

NeuroDiagnostic Institute

Competency Restoration Workbook

March 2021- Revision



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Module 1: Why Am I Here?



To be admitted to an Indiana psychiatric hospital you have to be on a commitment. All adults in NeuroDiagnostic Institute (NDI) have been issued a commitment by the court. For the court to issue a commitment the judge must believe one of the following:

- A danger to yourself
 - Due to a mental illness, a substantial risk is present that the individual will self-harm
- A danger to others
 - Due to a mental illness, a substantial risk is present that the individual will harm others
- Gravely disabled
 - Due to a mental illness, a person may not be able to provide food, clothing or shelter and/or a person cannot function independently

When presented with information regarding why a commitment is needed, the judge must decide what type of commitment to issue. These types include:

- Temporary Commitment
 - The civil court judge orders the person into treatment with the doctor presenting a report of progress in 90 days to see if the person can be released.

- The court requires you to take your medication, attend groups/appointments, and to not use any illegal drugs and/or alcohol
- Regular Commitment
 - The civil court judge orders the person into treatment with the doctor presenting a report of progress in 365 days to see if the person can be released.
 - The court requires you to take your medication, attend groups/appointments, and to not use any illegal drugs and/or alcohol
- ICST (Incompetent to Stand Trial)
 - The criminal court judge orders the person into treatment with the doctor presenting a report of progress at 90 days, 180 days, and then yearly.
 - The person has open criminal charges but could not understand the charges against them or assist in their defense. This commitment type requires you to understand the charges against you and be able to work with an attorney to help assist in your defense.

Do you remember going to court prior to being admitted to NeuroDiagnostic Institute?

YES

NO

Do you know what kind of commitment the judge thought you needed?

Do you agree with the judge's decision?

YES

NO

Why or why not?

If at any time before trial, the court has reasonable ground to believe that the defendant lacks the ability to understand the proceedings and assist in the preparation of his defense the court can appoint experts to examine the defendant and give their opinion of competency.

Why could a court find a person to be incompetent to stand trial?

It would be unfair to prosecute someone who does not understand the proceedings, and who cannot assist in his own defense. It is also unfair to accept a guilty plea and enter a sentence upon an individual who does not understand the consequences of entering a formal plea.

Module 2: What Now?



NeuroDiagnostic Institute (NDI) is a psychiatric hospital that inspires hope, promotes safety, and supports recovery for all. While you are at NDI, you will participate in treatment that may include: attending legal education, participating in groups, and/or engaging in individual therapy. All of these pieces of treatment are ways to help you get out of the hospital and back to court as quickly as possible.

The goal for each of our clients is to help them move out of the hospital and return to life in the community. Some clients will return to their home. Some clients will go to a group home. Some clients will return to court to face charges filed against them.

Do you know what your discharge goal is?

Do you know where your discharge placement will be?

Participating in treatment is often hard work. What are some ways that you can stay motivated to participate in treatment?

Some people here are diagnosed with a mental illness. Have you been diagnosed with a mental illness?

YES

NO

If you have been, do you know what your diagnosis is?

Most psychiatric hospitals rely on both medication and psychological treatment to improve symptoms of mental illness. You will be expected to participate in:

- Education about court procedure
- Social skills training
- Activity therapy
- Individual/Group therapy

It should be noted there are no rules about how long it can take to gain competency. No one can predict how long the process will take for you.



Module 3: Your MDT

There are many people at NeuroDiagnostic Institute that are willing to help you, if you are willing to accept the help. Your Multidisciplinary Treatment team (MDT) is here to help guide you through treatment, and to help you gain, regain or maintain the ability to return to court. You are a very important part of the process. You have the ability to shape your treatment and help the team identify goals for you to work on while you are at NDI.

There are several members of your team who all can help you with different issues or needs you may have.

Psychiatrist – Prescribes medication that can help you cope with your mental illness, makes a mental illness diagnosis, and recommends treatment.

Social Worker – Assists with contacting family members and attorneys, and coordinates information between the hospital and your county.

Psychologist – Provides individual therapy, psychological testing, legal education, and assists with Behavioral Support Plans.

Unit Director – Carries out the doctor's orders, handles patient care on the units, charge nurse, and administers medications.

BHRA – Helps you with day-to-day issues. This is the **first** person you should make requests to.



Getting to know the members of your treatment team is a great first step to success.

What is the name of your psychiatrist? _____

What is the name of your social worker? _____

What is the name of your psychologist? _____

What is the name of your unit director? _____

All of the above people can help make your stay at NeuroDiagnostic Institute as short as possible. Remember, the best kind of work is teamwork. **All you have to do is ask!**

Module 3 Self- Test

Without looking back at your material, match the person with the correct job by drawing a line from the person to the job.

- | | |
|------------------|--|
| 1. Psychiatrist | A. Provides individual therapy, psychological testing, legal education, and assists with Behavioral Support Plans. |
| 2. Social worker | B. Helps you with day-to-day issues. This is the first person you should make requests to. |
| 3. Psychologist | C. Assists with contacting family members and attorneys, and coordinates information between the hospital and your county. |
| 4. Unit Director | D. Carries out the doctor's orders, handles patient care on the units, charge nurse, and administers medications. |
| 5. BHRA | E. Prescribes medication that can help you cope with your mental illness, makes a mental illness diagnosis, recommends treatment |

Module 4: Your Legal Case



The police brought evidence of what they believed to be a crime to the attention of the prosecutor after conducting their investigation. The prosecutor controls the case. The prosecutor may file charges even if the victim doesn't approve or the prosecutor may refuse to file charges despite the victim's request. The prosecutor determined there was enough evidence to win if your case were sent to trial and determined what charges to file against you. The Judge or attorneys involved may have suspected that you may be incompetent to stand trial and referred you to mental health professionals for an evaluation.

