

# INSTRUCTOR'S MANUAL

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## Basic Legal Knowledge and Rational Decision Making Skills

**Competency to Stand Trial Training Guide and Materials**

Colorado Department of Human Services

Colorado Office of Behavioral Health

## ***Introduction to Competency Restoration Training Manual***

The Colorado Office of Behavioral Health would like to thank the Florida State Hospital, who originally assembled the CompKit from a combination of locally developed materials and documents developed across the nation. This manual is based on the revised CompKit (2011) and adapted to the State of Colorado for use in its inpatient, jail-based and outpatient programs.

This manual is to be utilized by competency restoration educators and is used in conjunction with the revised **Competency Restoration Client Workbook**.

### **ACKNOWLEDGEMENTS**

This manual is a compilation of resources from the Florida State Hospital CompKit, and resources from local persons and programs which have been organized for users throughout our system including the Colorado Mental Health Institute Pueblo, Jail-Based Competency Restoration and community-based Outpatient Restoration. These materials are meant to be used in conjunction with appropriate treatment modalities based on client's individual needs. *Please note that it is important that materials be delivered by a qualified, trained provider.*

We would like to gratefully acknowledge the institutes and individuals who provided information and expertise to the revision of this manual:

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## MODULE ONE: Introduction to Competency Restoration: *Understanding Why I Am Here*

*This module will introduce your client to competency restoration, find strategies to make competency restoration a priority, and review commonly used terms. It is also your opportunity to establish the program rules, expectations, and to begin to identify the individual's barriers to competency.*

### Client Check-In

*A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.*

**This module is appropriate for Individual Only:** This module will introduce your client to competency restoration, find strategies to make competency restoration a priority and review commonly used terms. It is also your opportunity to establish the program rules, expectations and to begin to identify the individual's barriers to competency.

## OBJECTIVES of Module One

This opening module is meant to orient your client to competency restoration, familiarize them with common terms that will be used throughout their program, and introduce them to their "Case Worksheet" which they will populate and use as they work within the program.

- Explore "Why Am I Here?" and making competency restoration a priority
- Review vocabulary of terms commonly used in Competency Restoration
- Know where their "Case Worksheet" is located in their workbook and begin to fill in the information.

## VOCABULARY

**ITP:** Another way of saying *Incompetent to Proceed*

**Restoration:** The act of bringing back something that existed before. Restoration can be used with this program to describe an individual's process to get to "*Competent to Proceed*"

**Competency:** Your skill or ability in a specific subject or being able to do something well or to understand how to assist in your own defense during a trial

**Skill:** A talent or ability that comes from training or practice. You will use many skills in this course and learn new skills to help you.

**Priorities:** Something given special attention. Making something a priority means that it is important

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help the instructor know how to best work with them.

1. I have to complete this course because the court ordered competency restoration education. (True or False)

Answer: True

2. What does Incompetent to Proceed mean?

Answer: any variation of: "I did not understand the rules of the courtroom based on my not understanding how the court works, did not show good behavior in the courtroom or did not show a good emotional state."

*Statutory Definition: As a result of a mental disability or developmental disability, the defendant does not have the sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense, or that, as a result of a mental disability or developmental disability, the defendant does not have a rational or factual understanding of the criminal proceedings.*

3. What does ITP mean?

Answer: Incompetent to Proceed

4. You can go to trial on your charges \_\_\_\_\_?  
A) Whenever I want B) Never C) When a doctor finds me competent D) When the judge finds me competent

Answer: D

5. Give one reason that competency restoration should be a high priority in your life?

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

## helpful tips

Other items educators may want to discuss while orienting their client to the program may be the identification of people who may be helpful to them being successful (supportive people), reviewing program rules to make sure your clients understand program expectations. We recommend program rules are revisited often and throughout the program. *\*Please note clients have individualized needs and identifying them early and making a plan to address their needs is crucial.*

### **Objective One Activity: Why am I here?**

Discuss with your client the reasons they believe they are participating in competency restoration. Help them understand that competency is a skill or ability in a subject or field that can be done well. What skills do they have? Have them (or you) list at least two skills or abilities that they can do well.

Explain why the judge wants their case to be fair and how competency restoration plays a role in that. Remind them the judge will make the final determination of competency.



**Check for Understanding**

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Does your client have any incorrect ideas about what competency restoration is? Can they identify skills that they have?

**Additional Activities:** 1. Review vocabulary words again. 2. Identify different jobs and what skills may be needed to perform those jobs well.

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### **Objective Two Activity:**

Have your client name at least two things that are a priority in their life. Explore why these items are a priority and what they do to make sure they attend to their priorities (write notes to remind themselves of their priority, ask someone to help them with their priority, learn skills to be better at their priority).

Ask: What do you believe will happen if they make competency restoration a priority in their life?



Check for Understanding

Can your client identify priorities that are important to them? Are they willing to make competency restoration a priority?

**Additional Activities:** Questions to ask to explore priorities: What is something that you do that makes you happy? Is this a priority for you?

Questions to explore why competency restoration may not be a priority for your client: What might happen if you do not do the competency restoration education that the judge ordered you to? Even if you don't agree you need competency restoration, how can it benefit you to participate and complete the program?

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### Objective Three Activity: Case Worksheet

Review the Case Worksheet and determine if they know any of the case information. Explain that as they continue competency restoration, they will "fill in" the answers to use and refer to when they need it.

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Activity Table of Contents:

Case Activity Worksheet

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm all objective areas are covered and the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. I have to complete this course because the court ordered restoration treatment. (True or False)

Answer: True

2. What does Incompetent to Proceed mean?

Answer: any variation of: "I did not understand the rules of the courtroom based on my not understanding how the court works, did not show good behavior in the courtroom or did not show a good emotional state."

*Statutory Definition: As a result of a mental disability or developmental disability, the defendant does not have the sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense, or that, as a result of a mental disability or developmental disability, the defendant does not have a rational or factual understanding of the criminal proceedings.*

3. What does ITP mean?

Answer: Incompetent to Proceed

4. You can go to trial on your charges \_\_\_\_\_?

A) Whenever I want B) Never C) When a doctor finds me competent D) When the judge finds me competent

Answer: D

5. Give one reason that competency restoration should be a high priority in your life?



## MODULE TWO: Criminal Constitutional Rights of the Defendant

*This module will introduce your client to their rights, or basic protections, under the United States Constitution.*

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

**This module is appropriate for Individual or Group Setting:** This Module has some flexibility to provide creative ways for clients to learn their constitutional rights and can be completed in the INDIVIDUAL or GROUP setting. Groups could provide the ability to play games and divide into teams in order to build rapport amongst group participants.

## OBJECTIVES of Module Two

This module serves to familiarize the client with their legal rights and the Amendments associated with their rights.

- Review vocabulary of terms commonly used in relation to client rights under the Fourth, Fifth, Sixth, and Eighth Amendments

## COURSE PRE-TEST

1. The defendant's right to remain silent is the following right:

- A. Fifth Amendment Right
- B. Sixth Amendment Right
- C. First Amendment Right

Answer A

2. The Right to a speedy trial is the:

- A. Fifth Amendment
- B. Eighth Amendment
- C. Sixth Amendment

Answer C

3. The requirement that government officials must follow fair procedures before depriving a person of life, liberty, or property is:

- A. The right to sit wherever you want in court
- B. Due process of law
- C. Both A and B

Answer B

4. You can be tried for the same crime:

- A. Only once
- B. Three times
- C. As many times as the judge wants

Answer A

5. The rule that prevents evidence gathered illegally from being used at trial is called:

- A. The no good evidence rule
- B. Exclusionary rule
- C. The judge's rule

Answer B

6. True or False: You are presumed innocent until found guilty

Answer True

7. True or False: The Miranda warning begins, "You have the right to remain alive."

Answer False

8. True or False: You have the right to an attorney at any point in the legal process.

Answer True

9. True or False: You have the right to confront and cross-examine all witnesses against you

Answer True

*CULTURE IS.... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*



As you review information regarding rights, your client may have questions specific to their case or may realize that there was a violation of their rights. ALWAYS refer the client back to their attorney for discussion. Also note that this topic may be triggering to your client. If you (the instructor) believe it would be better to review this at a later time, please feel free to do so.

**Fourth Amendment:** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

- **Warrant:** an instrument issued by a magistrate, authorizing an officer to make an arrest, seize property, make a search, or carry a judgment into execution.
- **Search & Seizure:** warrant requirements and exceptions define how law enforcement officials are to handle the gathering of evidence. The “exclusionary rule” prevents any evidence gathered illegally from being used at a trial.

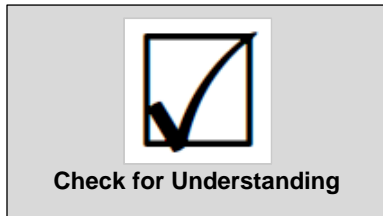
**Fifth Amendment:** *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation. “The right to remain silent”.*

- **Self-Incrimination:** There is a general “right to remain silent,” meaning that a defendant does not have to provide testimony against himself or herself.
- **Due Process of Law:** Refers to procedural fairness and requires you to be given notice of the charges against you and a meaningful opportunity to contest those charges. The defendant must be made aware of all elements and facts of the charge against them, unless there is a statutory exception that can be shown to apply. You cannot be tried twice for the same crime.
- **Miranda Warning:** Warning usually read upon arrest. In most situations, the police will give the warning only if you are going to be asked questions; however, the police are allowed to ask routine booking questions.

**Sixth Amendment:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

- **Right to an attorney:** A defendant has a right to an attorney at any critical step in a prosecution, not just a trial. It is possible for a defendant to waive this right and represent themselves, if they are able to do so.
- **Jury Trial:** A public trial by a jury of your peers. At trial, the defendant is presumed to be innocent and cannot be convicted unless jurors are convinced of guilt beyond a reasonable doubt.
- **Speedy Trial:** You have the right to a timely trial (within 6 months in Colorado after plea of not guilty is entered.) If a court is convinced that there has been too much delay, the criminal indictment must be dismissed. This is paused when a defendant is found incompetent to proceed (ITP).
- **Appeal:** You can formally file a notice of appeal with a lower court, indicating your intention to take the matter to the next higher court with jurisdiction over the matter, and then actually file the appeal with the appropriate appellate court (*This is not a right guaranteed by the 6<sup>th</sup> amendment*).
- **Witness:** You have the right to confront and cross examine all witnesses testifying against you. You also have the right to call witnesses to testify on your behalf.

**Eighth Amendment:** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.



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Where do you believe your client is with understanding of these terms?

**Additional Activities:** There are several videos and games on the Video Resources List. Additionally, hypothetical scenarios could be discussed in which the client would identify whether or not a right has been violated. Creating and playing a version of Jeopardy, Monopoly, Match Game of amendments and definitions would be useful group activities.

