



A Community-Based Model for Remediating Juveniles Adjudicated Incompetent to Stand Trial: Feedback from Youth, Attorneys, and Judges

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ABSTRACT

This study examined client satisfaction with a community-based restoration services program for youth adjudicated incompetent to stand trial in Virginia. The sample consisted of 130 youth (ages 8-21 years), 80 attorneys, and 43 juvenile court judges. Youth overwhelmingly found restoration services helpful to them, although some concepts were harder to learn than others. Both judges and attorneys were generally knowledgeable about juvenile competency law, although both were less knowledgeable about competency evaluators and the services provided to youth. Results will be used to improve teaching tools, training of Restoration Counselors, and communication between program providers and the legal community.

INTRODUCTION

Although challenging, the need to develop and refine restoration services for youth reflects a growing legal imperative. To our knowledge, no restoration services program has published research on the experiences and impression of key stakeholders involved in these legal and clinical processes. The purpose of our study was to analyze and summarize

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the results of clients' (youth, attorneys, judges) knowledge and satisfaction with the juvenile competency restoration services program operating in Virginia and to offer recommendations for program improvement.

Background

To ensure that youth receive fair trials, there has been a growing national interest in juvenile competency legislation in juvenile court (Larson & Grisso, 2011). Adjudicative competence (i.e., competence to stand trial) is a legal construct describing the criminal defendant's ability to understand and participate in legal proceedings. It is a functional assessment that addresses capacities rather than knowledge, is contextual in nature, and is calibrated according to the complexity of the legal situation facing each defendant (Christy, Douglas, Otto & Petrila, 2004; Mossman et al., 2007; Zapf & Roesch, 2006).

The Supreme Court articulated the standard test for competency to stand trial in *Dusky v. United States*, 362 U.S. 402 (1960). Currently, 23 states have juvenile competence statutes, most of which use the *Dusky* standard (see Larson & Grisso, 2011, for a list of states adopting juvenile competency legislation). Before the mid-1990s, it was uncommon for the issue of adjudicative competence to be raised in juvenile court. Even with this legislation, adjudicative competence appears to be raised relatively infrequently. In a survey of 217 defense attorneys affiliated with the National Association of Counsel for Children and/or the National Juvenile Defender Center, the attorneys raised juvenile competency in only about 10 percent of their cases (Viljoen, McLachlan, Wingrove & Penner, 2010). However, once the issue of juvenile competency is raised, a judge may refer the youth for a competency evaluation. If the youth is deemed incompetent to stand trial, the court may require the provision of restoration services.

Restoration Services

Restoration services are designed to "restore" an individual's abilities and capacities articulated in *Dusky*, and are not more broadly designed to make permanent therapeutic or rehabilitative changes in the individual's overall life functioning. Unlike adults, youth (in some states) may be found incompetent due to developmental immaturity in addition to mental illness and intellectual deficits. Therefore, some scholars prefer the term *remediation* rather than *restoration* when referring to youth. Remediation is achieved through supportive learning using developmentally and culturally appropriate psycho-educational interventions combined with child-specific intensive case management to address the relevant barriers to adjudicative competency (Viljoen & Grisso, 2007). Restoration services only recently have been applied to youth. Virginia, Florida, and Maryland were the first three states to develop comprehensive juvenile competency restoration programs and are often consulted by other jurisdictions when developing their own state programs. Each has promoted a different type of program, with Florida initially using residential treatment exclusively, Maryland a regional service delivery structure, and Virginia an exclusive community-based program for youth between 8 and 21.