Following the recommendation of mental health professionals, the Judge wrote an order that sent you to NeuroDiagnostic Institute for treatment because he or she believed you were unable to cooperate with your attorney, understand what happens in court, and/or participate in your defense. Before you can return to court you must be found able to aid and assist an attorney and understand the courtroom procedures (including the charges against you).

The circumstances for each patient are unique, and depending on the situation, the time needed to stabilize a person's mental illness may vary. Within your first 90 days at NDI, a psychiatrist will submit a report to the court with an opinion regarding your capacity to stand trial for the judge to consider. If you are not found ready to proceed with court, a second report will be due to the court in another 90 days and yearly thereafter.

You cannot return to court until you are found able to aid and assist. Until then, your court case is suspended, which means that it is on hold until you are found able to fully participate. You can return to court with mental illness symptoms, as long as they do not interfere with your participation and understanding of what is happening in court.

For the evaluation, you will need to know your charges. During the arraignment, you were appointed an attorney and given your formal charges. These are the names of the crimes you have been accused of committing. You will also need to know the maximum amount of time you could face if convicted.

There are two classifications of crimes:

- **Felonies** are the more serious classification of crimes. They carry a much higher penalty. They often include:
 - Crimes involving physical harm
 - Large scale theft
 - Fraud
 - Murder
 - Manslaughter
 - Aggravated assault
 - Kidnapping
 - Arson
 - Animal cruelty
- **Misdemeanors** are the less serious type of crime. They often include:
 - Petty theft
 - Trespass
 - Disorderly conduct
 - Vandalism
 - Public intoxication

Crimes on or after July 1, 2014			
Level	Penalty Range	Presumptive Sentence	Fine Range
Murder	45 – death	55 years	Up to \$10,000
Level 1 Felony	20 – 40 years	30 years	Up to \$10,000
Level 2 Felony	10 – 30 years	17.5 years	Up to \$10,000
Level 3 Felony	3 – 16 years	9 years	Up to \$10,000
Level 4 Felony	2 – 12 years	6 years	Up to \$10,000
Level 5 Felony	1 – 6 years	3 years	Up to \$10,000
Level 6 Felony	.5 – 2.5 years	1 year	Up to \$10,000
Class A Misdemeanor	Up to 1 year	n/a	Up to \$5,000
Class B Misdemeanor	Up to 180 days	n/a	Up to \$1,000
Class C Misdemeanor	Up to 60 days	n/a	Up to \$500
Crimes on or before June 30, 2014			
Level	Penalty Range	Presumptive Sentence	Fine Range
Murder	45 – death	55 years	Up to \$10,000
Class A Felony	20 – 50 years	30 years	Up to \$10,000
Class B Felony	6 – 20 years	10 years	Up to \$10,000
Class C Felony	2 – 8 years	4 years	Up to \$10,000
Class D Felony	.5 – 3 years	1.5 years	Up to \$10,000
Class A Misdemeanor	Up to 1 year	n/a	Up to \$5,000
Class B Misdemeanor	Up to 180 days	n/a	Up to \$1,000
Class C Misdemeanor	Up to 60 days	n/a	Up to \$500

1. What are the names of the crimes you have been accused of committing?

2. What category level is your crime evaluated?

3. What is the maximum sentence you could receive for this crime?

Module 4 Self-Test

1. Who wrote the order that sent you to NeuroDiagnostic Institute?

2. Can you return to court with symptoms of mental illness?

3. Can you return to court without being found able to aid and assist?

4. What is the more serious classification of crime?

5. What is the less serious classification of crime?

Module 5: Courtroom Participants



It is important to know who the people in the court are, and what they do. It will make it easier to understand what your job is in the courtroom.

The Defendant – You, the person charged with a crime. Sometimes called “The Accused” or alleged perpetrator.

The Defense Attorney – Protects your legal rights. Works for you to get the best possible outcome for you and your unique set of circumstances.

The Judge – Referred to as “Your Honor” or “The Honorable [Judge’s last name].” This is the Chief Judicial Officer of the courtroom. He or she is a neutral party, meaning they are not for or against you. The judge makes sure that everyone is following the rules of the courtroom. He or she will also decide the sentence if you are convicted.

The Prosecutor – Chief Law Enforcement officer of the county. Decides what charge to file against a person based on the arrest report. Presents their version of the alleged crime in court based on the evidence the police provided. Arrest reports are almost always one sided. They recite only what the police claim took place.

The Jury – 6 or 12 of your peers, randomly selected from your geographical area. They listen to testimony, look at evidence, and will

decide whether you are guilty or not guilty (the verdict) in a jury trial. Their verdict must be unanimous. The jury is not for or against you. There are 12 jurors in a felony trial and 6 jurors in a misdemeanor trial.