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. The defendant's right to remain silent is the following right:

- A. Fifth Amendment Right
- B. Sixth Amendment Right
- C. First Amendment Right

Answer A

2. The Right to a speedy trial is the:

- A. Fifth Amendment
- B. Eighth Amendment
- C. Sixth Amendment

Answer C

3. The requirement that government officials must follow fair procedures before depriving a person of life, liberty, or property is:

- A. The right to sit wherever you want in court
- B. Due process of law
- C. Both A and B

Answer B

4. You can be tried for the same crime:

- A. Only once
- B. Three Times
- C. As Many Times as the judge wants

Answer A

5. The rule that prevents evidence gathered illegally from being used at trial is called:
- A. The no good evidence rule
  - B. Exclusionary rule
  - C. The judge's rule

Answer B

6. True or False: You are presumed innocent until found guilty

Answer True

7. True or False: The Miranda warning begins, "You have the right to remain alive."

Answer False

8. True or False: You have the right to an attorney at any step of the prosecution

Answer True

9. True or False: You have the right to confront and cross-examine all witnesses against you

Answer True

## MODULE THREE: Understanding Roles in the Courtroom. What People Do and Where People Sit

*This module will introduce your client to the courtroom and help them identify who is participating in the court proceedings and where they sit in the courtroom.*

### Client Check-In

*A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.*

This module is appropriate for Individual or Group Setting

## OBJECTIVES of Module Three

**Objectives of Module Three:** This module focuses on introducing the participants in the courtroom.

- Identify participants in a courtroom
- Identify where people may sit in the courtroom
- Understand the roles of each person in the courtroom

## VOCABULARY

**Lawyer:** Another name for an Attorney

**Attorney - Client Privilege:** A rule that preserves the confidentiality of communications between lawyers and clients. The purpose of the privilege is to encourage clients to openly share information with their lawyers and to let lawyers provide effective representation.

**Pro Se:** This means advocating on one's own behalf before a court rather than being represented by a lawyer. Defendants are automatically assigned a public defender if competency is raised and the option to "go pro se" can be revisited once restored.

**Defense Attorney/Public Defender:** This is an attorney that works with you and helps with your defense. The defense attorney is the only person with whom you have "Attorney - Client Privilege."

**Prosecutor/District Attorney:** Lawyers who investigate, charge, and prosecute people whom they think have committed a crime.

**Judge:** A person who is in charge of a court of law and who makes final decisions in legal disagreements. Judges are impartial decision-makers in the pursuit of justice.

**Defendant:** A person who has been accused of a crime and a claim or charge is brought in a court

**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 asked by both lawyers.

**Bailiff:** An employee of the court that enforces the Judge's orders and announces events.

**Clerk:** An officer of the court whose responsibilities include maintaining records of a court and to administer oaths to witnesses and jurors.

**Court Reporter:** A person who makes a word-for-word record of everything that is said in court.

**Jury:** A group of people who attend a trial, listening to the testimony and evidence and make a decision (render a verdict) if you are guilty or not guilty of the crime to which you have been accused.

**Trial:** An occasion when the court, with or without a jury, decides on your guilt or innocence or decides on the penalty.

**Hearing:** A court hearing is a gathering within a courtroom for the purpose of conducting a legal procedure.

**Verdict:** In a court of law, the verdict is the decision that is given by the jury or judge at the end of a trial.

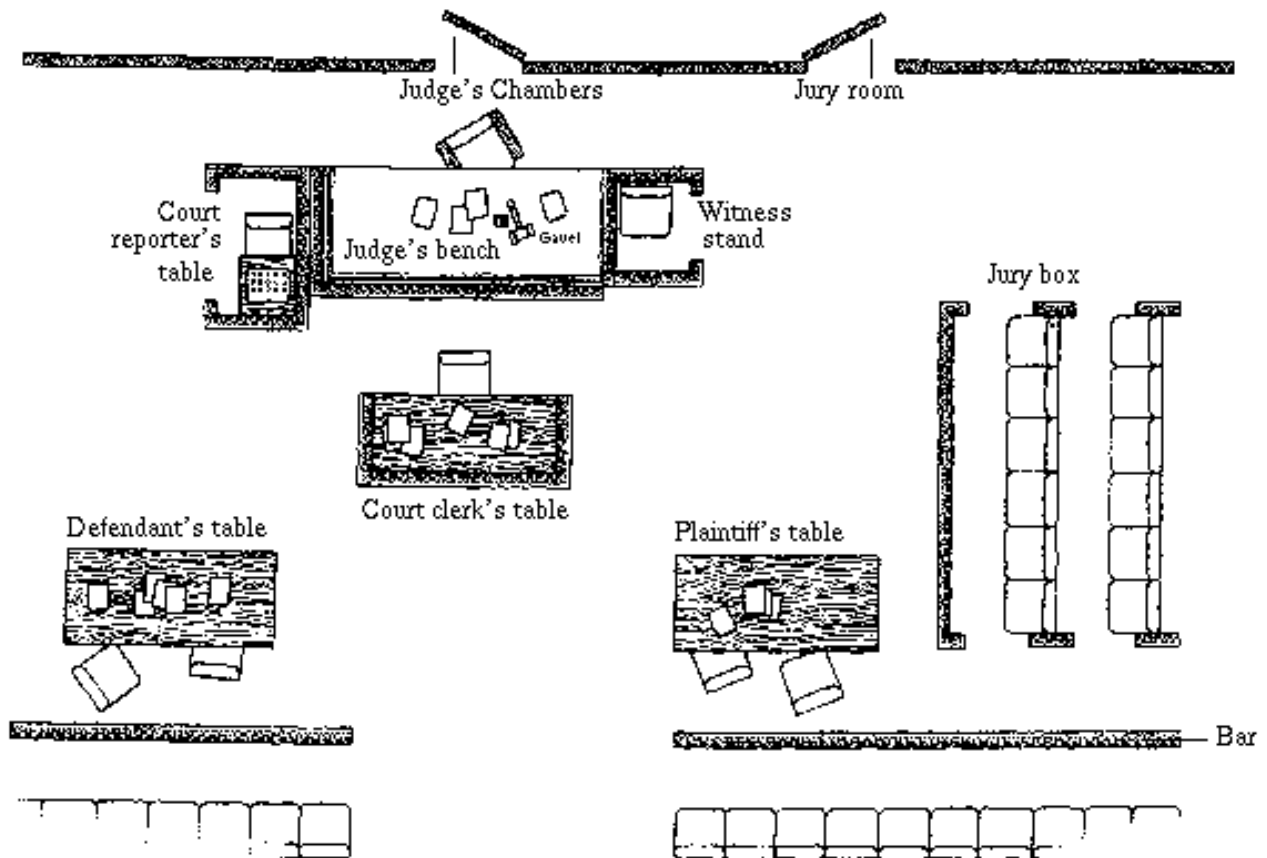
**Guilty Verdict:** The judge or jury decides that you have done and are responsible for the crime to which you have been accused.

**Not Guilty Verdict:** The judge decides that you have NOT done and are NOT responsible for crime to which you have been accused.

# COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

Using a blank diagram or drawing, ask the client to identify where in the courtroom they would find: The judge, the defendant and defense attorney, the prosecutor, the jury, and the witness stand.



1. What does the Judge do during the trial?

Answers: 1. Decides about the rules of law 2. Issues orders 3. Instructs the jury about the law 4. In charge of the courtroom and makes sure everyone follows the rules 5. Makes sure the court proceedings are fair 6. Decides on the admissibility of evidence.

2. What does the jury do?

Answer: Finds the defendant guilty or not guilty.

3. What does the district attorney or prosecutor do?

Answer: Uses witnesses and evidence in order to prove to the jury beyond a reasonable doubt that the defendant committed the crime(s) for which he or she is accused.



4. What do witnesses do?

Answer: They answer questions about the case

5. The defense attorney or public defender works with you to show the charges against you are not true?

(True or False)

Answer: True

*CULTURE IS.... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

## helpful tips



Talking about the court and the participants in the courtroom may bring up strong feelings and the need to “process” an individual’s case or to talk about their circumstances. Please have strategies in place to redirect these conversations and encourage your client to talk with his/her attorney for legal questions and encourage working with a counselor to address any stress or anxiety they may be experiencing. Additionally, simultaneously assessing your client’s ability to regulate emotions and separate their feelings from facts. Is this a barrier? If so, try these steps to assist your client:

Step 1: Redirect your client

Step 2: Validate feelings and explain the importance of separating their emotional reactions from their knowledge/answering the question.

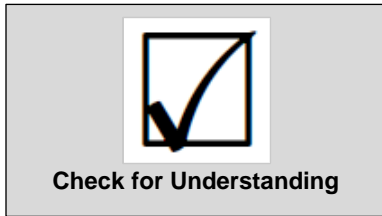
Step 3: Document if they struggle to do so and inform clinical team, as this may be a symptom issue.

### **Objective One Activity: Identify Individuals in the Courtroom**

Using your vocabulary list, work with your client(s) to gain an understanding of participants in the courtroom. Using visual learning tools may be helpful, as well as video resources (see list of resources in the Activity Table of Contents). Remember, that some individuals may need a great deal of repetition to remember these items; find ways to work into subsequent lessons to reinforce their learning.

### **Objective Two Activity: Identify where people may sit in the courtroom**

Using the diagram above, help your client identify where individuals sit in the courtroom. Other activities may include games, role plays and video resources. In a group setting, you may consider arranging the room as a courtroom and allowing group members to move between locations to help with identifying where individuals participating in the court proceedings sit.



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Is your client/group comfortable with who and where participants in the courtroom are? Using multiple tools to reinforce this information is important as a foundation to tying together the concepts of Who, What, Where and When. If using this module in a group setting, take the opportunity of role play and action oriented activities to identify any barriers that may manifest as your clients interact with each other. Are there any challenges with different roles? Does your client show feelings of fear, anger or distain when role playing any individual? These observations may be helpful as you move through the education process with them.

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### **Objective Three Activity: Understand the roles of each person in the courtroom**

Using role plays, games and video resources, clients can learn the general responsibilities of each person in the courtroom. Please stress the defense attorney is the only person in the courtroom with whom they have any level of confidentiality and the importance of being open and honest with their defense attorney in order to appropriately plan for their defense.

#### **Activity Table of Contents**

Any blank courtroom diagram

**Video Resources**-The Courtroom & How it Works

## **COURSE KNOWLEDGE ASSESSMENT**

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1. What does the Judge do during the trial?

Answers: 1. Decides about the rules of law 2. Issues orders 3. Instructs the jury about the law 4. In charge of the courtroom and makes sure everyone follows the rules 5. Makes sure the court proceedings are fair 6. Decides on the admissibility of evidence.

2. What does the jury do?

Answer: Finds the defendant guilty or not guilty.

3. What does the district attorney or prosecutor do?

Answer: Uses witnesses and evidence in order to prove to the jury beyond a reasonable doubt that the defendant committed the crime(s) for which he or she is accused.

4. What do Witnesses do?

Answer: They answer questions about the case

5. The defense attorney or public defender works with you to show the charges against you are not true?

(True or False)

Answer: True

## MODULE FOUR: Relating to Your Attorney

*This module will introduce your client to the importance of collaborating with one's attorney and assisting in their defense. The module includes identification of one's legal rights associated with the right to an attorney and confidentiality, identification of important information to share with and ask an attorney, as well as problem solving strategies related to collaboration.*

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

**This module is appropriate for Individual Only:** This module is best delivered in an individual setting to give the instructor the ability to address any misconceptions about attorneys, personal beliefs that may be a barrier and to challenge any unrealistic ideas about what a defendant should expect from their attorney.

