

ALABAMA DEPARTMENT OF MENTAL HEALTH (ADMH)
COMPETENCY RESTORATION PROGRAM



The Office of Forensic Mental Health Services
Competency Restoration- Self Study Guide

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Introduction to this Manual

This manual was developed by the Alabama Department of Mental Health (ADMH) Office of Forensic Mental Health Services in May 2021. The manual is based on the Florida State Hospital CompKit (August 2011) and the Denver FIRST CompKit: Competency to Stand Trial Training Resource. Information in this manual was adopted from the Denver FIRST CompKit with permission granted May 2, 2021. Information about the Denver First program can be found at <https://psychology.du.edu/clinics/denver-first>

CompKit was initially developed from 2005-2006 by the Florida State Hospital, Chattahoochee, FL. CompKit was later adopted by other states including Colorado, Pennsylvania, Texas, Hawaii, as well as the District of Columbia. Alabama's Competency Restoration Program (CRP) is uniquely designed for people involved in the criminal justice system within the State of Alabama.

Nothing in this manual shall be considered legal advice, nor shall this program replace legal services available to a defendant. The content of this manual may only be used as intended and for the purposes for which it is designed. **IT IS CRITICAL FOR ALL DEFENDANTS TO WORK WITH THEIR ATTORNEY AS EVERY CASE AND LEGAL SITUATION IS DIFFERENT.**

Please visit our website for additional information on the Office of Forensic Mental Health Services <https://mh.alabama.gov/forensic-mental-health-services/>

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Overview of Competency Restoration

No defendant or person accused of a crime should be prosecuted or sentenced if, based on the person's mental condition, he/she cannot work with his/her lawyer or to understand the court or legal process. Defendants have an inalienable right to understand what they are charged with or accused of doing¹. That means that a person's rights are protected under the Constitution of the United State of America.

Legal Definition of Incompetency

The definition of competency is in the Alabama Rules of Criminal Procedure and state *"A defendant is mentally incompetent to stand trial or to be sentenced for an offense if that defendant lacks sufficient present ability to assist in his or her defense by consulting with counsel with a reasonable degree of rational understanding of the facts and the legal proceedings against the defendant."*

In Alabama, a Psychologist or Psychiatrist will examine, or interview, a person and tell the court whether they think the person is competent to participate in their legal proceedings. The Psychologist or Psychiatrist will then tell the court their opinion, or what they think, and the Judge will make a decision about whether or not the person is competent. If the person is not competent, then the case is put on pause so that the person can become competent.

What is Restoration

This manual was developed by The Alabama Department of Mental Health (ADMH) and contains information on the legal process for people found Incompetent to Stand Trial (IST) (see the orange box below). There may be other general mental health services that someone may wish to access such as those listed below in green. Contact the local mental health center to access some of these services such as an assessment to help you learn whether you have a mental illness or medication to help management mental health symptoms. To find your mental health center, use the QR Code.



¹ Competency to Stand Trial (CST) is addressed in Ala.R.Crim.P.11

What Happens when Someone Becomes Competent

When someone believes that they are competent, they can be ordered by the court to meet with a Psychologist or Psychiatrist who specializes in forensic mental health, also called a Certified Forensic Examiner (CFE), who will interview the person and ask questions about information covered in this manual. The CFE will then write a report that will help the court decide whether the person understands their charges, the legal process, and how to work with their attorney to plan a defense. The court, either the judge or in some cases a jury, makes the final decision as to whether the person is competent to stand trial.

Goals of Competency Education

The goals of Competency Education are as follows²:

1. To provide the defendant with restoration services in a timely manner.
2. To provide the defendant with accurate and relevant information about the criminal justice system and court proceedings.
3. To help defendant understand the criminal justice system and legal proceedings.
4. To prepare the defendant for their forensic examination.
5. Becoming “competent to proceed” will help the defendant, or person accused of a crime, to resolve their current legal situation so that they can move forward with their life.

The first part of this manual will cover factual information that applies to every case, which will prepare the defendant to work with his/her attorney and to attend court hearings. The second part of the curriculum provides examples of cases and will help the defendant begin to apply the information covered in part one to their own case. The court process can be stressful and complicated. If you have questions or concerns, talk about them with your attorney.

² Adopted from Florida State Hospital CompKit (2011) and Denver FIRST Compkit, University of Denver, The Denver Forensic Institute for Research, Service, & Training (2014)

Module 1- Introduction to Competency Education

Why am I ordered for Competency Restoration?



(Pause on the legal process)

- You have been charged with a Crime. You have not been found guilty.
- The judge felt that you need:
 - a mental health evaluation,
 - treatment, OR
 - education on the legal process.
- **You were found Incompetent to Proceed.**
- **Your case cannot go forward until you become competent. As long as the court finds you not competent, you continue to have pending charges.**

If you are not competent, then you cannot plan your best defense and that would not be fair to you.

How will competency restoration help me?



(Work with your Lawyer)

- To help you understand what you are accused of,
- To help you learn about what will happen in court, AND
- To prepare you to work with your lawyer and to defend your case.

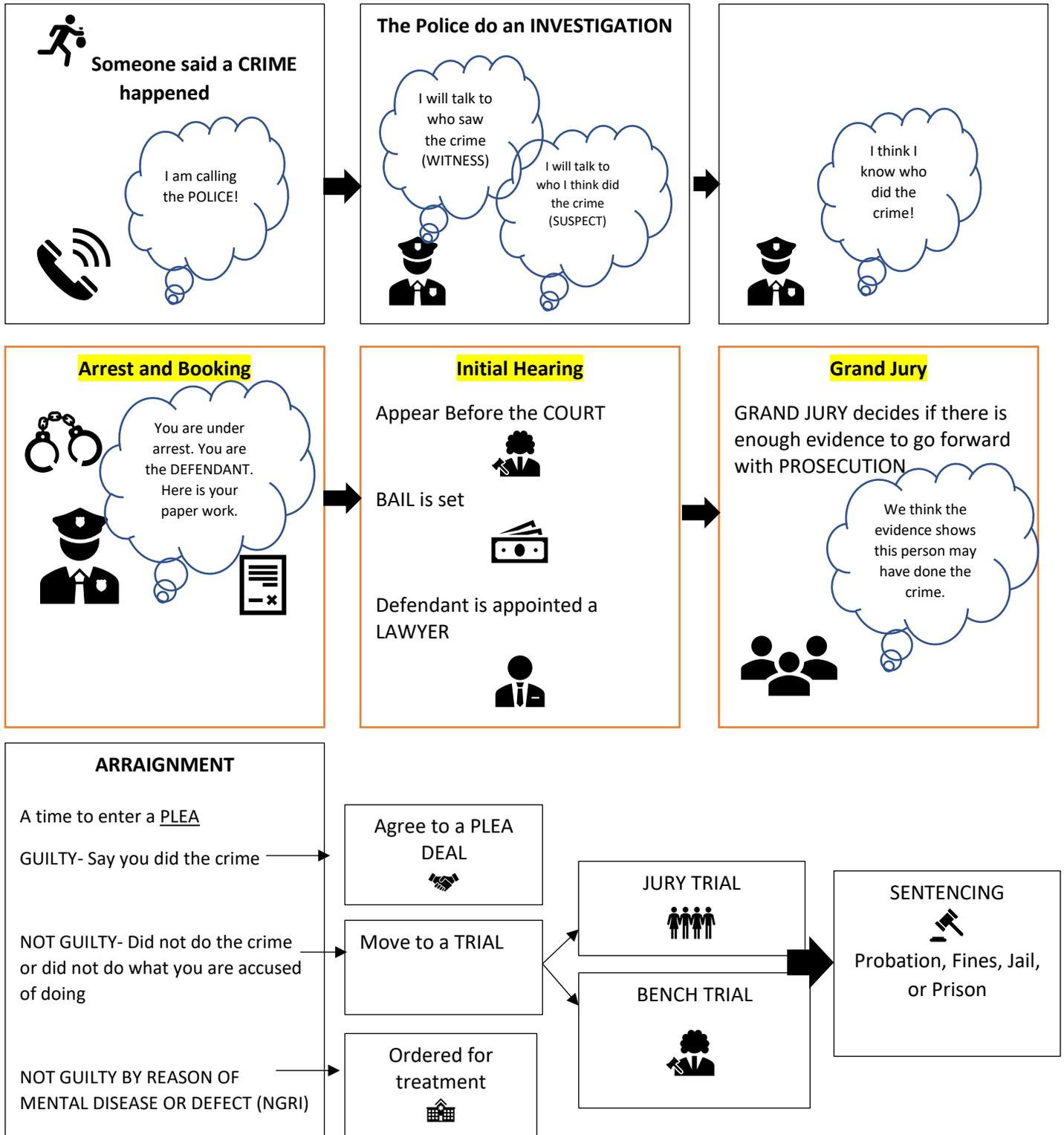
What I need to do?

- **Your judge expects that you will be able to work with your lawyer and wants to make sure that you understand your charges so that you and your attorney can answer to your charge(s). In other words, you can respond to what the police said that you did which was a crime.**

Why is it important for you to become competent?

Criminal Procedures and the legal process

Circle where are you in the process. Hint: Your case is probably in one of the steps highlighted in yellow below. Ask your attorney to be sure. You must be found competent before you can tell the court your plea.



Know your constitutional rights

The Constitution of the United States protects your rights. You are INNOCENT until you are proven GUILTY. You cannot be punished just because someone thinks or says that you did something wrong.

This means that it is the State's job (DISTRICT ATTORNEY) to prove that you are guilty in court.

Going to court protects your **rights** so that you can tell people your side of the **story**.

	<ul style="list-style-type: none"> You have the right to remain silent. You do not need to TESTIFY against yourself. This means that you talk to your lawyer about your case, not anyone else. You do not need to say in court that you did the crime or say that you did not do the crime. 	5 th Amendment
	<ul style="list-style-type: none"> You have the right to have an attorney (LAWYER). You have a right to bring people to court (WITNESSES) to show that you are not guilty of what they say you did. You have the right to question witnesses who are against you. Your lawyer helps with this. You have the right to a TRIAL with a JURY even though most cases do not go to a jury trial. 	6 th Amendment
	<ul style="list-style-type: none"> You must be treated fairly and not discriminated against based on things like your race, religion, whether you are male or female, or your sexual orientation. 	14 th Amendment

Quiz- You can review your answers with your attorney

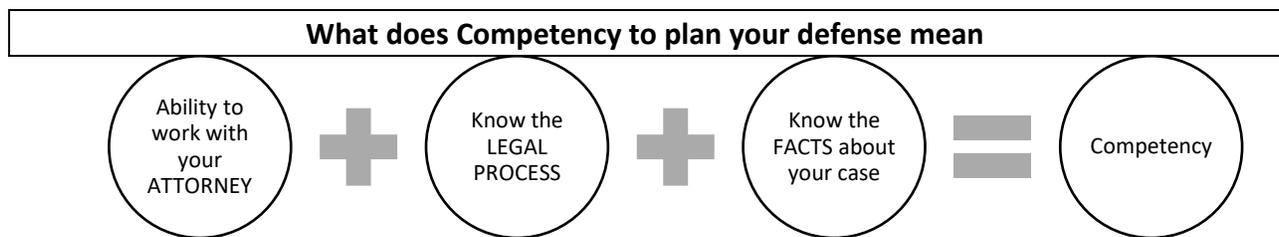
- Do I have to tell the Judge that I did the crime? Yes No
- If I don't have the money to pay for a lawyer, can the court give me one? Yes No
- Can the Judge treat me bad because he doesn't like people from my neighborhood?
Yes No
- In court both sides get to tell their _____.

Answers: Question 1) No. You do not have to tell the judge that you did a crime (5th Amendment). Do not talk to the judge unless your attorney tells you to do so. 2) Yes. If you can't afford to pay a lawyer, the court will give you one (6th Amendment). 3) No. Everyone is treated fairly (14th Amendment). 4) Both sides get to tell their story (6th Amendment). Your attorney will help you tell your story and to respond to what you are accused of. This may include telling your alibi.

Module 2- Alabama Rules on Competency

Remember, in Alabama, the court, usually the Judge, decides if someone is or is not competent. This means that the court decides when someone needs competency restoration education and whether the person can get the education while they are at home on bond or whether they need to go to a hospital to be restored.

Competency Education make sure that you have the information necessary to best work with your attorney and to plan your defense. In this module we will start to empower you with this knowledge beginning with learning four important topics; Attorney, Facts, Process, your Charge, and your Rights. This helps you to understand how high the stakes are in your case.



Who says whether I am competent or incompetent?

Only a **Judge** can decide if you are competent or incompetent.

To help the judge make the decision, a Psychologist or Psychiatrist will interview you and write a report on your competency. The Psychologist or Psychiatrist will ask you questions about information you will learn in this program.

What do I need to know to move forward with my legal case?

1. Work with your **ATTORNEY (LAWYER)**:
 - a. Cooperate and work with your attorney, do not argue with them
 - b. Communicate clearly
 - c. Tell the truth
 - d. Stay on topic
2. Know the **LEGAL PROCESS**:
 - a. Know your rights, List 3 (see Module 1)
 - Right remain S_____.
 - Right to have a L_____.
 - Right to be treated F_____.
 - b. Know the people in the courtroom (more on this later)
 - c. Know the difference between a plea bargain and trial (more on this later)

3. Know the **FACTS**:

- a. The offense (what I am accused of doing): _____
- b. What I was arrested for: _____
- c. The charge (what did the police say I did?): _____
- d. The penalty if found guilty or convicted: _____

- e. Plea options (this will be discussed later)
- f. Whether or not to testify

4. Ability to demonstrate appropriate **BEHAVIOR IN COURT**:

- a. Ability to remain calm
- b. Ability to sit quietly
- c. Ability to pay attention and listen
- d. Ability to dress appropriately with good hygiene

Module 3- The Competency Evaluation

What is a competency Evaluation?

What are three things I must know to be competent?

1. **Ability to work with my _A_____** (Hint: another name for lawyer)
2. **Understand the L_____ P_____**
3. **Know the F_____ about my case.**



Why am I here?

Someone had concerns about your ability to be a part of your proceedings or case.



The Court or Judge ordered me for treatment and to get additional training on the legal process to make sure that I am treated fairly.

- **You must complete an evaluation before you can return to the court.**
- **You have not been found guilty**



What is a COMPETENCY EVALUATION?



- You will be interviewed by an evaluator who is either a Psychologist or Psychiatrist, in person or over the computer
- The evaluator will talk to you and may talk to people who know you.
- During the INTERVIEW, the evaluator will ask about your mental health diagnosis or symptoms, how you are feeling, and about your treatment.
- The evaluator will ask questions to see how much you have learned from this class.
- The evaluator will then write a report called a Competency Evaluation.
 - The report will discuss how well you make decisions, what types of choices that you make, possible mental health symptoms or diagnosis, your communication skills, behaviors that you demonstrate, and how you interact with others.
 - The report will provide an opinion on whether or not you are competent and any recommendations on next steps.



Who will receive a copy of the report?