The Lay Witness – A regular person who knows something about the case and will answer questions during a trial. They swear to tell the truth, the whole truth and nothing but the truth. There can be witnesses for the prosecution and witnesses for the defense.

Expert Witness – Someone who is considered an expert in his or her field or work. For example, a psychologist or psychiatrist could be considered an expert witness. An expert witness will give his or her professional opinion about topics they are experts in.

The Bailiff – A uniformed, armed peace officer who keeps order and decorum in the courtroom. Can administer oaths.

The Court Clerk – An assistant to the judge who brings files, administers oaths, prepares forms, and takes attendance in the courtroom.

The Court Reporter – Records and writes every word that is said in court, word for word. Prepares a typewritten transcript as a permanent record.

You may or may not meet all of the people in the courtroom. Some of these people will only appear in court when there is a trial. Some of these people, such as the judge and your attorney, you have already met.

Module 5 Self-Test

Match the person with their job in the court by drawing a line from the person to their job.

- | | |
|---------------------|---|
| 1. Judge | A. You, the person charged with a crime. Sometimes called “The Accused” |
| 2. Bailiff | B. A person who knows something about the case and will answer questions in court |
| 3. Court Clerk | C. Keeps order in the courtroom |
| 4. Court Reporter | D. His or her job is to help get you the best outcome possible |
| 5. The Prosecutor | E. Also referred to as “Your Honor” or “The Honorable” |
| 6. Defense Attorney | F. 6 or 12 of your peers who will decide the verdict in a trial |
| 7. Defendant | G. An assistant to the judge |
| 8. Jury | H. Attorney who is against you. Files the charges |
| 9. Witness | I. Records every word that is said in court |
| 10. Expert Witness | J. Someone who can state their professional opinion |

Decide whether the following people are expert or lay witnesses.

1. Michael the firefighter was called to the scene of a burning building. On the witness stand he is questioned about his experience with fires and whether or not he believes the building was accidentally or purposefully set on fire.
What type of witness is Michael? _____
2. Judy is a doctor who was in a bank when a thief entered and demanded money from the bank cashier. One customer was injured in the robbery and Judy administered first aid. On the witness stand she was questioned about what the thief looked like.
What type of witness is Judy? _____
3. John is a police officer who has served on the force for twenty years. During his son's birthday party at the park two men walked over to the celebration, grabbed several of the birthday presents, and ran away. On the witness stand, John was asked to describe exactly what he witnessed on the day of the birthday party.
What type of witness is John? _____
4. A group of parents were asked to testify about the quality and nutritional value of their kids' school lunches. On the witness stand, Andrew's mother, Helaine, who is also a nutritionist, was questioned about the calorie count of each lunch.
What type of witness is Helaine? _____

Module 6: Working with Your Attorney



What you are learning in Legal Education is not legal advice. Your attorney may give you information and/or instructions that is different from what we learn here in the hospital. You should follow your attorney's advice and recommendations unless you seek advice and recommendations from another attorney.

Your right to an attorney is found in the Sixth Amendment to the U.S. Constitution. This means that you have a constitutional right to be represented by an attorney during trial. If you cannot afford an attorney one will be appointed to you and paid for by the government. Your attorney was appointed to represent you in a court of law, answer any questions you may have, help you decide how to plea, and work to get you the best outcome possible.

Although your charges are public information, what you believe happened on the day of the crime is confidential information between you and your attorney. The attorney/client privilege is a law that protects communication between attorneys and their clients and keeps them confidential. This privilege encourages openness and honesty between attorneys and their clients because attorneys cannot reveal communications.

Remember, part of the evaluation is to see if you are able to work with your attorney. Although it may be difficult at the time, or you may be working on getting another attorney, it is still important to show you can cooperate. Your attorney has already done his own evaluation of the evidence against you. Your attorney cannot make an appropriate game

plan without knowing the truth from you. Your attorney wants to get the best outcome for you or “win” as much as you do. Your cooperation is needed to prepare for the examination and cross examination of evidence.

Before making any decision, you should insist on meeting with your attorney to review their options and the likely consequences of each.

Here are some useful reminders to help you work with your attorney to get the best outcome possible.

- Be honest with your attorney. Your attorney can help you best if he or she knows as much information as possible.
- Be prepared to tell your attorney what you know about the events related to your case. This helps your attorney to be able to gather information to help you in your case.
- Ask your attorney what evidence the Prosecutor has against you.
- Tell your attorney what evidence you have to support your case.
- Evaluate the pros and cons of each of the four plea options with your attorney. They can offer legal advice that you may not know about.

Module 6 Self-Test

1. What is your attorney's job?

2. What are some ways you can work with your attorney?

3. Why do you have a defense attorney?

4. Is it important that you show that you can work with your attorney? Why or why not?

Module 7: Plea Options



In legal terminology, a plea is an answer to a claim made by someone in a civil or criminal case.

In common terms, a plea is a response to a criminal charge, whether the person is guilty or not guilty.

When you return to court you will have to enter your plea. Your defense attorney can help you decide which plea option is the best for your specific situation.

In most criminal cases, the prosecutor assigned to the case will make a plea offer to the defendant through his attorney. The attorney will then discuss the offer with the client and advise the client. The ultimate decision whether or not to accept a plea bargain remains with the client.