## OBJECTIVES of Module Four

Objective of this module is to introduce the importance of working with one's attorney to assist in their legal defense, familiarize them with interpersonal problem solving strategies, and orient them to what information is important to share with their legal counsel.

- Explore "who is my attorney and what is their job?"
- Discuss any perceptions or feelings associated with their attorney, specifically regarding the attorney's ability to help them.
- Identify important information to share with their attorney related to their past and the current allegations.

## VOCABULARY

**Collaborate:** Work together to create something (a legal strategy)

**Confidentiality:** Keeping information secret; not allowed to repeat the information you share

**Client-attorney privilege:** This means that information you talk to your attorney about is confidential. This gives you the ability to be completely honest with your attorney about all details of your case.

**Verdict:** A finding or answer of a jury given to the court concerning a matter submitted to their judgment.

**Public Defender/Defense Attorney:** The attorney who represents the accused in court. Their job is to find the best possible verdict for their defendant. It is very important to be able to talk to your public defender and trust their legal advice.

**Pro Se:** This means advocating on one's own behalf before a court rather than being represented by a lawyer. Defendants are automatically assigned a public defender if competency is raised and the option to "go pro se" can be revisited once restored.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. Do I have an attorney, if so what is his/her name, when was the last time we spoke?

Answer: Defense attorney, public defender. Ideal if they can name their attorney and indicate if they have met this person, the last time they spoke, etc.

2. How should I prepare with my attorney before going back to court?

Answer: Reference to the importance of calling/meeting with one's attorney in order to discuss what to expect in court and options associated with the case.

3. What are some examples of important information to share with my attorney?

Answer: Criminal history, mental health history, learning/developmental disabilities, and details associated with the allegations and what they recall regarding the alleged crime.

4. Do I have any concerns about my attorney's ability to help me?

Answer: A recognition their attorney intends to help them achieve the best possible outcome for their case (they may very well have realistic concerns that should not be considered a hindrance in and of themselves).

5. Can my attorney talk to other people about my case? Why or why not?

Answer: No. Confidentiality. Client-attorney privilege.

6. What should I do if I disagree with something my attorney tells me?

Answer: Discuss their concerns or differing opinions in a reasonable manner. Take into consideration the advice of the attorney.

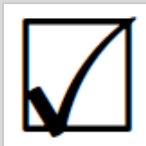
*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

## helpful tips

If the defendant indicates they intend to go pro se, inform them they may pursue that option once they have been found competent by the court. While their legal status remains incompetent to stand trial, they are assigned legal counsel. Also, it is not uncommon for an attorney to limit engagement with their clients while they are in restoration services, which may be helpful to normalize.

**Objective Activities:** Who is my attorney, what is their job, do I feel my attorney can/is helping me, what information is important to tell my attorney?

Explaining the different roles of the various attorneys is important here. Help the client clarify who their attorney is, the type of attorney, how to contact their attorney, etc. People may have positive or negative feelings about public defenders and restoration is the perfect place to process through that in order to more effectively engage with counsel in the present. Reviewing the police reports for their case is a great way to assist the individual with identifying important questions to ask their attorney. Hypothetical scenarios, vignettes, and role playing are also effective ways to assist your clients with this module.



### Check for Understanding

A few questions to determine understanding of concept outlined above. If the client does not demonstrate understanding, a list of additional activities is listed. Review the difference between a public defender and district attorney.

Ask questions designed to elicit any concerns regarding their attorney:

- Do you feel you can trust your attorney?
- Why do you think that about your attorney?
- What would you do if you disagreed with your attorney?
- Have you worked with a public defender before?

### Activity Table of Contents:

The Matching Game: What is a defense attorney?  
Components of a Story  
Video Resources-Confidentiality

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. Do I have an attorney, if so what is his/her name, when was the last time we spoke?

Answer: Defense attorney, public defender. Ideal if they can name their attorney and indicate if they have met this person, the last time they spoke, etc.

2. How should I prepare with my attorney before going back to court?

Answer: Reference to the importance of calling/meeting with one's attorney in order to discuss what to expect in court and options associated with the case.

3. What are some examples of important information to share with my attorney?

Answer: Criminal history, mental health history, learning/developmental disabilities, and details associated with the allegations and what they recall regarding the alleged crime.

4. Do I have any concerns about my attorney's ability to help me?

Answer: A recognition that their attorney intends to help them achieve the best possible outcome for their case (they may very well have realistic concerns that should not be considered a hindrance in and of themselves).

5. Can my attorney talk to other people about my case? Why or why not?

Answer: No. Confidentiality. Client-attorney privilege.

6. What should I do if I disagree with something my attorney tells me?

Answer: Discuss their concerns or differing opinions in a reasonable manner. Take into consideration the advice of the attorney.

## MODULE FIVE: Understanding Court Procedure: Proceedings

*This module will introduce your client to concepts and a general understanding of what happens in court and how the system works. We recommend reviewing the vocabulary from the “Understanding Roles” module as a refresher for this topic as many of the same terms are being used.*

### Client Check-In

A regular, structured check-in based on your review of your client’s case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

**This module is appropriate for Individual or Group Settings**

## OBJECTIVES of Module Five

Objectives of Module Five: This module focuses on introducing how a court system works.

- Understand basic procedural concepts
- Understand the idea of "burden of proof" and how it affects the proceedings



## VOCABULARY

**Charge:** This is written on a piece of paper by the prosecutor and says what law you are accused of breaking.

**Defendant:** When you are charged with a crime, you are then referred to as the Defendant.

**Testify:** To give evidence as a witness in a court of law. Testimony. Speak.

**Burden of Proof:** This means the prosecution has to prove you are guilty. You do not have to prove you are innocent. Officially, you are considered innocent until proven guilty.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. Have your client finish the sentence, "When they say a man or woman is innocent until proven guilty, it means...."

*Answers: Any variation of: the State or prosecutor has the burden of proof, they have to show you did it or you are not guilty until the judge or jury decides you are guilty.*

2. If you have been charged with a crime, it means the judge has proof you did something wrong (True or False)

*Answer: False. If you have been charged with a crime, it means the district attorney wrote to the court stating what law you are accused of breaking.*

3. What is the person charged with a crime called?

*Answer: Defendant*

4. In court, it is:

- A. The state against the defendant
- B. You against the judge
- C. You against the witness

*Answer: A*

5. The defense attorney and the prosecutor can both call witnesses in court? (True or False)

*Answer: True*

6. It is the job of the district attorney (or prosecutor) to:

- A. To present evidence that you are guilty
- B. To present evidence that you are not guilty
- C. To testify in court

*Answer: A*

7. To find you guilty of the crime you are accused of, the prosecutor has to prove you committed the crime, but didn't mean to. (True or False)

*Answer: False. The prosecutor has to prove only that you did the crime with which you are charged.*

8. The defense attorney helps you by presenting evidence that you are not guilty of the crime with which you are accused. (True or False)

*Answer: True*

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

## helpful tips

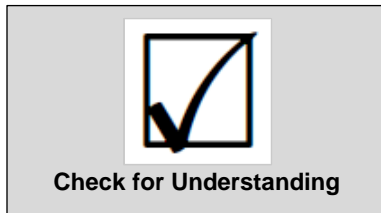
The following information is in narrative form. Read each statement and check for understanding by asking your client to give examples. Refer to the video resource list for additional learning opportunities if needed.

**Objective Activity:** The following statements include multiple items that your client(s) need to know about court proceedings. You can use these as discussion topics or as answers to any games you may develop as part of your curricula.

1. You are accused of doing something wrong, a violation of the law.
2. The District Attorney files 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 "defendant" when you are charged.
5. If you plead "not guilty" there will be a trial to determine if you are guilty or not. The procedure is set up as "The State" 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 lawyer to help you. He or she tries to prove you are not guilty, or, if you are found guilty, that you should get a light or easy penalty or sentence.
8. The state will have a prosecuting lawyer (District Attorney) to argue against you. He or she will try to prove that you are guilty, that what you did was bad, and that you deserve a sentence or penalty.
9. The District Attorney may ask *witnesses* to testify. The District Attorney will ask questions of witnesses to try and get evidence that you did what you are charged with. The Public Defender (defense attorney) may ask those same witnesses questions to try to prove you did not do what you are charged with.
10. The defense attorney may ask *witnesses* to testify. The defense attorney will ask questions of the witness to try to get evidence that you did NOT do the crime with which you are charged.

The prosecuting lawyer (District Attorney) may ask questions of those same witnesses to try to prove that you DID do the crime you are charged with.

11. In a trial to your guilt, the State has the "burden of proof." It is up to the prosecution to prove that you are guilty. You do not have to prove you are innocent. You only have to prove that the prosecution did not prove that you are guilty. Officially, **you are considered innocent until the prosecutor proves that you are guilty.**
12. When you are found incompetent to proceed, this means that, even though you are not found guilty, you may have to attend competency restoration until you are competent.



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Does your client understand the previous statements? When addressing each item, does your client exhibit any behaviors that need to be redirected? Understanding the procedure of the courtroom can be difficult for some and multiple learning techniques may be helpful when discussing these topics. Remember, discussing procedure should be limited to general workings of the courtroom and not your client's specific case. It is important that you refer your client to his/her attorney for questions or concerns about their specific circumstances.

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## Activity Table of Contents

Video Resources- Understanding How the Courts Work

# COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. Have your client finish the sentence, "When they say a man or woman is innocent until proven guilty, it means....."

Answers: Any variation of: the State or prosecutor has the burden of proof, they have to show you did it or you are not guilty until the judge or jury decides you are guilty.

2. If you have been charged with a crime, it means the judge has proof you did something wrong (True or False)

Answer: False. If you have been charged with a crime, it means the district attorney wrote to the court stating what law you are accused of breaking.

3. What is the person charged with a crime called?

Answer: Defendant

4. In court, it is:
  - A. The state against the defendant

- B. You against the judge
- C. You against the witness

Answer: A

5. The defense attorney and the prosecutor can both call witnesses in court? (True or False)

Answer: True

6. It is the job of the District Attorney (or Prosecutor) to:

- A. To present evidence that you are guilty
- B. To present evidence that you are not guilty
- C. To testify in court

Answer: A

7. . To find you guilty of the crime you are accused of, the prosecutor has to prove you committed the crime, but didn't mean to. (True or False)

Answer: False. The Prosecutor has to prove only that you did the crime with which you are charged.

8. The Defense Attorney helps you by presenting evidence that you are not guilty of the crime with which you are accused. (True or False)

Answer: True

## MODULE SIX: Evidence

*This module introduces your client to what is evidence, the types of evidence, and whom could be involved in presenting evidence.*

### Client Check-In

*A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.*

**This module is appropriate for Individual or Group Setting:** This Module can be delivered in either an individual or group setting. Only scenarios or vignettes should be discussed in understanding this topic. Evidence specific to an individual case should only be discussed with the defendant's attorney.

