



## Leading Reform: Competence to Stand Trial Systems

### QUESTIONS STATE COURT LEADERS SHOULD ASK FIRST

As state courts consider initiating reform in their competency to stand trial systems, they should first be sure that they have a clear understanding of how the current system operates. This system survey should provide a consensus vision of current system gaps, strengths, and weaknesses as measured against the Task Force recommendations. Chief Justices and other partner entities should ask the following questions about current policies (statutes and rules), and procedures. Note that there may be NCSC resources available to assist states in identifying answers to these questions.



#### POLICIES (Statutes and Rules)

1. Are there exclusions for charges/offenses that are eligible for referral to the CST process?
2. How many competency evaluations are required?
3. What requirements pertain to the content and format of the evaluations?
4. What are the relevant required timelines for: CST being raised to adjudication, from referral for evaluation to report submission, from adjudication to initiation of restoration services, from commencement of restoration services to court review, the frequency of court reviews, and what are the time limits on the length of restoration?
5. What are the requirements and options at the end of that restoration period and in the event of a determination of non-restorability?
6. Are there legal presumptions for the location of CST evaluations? For the location of CST restoration?

**PROCEDURES (Note: Some procedures and resources may not be uniform statewide and may vary from local jurisdiction to jurisdiction.)**

1. What diversion options exist for defendants for whom CST has been raised?
2. What evaluations (clinical, criminogenic, etc.) are done to determine diversion from CST process eligibility? With whom is that information shared?
3. How are defendants identified and reviewed for diversion, and by whom are they reviewed?
4. How are CST evaluators qualified, selected, and reviewed? How is the quality of the evaluations assured or measured?
5. Where are the evaluations done and are there options?
6. How are CST cases calendared – is there a team involved (consistent prosecutor, defense counsel, judge, treatment representative, etc.)?
7. Is anyone assigned to specifically case manage CST cases? For whom do they work?
8. At which points in the process are peers utilized?
9. Data questions:
  - a. How many individuals have their competency formally raised before the court?
  - b. How many individuals of those are referred for evaluations?
  - c. What percentage are determined to be incompetent to stand trial?
  - d. How long do each of the segments of the process take (same events as #4 above)
  - e. If there are delays or waiting lists at any of these points, how long are they?
  - f. What are the demographics of those involved at each point in the process – criminal charge, race/ethnicity, gender, in custody or not, diagnosis, etc.?
  - g. What are the outcomes in terms of restoration success and timeliness of the process, by each of the demographic categories above?
10. Where is restoration done, and what are the options?
11. What are the components of the restoration options – treatment, medication, legal education? All three?
12. What are the protocols and frequency for restoration progress judicial review – standardized? Up to counsel? The judge? The restoration provider? Are individuals regularly transported for those hearings?
13. Is there a transition plan and case management for individuals returning from restoration? Who develops it and oversees it?
14. What are the resources available to those transitioning back into the community from a restoration process – medication, housing, coordinated mental health treatment, case management, SUD treatment, benefits coordination, etc.?
15. Are there any existing entities focused on monitoring or improving the CST process? Are the courts a part of this entity?

## RESOURCES

[Leading Reform: Competence to Stand Trial Systems](#) National Judicial Task Force to Examine State Courts' Response to Mental Illness, 2021

[Just and Well: Rethinking How States Approach Competency to Stand Trial](#) Council of State Governments Justice Center, 2020

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