Defining the Restoration Process in Virginia

After a legislatively mandated year-long study by the Commission on Youth, in 1999 the Virginia General Assembly enacted laws and provided a budget to implement a community-based program under the auspices of the Virginia Department of Behavioral Health and Developmental Services (DBHDS). Through grant funding awarded to the University of Virginia, the original program was enriched and conceptually transformed into a transportable model that is now seeking to complete the cross-state research necessary to establish it as an evidence-based practice. The program, *Restoring Youth in the Community*, is being replicated in one county in California and efforts are underway to facilitate further expansion into proximate counties and state settings. The intervention is designed to identify basic principles of program fidelity, define standards of training and supervision, provide education tools and techniques, and facilitate the use of wireless, web-based case management software that allows users to manage all aspects of the program in real time, and to track program and legal outcomes (see www.juvenilecompetency.com-Software).

Virginia law (Va. Code Ann. §16.1-356) specifies that any member of the juvenile court may raise the issue of juvenile competence for youth between 8 and 20, at which point the juvenile is referred for an independent pre-trial juvenile competency evaluation. In conducting competency evaluations, trained clinicians must form not only an opinion regarding the defendant's competence to stand trial, but also—for defendants considered incompetent to stand trial—an opinion regarding the defendant's potential to become competent, if provided with appropriate restoration services (*Jackson v. Indiana*, 406 U.S. 715 (1972); Melton, Petrila, Poythress & Slobogin, 2007). Several studies have examined factors related to restorability among adults and generally find that restorability is related to higher intelligence, younger age, being African American, having a previous criminal history, and the absence of a serious mental illness or intellectual deficit (Anderson & Hewitt, 2002; Hubbard, Zapf & Ronan, 2003; Mossman, 2007; Warren et al., 2006). No such studies exist with respect to juveniles.

Upon a finding by the judge that the juvenile is incompetent to stand trial, the court orders the juvenile into restoration services (see www.juvenilecompetency.com-Judges/Attorneys). This court order triggers the provision of services until the youth is restored to competency, found to be unrestorably incompetent, or the charges are dismissed (Va. Code Ann. § 16.1-358). A court hearing on the competency of each youth must be held every three months, with charges against unrestorably incompetent youth dismissed in one year if the initial charges were misdemeanors, and within three years if the youth was charged with a felony offense.

The effort to craft responsive programming for incompetent youth within this legal context proved to be complex and challenging because the conditions that are being addressed often reflect an intermingling of psychiatric, intellectual, and developmental issues (Schwalbe & Medalia, 2007; Scott, 2003; Viljoen & Grisso, 2007; Viljoen, Odgers, Grisso & Tillbrook, 2007). Using consultation from a range of experts, the program was based on the principles of differentiated and personalization instruction research. Differ-

entiated instruction is a broad framework that offers multiple approaches to meeting learners' needs by recognizing and embracing cultural, familial, and academic differences among students (Santamaria, 2009; Smith, 2011; Smith & Throne, 2007; Tomlinson, 2000). Personalization instruction is the adaptation of the learning process and its content to the learner's personal characteristics and preferences (Jenkins, 2000; Keefe & Jenkins, 2008).

Therefore, each youth is offered an individualized curriculum uniquely responsive to his/her learning style and designed to address their specific barriers to competency. These services are offered in the context of a one-to-one relationship with a trained Restoration Counselor who meets with the youth on average two to three times a week. Each activity has been adapted to appeal to a variety of learning styles (e.g., tactile/kinesthetic, visual, auditory) and unique developmental, cognitive, and/or cultural requirements. The educational tools include digital (animated) storytelling with a multicultural cast of characters (DJ & Alicia DVD) that amalgamates storytelling and learning (Figg, McCartney & Gonsoulin, 2009). A variety of mediums (flashcards, workbooks, coloring books) appeal to individual interests and are designed to reinforce concepts learned in the digital stories. A courtroom board game also teaches courtroom personnel roles and a range of other engaging and developmentally appropriate materials that have been created for use with youth.

Barriers to competency that cannot be addressed through curriculum alone are addressed through intensive case management services. These are coordinated by the Restoration Counselor and ensure referral and involvement in all services necessary to address the medical, psychiatric, familial, social, or environmental factors that might impede a youth's ability to learn and integrate relevant information pertinent to their experience in court.

