

Competency Enhancement Program

COMPETENCY INDEX

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AGENDA

Sessions 1: Introduction, Module Objectives, Competency Pre Test

Sessions 2: Review, "**APPRECIATION OF CHARGES**"

Sessions 3: Review, "**APPRECIATION OF POSSIBLE PENALTIES**"

Sessions 4: Review, "**UNDERSTANDING THE LEGAL PROCESS**"

Session 5: Review, "**UNDERSTANDING THE ADVERSARIAL NATURE OF THE LEGAL PROCESS**"

Session 6: Review, "**DESCRIPTION OF COURTROOM PROCEDURE**"

Sessions 7: Review, "**CAPACITY TO DISCLOSE TO ATTORNEY**"

Sessions 8: Review, "**ABILITY TO MANIFEST APPROPRIATE COURTROOM BEHAVIOR**"

SESSION 1: INTRODUCTION TO COMPETENCY MODULE

TRAINING CHECKLIST

PURPOSE: To get acquainted, introduce the program, and detail expectations.

The focus of this training will be to learn general facts about the legal system; it is not intended to take the place of consultation and advice from your attorney. Furthermore, it is not our job to decide if you are guilty or not guilty; our role is to ensure that each of you have a better understanding of the legal system and how it applies to you.

The statewide accepted criteria that mental health experts use to determine competency are:

1. Appreciation of Charges

- ▲ Do you have the ability to know your charges?
 - What are you charged with?
 - What happened that led to you being arrested?
- ▲ Can you describe what the charges allege that you did?
 - Can you describe what the police think you did?
 - Say I was charged with _____, what would that mean?
- ▲ Is your charge a misdemeanor or felony?

2. Appreciation of Possible Penalties

- ▲ What are the possible penalties you can receive if you are found guilty?
 - If someone was found guilty of _____ what would be the possible penalty/punishment?
 - If you had to do some time for this charge, what jail/prison time could you get?
- ▲ Can you explain what probation is?
 - What do you think it means to be on probation?
 - What could happen if you violate probation?

3. Understanding the Legal Process

- ▲ Can you describe the jobs of the following people?
 1. Judge
 2. Jury
 3. Public Defender
 4. State Attorney

5. Witnesses

- ▲ Do you understand that the judge and jury are neutral?
- ▲ Can you explain what a plea bargain is?
- ▲ Do you know the three pleas that you may enter in court?

4. Capacity to Disclose to Attorney (Even if the participant has not met with client, ask questions hypothetically.):

- ▲ Have you met your attorney?
- ▲ Can you tell me who was involved in the alleged offense?
- ▲ Can you describe what, where, and when regarding your alleged offense?
- ▲ Are you able to follow your lawyer's advice?
- ▲ Were you mentally ill at the time of you were arrested?
- ▲ What can you do if you cannot get along with your lawyer?

5. Ability to Manifest Appropriate Courtroom Behavior

- ▲ Can you tell me what appropriate courtroom behavior is?
- ▲ What will happen if you become upset and loud in court?
- ▲ What is "Contempt of Court"?
- ▲ Will you continue to take your medication while awaiting disposition of your legal charges?
- ▲ What can you do if you can't get your medication? Who can you call?

6. Ability to Testify Relevantly

- ▲ Can you talk about what happened when you were arrested?
- ▲ Can you tell a story without getting sidetracked?
- ▲ Can you answer questions by the attorneys about your case?

Summary and Questions

SESSION 2: APPRECIATION OF CHARGES

- A. Review the Competency Pre-Test.
- B. Just because you have been arrested does not mean you are guilty. Only the court can decide whether you did or did not do the offense. The following discussion and work will help you to know your charges, understand the seriousness of the charges and develop some awareness of what the arresting officers say you did.

C. Charges.

1. I am charged with _____

When you are arrested, the officers fill out a police report that describes the crime. A copy of the police report is included in the information that comes with you when you are arrested. Knowing what the officers allege you did and how you acted may help your memory. For example, if you are charged with Battery on a Law Enforcement Officer, the charge alleges you had touched or struck a police officer against his will.

2. What the police said I did was _____

3. In order to determine what the maximum penalty will be if you are found guilty as charged, you need to know if you are charged with a felony or a misdemeanor.

