas and what happens when you make them.

3. WHEN IS YOUR FIRST COMPETENCY EVALUATION?

Answer: About 30 days after your admission.

4. WHAT HAPPENS AFTER YOUR COMPETENCY EVALUATION?

Answer: Staff writes a letter to the court stating if they believe you are competent or not, but it is just a suggestion. The court makes the final decision.

5. WHAT HAPPENS IF THE COURT SAYS YOU ARE NOT COMPETENT?

Answer: You return to the hospital for more treatment. Another court date and evaluation are scheduled, usually after another 30 days.

6. WHAT HAPPENS IF THE COURT SAYS YOU ARE COMPETENT FOR TRIAL?

Answer: The court sets a date for a plea hearing.

7. WHAT COULD THE COURT DO WITH YOU WHILE YOU WAIT FOR THE PLEA HEARING?

Answer: One of the following:

- Release you on bond.
- Release you on your own recognizance.
- Put you in jail.

- Send you back to the hospital.

8. WHAT ARE THE 2 LEVELS OF CHARGES?

Answer:

1. *Misdemeanor* (a less serious crime): Up to 1 year for each charge.
2. *Felony* (a more serious crime): From 1 year to life for each charge.

9. WHAT PLEAS CAN YOU MAKE TO THE JUDGE IN COURT?

Answer:

1. *Guilty*: You are telling the court that you did the crime.
2. *Not Guilty*: You are telling the court you did not commit the crime.
3. *Not Guilty by Reason of Insanity*: You are telling the court that you did the crime but you were not in the right state of mind at the time.
4. *Guilty but Mentally Ill*- You are telling the court that you did the crime and were mentally ill but knew what you were doing was wrong.
5. *No Contest/Nolo Contendere*: You are telling the court that you do not admit that you are guilty but agree that the evidence presented is true.

10. WHAT HAPPENS IF YOU PLEAD “GUILTY” OR ARE FOUND “GUILTY”?

Answer: The judge sentences you to one of the following:

- Jail/Prison.
- Probation.
- Time Served.
- Suspended Sentence.

11. IF YOU PLEAD GUILTY, WHAT RIGHTS DO YOU GIVE UP?

Answer: The right to a trial AND the right to an appeal.

12. WHAT HAPPENS IF YOU PLEAD “NOT GUILTY”?

Answer: The judge sets a trial date.

13. WHAT IS A TRIAL?

Answer: A court hearing to determine if you are guilty or not guilty.

14. WHAT ARE THE TWO KINDS OF TRIAL YOU CAN HAVE?

Answer: A **jury** trial and a **bench** trial.

15. WHAT IS A JURY TRIAL?

Answer: A trial where a jury decides if you are guilty or not guilty.

16. WHAT IS A BENCH TRIAL?

Answer: A trial where your sentence is decided by the judge and there is no jury present.

17. IF YOU CHOOSE TO HAVE A JURY TRIAL, WHAT IS THE JOB OF THE JURY?

Answer: To listen to the evidence and decide whether you are guilty or not.

18. HOW MANY PEOPLE MAKE UP A JURY?

Answer: 12 unless you agree to a lower number.

19. HOW MANY PEOPLE ON THE JURY MUST AGREE IN MAKING THEIR DECISION?

Answer: All 12.

19a. WHAT HAPPENS IF THE PEOPLE ON THE JURY CANNOT ALL AGREE ON A DECISION?

Answer: It can result in a hung jury or a mistrial.

19b. WHAT IS THE OUTCOME OF A MISTRIAL OR A HUNG JURY?

Answer: The case could be dismissed or you get another trial.

20. CAN A JUDGE OVER-RULE THE JURY DECISION?

Answer: No.

21. WHO HAS TO BE PRESENT FOR A TRIAL TO OCCUR?

Answer: 1. You (Client).
2. Your lawyer (Defense Attorney).
3. The government's attorney.
4. The judge.
5. Witnesses.
6. A jury, possibly.

22. WHO IS THE DEFENSE ATTORNEY

Answer: A lawyer assigned to represent you in court. He/she tries to show that you are Not Guilty.

23. WHO IS THE PROSECUTING ATTORNEY?

Answer: A lawyer who tries to convince the court that you are guilty.

24. WHAT IS EVIDENCE?

Answer: Information that helps prove what happened. It may include testimony of witnesses, records, documents, security camera recording, or objects.

25. WHAT IS A WITNESS?

Answer: Someone who testifies. He/she claims to know something about the case.

26. CAN YOU BE A WITNESS FOR YOURSELF?

Answer: Yes.

27. DO YOU HAVE TO BE WITNESS FOR YOURSELF?

Answer: No, you have the right to remain silent.

28. WHAT SHOULD YOU DO IF YOU DISAGREE WITH A WITNESS' TESTIMONY?

Answer: Quietly tell your lawyer so he/she can cross-examine the witness.

29. WHAT DOES THE JUDGE DO?

Answer: 1. He/she makes sure all the rules and procedures are followed in the courtroom.
2. He/she imposes sentences on people who are found guilty.
3. If there is no jury, the judge decides your guilt or innocence.
4. He/she is a neutral party, and displays fair and impartial decisions.