- The Court (Judge)
- Your Attorney
- The District Attorney
- The Clerk of Court who puts the report in your case file

Once the report is complete, the judge will either:

1. Schedule a hearing to talk about your competency or
2. Order you for additional mental health treatment or services.

What happens after I am found competent?



Talk to your attorney about what your next steps will be. Some options are going to trial, taking a deal, pleading guilty but getting “time served” to avoid jail, or pleading guilty and maybe getting a lesser sentence.



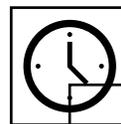
TRIAL

- You and your lawyer may decide to go before a JURY to have a TRIAL. This is a good option if there is not a lot of evidence that you did the crime.
- You could also have a BENCH TRIAL, where the judge decides if a defendant is guilty, not guilty, or not guilty by reason of mental disease or defect.



PLEA

- You and your lawyer may decide to Plea Bargain.
- You and your lawyer may decide to plead NGRI.
- This is a good option if there is a lot of evidence against you or if it is likely that a jury will find you guilty.



Time Served

- Your attorney may try to get you “time served” or to have the charges resolved.

Cooperate with your attorney to discuss your case. Tell your lawyer everything about your offense, including what you did or did not do and who witnesses were. Be honest.

Review of what we learned:

1. To be competent I must be able to speak with my _____ to plan my defense.
2. The Competency Evaluation is an _____.
3. After the evaluation, the evaluator will write a _____.
4. Who will receive a copy of your report?
 - a. The Judge
 - b. My Attorney
 - c. The District Attorney (DA)
 - d. All of the above

Answers: 1) Attorney 2) Interview 3) Report 4) All of the above

Module 4- The Court and Court Personnel

Most cases do not involve a trial or a jury but proceedings (hearings) are still adversarial. The District Attorney (DA) is never on your side and the judge is always neutral.

Court is adversarial. This means that there are two sides and both sides want to “win.” Your case will be called the State versus Named Defendant. The State wants you to experience the maximum sentence.

Courtroom Layout



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** In some courtrooms, the Jury box and witness stand may be on the right side of the judge.

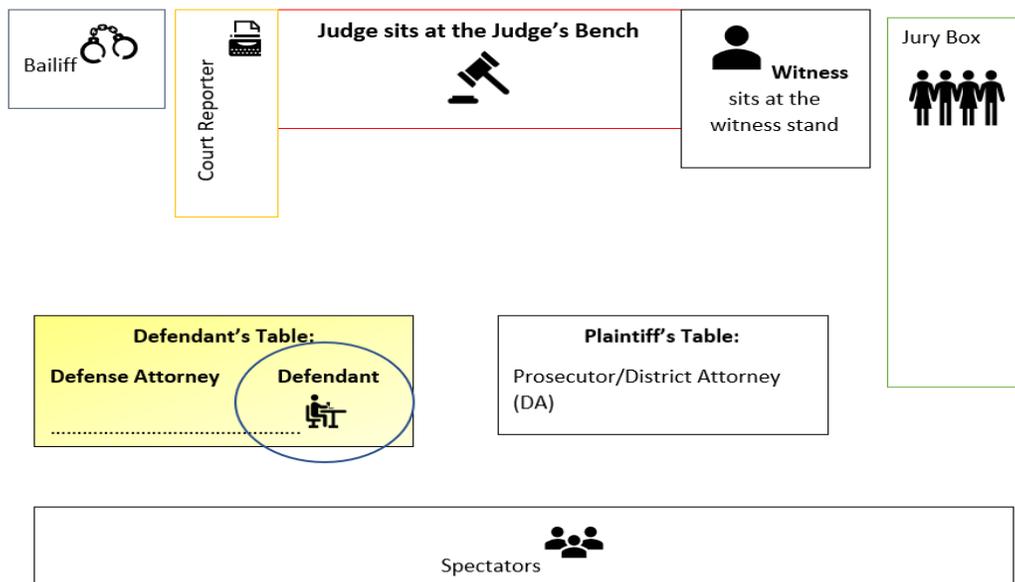
Module 4- The Court and Court Personnel

The legal process is **ADVERSARIAL** in nature. ↗↖ One side is against the other.

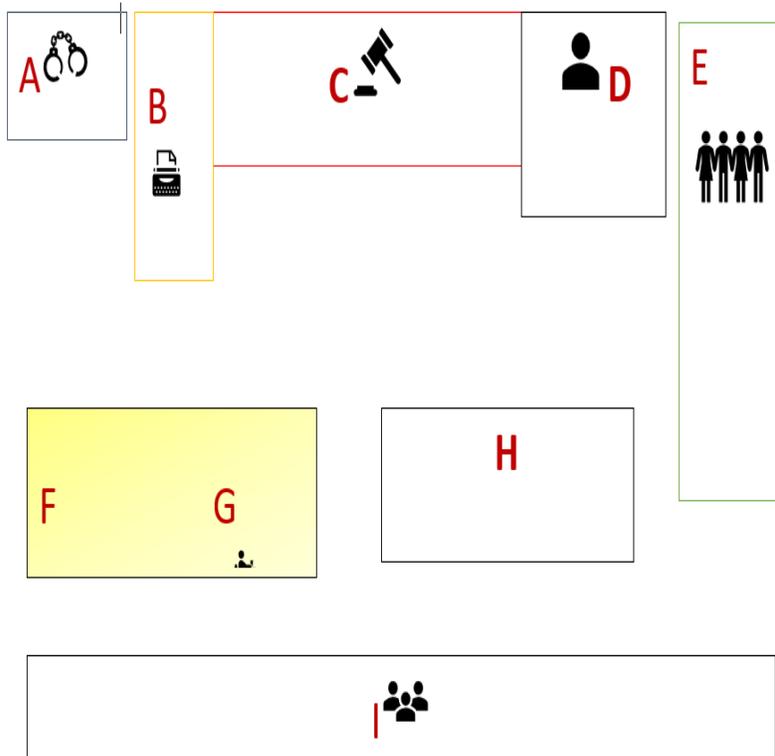
Some people will defend you (defense attorney), are against you (District Attorney), and some are neutral (neither for you or against you). For example, a judge is the boss of the courtroom and is neither for you or against you.

<p>Judge</p>  <p><i>Neutral</i></p>	<p>The Judge is in charge of the courtroom, the boss. Follow the judge's directions.</p> <p>The judge makes sure that everyone follows the law.</p> <p>The judge tells people when they can and cannot talk.</p> <p>The judge is not for you or against you (Neutral).</p> <p>The Judge will give you your sentence (e.g., jail, fine) if you are guilty.</p> <p>The Judge issues orders such as an order for a Competency Evaluation or Competency Restoration.</p>
<p>District Attorney (DA) /Prosecutor</p>  <p><i>Against You</i></p>	<p>The District Attorney may also be called the DA or the Prosecutor.</p> <p>The District Attorney works for the State and is against you, wants you to be guilty.</p> <p>The DA may offer a plea bargain or “make a deal” which we will talk about in Module 5.</p> <p>If you are found guilty, the DA may ask the judge for the <u>most severe sentence</u>.</p>
<p>Your Lawyer or Attorney</p>  <p><i>For you</i></p>	<p>Your lawyer has a law degree and knows a lot about the law and how to argue a case in court.</p> <p>Your lawyer may be called the <u>Defense Attorney</u> or may be called a <u>Public Defender</u>.</p> <p>The job of your attorney is to defend you or tell you when you should take a plea deal. He/ She is on your side and wants you to get a less severe punishment.</p> <p>You must tell your attorney the truth about your case so that he or she can defend you!</p> <p>If you go to a trial, your attorney's job is to prove that you are <u>not guilty</u> of the alleged crime.</p> <p>If you are found guilty, your attorney will try to get you the shortest possible consequence/ sentence (minimum sentence).</p>

<p>Jury</p>  <p><i>Neutral</i></p>	<p>6 to 12 people who listen to all of the evidence presented.</p> <p>In a trial, they decide whether you are guilty or not guilty.</p> <p>They are people from your community. They are not for you or against you.</p>
<p>Witness</p>  <p><i>May be for or against you</i></p>	<p>A witness is a person who may know something about what you did or didn't do and speaks to the court. The witness answers questions asked by both your lawyer and the DA and is supposed to tell the truth. If they do not tell the truth, tell your lawyer.</p> <p>A witness can help you (someone who says you did not do the crime) or against you (police officer who arrested you, someone who says you did the crime).</p>
<p>Expert Witness</p>  <p><i>May be for or against you</i></p>	<p>An expert witness is someone who knows a lot about a subject like a psychologist or psychiatrist. They state the facts and are not for you or against you.</p>
<p>Defendant YOU!</p>	<p>You are the defendant. You are defending yourself against the charges.</p>
<p>Bailiff</p>  <p><i>Neutral</i></p>	<p>The Bailiff keeps order and announces events (e.g., swears in witnesses, announces breaks). The bailiff will be dressed like a police officer and is not for you or against you, they keep people safe.</p>
<p>Clerk</p> <p><i>Neutral</i></p>	<p>A secretary for the Judge.</p>
<p>Recorder</p>  <p><i>Neutral</i></p>	<p>A person who types everything that is said in court.</p>



Match the letter in the picture with the person that you will see in court:



Where does the JUDGE sit?

Where does the JURY sit if the case goes to trial? _____

Where will you sit? _____

Where will your LAWYER sit?

Where will the DA sit? _____

Where will the WITNESS sit to testify? _____

Where do the people watching the trial sit? _____

*** Check your work using the picture on the previous page*

Review: Draw a line from the question to the correct answer

Question	Answer
1) What does the Judge do during a trial?	a) Wants you found guilty. Try to put you in jail or have you pay a fine
2) What does the Jury do?	b) They answer questions about what they know or saw
3) What does the DA or prosecutor do?	c) Defend you, show that you are not guilty
4) What do the Witnesses do?	d) Boss. Makes sure everyone follows the law. In a bench trial finds you guilty or not guilty
5) What do people watching the trial do?	e) In a trial, finds you guilty or not guilty
6) What will your lawyer do?	f) They sit and watch the trial quietly

Answer key: 1-d; 2-e, 3-a; 4-b; 5-f; 6-c

Module 5- Pleas

There are four different types of pleas:

1) NOT GUILTY: This means that you are innocent, that you did not do what you are accused of **or** the evidence seems insufficient to find you guilty. If you plead Not Guilty, then your case will go to a trial and all of the evidence may be presented, including witness statements. Your lawyer will help you understand how strong the case is against you and the chance of a Judge (in a bench trial) or Jury (in a jury trial) also finding you Not Guilty. If you are found Guilty, then you will be sentenced. Pleading Not Guilty even though you did the crime is not perjury (illegal).

2) GUILTY PLEA: Means that you admit to having carried out the alleged crime. A Guilty Plea is usually part of a Plea Bargain.

PLEA BARGAIN: This is when you plead Guilty to a lesser offense and in return, you receive a lesser penalty or sentence. If you agree to a bargain or deal, you waive certain rights; you lose the right to face your accusers in court and lose the right to appeal but you could get a lesser sentence. For example, a defendant charged with Murder (class A felony) may plead guilty to Manslaughter (Class B Felony) to get a 20-year sentence and avoid a life sentence if found guilty by a jury.

3) NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT (NGRI) OR 4) NOT GUILTY AND

NGRI: A plea of NGRI means that you are asking the court to hold you not responsible for the crime because you were mentally ill at the time of the offense. If you plead NGRI, a judge (in a bench trial) or jury (in a jury trial) will make the verdict. If you plead NGRI you:

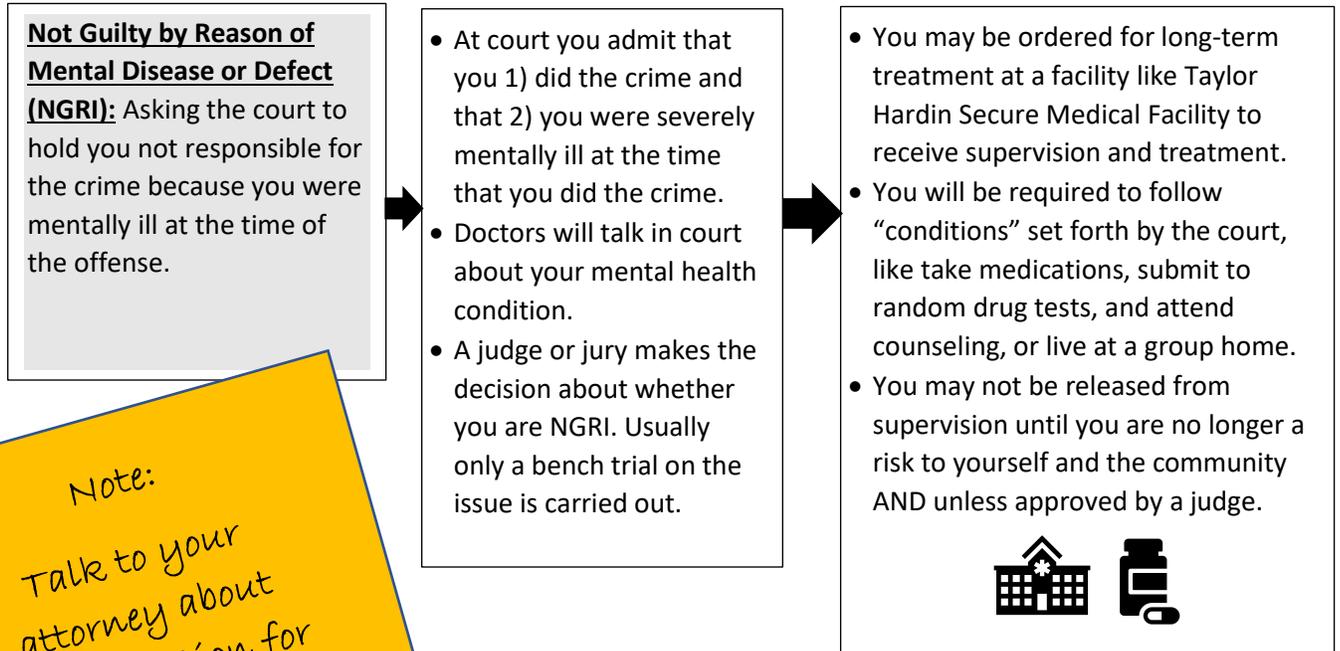
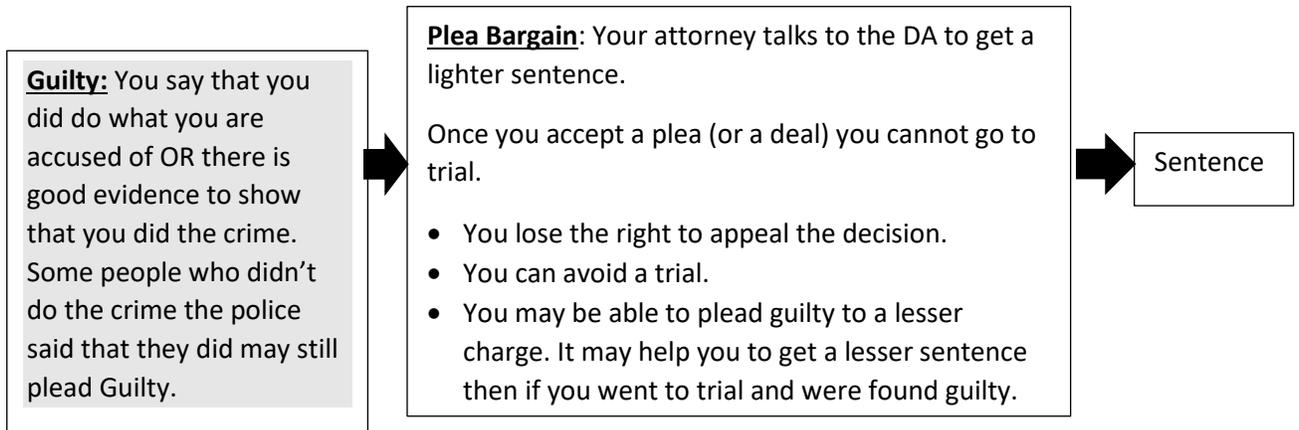
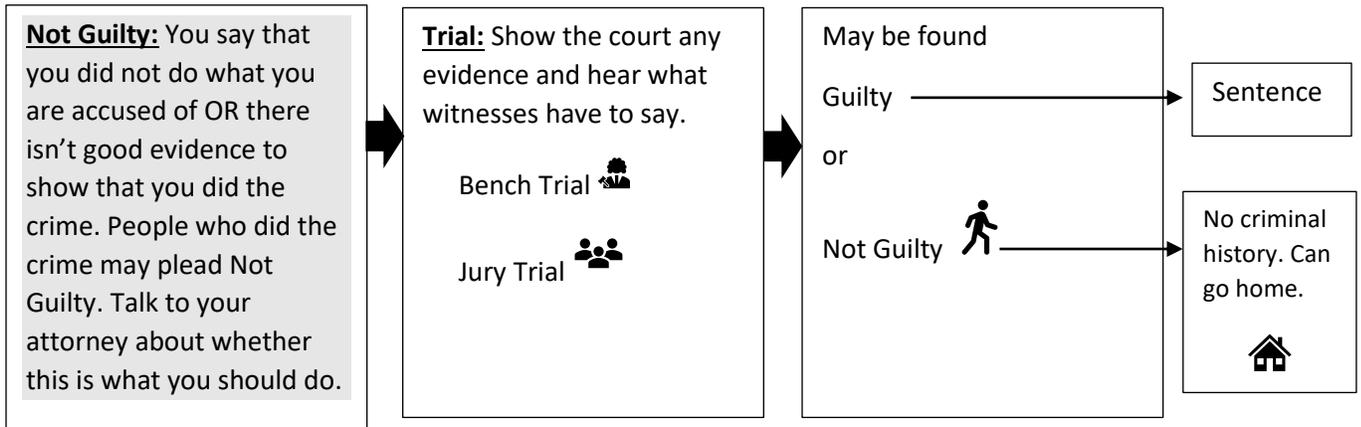
- a. Admit that you were severely mentally ill at the time of the alleged offense,
- b. You will have doctors (Psychologists and/or Psychiatrists) testify about your mental condition,
- c. You will likely be ordered for long-term treatment, such as to a hospital like Taylor Hardin Secure Medical Facility,
- d. You will have to participate in treatment like take medication, attend groups and therapy, and
- e. You will not be released from custody until the judge decides that you are no longer a risk to yourself and the community AND unless approved by a judge.
- f. In many cases, when you are approved by a court to leave a facility, you may be under a court order, sometimes called a CONDITIONAL RELEASE, for many years and the judge may require that you receive ongoing supervision or to follow rules like staying at a group home or not using drugs or alcohol. There is no set amount of time that you will remain at the hospital or under the court order/conditional release. This is up to the court.

WHAT IS A PLEA DEAL? *If you decide that you do not want to have a trial, a bench or jury trial, you may decide to accept a **PLEA DEAL**. Accepting a plea could help you avoid a longer sentence if you were found guilty. To accept a plea deal, you will need to plead guilty.*

SHOULD I ACCEPT A PLEA DEAL? *Your lawyer will help you look at each plea and the possible outcomes to help you decide the best course.*

Module 5- Pleas

WHAT ARE THE TYPES OF PLEAS?



*Note:
Talk to your attorney about the best option for you.*

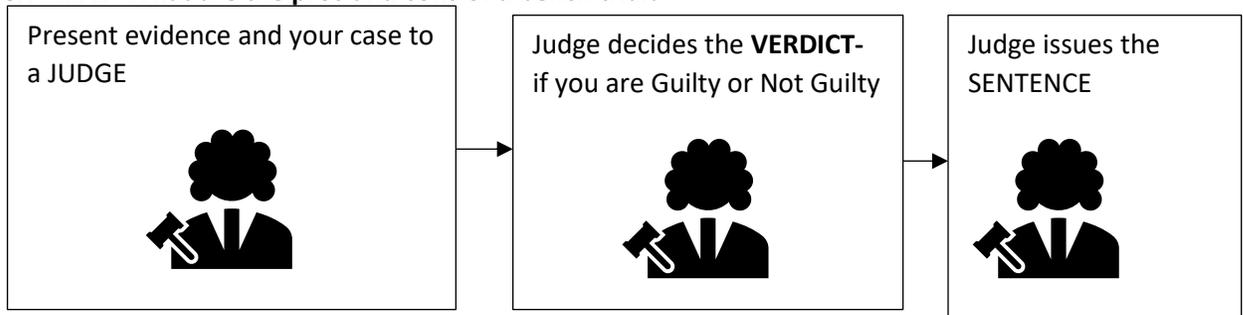
Plea Review

- 1) The three common types of pleas are:
 - a. _____
 - b. _____
 - c. _____
- 2) If I plead _____, I will be sentenced without a trial.
- 3) If I plead _____ and the judge agrees, I will probably be sent to the hospital or a group home for an unknown period of time. In all cases, I will need to follow the rules that the judge gives me.
- 4) If I plead _____ I will go to trial. If I win, I will go free; if I lose, I will be sentenced.
- 5) If I plea bargain, I will plead _____ and get a lesser sentence.
- 6) I should speak to my _____ about my plea.

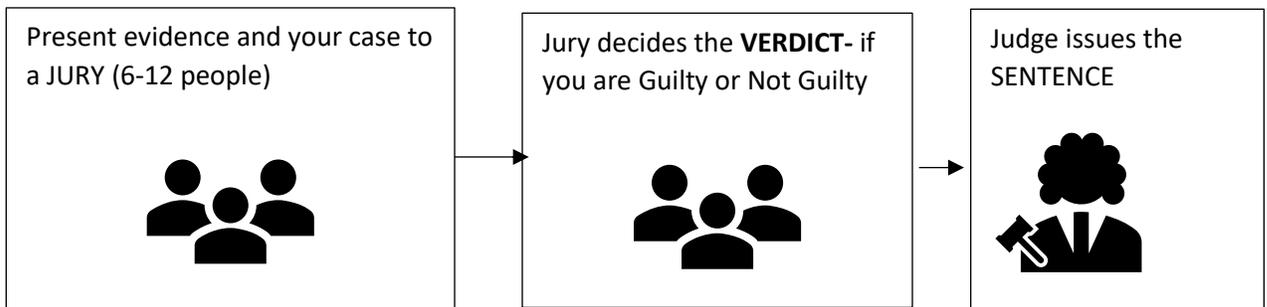
Answers 1) Guilty, Not Guilty, & NGRI 2) Guilty 3) NGRI 4) Not Guilty 5) Guilty 6) Lawyer

If you plead Not Guilty or Not Guilty by Reason of Insanity (NGRI) then you will need to have either a BENCH TRIAL or a JURY TRIAL.

BENCH TRIAL- What are the pros and cons of a bench trial?



JURY TRIAL- What are the pros and cons of a jury trial?



Module 6- Court Room Terminology

There are some terms that you will hear during the legal process. You do not need to remember what all of these words mean but keep a copy of this list as a reminder.

Defendant	You! The person accused of committing a crime.
Crime	When a person breaks a law, they commit a crime.
Alleged Offense	The crime you are accused of doing; for example, robbery or murder.
Arrest	The police arrest someone who they believe did the crime.
Felony	More serious crime
Misdemeanor	A less serious crime
Bail	An amount of money that you give to the court to promise that you will return for the court date. If you keep your promise, the court will return the money. If you do not keep your promise, then the money is not returned to you.
Incarceration	To be “locked up” in jail or prison.
Court	Where the you meet with the Judge.
Judge	Person who makes sure that the law is followed. Boss. Gives the sentence (punishment).
Jury	People from the community who listen during the trial and decide whether a person is guilty or not guilty.
District Attorney (DA)/Prosecutor	The attorney that wants to find the defendant guilty. The DA represents the State.
Oath	Promising to tell the truth. Violating an Oath is Perjury, a crime.
Contempt of Court	Any inappropriate courtroom behavior such as yelling, crying loudly, talking out of turn, or cursing. Contempt of court is illegal and can result in jail time.
Perjury	Telling of a lie under oath. The penalty for perjury can be a prison sentence.
Evidence	Anything that proves that a person is guilty or innocent; for example, statements by witnesses, the gun, cell phone information, finger prints, statements after arrest.
Incompetent	A judge’s ruling that a defendant is not able to work with their attorney, does not understand the legal process, or does not understand the facts surrounding their case and is in need of treatment.
Plea	Answer to the charge (Guilty, Not Guilty, Not Guilty by Reason of Mental Disease or Defect (NGRI))
Plea Bargain	Pleading guilty to a less serious crime in return for a lighter sentence.
Convict	To find someone guilty of a crime.
Verdict	The decision found by the Jury or the Judge (Guilty, Not Guilty, or Not Guilty by Reason of Mental Disease or Defect).
Sentence	The sentence is the punishment for the crime, such as prison, jail, or probation.
Probation	Sentence is suspended but you are under the supervision of a probation officer and must follow the court order.
Parole	During a prison sentence, you may get out early for good behavior. If approved, you may leave prison but will still be under the supervision of a parole officer and must follow the rules as ordered by the court.

Module 6- Word find (Optional)

C	X	S	N	T	L	C	O	Z	O	B	A	I	L	L	Y
P	L	E	A	H	G	P	K	M	O	A	R	R	E	S	T
O	A	V	D	F	Z	G	H	U	R	I	N	J	U	B	D
N	W	U	C	O	U	R	T	S	J	L	D	M	O	V	G
I	C	E	R	I	N	A	R	F	S	A	C	T	G	F	E
N	O	V	I	D	E	E	A	E	V	I	D	E	N	C	E
C	R	I	M	E	N	J	T	L	G	A	A	P	L	O	H
O	B	J	E	G	C	U	T	O	M	R	J	L	E	N	F
M	A	V	H	V	W	R	O	N	C	R	U	M	G	V	R
P	E	R	J	U	R	Y	R	Y	X	P	D	E	Z	I	E
E	I	F	C	O	M	P	N	D	G	E	G	W	O	C	D
T	P	M	E	T	N	O	C	I	D	T	E	S	Z	T	L
E	L	C	Y	T	E	R	H	G	F	B	X	T	W	O	W
N	M	I	S	D	E	M	E	A	N	O	R	P	O	F	Z
T	F	E	L	I	Q	T	U	S	O	L	A	W	Y	E	R
V	H	K	C	O	X	N	V	I	T	Z	A	S	A	B	Y

Crime

Incompetent

Judge

Arrest

Contempt

Perjury

Felony

Bail

Plea

Misdemeanor

Court

Jury

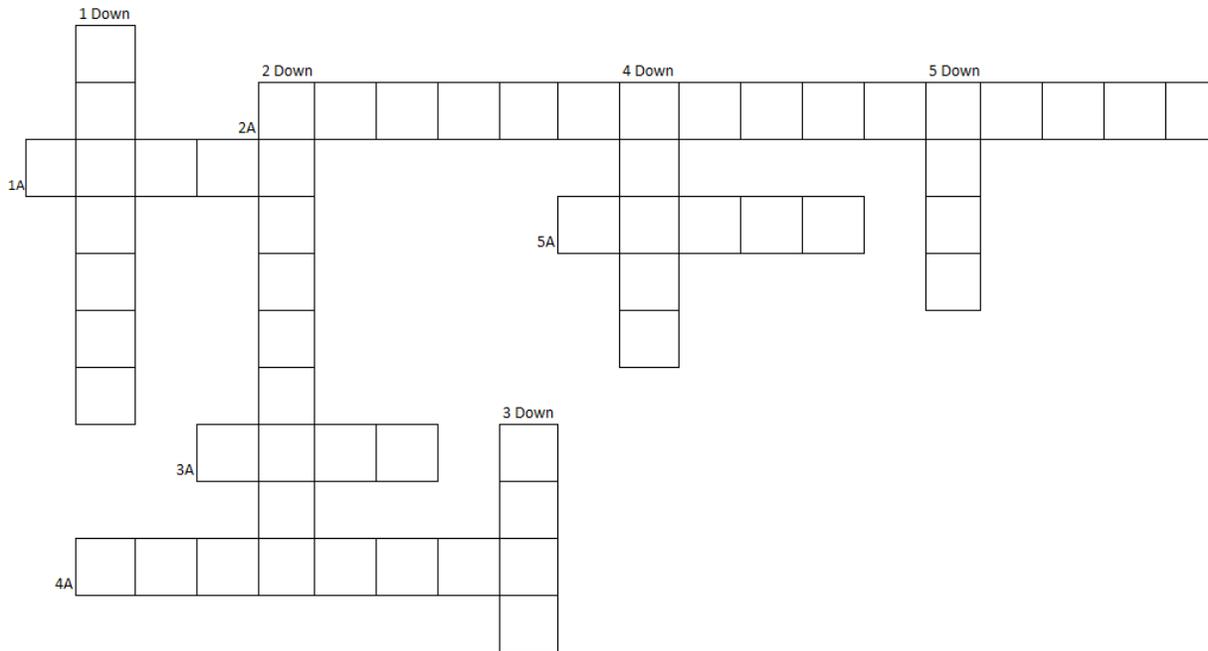
Evidence

Convict

Lawyer

Module 6- Crossword puzzle

- 1 Across When a person breaks the law, they commit a C_____.
- 2 Across the Attorney who is from the State and wants to see the defendant Guilty.
- 3 Across An amount of money that the defendant gives to the court to promise they will be at their court date.
- 4 Across A S_____ is the punishment for the crime such as a fine or jail time.
- 5 Across The person who is in charge of the court is called the J_____.
- 1 Down Telling a lie to the court is called P_____ and is a crime.
- 2 Down The person accused of committing the crime is called the D_____.
- 3 Down Guilty, Not Guilty, or Not Guilty by Reason of Mental Disease or Defect (NGRI) are each a type of _____.
- 4 Down The place where the defendant goes to see the judge.
- 5 Down Promising to tell the truth is called the O_____.