A) **Misdemeanor.** A misdemeanor is any criminal offense that is punishable under the laws of this state by imprisonment in a county jail.

1. A First Degree Misdemeanor is punishable by no more than one year in jail.
2. A Second Degree Misdemeanor is punishable by no more than sixty days in jail.

B) **Felony.** A felony in Florida is any offense for which the penalty is punishable by prison in the Department of Corrections for a period exceeding one year.

1. A Second Degree Felony is punishable by prison not more than fifteen years.
2. A Third Degree Felony is punishable by prison not more than five years.

D. The information provided in this section is not all inclusive and should not take the place of consulting with your attorney.

E. Depending on the specific situation, charges may be upgraded or down graded. Information taught here is not to be considered "expert" advice; rather, it is intended to enhance your general knowledge and improve your ability to understand and communicate with your attorney.

Summary and Questions

SESSION 3: APPRECIATION OF POSSIBLE PENALTIES

A. There are many possible penalties that may be imposed if someone is convicted of an offense. Today's discussion will help orient you to the possible outcomes.

****ONLY INQUIRE TO AS TO THE PARTIPANTS PARTICULAR CHARGE****

1. What is a Misdemeanor?
2. What is the maximum penalty that can be imposed if convicted of a Second Degree Misdemeanor?
3. What is the maximum penalty if someone is convicted of a First Degree Misdemeanor?
4. What is a Felony?
5. What is the maximum penalty if someone is convicted of a Second Degree Felony?
6. What is the maximum penalty if someone is convicted of a Third Degree Felony?

B. The maximum sentence which could be placed on me if I am found guilty is:

C. Pleas. When you go to court, there are three different pleas your lawyer can advise you to plea. These pleas are: **Not Guilty, Guilty and Nolo Contender (No Contest)**

1. What does pleading Not Guilty mean?

Answer: To plead **Not Guilty** means you say you did not do the crime for which you are charged.

2. What does pleading **Guilty** mean?

Answer: To plead **Guilty** is to admit to the court that you did the crime for which you were arrested. If you plea guilty there will not be a trial.

3. What does **Nolo Contender** or **No Contest** mean?

Answer: To plead **No Contest** means you are not saying you committed the crime and you are not saying you did not commit the crime. You agree that the State can produce enough evidence to prove the crime charged. If you plead **No Contest**, there will not be a trial.

D. Pleading Guilty/Adjudication of Guilt. If someone pleads **Guilty** or is found **Guilty** of a crime, the judge has several options; these options include receiving jail or prison time, time served, or a fine. Another option is to place you on probation.

1. What does **probation** mean?

Answer: When you are placed on **probation** the court requires you to follow some specific rules. If it is determined that you violated the conditions of your probation, the judge can issue a warrant and have you picked up and returned to jail to await a hearing. At a hearing, if it is determined you broke the conditions of your probation; the judge could sentence you to jail or prison.

2. What are some usual **conditions of probation**? See Attachment of typical guidelines

Answer: Your probation may have some conditions that are specific just for you; however, generally you will be required to report at least once a month to your probation officer, pay a designated monthly amount, cannot use drugs and alcohol and not hang around places and people where drugs and/or alcohol are used, submit to drug tests and do community service hours. In addition, the judge may require you to attend mental health counseling and take medication. Your probation will be for a specific length of time. If you are arrested on another charge while on probation, it can violate your probation and you can go back to jail.

E. Plea Bargaining.

1. Most of the time charges are resolved without ever going to a trial. One of the most common ways is through **plea bargaining**.

a. What is plea bargaining/negotiations?

Answer: A plea bargain is an agreement worked out between the State Attorney and your attorney. Some examples of plea bargains include:

- If you agree to plead guilty to a lesser charge.
- If you have multiple charges, you agree to plead guilty to some of the charges with others being dropped.
- You plead guilty as charged with a recommendation to have a specific sentence.

Summary and Questions

SESSION 4: UNDERSTANDING THE LEGAL PROCESS

PURPOSE: Discuss the roles of court personnel and their responsibilities in the court room.

When you go to court, you will see several courtroom personnel. The following information will help you understand who these people are and how their roles affect you.