Plea Options:

- **Not Guilty** – I did not do this crime.
- **Guilty** – I did this crime.
- **Guilty but Mentally Ill** – Given the same criminal sentence as a standard conviction of guilty. Also requiring an evaluation and treatment of mental illness during period of incarceration.
- **Not Guilty by Reason of Insanity** – Means that you are asking the court to hold you not responsible for your crime because you were mentally ill at the time. If you make this plea, you will have mental

health evaluations and the doctors will testify in court about your mental condition. You will admit to suffering from a mental illness. If the court finds you NGRI, it *may* result in you being ordered to a period of civil commitment if the trial judge finds, by clear and convincing evidence, that the person is mentally ill and either dangerous or gravely disabled. You would have to participate in treatment and cooperate fully before the judge would authorize your release to the community.

Not Guilty Plea

You are saying you did not do the crime you are accused of doing

If you enter in a plea of **not guilty**, you do not accept any responsibility for the crime you are accused of committing. You also keep your right to a trial.

In a jury trial, there are six or more people (called jurors) who will decide whether or not you are guilty or not guilty (the verdict). Jurors are a group of your peers. They only listen. They never speak out loud in court. They will view the evidence and unanimously (all jurors are in full agreement) decide if you are found guilty or not guilty.

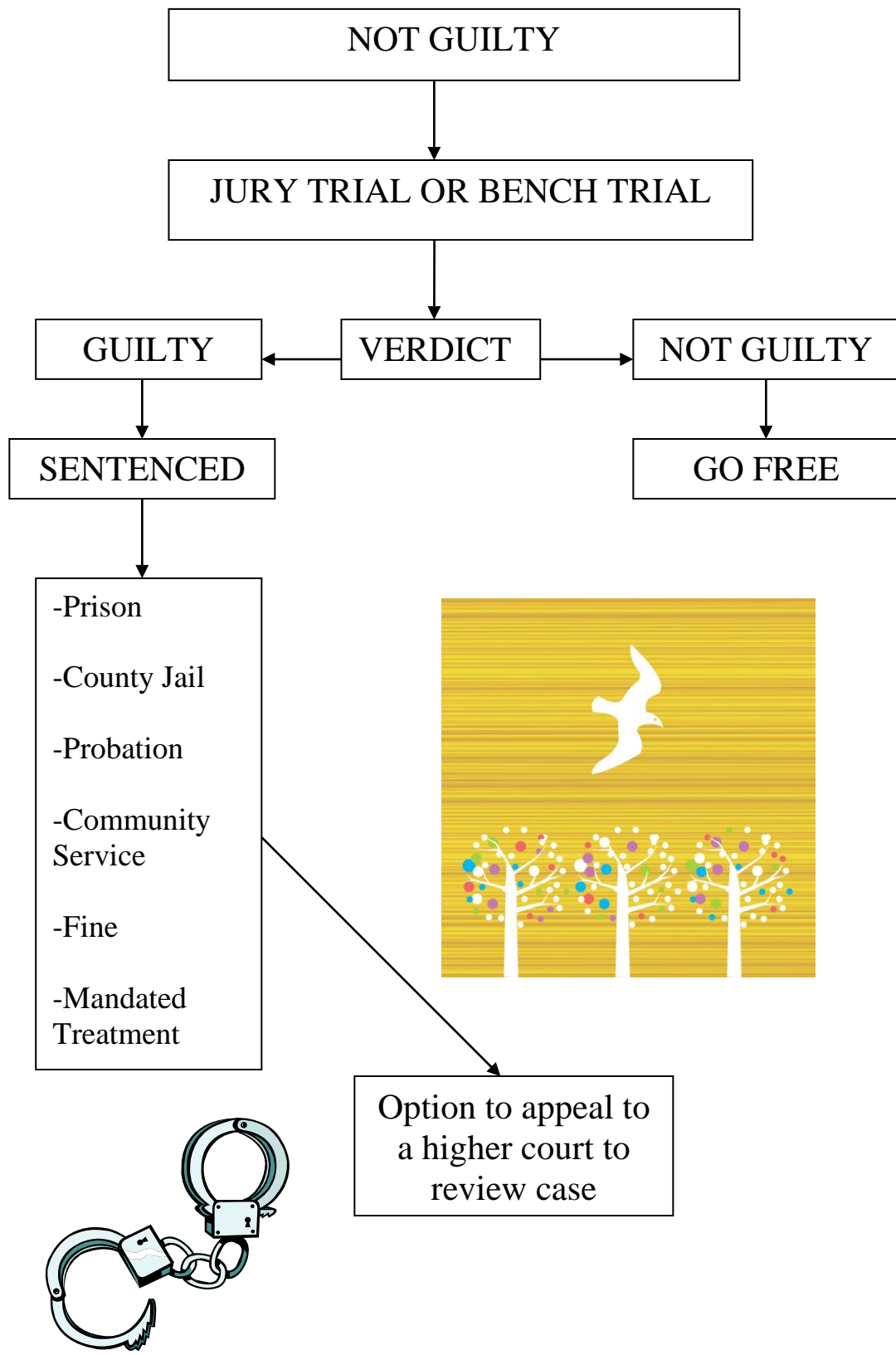
In a bench trial, the judge listens to testimony given by witnesses, views evidence, and decides whether you are guilty or not guilty.