Juvenile Restoration Services Outcomes Research

The research concerning the provision or outcome of juvenile restoration services is sparse (Scott, 2003). Warren et al. (2009) examined the restoration outcomes of 563 youth referred by the courts for restoration services in Virginia. After receiving an average of 61 to 90 days of services, 73 percent of youth were determined to be competent. Warren et al. (2009) found that the highest rate of achieved competence was among youth who were not mentally ill or mentally retarded (91 percent) and the lowest rate of achieved competence was among youth with mental retardation (47 percent). In Florida, McGaha, Otto, McClaren and Petrila (2001) examined over 400 youth deemed incompetent to stand trial (excluding youth transferred to adult court or considered incompetent because of developmental immaturity) and referred for restoration services. Each youth averaged 217.5 days of restoration treatment. After this type of restoration effort, most (71 percent) of the children were determined to be competent. Ultimately, 44 percent of the juveniles with mental retardation (without a co-occurring diagnosed mental illness), 34 percent with a co-occurring mental illness and mental retardation, and 8 percent with a mental illness only (no mental retardation) were found unrestorably incompetent following treatment.

METHOD

The study is comprised of three samples, each of which reflects a consumer's awareness of or involvement in the juvenile restoration process in Virginia. The sample statistics, instrument development, and procedure are each described separately below. All procedures were approved by the University's Institutional Review Board.

Youth. Participants consisted of 130 youth who had received services from the Virginia DBHDS competency program between 2009 and 2012. The total number of youth served during this time period was 439, resulting in a participation rate of 30 percent. The low response rate was no doubt impacted by some youths' refusal to participate. However, it appears to have been more significantly impacted by the time constraints of the Restoration Counselors and the absence of an automated case management system that would alert supervisors and administrators to the lack of a final evaluation form completed by the youth and their guardians. To assess youths' satisfaction with restoration services, an 8-item client satisfaction survey was developed (items are described in the results section). At the close of restoration services, the Restoration Counselor asked youths to complete the feedback survey. Youth determined the manner in which the survey was administered. Participants were informed that the survey would be anonymous and confidential. Four questions were open-ended and responses to those questions were read by the author and then categories were created to capture the various (mutually exclusive) categories.

Attorneys. Participants consisted of 80 attorneys (defense, prosecuting, and guardians *ad litem*) throughout Virginia who had handled a case involving juvenile competency between January and December of 2011. To assess attorneys' knowledge of and satisfaction with juvenile competency and restoration services, a 21-item survey was developed. With the exception of three items, all items were forced choice (1 disagree, 2 neutral, 3 agree). The DBHDS maintains a list of all attorneys involved in juvenile court cases ($N = 235$) in which the courts have ordered that competency services be provided. To ensure attorney's familiarity with juvenile competency, all attorneys involved in these cases (prosecutor, defense attorney, guardian *ad litem*) were sent a survey with a cover letter explaining the study, its purpose (program improvement), and that the study was being conducted through the university. A return, stamped, self-addressed envelope accompanied the survey. The response rate was 34 percent.

Judges. Participants were 43 Virginia juvenile court judges. To assess the judges' perceptions of juvenile competency, their knowledge regarding juvenile competency law, restoration services, and their satisfaction with those services, a 20-item instrument was designed specifically for this study. With the exception of two questions, items were forced choice (1 disagree, 2 neutral, 3 agree). In 2010, the DBHDS developed a list of Virginia juvenile judges, containing 117 names and addresses. Juvenile competency can be raised in any juvenile court, so all juvenile judges were sent a survey with a cover letter explaining the study, its purpose, and that the study was being conducted through the university. A return, stamped, self-addressed envelope accompanied the survey. The response rate was 37 percent.