Module 7- Possible Penalties

Appreciation of Possible Penalties

Each crime in the State of Alabama has sentencing guidelines that the courts follow. The list below serves a guide of possible penalties that you may face. Don't memorize this information. Make sure that you know your charge, whether it is a felony or misdemeanor, and the maximum penalty that you are facing if found guilty. Talk to your lawyer about the consequence that you are facing.

Misdemeanor	
Class A Misdemeanor	Less than 1 year in jail
Class B Misdemeanor	Less than 6 months in jail
Class C Misdemeanor	Less than 3 months in jail

Capital Murder: Penalties include death or life in prison without parole

Felony	
Class A Felony	 Life sentence (with parole) OR 10 to 99 years (up to \$60,000 fine)
<i>Example; Murder, Kidnapping, Rape, Burglary 1st, Arson 1st</i>	
Class A Felony with a Firearm or Deadly Weapon	 20 years or more
Class A Felony with a sexual offense involving a child	 20 years or more
Class B Felony	 2 to 20 years (up to \$30,000 fine)
<i>Example; Manslaughter, Assault 1st, Burglary 2nd</i>	
Class B Felony with a Firearm or Deadly Weapon	 10 years or more
Class B Felony with a sexual offense involving a child	 10 years or more
Class C Felony	 1 year and 1 day to 10 years (up to \$15,000 fine)
<i>Example; Burglary 3rd, Sexual Abuse 1st, Possession of Marijuana 1st</i>	
Class C Felony with a Firearm or Deadly Weapon	 10 years or more
Class D Felony	 1 year and 1 day to 5 years

Additional penalties for sexual offenses are:

When the court identifies someone as a “sexually violent predator,” or when a Class A Felony sexual offense involves a child, an additional penalty of 10 or more years of post-release supervision is required.

When someone is over the age of 21 and convicted of a sexual offense involving a victim age six or below, the person will be sentenced to life imprisonment without the possibility of parole.

Module 7- Possible Penalties

Other Punishments

Sometimes people who are Guilty are not sentenced to prison when their charge is less serious. Below are some penalties other than jail.



PROBATION: You live somewhere other than jail, like at home, and you may leave home during the day, but you **MUST** follow CONDITIONS (rules) that the court puts in place. Examples of **CONDITIONS** are that you may not drink alcohol, use drugs, possess a weapon, commit other crimes, be home during certain hours, and maintain employment. If you don't follow the rules, you may go to jail or prison.



Community Service: As an alternative to jail, you may be sentenced to do work in the community such as cleaning up the highways.



House arrest/Community Control: You can stay at home, but you must follow **CONDITIONS** such as wearing a monitoring device and seeing your probation officer. You may not leave home without getting permission from the court to do so. If you do not follow the rules, then you will go to jail or prison.



Time served: In some cases, the court may decide that you spent enough time in confinement (jail or hospital setting) while waiting for your trial and will shorten the time that you must stay in jail.

Review

- 1) The most serious types of crimes are called _____.
- 2) _____ crimes involve a sentence of one- year or less.
- 3) True or False Penalties are more severe for sexual offenses.
- 4) True or False If I am on probation, I only need to speak to my probation officer when I have a question for them.
- 5) True or False the Jury will decide what penalties I will face.
- 6) True or False the Judge will decide what penalties I will face.
- 7) True or False If I disagree with the Judge's sentence, I can plea bargain.
- 8) Who should I speak to about the penalties I am facing? _____

Answers: 1) Felony 2) Misdemeanor 3) True 4) False. When probation is granted, the defendant is ordered to comply with certain requirements such as staying away from certain people, not using drugs or alcohol, or not possessing a weapon such as a firearm. In addition, defendants will be monitored by their probation officer. Any violation of probation results in the defendant returning to jail. 5) False. The jury determines whether the defendant is Guilty or Not Guilty based on the evidence presented during the trial. The Judge issues the sentence. 6) True 7) False. Plea Bargaining happens before the person pleads. Once the judge has granted a sentence of punishment, the person has already pleaded not guilty and went to trial where they were found guilty. 8) your lawyer. Do not discuss your case with anyone other than your lawyer.

Module 8- Your Charges

APPRECIATION OF CHARGES (Denver FIST CompKit)

1. I am charged with _____
_____.
2. What the police say I did is _____

_____.
3. My charge(s) is a (*circle one*) **Misdemeanor** **Felony**
4. For crimes like the ones I am charged with, the maximum penalty or worst sentence can be up to _____.
5. If I admit to the court that I did the crime, I am pleading **GUILTY**
6. If I do not admit to having done the crime, I am pleading **NOT GUILTY**
7. If I was mentally ill and I did not know the difference between right and wrong when I did the crime, I will plead **NGRI**
8. If I am on probation, I **CAN NOT** hang out at a bar and do drugs without getting into trouble.
9. I **CAN NOT** go to another city while on probation, unless I have the permission of my probation officer. If I leave without telling my probation officer, then I could go to jail.
10. If I am found NGRI, I WILL LIKELY be hospitalized for more than 6 months or be subject to a **CONDITIONAL RELEASE. In some cases, my hospital stay, and conditional release will remain in effect longer than what my sentence had been if I pled guilty or had been found guilty after a trial.**
11. Pleading NGI is NOT a great way to beat your charges unless you have a serious mental illness and will need longer term mental health treatment.

Module 9- Understanding the Adversarial Nature of the Legal Process

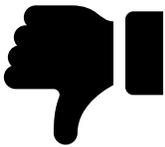
In Module 4, you reviewed the people in court and their roles, such as the Judge, Jury, Witnesses, District Attorney, and your Defense Attorney. You also looked at each person's job and whether they were neutral (didn't pick a side), whether they wanted to see you get the maximum penalty, or whether they were defending you. Remember, there is only one winner and both sides want to win. This makes court adversarial.

The main opponents are the Defense Attorney and the District Attorney, who is also called a prosecutor. The Defense Attorney represents YOU, the Defendant. The District Attorney/Prosecutor represents the State.



Defense Attorney- This is the defendant's attorney. This lawyer's job is to try to prove that the defendant is not guilty or try to get a light sentence. The defendant's lawyer is the only person in court that the defendant should discuss his or her case with because the Defense Attorney is on the defendant's side.

The Defense Attorney will decide whether the defendant should testify on the witness stand. The defendant's lawyer will give advice on how to prepare for court and to defend the case. The defendant must stick to the defense plan agreed upon.



District Attorney (DA)/Prosecutor- The DA wants to prove to the judge and jury that the defendant is guilty of the crime and to see that the defendant gets the maximum sentence. The DA will try to make the defendant "look bad."

The defendant should answer questions asked by the DA only when told to do so by the defense attorney. The DA is not on the defendant's side. He or she may try to "trip up" the defendant.

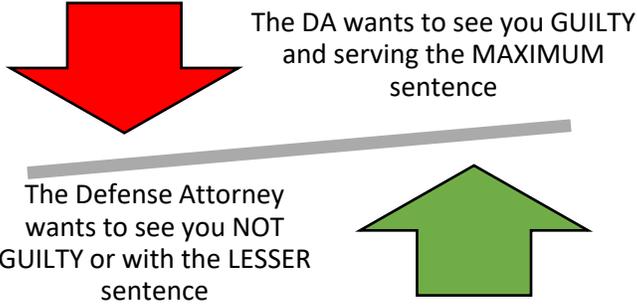
Module 9- Understanding the Adversarial nature of the Legal Process



The court system is adversarial. This means that people take sides and both sides want to win to see the other side lose.



This means that people take sides and both sides want to win to see the other side lose.



Who is the Defendant in your case? _____

Who does the Defense Attorney represent? _____

Who does the District Attorney (also called the Prosecutor) represent? _____

Which person's job is to see that you, the defendant, are guilty?

- a. Defense Attorney
- b. District Attorney (DA)

Which person's job is to see that you, the defendant, are not guilty or to see that you get the lesser sentence?

- a. Defense Attorney
- b. District Attorney (DA)

Review from Module 4- Look at the list of court personnel in the word-bank. Identify whether the person is for you, against you, or neutral. One word will be used in all three of the boxes below.

Judge	Jury	Defense Attorney	District Attorney	Witness
-------	------	------------------	-------------------	---------

On my side:

Neutral:

Against me:

ONLY SPEAK TO YOUR ATTORNEY ABOUT YOUR CASE. DO NOT SPEAK TO OTHER COURT PERSONNEL ABOUT YOUR CASE UNLESS YOUR ATTORNEY TELLS YOU TO DO SO.

Module 10- The Jury and a Jury Trial

Not every case will go before a jury. In fact, most will be a bench trial or involve a plea bargain. You (the defendant) and your Attorney should meet to review your case and make decisions about

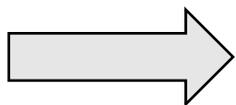


- How you want to plead,
- Whether you want to accept a plea deal,
- Whether you want to go to trial and if so, whether you want a bench trial or a jury trial.

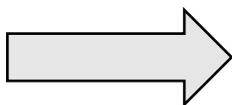
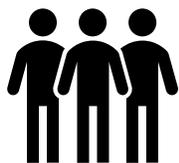
A trial by jury is often more time consuming and can be more stressful on the defendant which is why defendants often accept a bench trial.

While most cases won't involve a Jury, this basic information is provided in case you need to reference it.

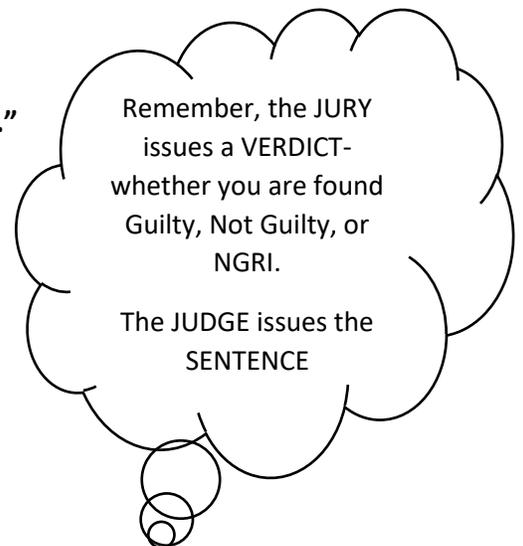
1. **The Jury consists of a group of 6 to 12 people from the community that hear a trial.**
The Defense Attorney and District Attorney determine how many people will be on the jury and have a say in the selection of jurors.
2. **A person can be on a jury if they are from the community, and are therefore your peers, and it is believed that they make fair and unbiased decisions.** Anyone biased, such as a family member or friend of the defendant or victim, should not participate on the jury because they may not be fair.
3. **The members of the Jury are selected by the attorneys; DA and your attorney.**
4. **In a trial by jury, the Jury issues the verdict.**
5. **The accused can only be convicted if all jurors vote "guilty."**



The Judge makes sure that the law is followed and Issues the SENTENCE



The jury listens to the entire trial and issues a verdict of Guilty, Not Guilty, or NGRI



Module 11- Courtroom Behavior

Being in court can be VERY Stressful! People may say things about you in court that may be upsetting, and some things said may not be true. It is important that you always demonstrate proper courtroom behavior no matter how stressful things become. If you become argumentative or speak out of turn you will be considered in contempt of court and you may go to jail. Here are a few tips so that you may best represent yourself in court.

1. I must be ON TIME.
2. It is very important to behave in a CALM and RESPECTFUL manner.
3. If I am loud, argumentative, or demanding in the Courtroom I am in **CONTEMPT OF COURT.**
4. If you disrupt court, you will be REMOVED from the Courtroom.
This is not good because:
 - a. My case may be DELAYED.
 - b. I could be held in CONTEMPT OF COURT.
 - c. The Judge will look upon me NEGATIVELY.
 - d. I could face additional time IN JAIL.
 - e. I will continue to be deemed INCOMPETENT.
5. When I get dressed for court I should
 - a. Make sure that I am CLEAN.
 - b. My hair should be COMBED.
 - c. My beard (if I have one) should be groomed.
 - d. I should wear my BEST clothes; like a nice shirt, nice pants, shoes (not flip flops), and/or socks or a nice dress with nice shoes, leggings, or tights.
6. If I do not agree with something said in court, or if I feel something is not fair, I should, Whisper to my attorney that I need to speak with them or write the attorney a note
7. I should only answer a question when my attorney tells me that I may respond.
8. When I return to face my charges, I should continue to take my Medication if I am advised to do so by a Doctor.

The most important thing to do in court is to LISTEN. You can even take notes if you need to. This will help you be able to talk to your attorney about what was said and to help your attorney to plan the next steps of your case.

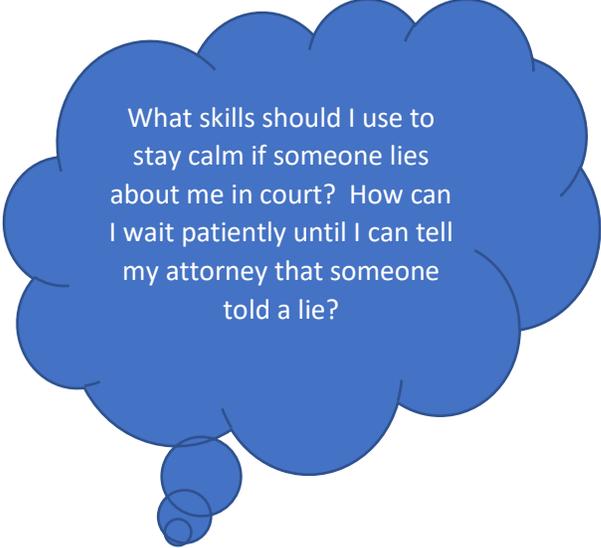


Behavior Check-up

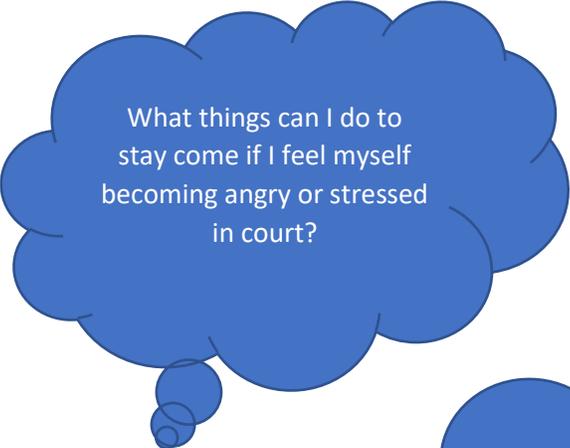
Here are some things to consider when preparing for meetings with your attorney or hearings:



What is my attitude toward my lawyer? What could I do to improve my relationship with my lawyer?



What skills should I use to stay calm if someone lies about me in court? How can I wait patiently until I can tell my attorney that someone told a lie?



What things can I do to stay calm if I feel myself becoming angry or stressed in court?



What are my strengths that will help me to do well in court?



What are behaviors that I need to work on or practice so that I can participate in court and be at my best?

Module 12- Review of Competency Education

COMPETENCY EDUCATION REVIEW

1. What is a trial?

A trial takes place in court. A trial is where it is decided if you are not guilty, guilty, or not guilty by reason of mental disease or defect.