## OBJECTIVES of Module Six

The objectives are to learn the definition of evidence including:

- Evidence and the various types of evidence
- Types of witnesses
- Direct vs. Circumstantial Evidence

## VOCABULARY

**Evidence:** Data presented to a court or jury in proof of the facts in issue and which may include the testimony of witnesses, records, documents, or objects. The defense and prosecution are each allowed to present evidence in support of their cases. The judge decides on the evidence allowed in court.

**Physical Evidence:** Tangible items usually found at the scene of a crime such as important documents, photographs, weapons, fingerprints, blood samples, hair samples, DNA etc.

**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 asked by both lawyers. Witnesses can include victims, police officers, forensic experts, physicians, friends, and family.

**Witness Statements:** Spoken words that may or may not be factual. A confession is considered a witness statement.

**Testimony:** A formal or written statement, especially one given in a court of law.

**Hearsay Testimony:** Secondhand testimony. A statement that is offered by a witness as the truth, however, the statement was actually made by someone other than that particular witness.

**Alibi:** the defense by an accused person of having been elsewhere at the time an alleged offense was committed.

**Eye-Witness:** A person who actually sees some act, occurrence, or thing and can give a firsthand account of it.

**Alibi Witness:** A person upon whom a defendant relies in establishing an alibi.

**Character Witness:** A person who attests to another's moral conduct and good reputation in a court of law.

**Expert Witness:** A person whose opinion by virtue of special knowledge, skills, certification, training, or experience, is accepted by the judge as an expert (i.e. medical specialist).

**Direct Evidence:** Evidence in the form of testimony from a witness who actually saw, heard, or touched the subject of questioning without relying on inference or other evidence.

**Circumstantial Evidence:** Evidence which strongly suggests something, but does not exactly prove it. It helps people draw inferences about a person acting in a manner consistent or inconsistent with the alleged crime.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. Evidence:

- A. Can be presented by the district attorney in support of his case
- B. Can be presented by the defense of the case
- C. Can be hearsay
- D. A and B

Answer D

2. A character witness is:

- A. A witness who saw the crime/event firsthand
- B. Is a witness upon whom a defendant relies in establishing an alibi
- C. Is a witness (i.e. a medical specialist) who by virtue of special knowledge, skills, training, or experience is qualified to provide testimony
- D. Is a witness who testifies as to the character, moral conduct, or good reputation of the defendant

Answer D

3. A confession is considered:

- A. A witness statement
- B. Physical evidence
- C. Hearsay
- D. None of the above

Answer A

4. An example of physical evidence is:

- A. A tape recorded statement made at the police station
- B. Testimony given on the stand
- C. DNA
- D. Direct evidence

Answer C

5. A witness statement:

- A. Can be made by eyewitnesses, alibi witnesses, character witnesses, and/or experts
- B. Can be made by a person who testifies under oath in a trial
- C. Can be a confession
- D. All of the above

Answer D

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

Check on the pulse of your session to see how the client is reacting to the various types of evidence discussed. Is the client stuck on or even agitated while discussing this material?

**Objective Activities:** In this module, you can be creative in how you present the information to the client(s). Refer to the list of videos if you would like to review material by identifying the various types of evidence in the courtroom setting.

Games could be played, such as jeopardy.

Role playing could also be useful.

Utilize the information from one of the vignettes and identify the evidence in the vignettes.



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Review the vocabulary. Does your client seem to understand the differences between the types of evidence? Is it clear to the client whom can present the evidence in court?

## Activity Table of Contents

Video Resources- Evidence What is it? Video 1-What is evidence and how the court accepts it  
Video Resources- Evidence what is it? Video 3-Other types of evidence



## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. Evidence:

- A. Can be presented by the district attorney in support of his case
- B. Can be presented by the defense of the case
- C. Can be hearsay
- D. A and B

Answer D

2. A character witness is:

- A. A witness who saw the crime/event firsthand
- B. Is a witness upon whom a defendant relies in establishing an alibi
- C. Is a witness (i.e. a medical specialist) who by virtue of special knowledge, skills, training, or experience is qualified to provide testimony
- D. Is a witness who testifies as to the character, moral conduct, or good reputation of the defendant

Answer D

3. A confession is considered:

- A. A witness statement
- B. Physical evidence
- C. Hearsay
- D. None of the above

Answer A

4. An example of physical evidence is:

- A. A tape recorded statement made at the police station
- B. Testimony given on the stand
- C. DNA
- D. Direct evidence

Answer C

5. A witness statement:

- A. Can be made by eyewitnesses, alibi witnesses, character witnesses, and/or experts
- B. Can be made by a person who testifies under oath in a trial
- C. Can be a confession
- D. All of the above

Answer D

## MODULE SEVEN: Appreciate Charges and Possible Penalties

*This module will introduce your client to the exact name and classification of the pending charges. It will also address the classification of their charges, potential penalties, and the importance of the allegations.*

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

This module is appropriate for Individual Only

## OBJECTIVES of Module Seven

Objective of this module is to:

- Understand what the pending charges are
- Understand and appreciate the classification and possible penalties associated with each charge
- Become familiar with the allegations and begin to identify the strengths and weaknesses of the case (i.e., appreciation for evidence, witnesses, the likelihood of outcomes, etc.).

## VOCABULARY

**Misdemeanor:** A less serious crime punishable by jail time.

**Felony:** A more serious crime. Punishable by prison time.

**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, or probation.

**Police Reports/Discovery Materials:** Details of the allegations provided by the police. This often includes statements made by officers on the scene, witnesses, and details evidence.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. What are your current charges?

Answer: Correctly list the name of each charge.

2. What are the police saying you did/what are their version of events?

Answer: A reasonably organized account of the allegations that closely aligns with the police reports.

3. Is your charge(s) a misdemeanor or felony?

Answer: Correctly indicate level of each charge.

4. How much time could come with each charge?

Answer: Correctly list for each charge.

5. What is the maximum possible sentence you are facing?

Answer: Correctly state the maximum sentence- if multiple charges, the total for all charges both concurrently and consecutively.

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

*It is important to remember that simply reciting information or stating definitions is not reflective of a meaningful understanding/appreciation. Instead, challenge the client to apply their knowledge in context to their situation and/or hypothetical situations to ensure a more meaningful understanding and true appreciation. It is also helpful to remind the client of the importance of understanding the allegations, which can be difficult. Reminding them it does not mean you view them as guilty, but rather it helps them understand what they are facing in court.*

**Objective One Activity:** Converse with your client about each charge, classifications, and the penalties.

Reviewing the police reports and assisting the individual identify the alleged crime(s), sharing the definition of the crime (located in the discovery materials), and providing the individual with the sentencing guidelines is helpful for this module.



Check for Understanding

Ask questions such as:

- Which is worse, a misdemeanor or a felony?
- Is it okay to disagree with the contents of a police report?
- Which is more serious, attempted murder or theft?

**Activity Table of Contents:**

Charges and Penalties Reference Sheet

# helpful tips

**REMEMBER:** You need to keep this lesson to facts and not digress into processing of the incident or discussion of strategy, etc. Any questions or statements that are beyond determining if a client appreciates their charges should be immediately directed to their attorney.

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. What are your current charges?

Answer: Correctly list the name of each charge.

2. What are the police saying you did/what is their version of events?

Answer: A reasonably organized account of the allegations that closely aligns with the police reports.

3. Is your charge(s) a misdemeanor or felony?

Answer: Correctly indicate level of each charge.

4. How much time could come with each charge?

Answer: Correctly list for each charge.

5. What is the maximum possible sentence you are facing?

Answer: Correctly state the maximum sentence- if multiple charges, the total for all charges both concurrently and consecutively.

## MODULE EIGHT: Understanding Court Procedure: *Pleas*

*This module will introduce your client to the court proceedings that occur as the client decides to enter a plea*

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

**This module is appropriate for Individual or Group Setting: Only discuss in group using scenarios in lieu of their actual cases.**

## OBJECTIVES of Module Eight

Objective of this module is to:

- Understand the procedures/process as you decide to enter a plea
- Learn the four types of pleas

## VOCABULARY

**Guilty:** You admit that you did or take responsibility for what you were accused of doing. If you plead guilty, you give up your right to a trial and the judge will decide what happens.

**Not Guilty:** You are saying that you did not do or do not accept responsibility for what you are 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:** Latin for “I do not wish to contend” meaning you are not saying you are guilty, but also not saying you are not guilty. You may plead no contest because you feel you cannot prove your innocence. If you please No contest, you give up the right to a trial and the judge decides what happens; you put yourself on the mercy of the court.

**Not Guilty by Reason of Insanity (NGRI):** Saying that you did the crime you are accused of. At the time of the crime, you did not know right from wrong because of your mental illness.

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. If you plead guilty, you are admitting that you did what you are accused of (True or False)

Answer: True. A guilty plea is admitting to the crime you have been accused of.

2. When in court, the prosecuting attorney will ask the defendant “How do you plead?” (True or False)

Answer: False. The judge will ask the defendant “How do you plead?”

3. It doesn’t matter what I plead when I am asked. (True or False)

Answer: False. It is very important what you plead in court. You should talk with your attorney about all the pleas and possible consequences before answering the question “How do you plead?” in court.

4. If you plead “no contest” you are giving up your right to a trial and the judge will decide what happens. (True or False)

Answer: True. When pleading no contest, you are not saying you are guilty or not guilty, you are saying that you cannot prove your innocence and are asking for the judge to decide what happens.

Question: My attorney can help me understand my options regarding pleas. (True or False)

Answer: True. Your attorney is there to help you, answer any questions you may have and give you advice.

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

*Now is a good time to introduce decision making skills to help your client make reasonable and rational decisions. Try using S.O.D.A.S. to work on these skills.*

**Objective One Activity:** Discuss with your client the process in entering a plea in court. Try using some hypothetical scenarios and S.O.D.A.S. in deciding what the best plea might be.



**Check for Understanding**

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Use as many scenarios as you see fit to help your client understand how to make a decision regarding pleas. To reinforce the four types of pleas, you can also refer to the video resources and discuss with your client.

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## Activity Table of Contents

See Appendix for SODAS Worksheet

See Video Resources for *Types of Pleas in a Criminal Case*

See Video Resources for *online courtroom procedures*

Flashcards <https://quizlet.com/51615661/12-steps-of-a-trial-flash-cards/>

See Video Resources for online game *we the jury* <https://www.icivics.org/games/we-the-jury>



## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. If you plead guilty, you are admitting that you did what you are accused of (True or False)

Answer: True. A guilty plea is admitting to the crime you have been accused of.

2. When in court, the prosecuting attorney will ask the defendant "How do you plead?" (True or False)

Answer: False. The judge will ask the defendant "How do you plead?"

3. It doesn't matter what I plead when I am asked. (True or False)

Answer: False. It is very important what you plead in court. You should talk with your attorney about all the pleas and possible consequences before answering the question "How do you plead?" in court.

4. If you plead no contest, you are giving up your right to a trial and the judge will decide what happens. (True or False)

Answer: True. When pleading no contest, you are not saying you are guilty or not guilty, you are saying that you cannot prove your innocence and are asking for the judge to decide what happens.

Question: My attorney can help me understand my options regarding pleas. (True or False)

Answer: True. Your attorney is there to help you, answer any questions you may have and give you advice.