If you are found not guilty (acquitted), you are set free.

If you are found guilty (convicted), the judge will order one or more of the following sentences:

- Prison and Parole
- County Jail
- Probation
- Fines
- Community Service





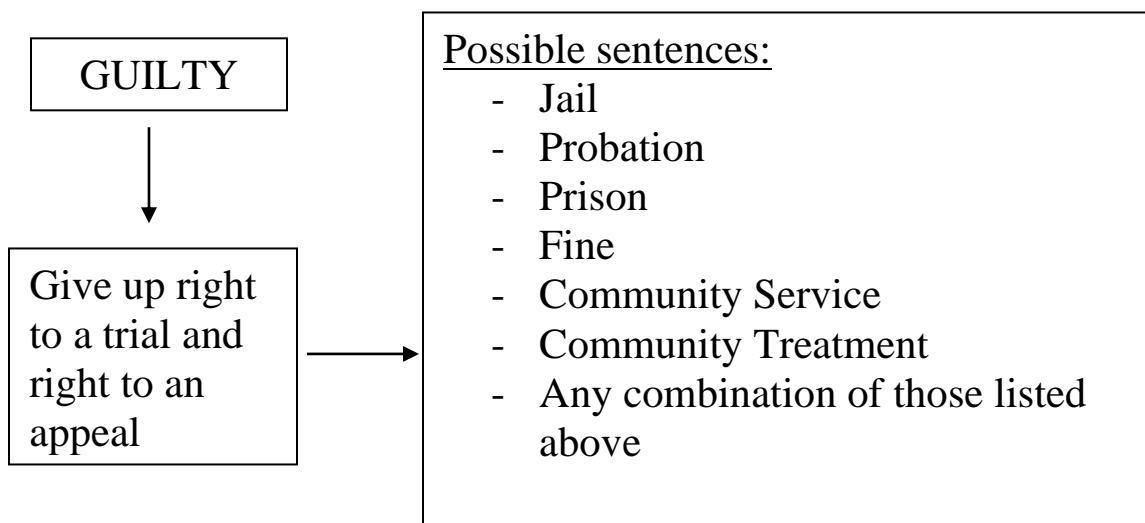


Guilty Plea

You are saying you did the crime you are accused of doing

If you choose to enter a plea of **guilty**, you are telling everyone involved that you did the crime you are accused of doing. You give up your right to a trial and an appeal.

The judge will listen to your plea, and listen to the facts in the case. The prosecutor will read the facts of the case. The judge will find the accused guilty and decide what the punishment will be. This is called the sentence.



What would be the pros (benefits) to entering a plea of guilty?

What would be the cons (costs) to entering in a plea of guilty?

Why might someone decide to enter a plea of guilty?

What questions should you ask your lawyer before entering a plea of guilty?

Module 7 Self-Test

1. Name the four plea options:

2. What does not guilty mean?

3. Which right(s) do you keep if you enter a plea of not guilty?

4. What are the two types of trials?

5. What does guilty but mentally ill mean?

6. What does not guilty by reason of insanity mean?

7. What happens if you are convicted?

8. Who determines the sentence?

9. What are some possible sentences?

10. What happens if you are acquitted?

11. What is a bench trial?

12. What is a jury trial?

Module 8: Plea Bargaining



Most prosecutors will not file charges against anyone unless they think they have enough evidence to win if the case goes to trial. After seeing the prosecutor's evidence the defense attorney may also come to the conclusion that the defendant WILL probably be found guilty if the case goes to a trial. If this happens, the defense attorney will usually advise the defendant to agree to a plea bargain. About 85% of all cases are settled by plea bargains.

A plea bargain is a deal between the prosecutor and you, with assistance and advice from your attorney. The prosecutor and your attorney may negotiate what is called a plea bargain. This is a deal that saves the court time, effort, and money by negotiating out of the court room.

The deal says if you plead guilty, you will be offered lowered charges, reduced number of charges and/or recommended lesser sentence to the judge. A number of factors may influence plea bargains: the county, the court and its calendar, what prosecutor is assigned, and which judge presides.

When you leave NeuroDiagnostic Institute, you may begin plea negotiations with your attorney and the Prosecutor. Plea negotiations means you and your lawyer review your case and decide how you can

get the best outcome for yourself. It is also a time to look at the plea bargains being offered to you.

The judge cannot participate in the plea discussions, but after an agreement has been reached, the judge may discuss it with the attorneys.

After negotiations, if successful, your lawyer and the Prosecutor will inform the judge of any plea bargains that have been agreed upon, and you will tell the judge how you would like to plead.

The judge can accept the plea agreement or reject the plea agreement. If the agreement is accepted, you move on to the agreed upon sentence. If the agreement is denied. You can withdraw your plea and go to trial.

In your own words, what is a plea bargain?

What would be the pros (benefits) to agreeing to a plea bargain?

What would be the cons (costs) to agreeing to a plea bargain?

Why might someone agree to a plea bargain?

Read through the list below of advantages and disadvantages of each plea. Write an **A** in the blank if it is an **advantage**. Write a **D** in the blank if it is a **disadvantage**.

