

Competency to Stand Trial and Criminal Responsibility Pre-Trial Evaluations

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Presentation Outline

- ✦ Competency to Stand Trial Evaluations
- ✦ Criminal Responsibility Evaluations
- ✦ Inpatient Competency Restoration
- ✦ Community-Based Competency Restoration

Competency to Stand Trial vs. Criminal Responsibility VERY IMPORTANT!

- ✦ **COMPETENCY TO STAND TRIAL** pertains to the defendant's **current** mental state; therefore, competency is a **dynamic** construct
- ✦ **CRIMINAL RESPONSIBILITY** specifically addresses the defendant's **mental state at the time of the alleged offense**; therefore, it is a **static** construct

Competency to Stand Trial vs. Criminal Responsibility
VERY IMPORTANT!

TAKE HOME MESSAGE:

CST and CR issues are separate;
therefore, you should not automatically
request both evaluations. Please
consider what it is that you really want
to know.

What is Competency to Stand Trial?

The defendant:

- # Understands the nature and object of the proceedings against him/her
- # Comprehends his/her own condition in reference to these proceedings
- # Demonstrates ability to assist attorney in his/her defense

Important Note

In order to make an appropriate referral, it is **strongly** recommended that the defense attorney meet with the defendant. A referral for an evaluation should not be based solely on information contained in police reports or obtained from other sources (e.g., family)

When might a competency pre-trial evaluation be desirable?

- # Obvious bizarre or unusual behavior
- # Signs of cognitive impairment, such as Mental Retardation
- # Significant difficulty communicating with the defendant (e.g., he/she responds to questions in an irrelevant manner, cannot stay focused despite attempts to structure)

What are some *insufficient* reasons to request a pre-trial competency evaluation?

- # Defendant has a mental health history
- # Defendant is currently taking psychotropic medication
- # Nature of the offense (e.g., sexual crimes)
- # Defendant has a history of abuse
- # Defendant has a history of substance abuse
- # Defendant asserts that he cannot recall the details of the alleged offense(s)

What is Criminal Responsibility?

- # O.C.G.A. §16-3-2:
 - Because of a mental disease/defect, the person did not have the mental capacity to distinguish between right and wrong in relation to the act(s)

What is Criminal Responsibility?

O.C.G.A. §16-3-3:

- The person acted as he did because he was laboring under a **delusional compulsion** that overmastered his will to resist committing the act(s)

What is Criminal Responsibility?

O.C.G.A. §16-3-4:

- **Voluntary intoxication** does not absolve an individual of responsibility for his actions

When might a Criminal Responsibility Evaluation be appropriate?

- # A review of police records, witness statements, jail intake data, etc., reveals obviously bizarre behavior or unusual verbalizations around the time of the alleged offense(s)
- # It appears as though said behavior is not **solely** the product of alcohol/drug intoxication

What are some *insufficient* reasons for requesting a Criminal Responsibility evaluation?

- # Defendant has a mental health history
- # Defendant was not taking psychotropic medication at the time of the alleged act(s)
- # Nature of the offense (e.g., sexual crimes, violent crimes)

What are some *insufficient* reasons for requesting a Criminal Responsibility evaluation?

- # There exists data (e.g., drug screen) to suggest that the primary cause of the defendant's behavior was drug/alcohol intoxication
- # Defendant is claiming that he/she does not recall the alleged incident(s)

REMEMBER!

- # If there is no intention to assert the insanity defense, OR
- # If the concern is only about the defendant's *current* mental state,

There is no need to request this evaluation!

If a Defendant is Deemed Incompetent to Stand Trial:

#NOTE: The IST ruling is made by a judge or jury. We, as evaluators, offer an opinion for the purpose of assisting the fact finder with said decision.

#Please refer to handout, with sample court orders attached

Inpatient Competency Restoration

#Outlined in O.C.G.A. §17-7-130

#Patient is committed to DHR for a period *up to* 90 days

#If patient is restored to competency within the 90-day period, the forensic team will write a report offering their opinion of such, and the patient's case can proceed.

Inpatient Competency Restoration

90-Day period has lapsed; Defendant is Not Competent.

QUESTION: Does there exist substantial likelihood that the defendant can be restored to competency in the foreseeable future?

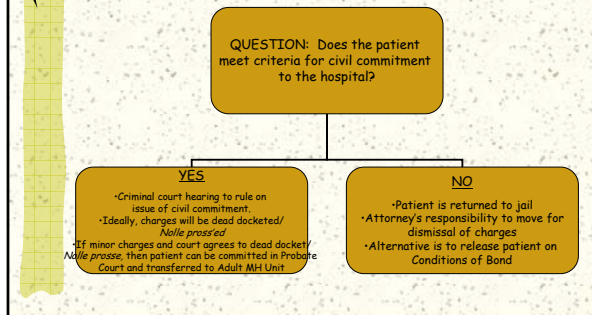
YES

Forensic Team will notify the Court, requesting an additional 9 months for Competency restoration.

NO

QUESTION: Does the patient meet criteria for civil commitment to the hospital?

Inpatient Competency Restoration



Community-Based Competency Restoration:

O.C.G.A. §17-7-130 was recently amended to allow for community-based competency restoration, if the defendant is charged with a misdemeanor.

Two Options:

- ▣ Supervised Residential Program
- ▣ Outpatient Community Mental Health

Community-Based Competency Restoration:

Supervised Residential Program

- # Located in Columbus, GA (Apartments)
- # Offers on-site legal issues groups, psychiatric visits for medication management, and general day treatment

Community-Based Competency Restoration:

Mental Health Centers, Etc.

- # Patients live at home, travel to CORE provider locations
- # CORE providers offer legal issues groups, medication management, and day treatment

Community-Based Competency Restoration:

- # Regardless of location, treatment will still follow guidelines outlined in O.C.G.A. §17-7-130
