

COMPETENCY EVALUATION REPORT WRITING GUIDELINES

This checklist is designed as a guideline for completing Competency to Stand Trial Evaluations pursuant to M.G.L. chapter 123 § 15(b). It is best used as a reference point for checking your work to determine whether you have included the necessary elements in your report.

IDENTIFYING INFORMATION

- Name
- Gender
- Referring Court
- Date(s) of Alleged Offenses
- Place of Evaluation (if applicable) which led to this court-ordered evaluation
- Type(s) of Evaluation (i.e., CST, CR, Aid in Sentencing, etc.)
- Statute/Legal Authority for Evaluation
- Place and Date of Admission (if inpatient 15B)
- Brief (typically one sentence) description of what the defendant is alleged to have done
- Date of Birth
- Age at Evaluation
- Charge(s)
- Date of Arrest

LEGAL CRITERIA - Vailes- verbatim

WARNING OF LIMITS OF CONFIDENTIALITY

When writing this portion of the evaluation, write what you actually gave as a warning to this defendant.

Did you indicate that you informed the defendant

- About your professional status as a court-ordered examiner
- That you are performing a court-ordered evaluation
- That the evaluation was ordered to assist in the Court's determination of the defendant's competency for the current charge(s)
- That the evaluation was ordered to assist in the Court's determination of the defendant's need for mental health treatment
- That the information would be revealed to the Court in the form of a report and possibly testimony and in that sense will not be confidential
- That the defendant could refuse to participate in the interview, but in that event you could still be providing a report to the Court based on your observations and other sources of information

Did you indicate that

- You attempted to briefly assess the defendant's understanding of the warning with questions (or requests to paraphrase) and include examples of his/her responses which suggest(s) his/her understanding or confusion
- You attempted to educate the defendant about the warning (if he/she did not appear to adequately understand aspects of it) and briefly describe your efforts to do so
- You attempted to reassess the defendant's understanding of the warning with questions (or requests to paraphrase) and include examples of his/her responses which suggest(s) his/her understanding or confusion
- Your impression of whether or not the defendant adequately understood the warning

SOURCES OF INFORMATION

- ___ Indicate dates and duration of all interviews with the defendant
- ___ Indicate date(s) of contact (or attempts to contact) defendant's attorney
- ___ For all others interviewed, indicate names, dates of contact and relation to the defendant
- ___ For family members of the defendant, indicate they were informed that information shared which is relevant to the evaluation will be reported to the Court
- ___ Identify all records that you reviewed for the purpose of this evaluation

RELEVANT HISTORY

It is important to organize this section carefully, so that it is "reader friendly." Usually a chronological account of the person's life works well; in some cases, it might be better to break out some subsections such as "History of Substance Use" or "Mental Health History."

- ___ Information provided is both relevant and sufficient to support your subsequent opinions regarding the presence or absence of mental illness, your diagnostic impression, and opinions such as likeliness of serious harm to self or others by reason of mental illness. In addition, be sure to keep in mind the purpose of the report, and do not include information that is unnecessary, potentially prejudicial, etc.
- ___ Includes a brief description of any significant points regarding the defendant's history of family socialization and his/her personality development
- ___ Includes a history of social adaptations to school, work, peer relations, marriage, etc.
- ___ Includes any history of past mental difficulties, treatment, and response to treatment or report of no such history
- ___ History of suicidal ideation/attempts or no such history.
- ___ Includes any history of substance abuse or report of no such history
- ___ Includes any history of criminal justice involvement or report of no such history
- ___ Includes any history of violence/threats toward others and/or self or report of no such history
- ___ Includes relevant medical history
- ___ Includes results of any special diagnostic evaluations (if applicable)

CIRCUMSTANCES OF REFERRAL

- ___ Includes a summary description of the observations made by others (attorneys, clinicians, court-personnel, family members, etc.) which elicited or are relevant to the referral for this court-ordered evaluation
- ___ If a Section 15(a) evaluation was conducted, the evaluator, date of evaluation, and observations and inferences relevant to this court-ordered evaluation are included

COURSE OF HOSPITALIZATION (if hospitalized during current evaluation)

- ___ A summary of the course of the defendant's current hospitalization (particularly important if you need to rule in/out malingering)
- ___ Responsiveness to treatment and interactions/relationship with treatment providers are noted
- ___ Includes a description of current treatment (including medication regimen)
- ___ Includes a description of the defendant's participation/compliance with treatment

CURRENT MENTAL FUNCTIONING

Thoroughly describe the defendant's mental status using specific behavioral examples versus clinical jargon whenever possible. If jargon is used, it is defined. The description of mental functioning should comment on the following:

- appearance
- affect
- thought processes
- thought content (evidence of paranoia, delusional ideation)
- presence/absence of suicidal/homicidal ideation or intention
- cognitive factors (orientation, concentration, memory, intellectual functioning)
- behavior
- mood
- perception (hallucinations)
- relatedness
- quality of communication
- If jargon was used, it was defined

ABILITIES RELEVANT TO COMPETENCE TO STAND TRIAL

Only **data** and **observations** (not inferences or interpretations) describing the defendant's knowledge, beliefs, behaviors and affective responses are included here.