2. Who represents you and defends you in court?

My Lawyer (Attorney). The attorney may also be called a Public Defender. I have a right to be represented by a Lawyer.

3. What is the job of your lawyer?

He or she defends me against the charge (tries to get me off, not guilty... tries to keep me out of jail).

4. Who is against you in court?

The District Attorney is against me.

5. What is the job of the District Attorney?

He or she tries to prove me guilty of the charges, to convict me, to get me time.

6. What does the judge do?

The judge is in charge, the boss of the court. If there is no jury, the judge decides if I am guilty or not guilty. If I am guilty, the judge gives the sentence.

7. What side is the judge on?

The judge is not on either side (neutral, impartial). The judge listens to both sides (my defense side and the DA).

8. What are the pleas?

Guilty	I did the crime that I am charged with.
Not Guilty	I did not do it. I am innocent.
Not Guilty by Reason of Mental Disease or Defect (NGRI)	I am not responsible for what I did because I was mentally ill at the time. I did the act because of symptoms of mental illness.

9. What is plea-bargaining?

You agree to a plea bargain instead of going to trial. Your lawyer tells you if it is a good deal. You may need to plead guilty to a less serious charge. In return, you get less time or a lesser penalty.

10. What is evidence?

Evidence is facts, witnesses (what people saw or didn't see at the time of the crime), or things (finger prints, cell phone, weapon), that help prove that I did the crime or that I was innocent of the crime.

11. How do you defend a plea of not guilty?

I must have evidence or proof that I did not do the crime or show that there is not enough evidence to prove that I did do the crime.

12. What is the jury? What do they do?

A jury is 6 or 12 people from the community. They make a Verdict (Guilty, Not Guilty, or Not Guilty due to mental disease or defect (NGRI)).

13. What happens if you are found guilty?

I could be sentenced to prison, jail, or to probation.

14. What happens if you are found not guilty by reason of insanity (NGRI)?

I would probably be committed to the Alabama Department of Mental Health (ADMH) where I would be treated at a hospital or at a group home.

I would likely have conditions put on me by the courts when the treatment team and/or health care professionals AND the court believe that I do not need to live at a hospital or a group home.

If I have a severe mental illness, an NGRI verdict can make sure that I receive the necessary services and treatments that I need.

Module 13- Review of Legal Vocabulary

Match the word with the correct definition

- | | |
|----------------------|--|
| 1) Defendant | a) The boss in the courtroom. The person who makes sure that the law is followed. |
| 2) Crime | b) The attorney for the State. Wants to find me Guilty. |
| 3) Judge | c) You! The person accused of doing the crime. |
| 4) Jury | d) Not able to participate in the legal proceedings or plan your defense. |
| 5) District Attorney | e) Behavior that is breaking the law. |
| 6) Contempt of Court | f) People who decide whether the person is Guilty or Not Guilty. |
| 7) Perjury | g) Lying in court. Not telling the truth. |
| 8) Incompetent | h) I say that I am Guilty, Not Guilty, or Not Guilty by Reason of Mental Disease or Defect (NGRI). |
| 9) Plea | i) Punishment for the crime like “lock up” or a fine. |
| 10) Sentence | j) Any inappropriate courtroom behavior. |

Answer Key

1-C, 2-E, 3-A, 4-F, 5-B, 6-J, 7-G, 8-D, 9-H, 10, I

Module 14- Test, Part 1 and Part 2

Here is a chance to self-test your knowledge.

Test- Part 1

1. When a lawyer shows the jury things which are taken from the scene of the crime, she/he is showing:
 - A) Evidence
 - B) Testimony

2. If you did not do anything wrong, you are:
 - A) Innocent
 - B) Guilty

3. When you tell what you know about the crime, you are:
 - A) Testifying
 - B) Prosecuting

4. When you can go home after being in prison for a while, you will be on:
 - A) Parole
 - B) Trial

5. The person who sits in front of the court and is the boss:
 - A) Jury
 - B) Judge

6. When you are found guilty of doing something wrong, but you can go home and not to jail, this is called:
 - A) Perjury
 - B) Probation

7. The person who is accused of committing a crime is the:
- A) Defendant
 - B) District Attorney
8. Prison is:
- A) A place where people go when they are found guilty
 - B) Testimony
9. The person who tells what he/she knows about a crime is the:
- A) Witness
 - B) Lawyer

Test- Part 2

1. I am charged with _____

2. It is a (circle one) MISDEMEANOR FELONY

3. What is the penalty (sentence) if I am found Guilty? _____

4. My lawyer's name is _____

5. Who is the Defense Attorney? _____

6. Who is the District Attorney? _____

7. TRUE or FALSE The Judge is neutral and makes sure that everyone follows the law

8. Who may decide whether I am Guilty, Not Guilty, Or Not Guilty by Reason of Mental Disease or Defect (NGRI)

- a. The Jury
- b. The Judge
- c. The District Attorney
- d. The Court Clerk
- e. Both a and b

9. What does a witness do? _____

10. Should I trust my lawyer? _____

11. Name three things to help your lawyer defend your case:

- 1. _____
- 2. _____
- 3. _____

12. What should I do if I hear a witness say something that is not true or that is wrong?

13. Circle what you should wear to court:

ANSWER KEY FOR SELF-TEST PARTS 1 AND 2

Test Part 1 answer key:

1. A) Evidence
2. A) Innocent
3. A) Testifying
4. A) Parole
5. B) Judge
6. B) Probation
7. A) Defendant
8. A) A place where people go when they are found guilty
9. A) Witness

Test Part 2 answer key

Reference your legal paperwork to address questions 1-6. For example, look at your court order which will identify the charge. DA's name will likely be included on legal paperwork or can be found on the county's website.

7) True

8) Both A and B

9) Answer should reflect something like; A witness is someone who tells the truth about what they know or saw

10) Yes, Answer should reflect something like; I should trust my lawyer, have received education on the law and the court process. I should tell my lawyer the truth.

11) Answer should reflect three things that you believe could help your attorney such as telling the attorney the truth about what happened the night of the alleged crime, telling the attorney about potential witnesses that could be helpful or not be helpful to you such as people you have confessed to, tell the attorney about any mental health symptoms that you had/have, tell the attorney about any evidence that you are aware of, trust the attorney and communicate with him or her in a polite and organized way.

12) Whisper to my attorney that I need to speak with him or her during the break or pass my attorney a note.

13) Clean shirt, Nice pants, Clean shoes

14) Not guilty, Guilty, or Not Guilty by reason of Mental Disease or Defect (NGRI)

15) Guilty

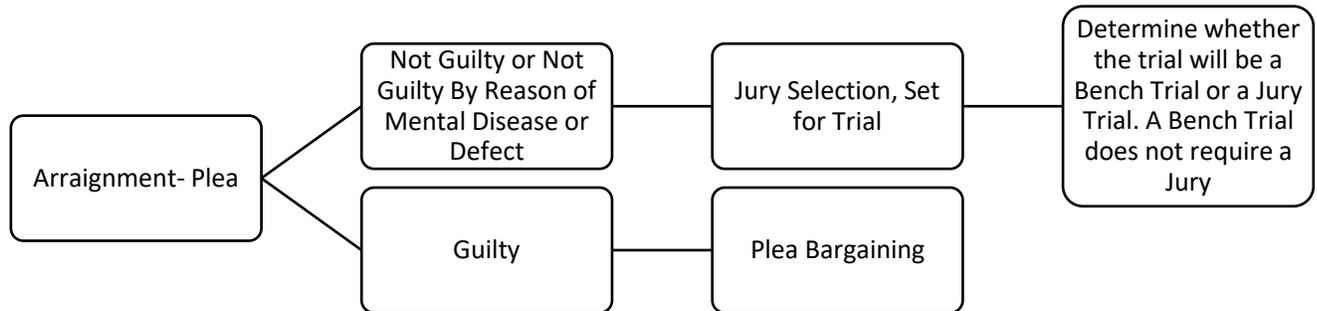
16) The participant in the class, me!

Rational Understanding and Decision Making

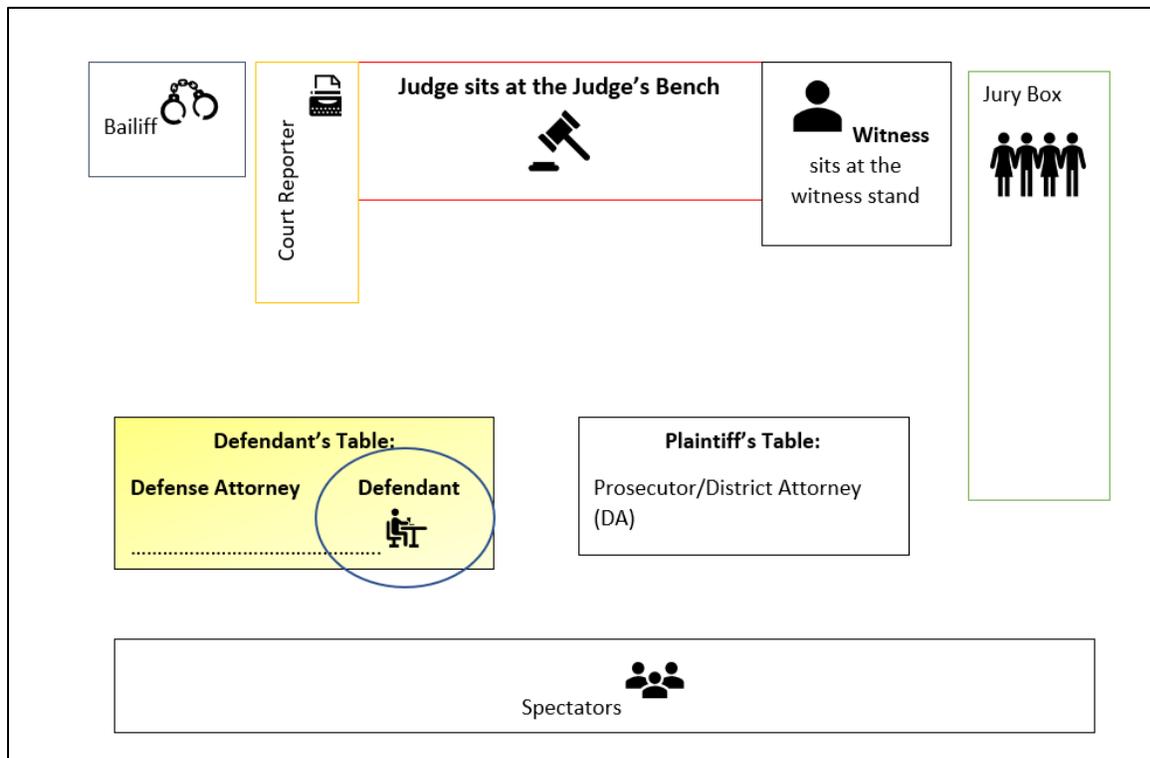
Module 15- The Trial Process

Now that you understand the basics about court, we are going to take a closer look at what happens at a trial.

Here is what happens before the trial:



Here is what the courtroom looks like during the trial:



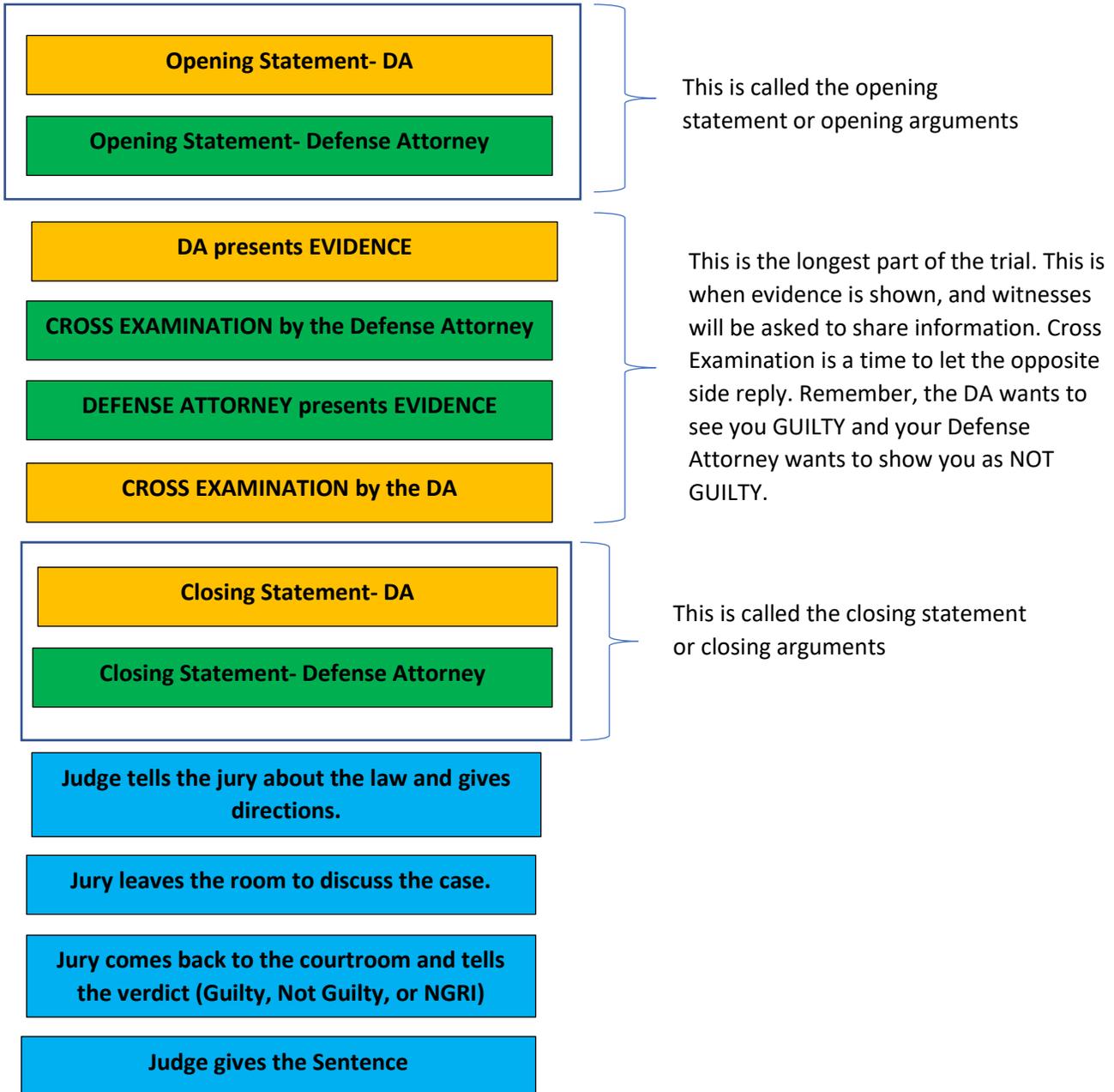
Here is an outline of the steps of a trial (Handout AA1)



Remember, the legal process is adversarial; both sides want to win and to see the other side lose.

District Attorney (DA)/Prosecutor —————> **GUILTY with the maximum sentence**

Defense Attorney —————> **NOT GUILTY or NGRI with the lightest sentence**



Use the steps outlined above as a guide when looking at the mock trial that follows.