1. What does the **Judge** do?

Answer: The judge acts as a referee. The judge is responsible for keeping order in the courtroom and for ensuring the rules are fairly interpreted. If there is a jury and you are found guilty, the judge decides what punishment to give. If there is no jury, the judge decides whether or not you committed the crime and if he/she decides 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 and the law.

2. Who makes up the **Jury**, and what is their job?

Answer: If you have a trial by jury, there will be 6 - 12 people from the county where the crime was committed. They will decide whether or not you are guilty of your charge. The people who make up the jury are ordinary people and are not supposed to be on your side or the State's side. The jury listens to everything that is said in court and then decides whether you are guilty or not guilty. The jury is neutral (impartial), and they are not for you or against you. The jury's decisions are based on the facts presented.

3. What does the **Public Defender/Defense Attorney** do?

Answer: The Public Defender/defense attorney is your lawyer, and his/her job is to show the judge and jury that you are not guilty of the charges against you. Should you be 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 on the witness stand. Before you go to court, your lawyer should talk to you and give you advice about what to do when you are in court. Anything you tell your attorney is confidential.

4. What does the **State Attorney** do?

Answer: The State Attorney tries to prove to the judge and jury that you did the crime. If you are found guilty, he/she tries to see that you are punished. If your Public Defender has called on you to testify, the State Attorney is also able to ask you questions. The State Attorney will try to make you look bad and ask questions to make it seem like you are lying. It is important to listen very

carefully to the State Attorney's questions and be sure you understand what he is asking before you answer (if you chose to testify).

5. Who can be a **witness** at your trial?

Answer: A witness is any person who has specific 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.

6. Who is the **Defendant** in your case?

Answer: You are the defendant. A defendant 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. If something is said that you don't understand, you may ask your public defender what it means.

Summary and Questions

SESSION 5: UNDERSTANDING THE ADVERSARIAL NATURE OF THE LEGAL PROCESS

1. What **two sides** are represented in the courtroom?

Answer: The prosecution side is represented by the State Attorney, and your side is represented by the Public Defender. It is important to remember that once the police have become involved and charges have been filed, the State of Florida is bringing the charges against you, not an individual.

It is important that you understand that the prosecutor is against you and the Public Defender is for you. These two attorneys argue against each other on factual and legal issues. The Judge makes the final decisions on the case and is neutral.

Summary and Questions

SESSION 6: DESCRIPTION OF COURTROOM PROCEDURE

TRIAL/PLEA/DISMISSAL

Courtroom Procedure

If you have a jury trial, your lawyer and the state attorney will pick the jury. The jury is composed of six people who live in the community where the crime was committed.

After the jury is picked, the trial will begin. The State Attorney goes first. He will tell the jury that he can prove you committed the crime with which you were charged. Your lawyer will then address the jury and tell them there is not enough evidence that you committed this crime or that you did not commit the crime.

The lawyers then have the chance to present evidence and witnesses. The State Attorney will begin. After he presents all the evidence and questions the witnesses, your attorney will have a chance to question the witnesses, too. Your attorney may or may not present witnesses on your side. After that, the State Attorney will question your witnesses and try to convince the jury your witnesses are mistaken or that they are not telling the truth.

You have the right to remain silent or you can choose to testify.

After that there will be final arguments to the jury. The State Attorney will try to convince the jury that you are guilty and they should convict you. Your attorney will try to convince the jury that you are not guilty.

Afterwards, the jury will make their final decision. The judge will tell them the rules. The jury will then discuss privately the evidence and decide among themselves if you are guilty or not guilty.

If the jury decides you are guilty, the judge will decide what your punishment or sentence will be. If the jury decides you are not guilty, the judge will set you free.

Material Evidence

Material evidence may be items such as fingerprints, guns, or stolen items which show that you did or did not do the crime. This evidence is presented in court to help the judge or jury decide about the case.

Plea

If the Court accepts your plea, you have given up your right to a trial and to the following rights:

- (1) to have a jury determine whether you are guilty or not guilty, or the right to have a hearing before a judge if charged with violation of probation;

- (2) to see and hear the witnesses testify, and to have your lawyer question them for you;
- (3) to subpoena and present witnesses and items of evidence in your defense, and to present any defense you may have to the jury;
- (4) to testify or to remain silent; and
- (5) to require the prosecutor to prove your guilt by admissible evidence beyond a reasonable doubt.