## MODULE NINE: Understanding Court Procedure – Possible Outcomes

*This module will introduce your client to the possible outcomes in their court case.*

### Client Check-In

*A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.*

**This module is appropriate for Individual or Group Setting: Please be mindful of revealing individual charges in a group setting.**

## OBJECTIVES of Module Nine

This module will help your client understand possible outcomes of their court case. This will be achieved by:

- A clear understanding of possible penalties
- Other ways in which the court may punish a crime

## VOCABULARY

**Dismissed:** The judge decides that there is not enough evidence or other problem with the prosecution's case and drops the charges that have been made. You are finished with the criminal process and are free to go.

**Acquittal:** You have a trial and are found NOT GUILTY. You are finished with the criminal process and are free to go.

**Fine:** An amount of money that you have to pay to the court as part of a punishment. There could also be court costs in addition to fines.

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

**Probation:** Instead of going to jail or prison, the Judge orders that you do some things and that you don't do other things. 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 CAN NOT do things like leave the area without permission of your probation officer. You CAN NOT commit any 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.

**Restitution:** Payment for damage or loss of property, or the return of items stolen or lost.

**Hospital Commitment (NGRI):** This would mean you go to a state facility, probably in a hospital until you are well and safe. This commitment is NOT for a set time but is in place until your mental health illness is stable and you are not dangerous to yourself or others. This could be days or for the rest of your life.

**Deferred Sentencing:** The Judge decides to give you a length of time to show that you can do well and not get into trouble instead of having to go to jail. If you do well during this length of time, you will not be prosecuted. During this time, you will probably be asked to report to a probation officer. If you accrue new charges or don't follow the rules, you can serve original sentence in full.

**Suspended Sentence:** The Judge has found you guilty and has imposed a sentence, but based on his/her belief that you can do well, give you the opportunity to not serve your sentence. During the length of your sentence, you will probably be asked to report to a probation officer. If you accrue new charges or don't follow the rules, you can serve original sentence in full.

**Plea Bargain:** If you plead guilty to a charge (often a lesser charge), the prosecutor agrees to let you have an easier penalty and may drop other charges. You, the Prosecutor and the Judge must all agree to this.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. A plea bargain is when:

- A. You go to trial
- B. The witness says you did what you are accused of
- C. You agree to a lesser charge and receive an easier sentence

Answer: C

2. An “Acquittal” is:

- A. You plead guilty to a lesser charge in exchange for an easier sentence
- B. You go to trial and are found not guilty
- C. The Judge believes you can do better and doesn’t sentence you

Answer: B

3. A fine is money you have to pay to the court as a punishment. (True or False)

Answer: True. Fines may be imposed by the court as punishment

4. A hospital commitment is when you agree to go to the hospital if you get worse. (True or False)

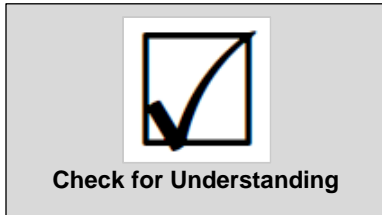
Answer: False. A hospital commitment is when the court requires you go to the hospital until you are better.

*CULTURE IS.... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

**helpful**  
**tips** 

*This is a good section to employ scenarios and mock trials to help clients formulate the connection of crimes and punishment.*

**Objective One Activity:** Review the vocabulary for this section and make sure your client has a firm understanding of each term.



---

Review the understanding of the terms in this module by utilizing the OUTCOME MATCH GAME Worksheet

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**Objective Two Activity:** Use scenarios to present a crime and ask your client to “be the judge” and impose sentences that fit the crime. You can also ask your client to “be the defense attorney” and argue for a plea and/or “be the prosecutor” and do the same.

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### Activity Table of Contents

See *appendix for*: OUTCOME MATCH GAME worksheet

\*write or find in video format scenarios that would be appropriate for you client.

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. A plea bargain is when:

- A. You go to trial
- B. The witness says you did what you are accused of
- C. You agree to a lesser charge and receive an easier sentence

Answer: C

2. An “Acquittal” is:

- A. You plead guilty to a lesser charge in exchange for an easier sentence
- B. You go to trial and are found not guilty
- C. The Judge believes you can do better and doesn’t sentence you

Answer: B

3. A fine is money you have to pay to the court as a punishment. (True or False)

Answer: True. Fines may be imposed by the court as punishment

4. A hospital commitment is when you agree to go to the hospital if you get worse. (True or False)

Answer: False. A hospital commitment is when the court requires you go to the hospital until you are better.

## MODULE TEN: Realistically Considering a Legal Defense

*This module will introduce your client to important factors to consider when beginning to reason through various legal defense options and contribute to their defense.*

### Client Check-In

*A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.*

This module is appropriate for Individual Only

## OBJECTIVES of Module Ten

Objective of this module is to:

- Recognize and appreciate the charges against them, including possible sentencing
- Consider and apply the different plea options to their individual circumstances
- Have an awareness of the information the district attorney may use in court
- Take all that information and apply it in a rational and reasonable way

## VOCABULARY

**Rational:** Based in accordance with reason and logic; includes beliefs/thoughts based in reality.

**Reality Orientation:** You are aware of who you are, where you are, and what is currently happening in your environment.

**Legal/Defense Strategy:** With the assistance of one's attorney, the defendant presents information to the court in an effort to demonstrate their innocence or to reach a desired outcome.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. What should I think about when considering my plea options?

Answer: Evidence for/against me, potential witnesses, possible sentences, my past criminal history.

2. Who should I consult with regarding my legal options?

Answer: defense attorney/public defender

3. If I go to trial, what information will be used to determine if I am found guilty or not guilty?

Answer: Evidence for/against me, potential witnesses, possible sentences, my past criminal history.

4. How do you know if a plea bargain is good for you or not?

Answer: Look at the evidence, sentencing options, and likely outcomes in a trial.



*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

*Assisting your client with learning to reason through their legal options and assist in their defense can be approached in a stepwise fashion. First, learn the factual information; second, practice with hypothetical scenarios; third, apply to their personal case.*

**Objective One Activity:** Review their charges, classifications, sentencing, and police reports to ensure retention.

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**Objective Two Activity:** Review the plea options and the sequence of events associated with each.

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**Objective Three Activity:** Review their police report and identify evidence, witnesses, etc.

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**Objective Four Activity:** Utilize a variety of vignettes to allow them the chance to practice applying their factual knowledge and reason through the options (e.g., have them identify the evidence and talk through how that could be used in court and how that information should be considered when thinking through each plea option).



**Check for Understanding**

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Once they demonstrate the ability to reason through sample cases, move to their individual case and engage in the same way. This will help you understand if they are approaching their own case in a rational manner. Often, certain symptoms (delusions) do not manifest until speaking directly about their case.

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## Activity Table of Contents

S.O.D.A.S. Worksheet may be valuable in this section

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. What should I think about when considering my plea options?

Answer: Evidence for/against me, potential witnesses, possible sentences, my past criminal history.

2. Who should I consult with regarding my legal options?

Answer: defense attorney/public defender

3. If I go to trial, what information will be used to determine if I am found guilty or not guilty?

Answer: Evidence for/against me, potential witnesses, possible sentences, my past criminal history.

4. How do you know if a plea bargain is good for you or not?

Answer: Look at the evidence, sentencing options, and likely outcomes in a trial.

## MODULE ELEVEN: Ability to Describe Relevant Facts – *Telling My Side of the Story*

*This module will assist in helping a defendant describe the relevant facts of their case and making sure all of the pieces of their story are in a logical order.*

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

This module is appropriate for Individual Only

## OBJECTIVES of Module Eleven

This module will assist your client in telling their story in a factual and rational manner. Will work towards understanding of fact versus fiction and teach the basic features of a story including:

- a beginning
- a middle
- an end
- timeline
- actions
- location

## VOCABULARY

**Fact:** An event or a thing that is known to have happened or existed.

**Fictional:** Something invented, made-up or imagined.

**Action:** The process of acting or doing something

**Location:** Where something takes place; the physical place something happened.

**Timeframes:** When something happened e.g., in the morning, last week or a year ago

**Rational:** Having or exercising reason, sound judgment, or good sense:

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. Is a fact true or not true?

Answer: A fact is true

2. Every story has a beginning, middle and \_\_\_\_\_

Answer: End

3. Your story takes place a year ago. Would that be a location or timeframe?

Answer: Timeframe

4. Describe a factual story about something that you did in the last week that includes a beginning, middle and end.

Answer: The story includes factual descriptions in the correct order.

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

In this module, you may discover obvious deficits in the ability for the defendant to stay on task, organize their thoughts or have delusional thoughts that serve as a barrier to their ability to tell their story in a factual and rational manner. If this is a clear barrier to completing the module, move on to another module and report these behaviors to their mental health provider.

## **Objective One Activity: Identifying the components of a story**

Read a story to your client and have them identify the beginning, middle, end, location, action(s) and timeframe.



**Check for Understanding**

---

If your client is able to complete this activity, you can move onto activity two.

**Additional Activities:** 1. Review vocabulary words again.

---

## **Objective Two Activity: Telling a factual story with all components**

Ask your client to tell you a factual story about something happy or positive that they have experienced including a beginning, middle, end, location, action(s) and timeframe. You may want to write these elements on a white board or piece of paper for them to reference.



**Check for Understanding**

---

If your client is able to complete this activity, you can move onto activity three. They may need several attempts, but be patient with small progress.

## **Objective Three Activity: Telling the factual story of their arrest**

Reminding your client of all of the appropriate components of a factual story (beginning, middle, end, location, action(s) and timeframe); ask them to tell you the story of what led to their arrest.

# helpful tips

Can your client factually and rationally recount what the police say happened? This may be very difficult for your client, so have patience, be willing to go back to it at a different time and communicate any concerns you may have to their mental health provider. Often, certain symptoms (delusions) do not manifest until speaking specifically about their story. Communicate these or any other mental health symptoms to their mental health provider.

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

For this module, having the ability to tell a rational and factual version of the events leading to their arrest serves and the knowledge assessment.

## MODULE TWELVE: Sharing information with lawyer/Participating in defense strategy

*This module will introduce your client to sharing important facts with their lawyer and plan their legal defense.*

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

This module is appropriate for Individual Only

## OBJECTIVES of Module Twelve

Objective of this module is to help your client understand the importance of working collaboratively with their attorney, telling their attorney all information regarding their case and play a productive role in their own defense.

- Understand the collaborative nature of the relationship with their attorney.
- Be capable of telling their attorney all information regarding their case including the full story of the incident and possible witnesses or evidence.
- Play a role in creating a positive working relationship with their attorney and devise strategies to address disagreements with their attorney if they were to arise.

## VOCABULARY

**Strategy:** An approach or plan of action.

**Defense Attorney/Public Defender:** This is an attorney that works with you and helps with your defense. The defense attorney is the only person with whom you have "Attorney - Client Privilege."

**Attorney - Client Privilege:** A rule that preserves the confidentiality of communications between lawyers and clients. The purpose of the privilege is to encourage clients to openly share information with their lawyers and to let lawyers provide effective representation.

**Evidence:** Data presented to a court or jury in proof of the facts in issue and which may include the testimony of witnesses, records, documents, or objects. The defense and prosecution are each allowed to present evidence in support of their cases. The judge decides on the evidence allowed in court.