Module 15- Mock Trial

(Handout AA2)

BEFORE THE TRIAL...

Meet Jane. 	She had an argument with her husband. 	Someone called the Police. 	The police came and tried to calm Jane down. 	She was drunk and just got more and more angry. 
She got so mad that she punched the officer. 	The Police then arrested Jane. 	She was taken to the county Jail. 	She is accused of " <u>Assault and Battery of a Police Officer</u> "	Jane pleads Not Guilty.

AT THE TRIAL...

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 Judge Burnstein. The **judge** walks in and everyone is told to sit down (be seated).

*What does "Please Rise" mean? Everyone stands up.
Who is in charge of the Courtroom? The Judge.*

The **bailiff** announces the case "**The State of Alabama vs. Jane Doe**". The **judge** calls court into session.

(PAUSE)

The **DEFENDANT**, Jane, sits with her **lawyer**. She will let her **ATTORNEY** speak for her in court today because her attorney knows how to best represent her. She will sit quietly but will whisper to her attorney if she needs to say something. Jane's attorney has spent time preparing for the trial by gathering **EVIDENCE** and **WITNESSES** that will prove her **INNOCENCE**- prove that she is not guilty. If Jane's attorney asks her to respond to the **judge**, she will address the judge as "your honor."

*Who is the Defendant in this case? Jane
What should Jane do if she has a question during the trial? Wait until a break to ask her attorney or write her attorney a note. Ask your attorney what they would like you to do in a situation like this.*

The **DISTRICT ATTORNEY (DA)** (also called the Prosecutor) is representing "the State". He is trying to convict Jane of the crime of "assault and battery on a police officer". The **district**

attorney has to give facts (evidence, witnesses) that will prove that Jane is guilty beyond reasonable doubt.

*Is Jane guilty or innocent right now? Innocent How do you know? A verdict is not yet reached
Whose job is it to prove that Jane is guilty? District Attorney
Who do you think will be the main witness in this trial? The Police Officer who she hit*

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 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.

Why does the court have someone write down everything said during the trial? So that if there is an appeal, the reviewing court can make sure that the law was followed.

The judge calls the PROSECUTION (DISTRICT ATTORNEY) first to give the OPENING STATEMENT, as to how he will prove Jane's guilt.

(PAUSE)

The judge calls the DEFENDANT'S ATTORNEY (who is a PUBLIC DEFENDER) to give an OPENING STATEMENT, as to how he is going to defend his/her client, prove that Jane is not guilty.

Do witnesses speak during the opening statement? No

The District Attorney then presents his case, stating facts that prove that Jane is guilty of the crime. The prosecutor will call a WITNESS, the police officer to the stand, and the bailiff will swear him in. The prosecutor will question the police officer and show any other evidence he has to try to prove that Jane is guilty.

*The police officer's statement will be evidence. What other evidence might the DA have?
Witness statements, any confessions that Jane may have made
What does it mean to "swear in" the police officer? Tell him that he must tell the truth. He cannot lie or he would be found to have engaged in perjury.
What should Jane do if the police officer says something that isn't true? Tell her attorney during a break or write her attorney at note.*

The defense attorney cross-examines the police officer, and any other witnesses, asking questions to discredit the police officer to prove that Jane is not guilty.

(PAUSE)

The district attorney has no further questions.

(PAUSE)

The **defendant's attorney** presents his case, talking about reasons why Jane shouldn't be found guilty. Jane was harassed by the police officer and was defending herself. Jane's attorney brings Jane to **the witness stand** and begins to ask Jane questions.

(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.

Why should Jane only answer the questions asked by her attorney and not add in information? So that her attorney can best present her case. Only share the amount of information necessary.

After asking questions, the defense attorney states that he has no further questions.

(PAUSE)

The **district attorney** cross-examines Jane to try to discredit Jane.

Does Jane have to answer the questions asked by the DA? Yes. If she agreed to testify, then she must answer the questions asked by both the DA and her attorney. What could happen if Jane lies when she is answering the DA's questions? This is breaking the law. Lying under oath is called perjury and could mean Janie would go to jail.

Closing statements will be given by each side.

(PAUSE)

The **JURY will deliberate** and come to a **decision** about whether Jane is guilty of the charge; called the **VERDICT**.

What does deliberate mean? They will go to another room and think about their verdict. How many people on the JURY must agree for the verdict to be GUILTY? Everyone. What is a verdict? The jury's decision as to whether Jane is Guilty or Not Guilty. What could happen if Jane is found guilty? She will be sentenced. The Judge will issue the sentence or penalty.

If the Jury finds Jane guilty, then the **judge gives the sentence**. In Alabama, Jane is charged with Assault 1st which is a Class B Felony which carries a potential sentence of up to 20 years in prison (see Module 7).

(PAUSE)

When the Jury returns, the **VERDICT** will be read, and the **SENTENCE** given, if applicable, and the **court is then dismissed** by the judge.

Module 16- Rational Decision Making

Making decisions about your case can be challenging. There are a few factors that need to be considered. Discuss these with your attorney. A few example cases or situations are provided to help you think about the five key areas to consider when planning your defense.

- 1. Consider the amount of evidence that could be shared at a trial. Examples may include cell phone information, recorded phone calls or confessions, statements that you made to the police, statements that you made to others in jail, people who saw you around the time of the alleged offense, police camera data (body camera or a dash cam), surveillance videos, clothing, fingerprints, foot prints, a weapon, documented injuries on yourself or others, or results from drug tests or breathalyzers.*
- 2. Talk honestly with your attorney about your offense and about possible plea options (pros and cons).*
- 3. Talk to your attorney about what accepting a deal will mean. For example, what will be listed on your criminal record if you accept the plea, how often will you be required to check in with a probation officer, what will be the length of any jail/prison sentence and will you be eligible for parole, what will the fine be, when does the fine need to be paid off, what happens if I don't pay the fine, will there be conditions, etc.?*
- 4. Substance intoxication in and of itself does not qualify as a serious mental illness that is required for someone to be deemed NGRI.*
- 5. Consider the witnesses in your case that could help you get a not guilty verdict. Are they creditable and reliable; will a jury believe what they have to say? Do they have a criminal history?*

Module 16

(Vignettes were adopted from the DenverFIRST CompKit)

Now we will look at pretend stories about people who have been involved with the legal system. Read each story and consider the questions that follow.

Steve- Consider the Evidence



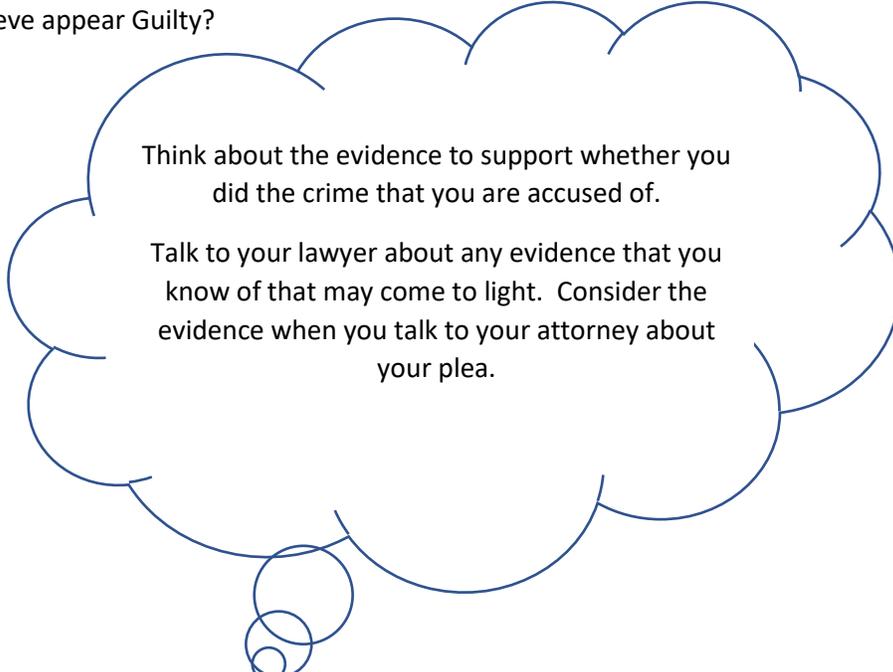
Steve has been sending letters to Lori for almost 4 months. He writes that he loves her, but he also threatens to harm her if she does not love him back. After getting her phone number from friends, Steve starts calling Lori and hanging up when she answers. Steve also starts following Lori to restaurants and stores that she visits. Lori is afraid of Steve and worries that he might hurt her, so she called the police and reported Steve. The police responded and arrested Steve with a charge of Stalking.

Steve does not think he did anything wrong, but his attorney tells him that he broke the law and, based on the evidence, will be found guilty if the case goes to trial.

- 1) Were Steve's actions inappropriate or wrong? Why?

- 2) Could he be found guilty (convicted) of Stalking?

- 3) What evidence might make Steve appear Guilty?

A large, hand-drawn style thought bubble with a blue outline. It has a main large cloud-like shape and a smaller tail-like shape at the bottom. The text is centered within the main cloud.

Think about the evidence to support whether you did the crime that you are accused of.

Talk to your lawyer about any evidence that you know of that may come to light. Consider the evidence when you talk to your attorney about your plea.



Luke: Talking to your lawyer and considering Pleas

Luke has been feeling scared of his mother for months now. 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, a Class A Felony.

- 1) What things should Luke tell his attorney that are important to his case? Should he tell his lawyer about what he was thinking and feeling around the time that he shot his mother?
- 2) Is Luke going to be found guilty if he goes to trial? Why or Why not?
- 3) The District Attorney (DA) (also called the Prosecutor) offers Luke a deal (Plea Bargain) of 7 years in prison if he pleads Guilty to Assault 1st. Should Luke consider accepting this Plea Bargain?



What are the pros and cons to accepting a Plea Bargain?

What should Luke think about before accepting a Plea Bargain?

Who should Luke talk to before accepting the Plea Bargain?

Should he think about possible evidence that may exist?

- 4) Should Luke plead NGRI? If he decides to plead NGRI, what does his attorney have to prove or show? What might happen to Luke if he is adjudicated NGRI? What will his future look like?
- 5) What does the Defense Attorney have to prove in order for Luke to be found Not Guilty by Reason of Mental Disease or Defect?

Think about: 1) What you should tell your attorney about the alleged crime and 2) Make it a point to ask your attorney what the best plea for you is and consider plea bargaining as an option.

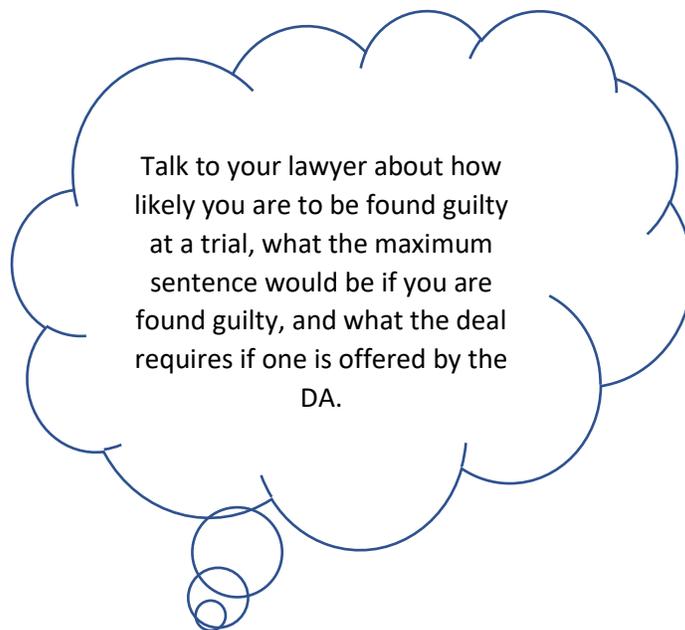


Mary- Pleas and Witnesses

Mary was arrested and charged with **Assault 2 (Class C Felony) on a Law Enforcement Officer** after she hit, with her fists, a police officer who was walking on the street. There were 2 other people (witnesses) who saw Mary hit the police officer and the officer was wearing a body camera. The officer had a cut on his chin after being hit, and Mary's knuckles were bruised.

Because Mary has no prior offenses, the District Attorney (DA) (also called a Prosecutor) offers a deal (plea bargain) where Mary would have to spend 2 years in prison and then be put on probation for one year.

- 1) What is Mary's maximum sentence if she is found Guilty?
- 2) If Mary were to go to trial, is she likely to be found Guilty? Why or why not?
- 3) What evidence is there that could come out in court and how could that impact the outcome of her case?
- 4) Would you accept the plea bargain if you were Mary? Why or why not?





Vignette 5: Dave

Dave is arrested by police and charged with **Theft of Property 1, a Class B Felony**. The police say that Dave stole a car from a gas station the previous night and crashed it into 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 in the State of Florida. Dave tells police that he was home alone all night yesterday, but Dave's neighbor told police that he saw Dave running up to his house at 2:00 AM, one hour after the car was reported stolen.

Dave claims that the police are always messing with him and that they just want him behind bars.

Dave's neighbor is 65 years old with no criminal history and is a retired store clerk who worked at the same job for 25 years. He is not an enemy of Dave's and has no bad feelings toward him.

- 1) What evidence could prove that Dave is guilty? Is there any evidence that he could use as an alibi to show that he is not guilty?
- 2) Who would be a more believable witness, Dave or his neighbor?
- 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 most severe penalty Dave could get is 20 years in prison if he is found guilty. Should he consider a plea bargain offer for 3 years in prison and paying a fine to repair the vehicle he stole? Why or why not?

Would your opinion change about taking the plea bargain if you found out that Dave had 5 past convictions for Grand Theft Auto?

Would your opinion change about the plea bargain if you found out that the one prior Grand Theft Auto charge in Florida was due to Dave failing to return a rental car on time? Dave kept the car for 6 months when it was to be returned after 30 days and the company reported it stolen. He eventually returned it but did serve time in jail.

- 5) If Dave goes to trial, how likely is he to win (be found Not Guilty) by claiming that he was framed by police?
- 6) What effect might Dave's prior conviction have on this case?

Do you have any prior convictions that you need to talk to your lawyer about? How reliable are the possible witnesses in your case? How might a witness who has a criminal history impact your case?

Module 17- Mock Trial

Module 17- Notes to the clinician instructor

Most cases do not go to a jury trial. Many cases will be resolved through a plea bargain or through a bench trial. If you know that you will be going to trial, Module 17 provides an example case that will help you picture what your trial might be like. This story will help you to understand the court room setup, roles and responsibilities of people in the courtroom, and factors that must be considered when deciding whether or not to go to trial. The mock trial also provides an example of how a witness could be harmful to your case.

*Review Module 15 as you read the mock trial to help you remember the steps. Note, the script is color coded to help you remember the side that the parties take; **neutral** people in the court room are written in **blue**, the person **on the side of the defendant** is written in **green**, and the **person against the defendant** is written in **orange**.*

Module 17- Mock Trial

All parties assume their respective seat within the courtroom.