You also give up your right to appeal all matters except the legality of your sentence or the Court's authority to hear this case. An appeal is something that has to be done in writing within 30 days of your sentencing date. An appeal is a legal motion that is filed if the judge made a wrong legal decision in your case.

Dismissal

In some cases could possibly be dismissed due to the witnesses not coming or for other legal reasons. If your case is dismissed, you will be free to go and the case is finished.

Summary and Questions

SESSION 7: CAPACITY TO DISCLOSE TO AN ATTORNEY

TRAINING CHECKLIST

PURPOSE: To ensure the participant is aware of the type of information he needs to share with his attorney.

Capacity to Disclose to an Attorney

It is important that you trust your lawyer and that your lawyer understand you and your case. When you have been found competent, you need to make good use of your time with your lawyer. If you don't trust and work with your lawyer, it will be difficult to get the help you need.

There is important information your lawyer will need to know in order to prepare your case. Through completion of the following exercise, you will learn about this information.

Can you tell the lawyer what happened when you were arrested?

Can you tell the lawyer what happened before you were arrested?

Why were you arrested?

Did anyone else see you being arrested? If so, who and where can we find them?

Summary and Questions

SESSION 8: ABILITY TO MANIFEST APPROPRIATE COURTROOM BEHAVIOR

TRAINING CHECKLIST

PURPOSE: To ensure the participant understands how to behave in the courtroom.

A) Appropriate courtroom behavior is acting in a calm and appropriate manner. If you do not act appropriately in court, you could receive an additional charge.

1. If you are loud and argumentative in court, you can be charged with **Contempt of Court**. As a result of your behavior, you may be physically removed from the courtroom which could cause your hearing to be postponed or your hearing could proceed without you.

2. The maximum penalty for being charged with **Contempt of Court** is six months jail time. It is important to behave appropriately in court.

B) Courtroom appearance is very important.

1. How should you dress to go to court?

Answer: Whether or not you agree, first appearances are important. It is important when you appear in court that you are clean, your hair is combed, your beard is shaved or groomed and you wear your best clothes. You may even want to wear a tie and jacket if you own one.

C) Talking in court.

1. It is important to remember you cannot yell in court, even if you hear something you do not agree with or you think is unfair.

2. If you hear something said about you that is untrue, you should whisper quietly or write a note to your attorney.

3. You may speak in court if you have been called to testify by your attorney or the judge. Remember, your attorney is your spokesperson and he/she is representing your interests and working with you.

D) Medication

1. You are likely taking medication to help manage the symptoms of your illness, and we **strongly recommend** that that you continue to take your medication.

2. It is very important you know the name of your medication (s), the dosage, the number of times you take it each day, why the doctor prescribed it and its possible side effects. This way you will know you are getting the correct medication and the right amount. Also, if you need to ask for the medication, you will know exactly what to ask for.

3. If you don't get your medication or you are not given the correct amount, you may contact:

- A. Your public defender;
- B. Your case manager through the Office of the Public Defender;
- C. The nurse or the doctor at the jail; or
- D. a family member

Summary and Questions

FINAL DISCUSSION

1. Once you are ready, you will be interviewed by community mental health professional (evaluators). These evaluators will assess you to see if you have the ability to proceed through the court system.
2. Community evaluators will be assessing your ability to answer certain questions. They will listen closely to your answers and make their decision based on your responses to their questions. They will expect you to be able to:
 - A. Stay focused on the question that you have been asked. If you do not understand the question, ask for the question to be repeated.
 - B. Answer their questions to the best of your ability. If you start drifting off the topic and start talking about things not related to the question you were asked, they may feel you are unable to answer the question because of your mental illness. If you feel or notice that you are off topic, stop talking and ask to have the question repeated again so you can try to answer it more appropriately.
 - C. Control your behavior during their interview with them. If your behavior and/or your tone of voice is rude, loud, aggressive, uncooperative or wild, they will question your ability to control your behavior when you are in the courtroom.