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FACT SHEET

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Incompetent to Stand Trial Project

The Judicial Council has been working with support from the California Department of State Hospitals to enhance the quality of forensic evaluator reports and to increase the pool of qualified evaluators used by courts to make determinations about a defendant's competency to stand trial in adult criminal proceedings. As part of this Incompetent to Stand Trial (IST) project, the Judicial Council is launching a SharePoint webpage for court staff, forensic evaluators, and Judicial Council Staff.

Overview

When a defendant's mental competency is in doubt, criminal proceedings are paused for a court-appointed evaluation. The forensic evaluator assesses the defendant's mental condition, understanding of the legal process, and ability to assist in their defense. The court then decides if the defendant is competent to proceed. If found competent, proceedings resume; if found IST, proceedings remain suspended, and the court may order restoration, diversion, conservatorship, or dismissal. (Penal § 1367, et seq.)

California is experiencing a dramatic increase in declaration of doubt about defendants' mental competencies to stand trial. The number of court filings declaring doubt has increased nearly 200 percent over the last 10 years, and the waitlist for admission to the Department of State Hospitals (DSH) for competency restoration in felony cases more than doubled between 2018 and 2021.

In the 2022-23 Budget Act, the state allocated funding to DSH to move forward strategies to reduce the IST waitlist, including pass-through funding to the Judicial Council to improve the quality of Penal Code section 1369 forensic evaluator reports through evaluator training. Due to the budget shortfall, in the 2025-26 Budget Act, there was a reversion of a portion of the funding for the IST evaluations received from DSH. Additionally, there was a reappropriation of reimbursement authorities from prior fiscal years to continue spending funding received from DSH.

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IST Project

The Judicial Council launched its IST Project in 2022 to strengthen the quality of forensic evaluator reports and broaden the pool of qualified evaluators who assist courts in determining a defendant's competency to stand trial in adult criminal proceedings. For this work, to date, the Judicial Council has hosted three evaluator training courses and two judicial officer training courses. These courses provided detailed guidance on a range of topics, to enhance understanding and improve decision-making within the competency to stand trial evaluations and judicial processes. Additionally, the Judicial Council surveyed the courts and evaluators to inform resource development, created video trainings, and developed a new webspace for courts and forensic evaluators regarding IST evaluations.

Competency to Stand Trial Corner SharePoint Site

The Judicial Council has created a SharePoint website titled Competency to Stand Trial Corner, located at <https://calcourts02.sharepoint.com/sites/jcc-ist>. The purpose of this website is to provide court staff and forensic evaluators with information and learning materials regarding adult defendants' mental competency to stand trial under Penal Code section 1368 et seq. Judicial officers, trial court staff, and court-appointed forensic evaluators will be eligible to access the site. A page dedicated to court-specific resources will be accessible only by the courts. Court resources include a directory of forensic evaluators who have attended training hosted by the council and who are open to court-appointment. A separate page accessible by forensic evaluators will provide training videos and educational materials. The Competency to Stand Trial corner webpage provides an evaluator directory, payrate information for each county, court resources, and training videos for evaluators.

The evaluator directory is available for both court staff and forensic evaluators to access. In this directory, forensic evaluators may self-identify their availability for appointment by trial courts in adult competency to stand trial cases under Penal Code section 1369. Courts may use this directory to identify potential forensic evaluators and outreach directly to the evaluators for the appointment process.

Court resources include judicial officer training resources, evaluator payrates, and information on procedures and court programs. The training resources include informational videos on topics such as competence reports and myths about restoration. Courts may report and access statewide IST evaluator pay rates. These are reported by individual counties, and courts are encouraged to update their

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payrates. Additionally, four counties are highlighted for their programs or clinics to create pipelines for prospective evaluators to gain knowledge and experience.

The evaluator training materials include a variety of videos designed to support the development of key knowledge and skills necessary for conducting competence to stand trial evaluations. These materials feature lecture videos that cover a range of topics, including evaluating a defendant's factual understanding and rationality, report writing, and conducting remote evaluations. In addition, didactic videos explain foundational concepts and essential skills, while skill demonstration videos illustrate practical application in mock interviews with expert commentary.

Contact:

ISTSupport@jud.ca.gov

Additional resources:

Penal Code 1967 et seq.

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=10.&part=2.&chapter=6.&article=