The Bailiff will enter the court room and ask all parties in the court to stand.

JUDGE ENTERS

The judge states "You may be seated."

Jurors are already sworn in. The Judge will provide directions to the Jury and they will "solemnly swear" to pay attention to everything presented and to provide a verdict based on the evidence. This means that the Jury swears to God that they will be fair when providing a verdict of Guilty or Not Guilty.

BAILIFF CALLS THE CASE

The bailiff announces the case "**The State of Alabama vs. Samantha Bolton**". The judge calls court into session.

Judge: Is the State ready to proceed?

District Attorney (DA): Yes, your honor, the State is ready.

Judge: is the defendant ready to proceed?

Defense Attorney: Yes, your honor, the defendant is ready to proceed.

JUDGE ANNOUNCES THAT COURT IS IN SESSION

Judge: Jury members, you are here for the purpose of trying a CRIMINAL CASE. The defendant in this case is Samantha ("Sammy") Bolton, and she is charged with ROBBERY IN THE FIRST DEGREE and KIDNAPPING IN THE FIRST DEGREE. Ms. Bolton has entered a plea of NOT GUILTY.

You as jurors will decide if Ms. Bolton is guilty or not guilty based on the evidence presented during this trial. You may not discuss this case with anyone else until you enter the jury room and begin deliberations.

At this point, it's the right of the State to make an opening statement. Ms. Marks?

OPENING STATEMENT- DA

District Attorney (DA): Thank you your honor. Ladies and gentlemen of the jury. My name is Ms. Molly Marks and I represent the State in this case. We will prove that the defendant, Samantha (Sammy) Bolton, intentionally kidnapped Ms. Amanda Thorn while committing a robbery through the use of force. These are both felony offenses. On the night of August 8, 2020, sometime around 8:30 PM in the Everything Store parking lot, Amanda Thorn was walking across the parking lot to her car when Ms. Bolton held her at gunpoint with the intention of robbing her. Ms. Bolton forced Ms. Thorn into her own vehicle and forced Ms. Thorn to drive to a nearby ATM outside of a nearby Chevron station. Ms. Bolton then forced Ms. Thorn to withdraw \$500 from her bank account.

You will hear from two witnesses today. One is a police detective, Detective Anderson, and the other is Ms. Amanda Thorn herself, who was the victim in this horrific case.

Judge: Thank you Ms. Marks. Mr. Webb, you may now provide an opening statement for the defense.

OPENING STATEMENT- DEFENSE ATTORNEY

Defense Attorney: Thank you your honor. Ladies and gentlemen of the jury, my name is Mr. Robert Webb and I represent the defendant, Sammy Bolton, in this case. Ms. Bolton is innocent and will be proven not guilty. What Mrs. Marks described for you were not facts rather were accusations.

We do not deny that Ms. Thorn was robbed at gunpoint by someone. However, the evidence does not prove my client, Ms. Bolton, kidnapped and robbed Ms. Thorn.

Our first witness will be Bobby Jo Bolton, my client's father. Bobby Jo will testify that Ms. Bolton was with him all-night long on the evening that the incident occurred involving Ms. Thorn. Bobby Jo will testify that he overheard people in the neighborhood talking about how some kid from out of town was bragging about ripping off people the week that the crime occurred.

Samantha Bolton, the defendant, will also take the stand in her own defense. She will testify that her boyfriend owned the car that the victim, Ms. Thorn, purchased not too long ago. Ms. Bolton and her boyfriend frequently rode in the car together. You will see that the evidence proves that Ms. Bolton is innocent and did not do the crime she is accused of.

Thank you very much.

Judge: Thank you Mr. Webb. State, you may now call your first witness.

DISTRICT ATTORNEY CALLS WITNESSES

DIRECT EXAMINATION

DA: Your honor, the state calls to the stand Detective Jacklyn Anderson.

Judge: *(Judge swears in the witness, witness takes an OATH to tell the Truth. If the witness lies, he/she will be charged with perjury).*

Detective Anderson, please raise your right hand.... Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness (Detective Anderson): I do.

Judge: You may be seated. State, you may proceed with your witness.

DA: Tell us your name please?

Witness: Jacklyn Leigh Anderson

DA: Detective Anderson, are you employed by the Tuscaloosa County Police Department?

Witness: Yes, I am.

DA: And in what capacity are you employed with the Police Department?

Witness: I hold the rank of Detective.

DA: On August the 8th did you go to the Everything Store parking lot on Benchmark Street in Tuscaloosa?

Witness: Yes, I did.

DA: Why did you go there?

Witness: At approximately 8:55 PM, dispatch called that a woman there reported she had been kidnapped and robbed.

DA: What did you do when you arrived there?

Witness: I began my investigation.

DA: What type of evidence was gathered?

Witness: We took a statement from the victim, Ms. Amanda Thorn. We dusted her car for finger prints and collected evidence, like hairs and fibers. Ms. Thorn allowed us to look at her bank statement on her phone. We were able to review video surveillance from that area at the time of the offense.

DA: And what conclusions, if any, did the police department come to?

Witness: Well, Ms. Thorn's bank statements noted a \$500 cash withdrawal from the Chevron gas station at approximately 8:45 PM. The video surveillance corroborated Ms. Thorn's story. She appeared to be withdrawing money from the ATM outside of the gas station while Ms. Bolton, was....

DA: Objection! You are making an assumption... making it sound true without evidence! Detective Anderson does not know whether the person in the video is my client.

Judge: Sustained.

DA: Just say what you found, Detective Anderson.

Witness: On the video, there was a woman standing behind Ms. Thorn. She was wearing a sweatshirt with a hood up. The woman had a gun that she was holding against Ms. Thorn's back. After Ms. Thorn gave the woman the money, Ms. Thorn shoved the woman and ran into her car and drove off. It was within minutes that the police received a call from Ms. Thorn stating she has been kidnapped and robbed.

DA: Did the police find anything else during the investigation?

Witness: Finger prints matching the defendant, Ms. Bolton, were found on the driver's side handle and on the dashboard on the passenger side of Ms. Thorn's car. In addition, partial fingerprints that appear to match Ms. Bolton's were found on Ms. Thorn's keys.

DA: What did you do with the evidence?

Witness: We ran the finger prints through our database and found they were a match for Ms. Bolton and investigated her further.

DA: Tell us about that.

Witness: We talked to people who lived in her neighborhood, who told us that she recently bought an expensive game system, you know, one of those X-Box things. We checked with Great Buy Electronics Store, and they told us that Ms. Bolton bought one of those \$499 game consoles a few days after the

robbery occurred. People in the neighborhood also told us that they saw Ms. Bolton with a gun a few times and overheard her talking about needing money and needing to find a way to get it.

DA: Officer Anderson, what did you do after gathering this information?

Witness: We decided to go talk to Ms. Bolton. We went to her house, and she let us in. Right in the living room, as you walk in, we saw the new X-Box game console.

DA: What happened after that?

Witness: We went back and visited Amanda Thorn and showed her 8 photos total of different people. We asked the victim if she recognized any of the women in the photo lineup and she identified Ms. Bolton as the person who kidnapped and robbed her.

DA: What did you do then?

Witness: Then I arrested Ms. Bolton for kidnapping and robbery.

DA: I have no further questions your Honor.

CROSS EXAMINATION BY THE DEFENSE ATTORNEY

Judge: Mr. Webb, would you like to cross-examine the witness?

Defense Attorney: Yes, your honor, I would. Officer Anderson, you said you viewed the surveillance video from that night, correct?

Witness: Yes, I did.

Defense Attorney: Is it true that you couldn't tell that it was Ms. Bolton from the quality of the video, right? The video is grainy. Could you really identify Ms. Bolton?

Witness: Yes. That's why we investigated the situation further.

Defense Attorney: Okay. Now let's turn to that fingerprint. Did you ever find out who owned that car before the victim?

Witness: Yes, from the DMV records, we found that a man named Jack Porter owned the car before the victim did.

Defense Attorney: During your investigation, did you come to find out that Jack Porter is the boyfriend of the defendant, Sammy Bolton?

Witness: Yes, we discovered that.

Defense Attorney: So, it's no big surprise that my client's fingerprints were found in the car... because she had been in the car before?

Witness: yes, but you see...

Defense Attorney: [Interrupts] Ok, you answered my question. On top of that, you never found a gun in Ms. Bolton's house or in her possession, right?

Witness: That's correct.

Defense Attorney: I have no further questions your honor.

Judge: Ms. Marks, do you have any follow up questions?

DA: Just one question. Officer Anderson, did the car dealership tell you that the victim, Ms. Thorn, got a brand-new set of keys after she brought the car, and that the car had been fully cleaned and detailed after purchase?

Witness: Yes, Ms. Thorn purchased a brand new, never been used, key fob and the car had been cleaned and detailed on at least two occasions since she purchased the vehicle.

DA: No further questions.

Judge: Officer Anderson, you may be dismissed. Mrs. Marks, I understand that the state has a second witness? You may call your second witness.

DA PRESENTS EVIDENCE (SECOND WITNESS)

DA: Your honor, the State calls to the stand Ms. Amanda Thorn.

Ms. Thorn is sworn in like the first witness.

DA: Tell us your name please.

Witness: Amanda Thorn.

DA: What were you doing on the night of August 8th?

Witness: Well, I got off work and went to eat dinner at a restaurant, Purple Plate Diner.

DA: What did you do after dinner?

Witness: Well, I was planning to go straight home, but then I realized I needed to pick up some things from the Everything Store near my house.

DA: What happened then?

Witness: I shopped, then I paid for everything and started walking toward my car. It was pretty dark outside, and the parking lot was pretty empty.

DA: What happened next?

Witness: Well, as I get to my car, all of a sudden, I see this woman come up behind me. She had a gun and she told me to get into my car. I started crying but she just repeated it again, saying GET INTO THE CAR NOW! So, I got into my car. Once we were in the car, the woman told me to drive to the gas station. She held a gun to my head the entire drive. I was scared to death. When we got closer, she pointed out an ATM that was next to the gas station and told me to go there.

DA: Then what happened?

Witness: We get up to the ATM and she tells me to withdraw \$500, so I did... She held the gun to my back... Thank God I had the money, or she might have killed me!

DA: What happened once you got the money?

Witness: I was scared she was going to shoot me. So, when I handed her the \$500, I dropped some of the bills. The woman bent down to pick them up, and that's when I kicked her. She fell, and I ran as fast as I could back to my car, ducked down, turned the car on, and just drove away as fast as I could because I swear that she was gonna kill me.

DA: What happened after you drove away?

Witness: I drove to a Fast-Food Heaven and called the police.

DA: OK. Ms. Thorn, do you see that woman, the woman who robbed you?

Witness: Yes, I do. That's her... that's the woman who robbed me [*points to the defendant*].

DA: Okay. Thank you, Ms. Thorn. I know this is hard for you. I have no further questions.

Judge: Mr. Webb, would you like to cross examine the witness?

CROSS EXAMINATION BY THE DEFENSE ATTORNEY

Defense Attorney: Yes, I would your honor.

Judge: Proceed.

Defense Attorney: When did you see the face of the person who robbed you?

Witness: Um, I guess when we got into the car.

Defense Attorney: And did you stare directly at the woman?

Witness: No. I was too scared to do that.

Defense Attorney: And she was behind you at the ATM too, right?

Witness: Yes

Defense Attorney: And then you ran off real fast, ducking down?

Witness: Yes.

Defense Attorney: Are you sure you know who robbed you if you couldn't clearly see her?

Witness: Um, I mean, I know I was really scared, but I'm sure it was her. I mean, I'm pretty sure it was her. Pretty sure. Sure. Yeah.

Defense Attorney: Ms. Thorn, isn't it possible that you got it wrong. That you didn't really get a good look at the robber. Isn't it at least possible.

Witness: Um, I don't think so.

Defense Attorney: You don't think so? Hmmmmmm.... Your honor, I have no further questions.

Judge: Ok, Ms. Thorn, you are dismissed.

Judge: Does the State have further witnesses?

DA: No, your honor, the State rests.

Questions for Consideration:

What do you think about the case? Is the DA doing a good job?

What do you think about the evidence?

Is there any evidence that would make the case stronger?

What do you think about the witnesses so far, the Detective and the victim (Ms. Thorn)? Do you think the jury believes them?

If you were the defendant (Sammy), would you have thought about taking a plea bargain before the case began?

Note: When a lawyer says "OBJECTION", the witness cannot say anything until the Judge says they can.

BREAK

Judge: Is the Defense ready to proceed?

Defense Attorney: Yes, your honor, the Defense is ready.

Judge: And is the State ready?

DA: Yes, your honor, the State is ready.

Judge: Ok, Mr. Webb, you may call your first witness.

DEFENSE ATTORNEY PRESENTS EVIDENCE

DIRECT EXAMINATION

Defense Attorney: Your honor, the Defense calls Mr. Bobby Bolton.

Judge swears in the defendant.

Defense Attorney: Tell us your name please.

Witness: Robert Joseph Bolton, but everyone calls me Bobby.

Defense Attorney: Mr. Bolton, do you know the woman sitting over there?

Witness: Yes, I do. That's my daughter, Samantha... "Sammy".

Defense Attorney: Mr. Bolton, tell us about your relationship with your daughter.

Witness: Well, she's the light of my life. Her mom died so, I raised her on my own. She moved into her own place about two years ago.

Defense Attorney: Do you live close to each other?

Witness: Yep. We both live in Tuscaloosa. So, I see her a lot - at least a few times a week... About 6 months ago I had a heart attack and soon after that broke my hip and all... It's just hard for me to move around these days so, Sammy comes over a few times a week to check on me.

Defense Attorney: Ok, Mr. Bolton, I'd like to take you back to August 8, 2020. Did you see Sammy that day?

Witness: Yes, I did. She came over around, hmmm, 5 or 5:30 maybe. We had some dinner and then popped in a movie.

Defense Attorney: What time did you start watching the movie?

Witness: Probably about 7 o'clock I guess.

Defense Attorney: And how long was Sammy there with you that night?

Witness: Oh, she left after the nightly news. Before midnight I think ...maybe 11... 11:30 or so.

Defense Attorney: Ok, and does Sammy own a gun?

Witness: Oh no. I think she's scared of them.

Defense Attorney: You've known Sammy her whole life. Is she the kind of girl who would do something like this - kidnap and rob someone with a gun?

Witness: Oh no sir. My Sammy's a good girl. She coulda' never done that.

Defense Attorney: I have no further questions your Honor.

DA CROSS EXAMINATION

Judge: Ms. Marks, would you like to cross-examine this witness?

DA: Yes, your honor, I would.

Judge: Proceed.

DA: Mr. Bolton, you said your daughter came over around 5 or 5:30, right?

Witness: Yes.

DA: And she left at 11pm or later?

Witness: Yes ma'am.

DA: Now, how do you know she didn't leave at some point during that evening?

Witness: Well, I would have known if she left. I would have seen and heard her coming and going.

DA: Well, that's not really true, though, right? I understand you take some medications for your heart condition, right?

Witness: Yeah. I take a few...