Understanding of the charges and potential consequences:

The defendant's understanding of

- What the charges are called
- What specifically he/she is alleged to have done that warrants this/these charge(s)
- The relative seriousness of the charges
- Various basic verdicts
- The possible consequences of each of the possible verdicts

Understanding the trial process:

The defendant's understanding of the relevant roles of trial participants and procedures as well as his/her beliefs about these matters in his/her own situation in terms of the following:

- The adversarial nature of the trial process
- The advocacy role of the defense counsel in relation to the defendant, in contrast to the role of the prosecution
- The pleading and plea-bargaining process
- Functions and roles of the various participants in a formal trial hearing) judge, jury, defense counsel, prosecutor or DA, witnesses)
- The essential procedures of a formal trial hearing (i.e., prosecution presents case against defendant with evidence and witnesses, defense counsel presents defense with witnesses and evidence, judge rules on admissibility of evidence, instructs jury, jury deliberates and decides verdict, if guilty - judge sentences etc.)
- NGI defense-what does it mean?

Ability to assist counsel:

The defendant's ability

- To trust his/her attorney
- To communicate relevant information to the attorney in a rational manner
- To rationally understand communications made by the attorney to the defendant
- To appraise the quantity and quality of evidence against the defense
- To be adequately motivated to assist the attorney in preparing a defense

Decision making ability:

The defendant's ability

- ___ To understand the implications of the waiver or assertion of the right to avoid self-incrimination
- ___ To consider defense counsel's advice in a rational manner
- ___ To engage in the cognitive process of weighing simultaneously several options and consequences associated with pleas or plea-bargains
- ___ To reach decisions without significant distortion due to mental illness
- ___ If relevant, willingness or opposition to consider entering NGI plea (assessing the rationality of this decision)

For all CST sections:

In each of the four above sections, when the defendant manifested poor or confused understanding of any of the issues, the evaluator attempted to teach the defendant and then questioned him/her again to determine if this improved his/her understanding. When this was done, the teaching procedure and its outcome was briefly described in the relevant section.

CLINICAL IMPRESSIONS REGARDING COMPETENCE TO STAND TRIAL

This section includes the evaluator's interpretations and opinions regarding the defendant's abilities related to CST. These opinions typically use data not only from the CST section, but also from the history, mental status, and (if applicable) hospitalization sections.

- ___ A clear statement of whether defendant currently suffers from mental illness or defect
- ___ A statement that "the defendant appears to (does not appear to) currently manifest significant deficits in abilities related to CST as a result of (mental illness/mental defect)" is included
- ___ The specific deficits in CST abilities are described along with their relation (logical connection) to symptoms/ characteristics of the mental illness or defect.
- ___ If no mental illness or defect appear to exist, yet the defendant performed poorly in the CST assessment, an opinion or possible hypotheses (simple lack of knowledge, immaturity in an adolescent, malingering, Axis II issues) as to why this occurred is offered, with supporting data.
- ___ If the defendant appears to be currently CST, but there is a risk of deterioration and loss of CST before or during the trial, this opinion, what might prevent deterioration in functioning, and your reasoning are offered
- ___ If some deficits are potentially more or less significant in terms of this trial's likely demands on the defendant (i.e., limited concentration or memory are less of an issue in a brief trial), this opinion and your reasoning are stated
- ___ If the defendant has deficits, which may lead the Court to find him/her not CST, an opinion on the remediation of those deficits (including, for example, the type of treatment, estimated time frame, and likelihood of successful remediation) is offered. If there is little prospect for restoring competence, this opinion and reasoning are explained.

CLINICAL IMPRESSIONS REGARDING NEED FOR CARE AND TREATMENT

Note: In this section it is important that you make clear to the court your clinical opinion on the defendant's need for hospitalization and clinical care and treatment. Other recommendations can be made consistent with the following guidelines:

An opinion and supporting data and rationales are offered regarding:

- Whether the person is mentally ill (as defined by state regulation) or mentally retarded
- Whether the person requires inpatient psychiatric hospitalization
- If so whether the person requires strict security
- The rationale for these recommendations should be explicitly articulated, including reasoning around likelihood of serious harm to self/others
- If recommendations for treatment other than inpatient hospitalization are offered, then you should include specifics about where that treatment can be obtained
- Recommendations (both for hospitalization and community treatment) should be consistent with the person's legal status (e.g., whether the defendant is still pre-trial or the case has been adjudicated, if the defendant is placed on probation or incarcerated, etc.)

In some cases it is desirable to offer the court more than one dispositional option, depending on the legal outcome of the case. However, offering too long of a laundry list, without clarifying your recommendation may be confusing to the court. In choosing what to include in this section, the following guidelines are recommended:

You should first make clear to the court your specific recommendations consistent with your forensic opinion (e.g., if you are recommending that the defendant be found incompetent to stand trial and requires hospitalization, then you should recommend commitment under §16(b) or §16(a)).

It may be advisable (depending on the setting) to offer the court alternative dispositional recommendations for hospitalization if the court finds contrary to your recommendations about competency to stand trial (e.g., if you are recommending that the defendant be found incompetent to stand trial, you can include a recommendation for how the defendant could be hospitalized if the court nevertheless adjudicates him/her competent - for example, §18(a), §12(e), §§7&8).

It is not advisable to offer dispositional recommendations that conflict with your clinical opinion about need for hospitalization - e.g., if you recommend inpatient commitment, it is not helpful to then add that if the court chooses to release the defendant then outpatient services may be obtained at a local community mental center.

In this section, risk of harm to self and others should be addressed even if you think that this is not due to mental illness (e.g., substance abuse, personality disorder).

Note: There are situations where the data do not suggest that the defendant poses a risk of harm to self or others but you think that the person could nevertheless benefit from treatment. In making recommendations in such cases, please be aware that some courts will impose this treatment as a condition of probation. Therefore, when making such recommendations, you should take into account the advantages and disadvantages of such enforced treatment.