**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 asked by both lawyers.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. In what ways can you help your lawyer defend you?

Answer: Any variation of the answer that shows client can/will give information that helps their case to their attorney. ("By telling them the whole story", "Answer questions from my lawyer honestly" or "Listen and tell them what I think")

2. My attorney will keep what I tell him/her confidential. (True or False)

Answer: True. You have with your attorney "attorney/client privilege", which means your attorney must keep your conversations confidential.

3. My attorney can still defend me well even if I don't give him all the necessary facts about my case. (True or False)

Answer: False. You cannot expect your attorney to be able to defend you to the best of his/her ability if you are unwilling to give him all the facts of the case.

4. It is my responsibility to speak up if I don't agree with my attorney. (True or False)

Answer: True. Your attorney cannot read your mind. You must always be truthful with your attorney even if you don't agree with him.



*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

Remember there may be many reasons your client does not want to share information with their attorney. Explore any and all barriers to this whether it is a belief, fear, misunderstanding, or otherwise. It is important that your client feel comfortable working with their attorney and being truthful with him or her at all times.

**Objective One Activity:** Have your client give examples of how they have collaborated or “partnered” with someone in the past. Have them give examples of ways they were able to do this and then ask how they may do so with their attorney.



Check for Understanding

If a client is resistant to working fully with their attorney, explore each barrier and make a plan around how they will address that barrier when working with their attorney.

Use *The Matching Game: What is a Defense Attorney Worksheet* in appendix

**Objective Two Activity:** Discuss with your client the importance of including details of what happened to them when they speak with their attorney. *Do not engage in a conversation about the details of the crime they are accused of.* Feel free to use this in the context of another relationship of theirs before applying it to their attorney.

**Objective Three Activity:** Discuss with your client the importance of having a positive working relationship with their attorney. Are there barriers to this? Explore these barriers and help your client write out a plan for each barrier.



Check for Understanding

If your client struggles with this, you may want to view all or part of the video “Confidentiality” within the video resource list. This video talks about confidentiality and talking with your attorney.

## Activity Table of Contents:

See in Worksheet Resources:	The Matching Game: What is a defense attorney? Components of a Story
See in Video Resources:	Confidentiality

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. In what ways can you help your lawyer defend you?

Answer: Any variation of the answer that shows client can/will give information that helps their case to their attorney. (“By telling them the whole story”, “Answer questions from my lawyer honestly” or “Listen and tell them what I think”)

2. My attorney will keep what I tell him/her confidential. (True or False)

Answer: True. You have with your attorney “attorney/client privilege”, which means your attorney must keep your conversations confidential.

3. My attorney can still defend me well even if I don’t give him all the necessary facts about my case. (True or False)

Answer: False. You cannot expect your attorney to be able to defend you to the best of his/her ability if you are unwilling to give him all the facts of the case.

4. It is my responsibility to speak up if I don’t agree with my attorney. (True or False)

Answer: True. Your attorney cannot read your mind. You must always be truthful with your attorney even if you don’t agree with him.

## MODULE THIRTEEN: Appropriate Courtroom Behavior

*This module will help your client understand the appropriate manner in which to interact with individuals in the courtroom, how to properly dress while in court and basic courtroom etiquette.*

### Client Check-In

*A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.*

This module is appropriate for Individual and Group Settings

## OBJECTIVES of Module Thirteen

Objective of this module is to help your client understand the importance of presenting themselves in the most favorable light through how they act and look while in court.

- Discuss proper attire in court and why it is important to present well.
- Discuss the importance of respectful interaction in the courtroom and how that will affect how others perceive them.
- Identify strategies that will help your client be successful in court.

## VOCABULARY

**Respect:** Have due regard for the feelings, wishes, rights, or traditions; to admire (someone or something) deeply, as a result of their abilities, qualities, or achievements.

**Decorum:** Behavior in keeping with good taste and propriety.

**Attire:** Clothes or apparel.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. Why do people stand up in court when the judge comes in or goes out?

Answer: Any variation of "To show respect"

2. When in court, make sure your cell phone is turned off. (True or False)

Answer: True

3. It doesn't matter what I wear in court as long as I am innocent (True or False)

Answer: False. Although it may seem unfair at times, what you wear in court influences how you are perceived by the judge, the jury and your adversaries.

4. Under no circumstances should I ever interrupt anyone who is speaking while I am in court. (True or False)

Answer: True. Regardless of how you perceive others in court, it is important to be respectful and polite. This will always reflect well on you.

5. I am allowed to bring food and drinks in the court as long as I don't make a mess. (True or False)

Answer: False. Never bring food or drink into the courtroom. If you need a break to get a drink of water, whisper this to your attorney or write them a note.

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

*Appropriate courtroom behavior is about having respect for the court - which may be difficult for some clients to understand or value. Exploring their beliefs about respect, who they respect and how it feels when someone is respectful of them may help them have a better appreciation and willingness to show respect in the courtroom.*

## **Objective One Activity:**

Review the “Appropriate Courtroom Attire” worksheet with your client and discuss and discrepancies with what appropriate courtroom attire is and what they believe it is.

---

## **Objective Two Activity:**

Watch the one or both of the videos about courtroom behavior and etiquette. Discuss their thoughts around this subject. (Please refer to “Video Resources for Educators” in the appendix)



If after watching one of the videos, you don't feel the client understands some of the concepts, you may try using another video that you believe better connects with them.

---

## **Objective Three Activity:**

Using the “Pre-Hearing Hygiene /Appearance Checklist” go through all items making sure the client and troubleshooting any needs (getting/borrowing clothes, obtaining hygiene items, etc.)

## **Activity Table of Contents**

Worksheet: Appropriate Courtroom Attire  
Video Resources for Educators  
Worksheet: Pre-Hearing Hygiene /Appearance Checklist

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. Why do people stand up in court when the judge comes in or goes out?

Answer: Any variation of "to show respect"

2. When in court, make sure your cell phone is turned off. (True or False)

Answer: True

3. It doesn't matter what I wear in court as long as I am innocent (True or False)

Answer: False. Although it may seem unfair at times, what you wear in court influences how you are perceived by the judge, the jury and your adversaries.

4. Under no circumstances should I ever interrupt anyone who is speaking while I am in court. (True or False)

Answer: True. Regardless of how you perceive others in court, it is important to be respectful and polite. This will always reflect well on you.

5. I am allowed to bring food and drinks in the court as long as I don't make a mess. (True or False)

Answer: False. Never bring food or drink into the courtroom. If you need a break to get a drink of water, whisper this to your attorney or write them a note.

## MODULE FOURTEEN: Testifying and Appropriately Challenging Other Witnesses

*This module assists the client on learning how to appropriately testify and what that means. Additionally, it teaches the client to address when he/she believes that the information someone is giving while testifying as a witness is incorrect*

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

**This module is appropriate for Individual Only**

## OBJECTIVES of Module Fourteen

This module will teach skills and information for the defendant to consider when testifying and how to appropriately address when they believe someone else who is testifying is saying something that is incorrect by:

- Answering questions truthfully and to the best of their ability
- How to communicate when someone who is testifying is saying something incorrect

## VOCABULARY

**Testifying:** Answering questions in court

**Testimony:** Information or evidence given by a witness under oath.

**Witness:** One who testifies under oath to what he/she has seen, heard, or otherwise observed

**Truthful:** Telling the truth

**Information:** Knowledge communicated or received concerning a particular fact or circumstance

**Communication:** The imparting or interchange of thoughts, opinions, or information by speech, writing, or signs

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. Are you required to testify in court if you do not want to?

Answer: No, you have a choice if you want to testify. Your attorney can talk with you about your options.

2. What are some strategies to testify effectively?

Answer: Any answer that include "Being truthful", "Not making things up", "Saying 'I don't remember' if I don't remember"

3. I am able to leave the stand if I don't want to testify anymore. (True or False)

Answer: False. You have to wait for the judge to tell you that you are allowed to go back to your seat.

4. If I believe someone is lying when they are testifying, there is nothing I can do. (True or False)

Answer: False. If you believe someone is saying something incorrect while testifying, you can whisper in your attorney's ear or write them a note.

5. If someone says something I don't like when testifying, I have the right to yell at them for lying (True or False)

Answer: False. It is not alright to ever yell at or address in any way while they are testifying. Write your attorney a note so that they know you believe they are wrong.



*CULTURE IS.... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

# helpful tips

The idea of testifying can make a defendant very anxious. Validate these feelings and assure them that they have the choice to testify if they want to and that their attorney can help them be as comfortable as possible if they choose to testify.

## Objective One Activity: Testifying

Discuss with your client the ideals of:

- “The Truth and Nothing But the Truth”
- Answering a question to the best of their ability
- What it means to be under oath



Check for Understanding

Does your client have any incorrect ideas these concepts? Do they have some anxious feelings around testifying that need to be addressed?

Additional Activities: Watching a video where someone is testifying can be helpful. Also, try role playing answering questions.

**Objective Two Activity:** Role play someone saying something untrue or incorrect and how your client can address this. Have them write notes, whisper their concerns.



Check for Understanding

Was your client appropriate? Are there other options for them to communicate with their attorney that you can brainstorm?

**Additional Activities:**

In a group setting, doing mock trials practicing these concepts can be helpful in understanding how to react to other witnesses.

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. Are you required to testify in court if you do not want to?

Answer: No, you have a choice if you want to testify. Your attorney can talk with you about your options.

2. What are some strategies to testify effectively?

Answer: Any answer that include “Being truthful”, “Not making things up”, “Saying ‘I don’t remember’ if I don’t remember”

3. I am able to leave the stand if I don’t want to testify anymore. (True or False)

Answer: False. You have to wait for the judge to tell you that you are allowed to go back to your seat.

4. If I believe someone is lying when they are testifying, there is nothing I can do. (True or False)

Answer: False. If you believe someone is saying something incorrect while testifying, you can whisper in your attorney’s ear or write them a note.

5. If someone says something I don’t like when testifying, I have the right to yell at them for lying (True or False)

Answer: False. It is not alright to ever yell at or address in any way while they are testifying. Write your attorney a note so that they know you believe they are wrong.

## MODULE FIFTEEN: Likely Outcomes of Trial

*This module addresses specifically the understanding a defendant may have about the likely outcome if they go to trial.*

### Client Check-In

*A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.*

This module is appropriate for Individual Only

## OBJECTIVES of Module Fifteen

This module will explore directly the client's perception as to what the likely outcome of trial would be for their case in order to help them make a good decision about what to plead and how to defend themselves. Targeted one-on-one conversation will be conducted around:

- Explore beliefs regarding their likely trial outcome
- Why they have the beliefs they do about the likely outcome of their case
- Review decision making skills to assist in making future decisions with their attorney

## VOCABULARY

**Fine:** An amount of money that you have to pay to the court as part of a punishment. There could also be court costs in addition to fines.

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

**Guilty:** You admit that you did or take responsibility for what you were accused of doing. If you plead guilty, you give up your right to a trial and the judge will decide what happens.