DA: Those medications make you drowsy, right?

Witness: Yeah, I guess.

DA: Do you usually fall asleep early in the evening because of those medications?

Witness: Yeah, sometimes I drift off to sleep... You know maybe doze in and out... Not asleep, asleep though.

DA: Did you drift asleep that night, the night of August 8, when Sammy was over?

Witness: Maybe, but if I dozed off I was only asleep for a little bit.

DA: So, there is a period where you were asleep and therefore have no idea whether Sammy was there or not?

Witness: Well, I know she didn't do this!

DA: Ok, another thing - back then, in August, did you give Sammy \$500?

Witness: No. I don't have that kind of money.

DA: Or buy her an X-Box One game console?

Witness: No, I don't even know what that is.

DA: Ok. Now, you love your daughter, right Mr. Bolton? And you would do anything for her?

Witness: Of course.

DA: Even lie for her.

Witness: No, I'm telling the truth.

DA: I have no further questions your honor.

Defense Attorney: I have no further questions.

Judge: Mr. Bolton, you may leave the witness stand.

DEFENSE ATTORNEY PRESENTS EVIDENCE (SECOND WITNESS)

Judge: I understand the Defense has a second witness?

Defense Attorney: Yes, your honor, we do.

Judge: Ok, you may call your second witness.

Defense Attorney: Your honor, the Defense calls Samantha Bolton to the stand.... (*Ms. Bolton is sworn in...*) Tell us your name please.

Witness: Samantha Bolton.

Defense Attorney: Ms. Bolton, you are the defendant in this case, correct?

Witness: Yes, that is correct.

Defense Attorney: Ms. Bolton, directing your attention to August the 8th, 2020 what do you recall you were doing that day?

Defendant: I had been doing errands that day. I went home and later picked up groceries for my dad and went to his house at around 5:30 PM.

Defense Attorney: And what did you do at your dad's house?

Defendant: Made dinner. We probably finished eating and putting everything away maybe around 7pm... and put on a movie.

Defense Attorney: Ok. And what time did you leave your dad's home and arrive at your own home?

Defendant: I'd say I left around 11 and got back to my place around 11:15 pm.

Defense Attorney: Did you leave your dad's house at any point between 5:30 pm and 11:00 pm?

Defendant: No, I did not.

Defense Attorney: Ok. So, to be clear, did you go to the Everything Store off Benchmark Street in Tuscaloosa at any point on August the 8th, 2020?

Defendant: No, I did not.

Defense Attorney: How about the Chevron Gas Station, across the street from the Everything Store?

Defendant: Nope, I did not get gas that day and I don't go by that station. I go to Shell.

Defense Attorney: Okay. Let's shift gears. Are you familiar with the different cars your boyfriend has owned over the past few years?

Defendant: Absolutely!

Defense Attorney: Does Ms. Amanda Thorn, the victim of a crime, currently own Mr. Porter's old car?

Defendant: Yes, that's true.

Defense Attorney: And when Mr. Porter owned the car, how many times do you think you were in that car?

Defendant: At least once a day on average.

Defense Attorney: Ms. Bolton, would it surprise you that your fingerprints were found in the car?

Defendant: No, not at all.

Defense Attorney: Ok. Let's talk about the alleged gun. Do you own a gun?

Defendant: No, I do not.

Defense Attorney: Does anyone in your immediate family own a gun?

Defendant: No.

Defense Attorney: Have you ever used a gun?

Defendant: Once, a long time ago. I took a self-defense firearms class offered by the Police Department. My dad thought I should go. He signed me up actually.

Defense Attorney: And what was that experience like?

Defendant: It felt awkward and kind of scary.

Defense Attorney: And finally, Ms. Bolton, did you kidnap and rob Ms. Amanda Thorn?

Defendant: No, I didn't. I'm sorry for what happened to her, it sounds horrible and terrifying, but I didn't do it.

Defense Attorney: Thank you, Ms. Bolton. I have no further questions.

CROSS EXAMINATION BY THE DA

Judge: Ms. Marks, would you like to cross-examine this witness?

DA: Yes, your Honor, I would.

Judge: Proceed.

DA: What were you were wearing on August the 8th 2020?

Defendant: I really can't remember. I wish I could.

DA: Do you own any hoodies?

Defendant: Yes, quite a few.

DA: How about a dark navy blue one?

Defendant: Sure, I think I have one.

DA: How about a dark navy hoodie sweatshirt with some numbers on the back? Specifically, "41?"

Defendant: Um...yes, I believe that might be right.

DA: The State presents Exhibit 1, the video surveillance. Looking at the video, you can make out some numbers on the back, "41." Does this look like a sweatshirt you own?

Defendant: I mean it's hard to tell what the numbers are, but yes, I have a navy sweatshirt hoodie with the numbers "41" on it.

DA: Hmmm.... that is interesting. Ms. Bolton, let me ask you about your boyfriend's car. You say you were in it many times prior to it being sold to Ms. Thorn.

Defendant: Yes, that's right.

DA: Were you in the car after Mr. Porter sold his car to Ms. Thorn?

Defendant: No.

DA: Right. So, how did your fingerprints get in Ms. Thorn's car AFTER she bought it from your boyfriend and AFTER she had her car cleaned by the dealership on at least two occasions as reported by Detective Anderson?

Defendant: I don't know. The dealership must have missed a few spots. Maybe they didn't do a good job.

DA: I see. Ms. Bolton, Is it true that just days after Ms. Thorn was kidnapped and robbed, you bought an X-Box One Console for \$499?

Defendant: Yeah, I bought it later that week. It was for my boyfriend.

DA: So, it wasn't purchased with your boyfriend's money. Your bank statements indicate that you didn't have that amount of money in your account at the time you purchased the X-Box One. And your dad

said that he didn't buy it for you and that he doesn't have that kind of money, so you didn't get the money from him. How were you able to afford such an expensive item?

Defendant: I'd been saving. I kept the money in a jar on my nightstand.

DA: Really? I have no further questions.

Judge: Does the Defense have any further witnesses.

Defense Attorney: No, your honor, the Defense rests.

Break

CLOSING STATEMENT- DA

Judge: [*To the jury*] We are now at the stage of the trial called closing arguments. It is an opportunity for each side to argue the case to you one last time. You will base your **verdict** on the evidence presented today.

The State has the right to begin the closing arguments.

DA: Thank you, your Honor. Jury, you have heard a lot of evidence over the course of this trial. Ms. Thorn was one witness who clearly identified who robbed her while walking to her car on August 8th. She pointed out who did this crime. The defense wants you to think that Ms. Thorn didn't remember who robbed and kidnapped her, but that memory will be in Ms. Thorn's head and mind forever.

You also heard from Detective Anderson. She told you facts about the crime scene. She talked about the ATM surveillance footage of the crime. The video shows someone wearing a dark hoodie with the number 41 on the back. A hoodie that the defendant said is the same as one she owns. Then the defendant happened to buy a \$499 X-Box after Ms. Thorn was robbed of exactly \$499. At that time, Ms. Bolton did not have nearly that amount of money in her account. Finally, she testified that the fingerprints in Ms. Thorn's vehicle, and the finger prints on the key fob, belonged to Ms. Bolton.

I ask that you use common sense here. Even the defendant could not explain how or why her finger prints were on those car keys or on that door. But the Detective can explain it; that the defendant touched those car keys, while robbing Ms. Thorn. She is clearly guilty.

Finally, Ms. Thorn's father, Mr. Bolton, desperately wants to believe his daughter did not engage in this horrific and terrifying act. But his own testimony revealed that he was asleep much of the night and did not know that his daughter, Ms. Bolton, left his home on the night of August 8th to go rob someone. He also said that Ms. Bolton never used a gun but Ms. Bolton herself said her dad sent her to a class to learn how to use a firearm... And then of course, Ms. Bolton said that she didn't do it because who would admit that. The facts are the facts. Ms. Bolton is Guilty. Do the right thing and convict this defendant. Thank you.

Judge: Defense, you may now make your closing arguments.

CLOSING STATEMENT- DEFENSE ATTORNEY

Defense Attorney: Thank you, your honor.

Ladies and gentlemen of the Jury. Thank you for your service. I'd like to call your attention to some things about the testimony and the evidence that you heard that I think will be important to your decision.

I do not believe that the fingerprints and surveillance video points directly to Ms. Samantha Bolton. This evidence does not prove beyond a reasonable doubt that Samantha Bolton committed this crime. Not only is it very possible that those fingerprints were in the car from before it was sold to Ms. Thorn but there were other fingerprints in that car that were not identified or investigated that could belong to the real kidnapper.

The video surveillance is grainy at best, leaving the numbers on the sweatshirt and the face of the kidnapper impossible to make out. On the night of August, the 8th, Ms. Bolton was at her father's home watching a movie. There is no link between Ms. Bolton and Ms. Thorn other than the fingerprints in the car that was previously owned by her boyfriend.

The evidence does not prove it was Ms. Samantha Bolton who kidnapped, robbed, or who held a gun up to Ms. Thorn... certainly not beyond a reasonable doubt. Again, the State has not proven their case beyond a reasonable doubt, and my client, Samantha Bolton, should not be found guilty.

JURY DECIDE ON A VERDICT

Following closing statements, the **JUDGE** gives the **JURY** directions and the jury **DELIBERATES**. The jury will return a **VERDICT**. Later the **JUDGE** will issue a **SENTENCE**.

How do you think that the defendant's testimony helped or hurt her case?

If you were the defendant, would you have testified? Why or why not?

What kind of evidence could change the verdict?

If the DA had offered a plea bargain, do you think the defendant should have taken it and why or why not?

Module 18- Review Guide

Download the Review Guide that is available by visiting https://mh.alabama.gov/wp-content/uploads/2021/07/Restoration-Review-Guide-for-Defendant-7_16_2021.pdf

Module 19- Overall Review

(adopted from DenverFIRST CompKit)

1. What am I charged with? _____
2. Is it a misdemeanor or felony? _____
3. How much time could I get if I'm found guilty? _____
4. Which lawyer is trying to help me? _____
5. Which lawyer is trying to convince the jury that I am guilty? _____
6. What does the judge do in court? _____
7. Who is supposed to decide whether I am guilty, not guilty, or not guilty by reason of insanity?

8. What does a witness do in trial? _____
9. Should I trust my lawyer? _____
10. How can I help my lawyer defend me? _____
11. If I hear a witness give wrong information, how do I let my lawyer know?

12. How should I act in court? _____
13. List the three pleas: _____
14. If you agree to a plea bargain, what plea will you enter? _____
15. Who is the defendant in your case? _____

Module 20- Things to remember about my case

(Handout DD)

1. The letters "IST" stand for "**I**ncompetent to **S**tand **T**rial."
2. You have been charged with (accused of) _____

3. This means _____

4. The charges were filed in
 - the Circuit Court of _____ County,
 - the _____ Judicial District,
 - Case No. _____.
5. You are facing a possible maximum sentence of up to _____.
6. The judge who sent you here is the Honorable _____.
7. He ruled that you were incompetent on (date): _____.

Module 21 What's Next?

After you have learned the information in this manual, you may need to wait for your evaluation or wait to return to court. Take care of yourself while you wait for your court date.

Here are some tips:

- Set three goals and review your progress toward your goals one time per week. When a goal is achieved, add a new goal. Three realistic goals are:
 - _____
 - _____
 - _____
- Do not possess a weapon(s).
- Do not use drugs and/or alcohol.
- Do not stay out late at night.
- Follow any conditions required by the court. Failure to do so can result in more requirements.
- Receive any necessary treatment such as counseling/therapy or medication management.
- Continue your education or get a job. Keep learning!
- Do not spend time with peers who make poor choices and choose criminal behavior.
- Follow the law- If you are confronted by law enforcement or the court:
 - Be respectful
 - Follow directions
 - Don't try to run away
 - Show up on time for appearances
 - Do not speak to anyone about your behavior (what you did or didn't do) until you have an attorney present
- Take care of yourself
 - Eat healthy
 - Exercise
 - Get enough sleep
 - Do something that you enjoy for at least two hours per day
- Pay any fines or restitution
- If on probation:
 - Follow your curfew
 - See your Probation Officer as scheduled. Be on time!
 - Follow your court order or conditions
 - Wear a monitoring device if you are required to do so.
- _____
- _____
- _____
- _____

Competency Restoration Program Brochure

https://mh.alabama.gov/wp-content/uploads/2021/07/Competency-Restoration-Brochure_-What-is-Restoration.pdf

Sample Questions that the Forensic Examiner may ask you

Court Personnel

Item Number	Question	Notes
1	In a criminal case, who is the DEFENDANT ?	
2	What is the job of the JUDGE ?	
3	Whose side is the JUDGE on?	
4	What is the job of the JURY ?	
5	Whose side is the JURY on?	
6	What is the job of the DA (District Attorney) or PROSECUTOR ?	
7	What side is the DA (District Attorney) or PROSECUTOR on?	
8	What is the job of the DEFENSE ATTORNEY ?	
9	Whose side is the DEFENSE ATTORNEY on?	
10	What is the job of the WITNESS ?	

Adjudication and Criminal Procedures

Item Number	Question	Notes
1	When is the DEFENDANT told their charges and when can they enter a PLEA ?	
2	What is the purpose of a TRIAL ?	
3	What happens if a DEFENDANT is found NOT GUILTY ?	
4	What happens if a DEFENDANT is found GUILTY ?	
5	What happens if a DEFENDANT is found NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT /not guilty by reason of insanity?	

Plea Bargaining

Item Number	Question	Notes
1	What is a PLEA BARGAIN?	
2	Who must agree to the PLEA BARGAIN?	
3	If you decide to PLEA BARGAIN, what PLEA must you enter? GUILTY or NOT GUILTY?	
4	If you decide to take or accept a plea, will you have a trial?	
5	Once you accept the plea, can you change your mind?	

Rights and Testifying

Item Number	Question	Notes
1	What does it mean to TESTIFY?	
2	Do you have to testify at your trial?	
3	If you do testify, who can ask you questions?	
4	Who else can testify at a trial?	
5	What can happen if you or a WITNESS doesn't tell the truth when testifying?	

Working with an Attorney

Item Number	Question	Notes
1	What is the name of your ATTORNEY ?	
2	What should you talk to your attorney about?	
3	What should you do if you do not understand what is happening or said in court?	
4	What could happen if you do not tell the full truth to your attorney?	
5	Can your attorney tell other people what you tell him or her?	

Crime Classifications and Penalties

Item Number	Question	Notes
1	What are PENALTIES a court could use besides jail?	
2	What are the CHARGES against you?	
3	Are your charges FELONIES or MISDEMEANORS ?	
4	If you are found guilty, what are the possible sentences you could be given?	
5	What is the maximum penalty for the charge(s) against you?	

Applied Courtroom Knowledge*

Item Number	Question	Notes
1	How strong is the case against you?	
2	What type of plea bargain would you take in your case?	
3	Should you tell your attorney all of the details around your case? Why or why not?	
4	What would you do if a witness doesn't tell the truth when they are testifying?	
5	Do you plan to testify at your trial? Why or why not?	