Admitting to Charges:

- _____ If you admit to the charges you might get a lesser sentence
- _____ You are admitting you committed a crime
- _____ You cannot explain any of the circumstances

Denying the Charges:

- _____ You say you didn't do anything wrong
- _____ If charges are proven you could get a longer sentence
- _____ The prosecutor has to prove the charges against you

Accepting a Plea Bargain:

- _____ You will not have a chance to tell your side of the story
- _____ Will avoid the delay in waiting for a trial
- _____ Might result in a lesser sentence

Module 8 Self-Test

1. What is a plea bargain?

2. What does the word “BARGAIN” mean for a plea bargain?

3. Who is involved in a plea bargain?

4. Why would a prosecutor agree to a plea bargain?

5. Why would a defense attorney agree to a plea bargain?

6. Which pleas can you plea bargain with?

7. What do you give up in a plea bargain?

Module 9: The Courtroom and Court Proceedings



Once you have passed your evaluation, you will be able to return to court, where you will continue with your case.

Here are some common words you might hear in a courtroom and what they mean:

Acquittal – A judgment that a person is not guilty of the crime.

Aid and Assist – The ability to understand and assist your attorney at a hearing or a trial

Appeal – If you have been found guilty in trial, you can request to have a higher court review your case if you feel that the law was not followed correctly.

Arraignment – The Judge tells the defendant what he or she is charged with and asks the defendant to enter a plea

Burden of Proof – The prosecution has to prove beyond a reasonable doubt that you are guilty for you to be convicted of a crime

Charge – The formal names of the crimes you have been accused of

Competency – A judgment that a person is able to aid and assist in their defense

Concurrent sentences – If you are sentenced for more than one crime, you will complete all sentences at the same time

Confidentiality – Certain information that cannot be shared with other people. The only person you have confidentiality with is your lawyer

Consecutive sentences – If you are sentenced for more than one crime, you will complete the sentence for the first crime before your time starts for the next one

Contempt of Court – Any behavior, such as talking, yelling, or moving, during trial that could interfere with court proceedings; contempt of court is a crime and may result in formal charges resulting in a fine or time in jail

Conviction – A court finding of guilty following a trial or a plea bargain

Courtroom – The place where a hearing or trial happens

Evidence – Things (photographs, letters, recordings, or statements) presented to the jury or judge, including the testimony from witnesses or victims, which help prove guilty or not guilty

Felony – More serious classification of crime

Fine – Money to pay to the court as a punishment for breaking the law

Misdemeanor – A crime that is less serious than a felony. Maximum sentence is up to one year.

Plea Bargain – A deal between yourself and the prosecutor, with assistance and advice from your lawyer. The deal says if you plead guilty, you will be offered lowered charges, reduced number of charges and/or a recommendation for a lesser sentence to the judge.

Perjury – Lying in court; not telling the truth under oath

Rights – Laws to protect you

Testimony – Verbal evidence; what witnesses say under oath. Never answer immediately even if you know the answer. Take time to make sure you understand the question. Take time to decide upon your answer. Take time to wait for any objections and the judge's ruling on those objections. Use control over the speed in which you answer the questions being asked. Never answer a question you don't understand. It is better to limit answers to YES, NO, or I DON'T KNOW/REMEMBER

Trial – The court process to determine whether the defendant is not guilty or guilty in a criminal case. There are two types of trial: A jury trial and a bench trial. The defendant, with advice from his/her attorney, chooses the type of trial.

- In a **Jury Trial**, 6 or 12 of your peers will listen to testimony, look at evidence, and will decide if a person is guilty or not guilty (verdict). The jury cannot speak to anyone in the courtroom. They can ask the judge to clarify instructions given to them. If the finding is for a guilty verdict, the judge will then pass down a sentence. In the event ALL jury members cannot agree on a verdict the result is called a "HUNG JURY". If the result is a hung jury the judge will usually declare a mistrial and order a new one or urge the jury to continue discussions until a verdict is reached.
- In a **Bench Trial**, the judge will listen to testimony, look at evidence, and will decide if a person is guilty or not guilty (verdict). If the finding is for a guilty verdict, the judge will then pass down a sentence.

Verdict – Decision by the jury or judge of guilty or not guilty

Module 9 Self-Test

Circle the correct answer.

1. The punishment to be given to a defendant following his/her/their conviction.
 - a. Verdict
 - b. Misdemeanor
 - c. Defense Attorney
 - d. Sentence
2. The defendant's answer to the question of guilt.
 - a. Verdict
 - b. Felony
 - c. Plea or Pleading
 - d. Felony
3. The formal decision or finding of the jury after the completion of a trial.
 - a. Verdict
 - b. Testimony
 - c. Sentence
 - d. None of the Above
4. The individual who has charges filed against him/her/them.
 - a. Defense Attorney
 - b. Trial
 - c. Defendant
 - d. Witness
5. What is an appeal?

6. What is a plea bargain?

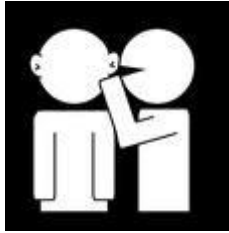
7. What does contempt of court mean?