30. WHO HAS THE "BURDEN OF PROOF" IN A TRIAL?

Answer: The prosecutor. He/she must prove that you're guilty beyond the shadow of a doubt.

31. WHAT HAPPENS IF THE JURY FINDS YOU "NOT GUILTY"?

Answer: You are released.

32. WHAT HAPPENS IF YOU PLEAD "NOT GUILTY" BUT YOU ARE FOUND "GUILTY"?

Answer: You are sentenced and can receive either probation, "time served", sent to jail, or you receive a suspended sentence.

33a. WHAT IS PROBATION?

Answer: A sentence in which you live in the community under the supervision of a probation officer. Rules include:

- Mandatory urine drug tests.
- No change of address without permission
- Mandatory counseling.
- Weekly reporting to a probation officer.

33b. WHAT COULD HAPPEN IF YOU VIOLATE PROBATION?

Answer: A Probation Violation Show Cause Hearing is scheduled. The judge can then either:

1. put you in jail to serve your sentence,

OR

2. The judge can order more treatment and possibly defer your sentence and reschedule your probation hearing.

34. WHAT IS A PLEA BARGAIN?

Answer: A deal when you and your defense attorney agree that you will plead guilty in return for a lesser charge from the prosecuting attorney. This usually results in a more lenient sentence from the judge.

35. WHO MUST AGREE TO A PLEA BARGAIN?

Answer: The client, the prosecutor, the defense attorney and the judge.



36. HOW SHOULD YOU BEHAVE IN THE COURTROOM?

Answer:

1. Remain seated next to your defense attorney unless instructed otherwise by the judge.
2. Do NOT speak out of turn.
3. Listen carefully to the proceedings.
4. Communicate with your defense attorney by whispering.
5. Be polite and cooperative at all times.

THE FOLLOWING QUESTIONS DEAL WITH THE “NOT GUILTY BY REASON OF INSANITY” DEFENSE (NGBRD):

37. WHAT DOES A PLEA OF “NOT GUILTY BY REASON OF INSANITY” MEAN? :

Answer: I did the crime but was not in my right state of mind, due to mental illness, that I was unable to tell right from wrong.

38. WHAT HAPPENS IF YOU PLEAD “NOT GUILTY BY REASON OF INSANITY” AND ARE FOUND “NOT GUILTY BY REASON OF INSANITY”?

Answer: A petition to have you committed can be filed, and there will be a hearing. If you are found to be a grave danger to yourself or others due to your mental illness you can be ordered to the hospital until the judge determines you are no longer a grave danger to self or others. This could be for a longer time than you could be sentenced for.

THE FOLLOWING QUESTIONS DEAL WITH BEING FOUND INCOMPETENT AND UNLIKELY TO REGAIN COMPETENCY

39. WHAT IF YOU ARE FOUND “UNLIKELY TO BECOME COMPETENT”?

Answer: You have a hearing before your judge to discuss your competency and to see if the government will seek civil commitment or if you will be released. If a petition to have you civilly committed is filed, you will have a hearing to determine if you are mentally ill and a grave danger to self or others. If so, you will be committed and may remain at the hospital if that is determined to be the least restrictive environment.

Competency Study Guide (3rd Grade Reading Level)

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Competency

Q: WHY ARE YOU HERE?

A: The judge sent you here to get competent.

Q: WHAT DOES BEING COMPETENT MEAN?

A: Competency, or being competent, means that

- you know enough,
- understand enough, and
- have enough skills to do something.

Q: HOW DO YOU GET COMPETENT?

A: Study this guide and go to your competency groups.

You will need to:

- Know your charges. Charges are crimes the police say you did. You may not agree and that is OK.
- Know how the court works.
- Know the jobs of different people in court.
- Know who your lawyer is, and be able to work with your lawyer.
- Know what the police said you did. This does not mean you did it.

- Know each plea and what happens when you make each one. (A plea is your choice of how to answer in court.)

You should also participate in treatment and take your medication.

Q: WHAT IS A COMPETENCY EVALUATION?

A: A competency evaluation is when a doctor meets with you to ask you questions. The questions will be about the things in this guide. The first competency evaluation is about 30 days after you first get here.

Q: WHAT HAPPENS AFTER YOUR COMPETENCY EVALUATION?

A: The doctor writes a letter to the court. The doctor tells the court if he or she thinks you are competent. The judge has the final say.

Q: WHAT HAPPENS IF THE JUDGE SAYS YOU ARE NOT COMPETENT?

A: You come back here to get competent. Another court date is set, usually after 60 more days. The doctor will come again and ask you questions.

Q: WHAT HAPPENS IF THE JUDGE SAYS YOU ARE COMPETENT?

A: The court sets a date for a hearing. That is when you tell the court your plea if you have not entered a plea before.

Q: WHAT COULD THE JUDGE DO WITH YOU WHILE YOU WAIT FOR THE PLEA HEARING?

A: One of the following:

- Release you on your own recognizance. (This means the court trusts you to come back to court on your own.)
- Have you wait in jail to come back to court.
- Have you return to the hospital

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