**Not Guilty:** You are saying that you did not do or do not accept responsibility for what you are 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:** Latin for “I do not wish to contend” meaning you are not saying you are guilty, but also not saying you are not guilty. You may plead no contest because you feel you cannot prove your innocence. If you plead no contest, you give up the right to a trial and the judge decides what happens; you put yourself on the mercy of the court.

## COURSE PRE-TEST

The course pre-test is used to assess the current level of knowledge that your client possesses regarding competency to proceed and give you as the educator some insight to barriers that may exist that may not have been readily apparent. Please stress to your client that this is not a graded test, and is only meant to help you as the instructor know to what level you should present the material.

1. What do you believe the most likely outcome of a trial would be?
2. Why do you believe that this outcome is likely?
3. How did you reach this belief?

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*

## helpful tips

Record the answers your client gives at the beginning of the module for comparison at the end. Remember, you are not in the position to give advice as to what a client should do, you are only exploring their decision making process and ability to make a rational decision. Any questions as to what a client should do should immediately redirect to ask their attorney. Additionally, encourage your client to take their final S.O.D.A.S. worksheet with them when they meet with their attorney.

**Objective One Activity:** Review the answers from the pre-test and walk through the decision making process your client used. Apply S.O.D.A.S. to their decision and re-visit their belief about the outcome. Ensure your client considers what immediate consequences may be and what long-term consequences may be.

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**Activity Table of Contents:**  
S.O.D.A.S. Worksheet

## COURSE KNOWLEDGE ASSESSMENT

This post-test is utilized to confirm that all objective areas are covered and that the client has an understanding of the content of the module. This can also be used to review in other sessions to confirm knowledge retention and help instructors identify topics that may need more repetition over a period of time.

1. What do you believe the most likely outcome of a trial would be?
2. Why do you believe that this outcome is likely?
3. How did you reach this belief?

*This module will explore your client's motivation to defend themselves.*

## MODULE SIXTEEN: Motivation for Self-Defense

### Client Check-In

A regular, structured check-in based on your review of your client's case and the barriers that you and your client have identified will play an important role in successful restoration. Your client check-in should be created in a manner that meets their needs. Topics should encompass their physical and emotional well-being; in addition to logistical barriers such as scheduling, time management, and transportation. Please refer to the appendix for examples of check-ins for different settings. A check-in is meant to be brief and performed at the discretion of the competency restoration educator.

This module is appropriate for Individual Only

## OBJECTIVES of Module Sixteen

This module explores the level of motivation an individual may have to defend themselves in court and may determine need for barriers to this to be addressed.

*CULTURE IS... Before beginning any activities, ask yourself what cultural barriers may be present and how can you (the educator) consider these factors?*



This module is conversation-based exploration of the client's motivation to defend themselves. Concerns of depression (hopelessness, helplessness, inability to perceive being capable of self-defense) should be directed to the client's mental health provider.

**Objective One Activity:**

Ask our client the question, “If you had the ability to have your attorney communicate anything to the judge, what would you want your attorney to say?” This will help you determine if your client wants to defend themselves. Some indicators may be answers such as:

“I would want my attorney to tell him what happened”

“I would want my attorney to ask him for a break”

“I would want my attorney to try to explain things”

Negative responses (self-defeating or self-serving) that indicate lack of motivation to defend one’s self may indicate a barrier that should be addressed by your client’s mental health provider.

# RATIONAL UNDERSTANDING AND DECISION MAKING

## Module 1

### Mock Trial #1

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

Objective: The group members will participate in a mock trial, by taking on a role in the courtroom with a sample case.

Lesson:

1. The instructor will read the following situation about Jane (or John for men’s class) to the class.

Jane has been accused of “assault and battery of a police officer”. She was in an argument with her husband, 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, then after feeling frustrated with him, she punched him. The police officer arrested her and took her to the county jail.

2. Set up classroom as a court would be set-up (see court diagram in Lesson 3).

Ask the class for volunteers for the following roles: judge, bailiff, state attorney, defendant, public defender, court reporter, police officer (witness), any other witnesses, and jury members.

3. Read the following narrative, having discussion time for “role playing” where pauses” are indicated.

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 bailiff announces the case “The State of Florida vs. Jane Doe”. The judge calls court into session.

(PAUSE)

The defendant, Jane, sits with her public defender. She will let her attorney speak for her in court today because her public defender has studied law and knows best how to represent her. She will not speak out in court but will talk to her public defender quietly if she needs to say something. The public defender has spent time preparing Jane’s case, or gathering evidence and witnesses that will prove her innocence.

The state attorney is representing “the State”. He/she is trying to convict Jane of the crime of “assault and battery on a police officer”. The state attorney has to give facts (evidence, witnesses) that will prove she is guilty beyond 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 public defender 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 bailiff will swear him/her in. The prosecutor will question the police officer and show any other evidence he/she has.

(PAUSE)

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

(PAUSE)

The prosecutor makes closing statements.

(PAUSE)

The public defender 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 state attorney cross-examines the police officer.

(PAUSE)

The public defender 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 Jane's innocence or guilt. The evidence should prove beyond 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. (Her charges are a 3rd degree felony. If convicted the maximum time she could be given is 5 years in prison.)

(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 Vignettes

#### **Vignette 1: Steve**

Steve has been sending letters to Lori for almost 4 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 Public Defender 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?
- 2) Is there a possibility that he would be convicted of Stalking?
- 3) What evidence might make Steve appear Guilty?

#### **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. That 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 things should Luke tell his Public Defender that is important to his case? What things should he tell about how he was thinking and feeling?
- 2) The Prosecutor offers Luke a deal (Plea Bargain) of 5 years in prison if he pleads Guilty to Aggravated Battery (attacking a person with the intent to do serious harm).
- 3) What if the Prosecutor offers a plea bargain for an NGRI? Should Luke take the deal even if it means he will go to a forensic hospital (like CMHIP)?
- 4) To be found Guilty of Attempted Murder what does the Prosecutor have to prove? To have him found NGRI what does Luke's Public Defender have to prove?

#### **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 2 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 5 years in prison. The State's Attorney (Prosecutor) offers a

deal (plea bargain) where Bob would have to spend 4 months in jail and then be on Probation for one year.

Questions:

- 1) Does the State have a strong case against Bob?
- 2) What evidence can be used to prove Bob guilty?
- 3) Would you accept the plea bargain if you were Bob?
- 4) Would you plead Not Guilty and take the case to trial if you were Bob?
- 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 State (Prosecution) have a strong case against Tom on the Possession of Drug Paraphernalia charge? What about the Cocaine Possession charge?
- 2) How might you plead (i.e., Guilty, Not Guilty, No Contest, Not Guilty by Reason of Insanity) on these charges?
- 3) If Tom was under the influence of drugs/high when he got arrested, could he plead NGI to the charges and win?
- 4) Do you believe the search of Tom's apartment was legal? Why?

#### **Vignette 5: Dave**

Dave is arrested by police on Sunday morning and is charged with Grand Theft Auto. The police say that Dave stole a car from a gas station Saturday night (the previous night) and crashed it into a telephone pole 2 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 and has no bad feelings toward him.

Questions:

- 1) What evidence does the state have against Dave?
- 2) Who would be a more believable witness, Dave or his neighbor (neighbor does not have a criminal record)?
- 3) What if the neighbor had been a 23 year old with a long criminal record who had conflicts with Dave in the past?
- 4) The worst penalty Dave could get is 15 years if he is found Guilty. Should he consider a plea bargain offer of 3 years in prison? Why or why not? What if Dave had 5 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. BALIFF calls the case
3. JUDGE court in session
4. PORSECUTOR OPENING STATEMENT:
5. PUBLIC DEFENDER OPENING STATEMENT:
6. PROSECUTIR CALLS WITNESSES:
  - A. DIRECT EXAMINATION:
  - B. CROSS EXAMINATION:
7. PUBLIC DEFENDER CALLS WITNESS:
  - A. DIRECT EXAMINATION
  - B. CROSS EXAMINATION
8. PROSECUTOR'S CLOSING STATEMENT:
9. PUBLIC DEFENDER'S CLOSING STATEMENT
10. JUDGE/JURY DECIDE ON A VERDICT

## MOCK TRIAL

### STATE VS. HENRY JACKSON

On November 2, 2018 at approximately 2:00 p.m., Mr. Henry Jackson test drove a 2010 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 2010 Ford Pick-up, and the two exchanged words, Mr. Blue states that Mr. Jackson called him a 'rip-off' and told him that he could get the 2010 Ford pick-up if he really wanted it. On November 2, 2018 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 2010 Ford pick-up that Mr. Jackson test 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, 2018, Mr. Henry Jackson did come to Blue's Auto Sales and he did test drive a 2010 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" 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 2010 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 2010 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 defendant 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 defendant has witnesses as to 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.

BAILIFF: Raise your right hand and state your name.

WITNESS: Joseph B. Blue

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

WITNESS: I do.

BAILIFF: 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, 2018?

A. No, I have not.

Q. Could you describe to the court, the incident between you and Mr. Henry Jackson on November 2, 2018?

A. Well, I noticed Mr. Jackson looking at a 2010 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 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 2010 Ford pick-up truck?

PUBLIC DEFENDER: 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



PUBLIC DEFENDER:

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, 2018, 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, 2018. 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.

PUBLIC DEFENDER: Thank you Mr. Blue, I have no further questions.

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

PUBLIC DEFENDER: 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.

BAILIFF: Raise your right hand and state your name.

WITNESS: Mary M. May

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

WITNESS: I do.

BAILIFF: 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 most friendly 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. 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

PUBLIC DEFENDER:

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, 2018?

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.

PUBLIC DEFENDER: Thank you, Mrs. May. I have no further questions.

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

PUBLIC DEFENDER: 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 bailiff.

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

PUBLIC DEFENDER: Thank you. The defense calls Mike Jackson to the stand.

BAILIFF: Please raise you right hand and state your name.

WITNESS: Michael Jackson

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

WITNESS: I do.

BAILIFF: You may be seated.

DIRECT EXAMINATION

PUBLIC DEFENDER:

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, 2018?

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.

PUBLIC DEFENDER: 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 defendant 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, 2018?

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.

BAILIFF: Raise your right hand and state your name.

WITNESS: Henry L. Jackson.

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

WITNESS: I do.

BAILIFF: 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 2010 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 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, 2018, 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 2010 Ford pick-up truck from Blue's Auto Sales?

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

PUBLIC DEFENDER: 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.

PUBLIC DEFENDER: 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 LAWAYER: The defense rests.

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

#### PROSECUTION CLOSING STATEMENT

I have to question the defense testimony, Mr. Henry Jackson, the Defendant, and Mr. Michael Jackson, the defenses' witness were in a drunken state of mind on the night of November 2, 2018. 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 defendant 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 defendant 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 defendant 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.