8. What does competency mean?

9. What does confidentiality mean?

10. When do you have confidentiality?

Module 10: Appropriate Courtroom Behavior



As in all social settings, the way you appear and behave in the courtroom can affect how others see you and the opinion of others will be very important. Showing appropriate courtroom behavior is a good way to show that you are ready to assist your attorney and that you are able to participate in your defense. Below are some examples of appropriate courtroom behavior and inappropriate courtroom behavior:

Do:

- Shower and put on clean clothes
- Sit quietly in your seat
- If you have to speak with your attorney, lean over and whisper in his or her ear or slide a note over
- Use appropriate language
- Be respectful to all members of the court
- Speak only when it is your turn

Don't:

- Stand up or walk around without permission
- Speak without permission
- Yell or use profanity
- Disrespect any member of the courtroom

If you are unable to act appropriately, the judge may hold you in contempt of court, which could add an additional charge and can cause more time to be added to your sentence.

Module 10 Self-Test

1. Is good hygiene important when you go back to court?

2. What are the appropriate names to call the judge?

3. When should you speak in court?

4. If you disagree with something a witness says about you in court should you:

a) Stand up and yell at the witness

b) Get up out of your chair and walk out of the room

c) Quietly pass a note to your attorney

5. Who should you talk to if you do not understand what is happening in the courtroom? _____



Module 11: Testifying in Court

Testifying is what happens when you (or a witness) tell the court (under oath) what you know, saw, heard, or even smelled, all related to the crime. Your words, your story, is called your testimony.

You will decide together with your attorney if your testimony is more likely to help or hurt your case. You have the right to sit mute. No one can force you to testify if you choose to remain silent.

It is very important that you tell the whole truth and only the truth in your testimony. There are serious penalties against people who tell lies in court. You do not want to get charges added to your case for lying in court.

You might feel scared about testifying in court. This is normal. Most defendants are understandably nervous and insecure when inside a courtroom. Your lawyer will be with you asking questions as you tell your story. Then the prosecutor will be able to ask you some questions.

During a trial the judge/jury must base their verdict on facts presented in the case. The judge is responsible for making sure only facts are presented without a biased opinion attached.

Module 11 Self-Test

Write an **F** by the statement if it is a **Fact** or an **O** if it is an **Opinion**.

- _____ 1. Judges like to hear criminal cases more than civil cases.
- _____ 2. The U.S. Supreme Court is the highest court in the land.
- _____ 3. The defendant is the person who is accused of wrongdoing.
- _____ 4. Jurors always make the right decision.
- _____ 5. Courtrooms are very intimidating.
- _____ 6. Lawyers are very smart.

1. What does it mean to testify in court?

2. Are you required to testify if you don't want to?

3. Does everyone have to tell the truth in court?



Module 12: Verdicts



- Not Guilty – the judge/jury do not believe the state carried its burden of proving the defendant committed the act beyond a reasonable doubt.
- Guilty – the judge/jury believe the state met their burden and they don't believe the defendant was mentally ill at the time of the crime.
- Guilty but Mentally Ill – the judge/jury believe the state met their burden, they also believe the defendant is mentally ill, but they don't believe the mental illness or disorder takes away from the defendant's responsibility for committing the crime.
- Not Guilty by Reason of Insanity – the judge/jury believe the evidence is beyond a reasonable doubt that the defendant committed the act, but it is also believed that due to mental disease or defect the defendant should not be held responsible for the act. The result of this finding is that the defendant is free from criminal responsibility. By law the prosecutor will then file for a civil commitment hearing.

Module 13: Sentencing

The sentence is the punishment given by the court. The Judge can impose a variety of sentences at the conclusion of a trial. The Judge has several decisions to make to determine that justice or “fairness” is executed.

- Mitigating Circumstances help reduce the sentence for the defendant. They might include:
 - ❖ The crime did not cause serious harm to persons or property
 - ❖ The circumstances of the crime are unlikely to happen again
 - ❖ The victim of the crime induced the offense
 - ❖ The defendant has no criminal history
 - ❖ The person will make restitution to the victim
- Aggravating Circumstances are negative factors, circumstances or past behaviors that may lengthen a sentence. They might include:
 - ❖ The person was already on probation or parole
 - ❖ The person has a history of criminal activity
 - ❖ The victim was younger than 12 years or older than 65 years
 - ❖ The person committed a sex crime
 - ❖ The injury or death was the result of shaken baby syndrome

Occasionally some people without mental disorders will pretend to have a mental illness or people with a mental disorder will exaggerate the severity of their illness in the hope of being held less responsible for their criminal behavior. Either situation is known as MALINGERING. If your team relays to the judge they feel you are malingering this may be held against you at the time of sentencing and you may not be given ANY credit for time spent here at NeuroDiagnostic Institute.

Identify the Circumstance

Place an **M** on the blank for **Mitigating**

Place an **A** on the blank for **Aggravating**

1. _____ offense committed while on bail for other offenses
2. _____ offense was racially or religiously aggravated
3. _____ genuine remorse is felt by the offender
4. _____ multiple victims were harmed
5. _____ cooperates with the authorities
6. _____ deliberate targeting of vulnerable victim
7. _____ an attempt to conceal or dispose of evidence
8. _____ repeated assaults on the same victim
9. _____ playing a minor role in the offense
10. _____ offense is committed against police officers

Module 13 Self- Test

1. What does it mean to be sentenced?

2. How is punishment determined?

3. What does mitigating circumstances mean?

4. What are examples of mitigating circumstances?

5. What does aggravating circumstances mean?

6. What are examples of aggravating circumstances?

Module 14: Summary of the Trial Process



The many rituals associated with modern trials have developed over centuries. All states follow a largely uniform set of procedures. In the courtroom, there are two sides and both are trying to win. Both sides have tools and resources.