RESULTS

Youth Survey

Using a scale of 1 to 10 – with 10 being very, very helpful – youth were asked whether the restoration services helped them. The mean response was 9.25, indicating high agreement with the statement (Mode = 10). The vast majority of youth reported that their Restoration Counselor was on time for appointments (95.3 percent), listened to the youth (100 percent), and listened to the youth's family (99.1 percent).

Youth were asked what they liked least about restoration services. Of the 90 (out of 130 youth) who responded to this question, about half (47 percent) reported that they disliked nothing about restoration services while 2 percent reported "everything." Of the remaining youth, 20 percent reported a dislike for one of the restoration activities (e.g., flashcards, DVD), 9 percent reported they disliked restoration services interfering with other activities (e.g., going to "the gym" or "sleeping"), 10 percent reported disliking talking most of all (e.g., "talking about my charges" or "talking about bad things"), and 12 percent disliked "other" aspects of restoration services (e.g., "it takes too long", "it's hard", and "when I have to sign my paperwork").

Youth were also asked which restoration services they liked best. Of the 117 youth (out of 130) who responded to this question, 15 percent liked "everything" best and another 4 percent liked "nothing" best. Of the remaining youth, 51 percent reported enjoying the restoration activities (e.g., flashcards, "Jamal in a Jam" DVD, worksheets) most of all, 7 percent reported enjoying "talking" most of all (e.g., "Just talking about my case" and "I just like to talk about things"), 15 percent noted the help they were receiving or learning about various aspects of juvenile competency, and 8 percent liked other aspects of restoration services best (e.g., "[b]ringing me candy and stuff" and "[n]ot doing work in my class").

Next, youth were asked what they had the most trouble learning. Of the 107 youth (out of 130) who responded to this question, nearly half (43 percent) reported "[n]othing" while 6 percent reported "[e]verything." Of the remaining youth, 12 percent identified having trouble learning the concept of plea bargain, 11 percent had trouble learning about court (e.g., courtroom and the roles of individuals in the courts), and 21 percent had trouble learning specific concepts or "big words" other than plea bargain or court (e.g., adversarial process, opening and closing statements, plea colloquy, appeal, guilty/not guilty, perjury, restitution, rights, rational understanding, laws, verdict, *Miranda* rights, burden of proof, objection, no contest, notice, plea, disposition, community service), with not more than three youth identifying one of the above concepts. When these three categories were combined, 44 percent of youth receiving restoration services identified at least one concept they had difficulty learning. The category of "other" (7 percent) included comments such as "my charges" and "remember things".

Finally, youth were asked what they would like their Restoration Counselor to do or to do differently. Of the 90 (out of 130) who responded to this question, nearly half (43 percent) reported "nothing." However, 30 percent reported a desire for additional restoration activities (e.g., "[b]ring more activities" or show "more videos"), 11 percent wanted help from their Restoration Counselor (e.g., "[b]e there for me on trial", "[g]et

me out of this situation,” “[h]elp me find my court date”, and “[t]alk to my lawyer”), 2 percent wanted their Restoration Counselor to talk to them (e.g., “just listening” or “pick me up and go somewhere and just talk”), and 3 percent wanted the sessions to stop (e.g., “quit coming” or “leave”). The category of “other” (11 percent) consisted of comments such as “[l]et me choose my own times that you come”, “bring candy”, “put stuff into math form so I may get it faster,” “[b]ringing Connect 4,” and compliments for the Restoration Counselor, for example, “[g]et a congratulations for working hard with me.”

Defense Attorneys’, Prosecuting Attorneys’, and Guardians’ *Ad Litem* Survey

Attorneys’ results are summarized in Table 1. Attorneys were generally knowledgeable about juvenile competency issues, acknowledging the importance of juvenile competency in the context of the juvenile justice system, their responsibility in raising the issue, the purpose of juvenile competency restoration services, and the juvenile competency standard.