# APPENDIX

## Worksheets and Activities



## Case Activity Worksheet

Client Name: \_\_\_\_\_

I have been charged with (accused of): \_\_\_\_\_

This means:

Charges were filed in:

- County: \_\_\_\_\_
- Judicial District: \_\_\_\_\_
- Case Number(s): \_\_\_\_\_

I am facing a possible maximum sentence of: \_\_\_\_\_

The judge who sent me here is the Honorable \_\_\_\_\_

The judge ruled I was incompetent on (date): \_\_\_\_\_

My Attorney's Name is: \_\_\_\_\_

My next hearing date is: \_\_\_\_\_

My Competency Educator is: \_\_\_\_\_

My Competency Educator's Phone Number: \_\_\_\_\_

## Video Resources for Educators

The following are resources that may supplement your instruction while working with individuals to restore competency. Please review all material prior to use in order to judge the appropriateness of the video for your client's age, culture, developmental stage and general understanding of the subject.

### ***Your Rights When You Are In Trouble With the Law – Video 1 of Orienting Young People***

<https://www.youtube.com/watch?v=MxKKk-4Uwfo>

### ***The Courtroom and How It Works***

<https://www.youtube.com/watch?v=IZHXQfAfuWs&t=4s>

### ***How to Be Ready for Juvenile Court – Video 3 Orienting Young People***

<https://www.youtube.com/watch?v=TtJVJ9UP7M0&t=14s>

### ***What To Expect When Going To Court***

<https://www.youtube.com/watch?v=wpu-FuaC8pE>

### ***Understanding How the Courts Work***

<https://www.youtube.com/watch?v=6VImEwSWRRg>

### ***How to Act In the Courtroom-Dos and Don'ts***

<https://www.youtube.com/watch?v=on9WGSMA7Q&t=133s>

### ***No Second Chance: The Dos and Don'ts of Court Etiquette***

<https://www.youtube.com/watch?v=NNKjVN0oCNQ>

### ***Courtroom Basics***

<https://www.youtube.com/watch?v=6cqmPLLyzog>

### ***How to Act in Court***

<https://www.youtube.com/watch?v=xe8hJ3c2v7Q>

### ***Courtroom Etiquette***

<https://www.youtube.com/watch?v=6cqmPLLyzog&list=PLZtNXXs0hdaLBYbDvE-toRNfkiaMUWbNu>

### ***Roles of Judge and Jury***

<https://www.youtube.com/watch?v=TUvG2CzXfc0>

### ***What To Wear To Court***

<https://www.youtube.com/watch?v=jP4Jb2b2Sdw>

### ***The 5<sup>th</sup> Amendment***

[http://content.time.com/time/video/player/0,32068,1027130599001\\_2080298,00.html](http://content.time.com/time/video/player/0,32068,1027130599001_2080298,00.html)

### ***The 6<sup>th</sup> Amendment***

<https://www.youtube.com/watch?v=G2Lf3Ur--lY>

### ***Evidence What Is It? Video 1 – What evidence is and how the court accepts it***

<https://www.youtube.com/watch?v=ckXSClh3tQc&feature=youtu.be>

### ***Evidence What Is It? Video 3 – Other types of evidence***

<https://www.youtube.com/watch?v=rWwRF5seuAQ&feature=youtu.be>

### ***Confidentiality***

[https://www.youtube.com/watch?v=RdU\\_IsGhaF8](https://www.youtube.com/watch?v=RdU_IsGhaF8)

### ***What is a Plea Agreement?***

[https://www.youtube.com/watch?annotation\\_id=annotation\\_277288605&feature=iv&src\\_vid=SqHEYI58JdY&v=GtHYjKEJ5cU](https://www.youtube.com/watch?annotation_id=annotation_277288605&feature=iv&src_vid=SqHEYI58JdY&v=GtHYjKEJ5cU)

### ***The types of pleas in criminal cases***

<https://www.youtube.com/watch?v=OM8wSGKG4aM>

## Websites with Helpful Tools and Games

*This list is to support learning efforts with supplemental information, games, and or other materials*

### **Courtroom Procedures**

1. <https://quizlet.com/51615661/12-steps-of-a-trial-flash-cards/>
2. <https://www.icivics.org/games/we-the-jury>

### **Knowing your Rights (Constitution)**

1. <https://www.icivics.org/games/do-i-have-right>

# The Matching Game: What is a Defense Attorney?

Draw a line from the picture of your attorney to the things that he/she does for you:



- Takes you shopping
- Gives you his/her contact information (phone, etc.)
- Defends you against the charges
- Evaluates the charges
- Gives you a birthday gift
- Plays sports with you
- Prepares a defense
- Listens to what you have to say
- Advises you what to say
- Advocate who speaks for you
- Stays involved
- Investigates and assesses
- Explains to you about court. Is educated and informed
- Reviews the evidence with you
- Appears in court for all hearings
- Assists you in getting housing

## COMPONENTS OF A STORY

In this exercise, your client will identify the components of a story about something that has recently happened to them (not the crime they were accused of). The objective is to help your client understand how to tell the **WHOLE** story of an incident using many details.

How does the story begin? (What circumstance brought you to where the story began)

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What day and time did this happen? (Try to be as specific as possible)

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Where did this happen? (Identify where and any details about the place)

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Who was there and saw what happened? (Name(s) of who was there. If you don't know their name, describe them)

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What events took place during the event?

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How did the story end? (What was the resolution?)

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## SENTENCING GUIDELINES

Misdemeanor Sentencing			
Misdemeanor	Possible Jail Time		Fine
M1 (Special Circumstances)	2 Years and 1 Day - 3 Years and 364 Days		\$500-\$5,000
M1 (Extraordinary Risk)	6 Months - 2 Years		\$500-\$5,000
M1	6 Months - 18 Months		\$500-\$5,000
M2	3 Months - 18 Months		\$250-\$1,000
M3	0 Months - 6 Months		\$50-\$750
* Special Circumstances includes 3rd degree assault against a peace officer, firefighter, MH worker from DHS, etc.			
* Extraordinary Risk includes 3rd degree assault, sexual assault, unlawful sexual contact, child abuse, VPO-2nd offenses, FTR, invasion of privacy, etc.			
<b>***The sentencing laws have more specific provisions, this is just a snapshot***</b>			
Traffic Sentencing			
M1 Traffic	10 Days - 1 Year		\$300-\$1,000
M2 Traffic	10 Days - 90 Days		\$150-\$300
DUI/DWAI 1st Offense	5/2 Days (10 Days-1 Year if >BAC.20) - 1 Year/180 Days		\$600/\$200-\$1,000/\$500
DUI/DWAI 2nd Offense	10 Days - 1 Year + 2-4 Years Probation/1 Year Jail Suspended		\$500-\$1,500
DUI/DWAI 3rd Offense	60 Days - 1 Year + 2-4 Years Probation w/1 Year Jail Suspended		
DUR - Non Alc	0 Months - 6 Months		\$500
DUR ALC	30 Days - 1 Year		\$500-\$1,000
DUR - ALC 2nd Offense	90 Days - 2 Years		\$1,000 - \$3,000
DARP HTO (M1)	30 Days - 18 Months		\$3,000-\$5,500
<b>***The sentencing laws have more specific provisions, this is just a snapshot***</b>			

## Felony Sentencing

Felony Class	Possible Jail Time	Parole	Fine
F1	Life - Death		---
F2	Presumptive: 8-24 Years Exceptional Circumstances: 16-48 Years	5 Years	\$5,000- \$1,000,000
F3	Presumptive: 4-12 Years Exceptional Circumstances: 2-32 Years	5 Years	\$3,000- \$750,000
F4	Presumptive: 2-4 Years Exceptional Circumstances: 1-2 Years Extraordinary Risk: 2-8 Years	3 Years	\$2,000- \$500,000
F5	Presumptive: 1-3 Years Exceptional Circumstances: 6 Months-6 Years Extraordinary Risk: 1-4 Years	2 Years	\$1,000- \$100,000
F6	Presumptive: 1 Year-18 Months Exceptional Circumstances: 6 Months-3 Years Extraordinary Risk: 1-4 Years		
Extraordinary Risk Crimes:	Aggravated Robbery		
	Child Abuse		
	Unlawful distribution, manufacturing, dispensing, sale or possession of a controlled substance with the intent to sell, distribute, manufacture or dispense.		
	Sale or distribution of materials to manufacture controlled substances		
	Crimes of Violence		
	Stalking		
	Unlawful sexual contact		
	SAOC and SAOC/position of trust		
	Aggravated incest		
Crimes of Violence	Crime vs At Risk or Juvenile		
	Murder		
	1st or 2nd Degree Assault		
	Kidnapping		
	Sexual Assault		
	Aggravated Robbery		
	1st Degree Burglary		
	Escape		
	Extortion		
	1st Degree Arson		
	Any attempt, Conspiracy, Etc. of above		
<b>***The sentencing laws have more specific provisions, this is just a snapshot***</b>			

## S.O.D.A.S. Decision Making Model

**SITUATION:** Describe the situation using only facts. What is the problem? Who did what? Who said what?

**OPTIONS:** What different ways can you identify to solve the problem?

**DISADVANTAGES:** Look at each option you have identified. What could go wrong if you use this option?

**ADVANTAGES:** Look at each option you have identified. What could go well if you use this option?

**SOLUTION:** Which option is best based on the number of advantages and disadvantages?

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**S:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**O:** \_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

**D:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**A:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**S:** \_\_\_\_\_

# APPROPRIATE COURTROOM ATTIRE WORKSHEET

Circle any picture that you believe shows clothing that is appropriate to wear to court.





## Pre-Hearing Hygiene/Appearance Checklist

**This is a joint exercise for the educator and the client.**

**Instructions:** Review the following checklist with the client, as often as needed to help them gain an understanding of these issues. Adapt the checklist to the needs of the client. If good hygiene is not an issue for the client, you can go over once and move on to the other exercises.

**Hygiene Checklist:** Put a check mark in the white boxes only

	Showered	Deodorant applied	Combed	Washed	Pulled Back (if long)	Clipped	Clean	Brushed	Sleep/Eat
Body									
Hair									
Fingernails									
Teeth brushed									
Enough sleep									
Eat before court									

Appearance Checklist: Put a check mark in the white boxes only

Appearance	Neat	Clean	Appropriate	Removed	Conservative	Other
Clothes						
Piercings, one or two pairs is okay						
Make-up						
Other, unique to each client						

# OUTCOMES MATCH GAME

Draw a line to match the words with their definitions.

PLEA BARGAIN

The Judge decides that there is not enough evidence or other problem with the prosecution's case and drops the charges that have been made. You are finished with the criminal process and are free to go.

DISMISSED

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

SUSPENDED SENTENCE

This would mean you go to a mental health treatment, probably in a hospital until you are well and safe.

ACQUITTAL

Payment for damage or loss of property, or the return of items stolen or lost

Instead of going to jail or prison, the Judge orders that you do some things and that you don't do other things.

DEFERRED SENTENCE

You have a trial and are found NOT GUILTY. You are finished with the criminal process and are free to go.

FINE

An amount of money that you have to pay to the court as part of a punishment.

PROBATION

If you plead guilty to a charge (often a lesser charge), the prosecutor agrees to let you have an easier penalty and may drop other charges.

RESTITUTION

The Judge has found you guilty and has imposed a sentence, but based on his/her belief that you can do well, gives you the opportunity to not serve your sentence.

SENTENCE

The Judge decides to give you a length of time to show that you can do well and not get into trouble instead of having to go to jail. If you do well during this length of time, you will not be prosecuted.

HOSPITAL COMMITMENT