- The defense and prosecution decide whether they want the case tried by a judge or jury.
- In the event of a jury trial, the defense and prosecution select the jury through a question and answer process.
- The prosecution and then the defense make opening statements to the judge and jury. They present a brief overview of what they plan to present to the court during the trial.
- The prosecution presents its main case through direct examination of prosecution witnesses and introduction of any pertinent tangible evidence such as weapons, photos, and lab test results.
- The defense cross-examines all the prosecution witnesses.
- The prosecution rests its case when all witness have testified and all evidence has been presented to the court.
- The defense presents its main case through direct examination of defense witnesses and introduction of any pertinent tangible evidence.
- The prosecutor cross-examines the defense witnesses.
- The defense rests its case.

- The prosecution makes its closing arguments, summarizing the evidence as the prosecution sees it, and explaining why the jury should render a guilty verdict.
- The defense makes its closing arguments, summarizing the evidence as the defense sees it, and explaining why the jury should render a not guilty verdict.
- The judge instructs the jury about what law to apply to the case and how to carry out its duties.
- The jury deliberates and tries to produce a verdict by unanimous agreement.
- If there is a guilty verdict the judge either sentences the defendant on the spot or sets sentencing for another day, often after the preparation of a sentencing report.

Module 15: Questions to Consider Before You Return To Court



Even though your case is suspended until you are found competent to stand trial you can start preparing yourself to go back to court. There are some questions that you can ask yourself. Answering these questions may help you and your lawyer decide your best possible outcome.

- What do I remember about my arrest?
- What do I remember about the time of the alleged crime?
- Were there witnesses present?
- Do I have anyone who can testify for me?
- Do I have any evidence that can help me with my case?
- What evidence does the prosecution have against me?
- What do I think my best option is?
- What does my attorney think my best option is?

All of these questions can assist you and your attorney with deciding how you would like to plead and why. The Sixth Amendment to the U.S. Constitution says you have a right to an attorney. It also says, if you cannot afford an attorney one will be appointed at no cost to you.

A good working relationship with your lawyer can increase the odds of a positive outcome and reduce any anxiety you may have about returning to court.

Your lawyer can only help you if they know ALL the facts even if they are embarrassing. If some of the information is harmful, it is okay to tell them as well. Your lawyer's only job is to help you.

Attorney client privilege is a law that protects all communication between attorneys and their clients and keeps them confidential or private. This privilege encourages openness and honesty between attorneys and their clients. To properly help you, your attorney must have a complete knowledge of the facts, including the “bad” or damaging facts.

It is okay to make a list of questions for your attorney prior to meeting with them.

The Fifth Amendment to the United States Constitution protects ANY defendant from being forced to give evidence against him/herself. However, refusing to answer a question may give the judge or jury reason to suspect the defendant is guilty. If you are planning to use the Fifth Amendment too much there may be little value in having you testify.

Module 15 Self-Test

1. Why is it important to tell your story to your lawyer?

2. May your lawyer share your story with other people?

3. Should you keep secrets from your lawyer about what happened?

4. Your lawyer knows the laws, can advise you on the best strategies on when and how to tell your story, and can answer your questions.

True

False

Module 16: Review: What to Expect



There are three main types of questions that will be on your posttest: legal skills questions, mental health questions, and general questions. Below are some things you will need to know for the evaluation. If you can answer “yes” to all of them, you are in pretty good shape!

Legal Skills Questions:

- Do you know the four plea options?
 - o Can you give the definition of each in your own words as well as the outcomes of each (what happens if you enter each plea)?
- Do you know the people of the court and what each person does?
- Do you know what a plea bargain is?
- Do you know what “contempt of court” means?
- Do you know the difference between a bench trial and a jury trial and what happens at each?
- Do you know and understand why you are at NeuroDiagnostic Institute instead of jail?

Mental Health Questions:

- Do you know what your diagnosis is and what it means?
- Do you know what medications you are taking and what you are taking them for?
- Can you share about your mental health history and family history of mental health?
- Can you share about your substance use history and family history of substance use?

General Questions:

- Do you know your charges and what they mean?
- Do you know if they are felonies or misdemeanors?
- Do you know the maximum sentence for each charge?
- Do you know what confidentiality is and whom you have it with?
- Do you know how to appropriately communicate with your attorney in the courtroom?

Module 16 Self-Test

Check off the items that you feel you know well:

- ☐ The names of your charges and classification (felony or misdemeanor)
- ☐ The maximum amount of time possible for your charges
- ☐ Why you are at NDI instead of jail
- ☐ The people of the court and their jobs
- ☐ What a plea bargain is
- ☐ The names of the four plea options
- ☐ The definitions for the four plea options
- ☐ The outcomes for the four plea options
- ☐ What confidentiality is and whom you have it with
- ☐ Can you show that you can work with your attorney
- ☐ The names of your mental health diagnoses (if any)
- ☐ The meaning of your mental health diagnosis
- ☐ Your personal symptoms of your mental health diagnosis
- ☐ The names and purposes of the medications you are taking (if any)
- ☐ Mental health history