In Virginia, prosecutors, defense attorneys, guardians *ad litem*, or the court *sua sponte* may raise the issue of juvenile competency. All but one defense attorney (79 of 80), 8 of 27 prosecutors, and 8 of 10 guardians *ad litem* reported having raised the issue of juvenile competency in court during the past year. (This does not take into account the number of juvenile cases each attorney had in the past year.) The issue of competency was raised between 0 and 30 times by a single attorney, with a mean of 4.56 times per attorney. In the experience of the attorneys in our sample, when an attorney raised the issue of competency, the judge typically (98.9 percent) ordered a competency evaluation. Thus, judges were highly responsive when the issue of juvenile competency was raised.

Twenty-two out of 27 prosecutors (81 percent) responded to the question identifying barriers to raising the issue of competency. Fourteen prosecutors (64 percent) reported no barriers to raising the issue of competency. Eight prosecutors identified potential barriers, with five of those concerned about the prosecutor’s reliance on defense attorneys to identify and raise the issue of competency. For example, one prosecutor wrote “[a]s a prosecutor, due to little contact with defendants, unless it is clear there are competency issues, I have to rely on defense counsel—who may or may not raise the issue,” and another wrote “[a] defense attorney who does not recognize the need.” Two prosecutors identified the absence of professional evaluators, writing for example “[a]vailability of professionals who can perform evaluations with a quick turnaround time.” Finally, one prosecutor wrote, “[k]nowledge on the part of defense attorneys that the evaluation and restoration process may be more difficult for a juvenile and his family than the minor consequences he faces if convicted.”

Three-fourths (32/43) of defense attorneys responded to this question, although 69 percent of those responding reported no barriers. However, 10 defense attorneys reported the following barriers: “[p]resumption that juveniles are inherently less competent and that J & D District courts were established for that reason”; “[o]pposition of prosecutors, reluctance of judges to ‘slow cases down’”; “unavailability of competent evaluators and

TABLE 1
Frequencies, Mean and Range for Attorneys' Survey Regarding Juvenile Competency Restoration Services (N = 80)

Statement	Type of Respondent			% Total Agree (% Total Neutral) (N = 80)
	Prosecution (N = 27)	Defense (N = 43)	GAL (N = 10)	
Juvenile Competency The issue of juvenile competency to stand trial is of considerable importance in the juvenile justice system.	100	95.3 (2.3)	90.0 (10.0)	96.6 (1.3)
It is my responsibility to raise the issue of competency to stand trial when I defend or prosecute a youth who appears to have an intellectual impairment and/or a serious emotional disturbance.	88.9 (7.4)	95.3 (4.7)	100	993.8 (5.0)
It is my responsibility to raise the issue of a juvenile's competency to stand trial when I defend or prosecute a juvenile who does not appear to have sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—or when the juvenile does not appear to have a rational or factual understanding of the proceedings against him.	92.3 (7.7)	100	100	97.5 (2.5)
The purpose of juvenile competency restoration services is to assist juveniles to attain adjudicative competence so that they may fully participate in the adjudicatory process.	85.2 (7.4)	92.7 (4.9)	100	91.0 (5.1)
I know how to raise the issue of competency to stand trial and to request that the judge consider ordering competency evaluations and competency restoration services for juveniles.	92.6 (7.4)	97.7 (2.3)	100	96.3 (3.8)
The standard for juvenile competency to stand trial is the same as the standard for adult competency to stand trial as articulated in <i>Dusky v. United States</i> , 362 U.S. 402 (1960):	88.9 (11.1)	75.0 (20.0)	80.0 (10.0)	80.5 (15.6)
Raising the Issue in Juvenile Court During the past year, how many times have you raised the issue of juvenile competency to stand trial?	Range 0-6 M = 1.89 Sum = 51	Range 0-30 M = 6.90 Sum = 276	Range 0-6 M = 2.40 Sum = 24	Range 0-30 M = 4.56 Sum = 351
Of that number, for how many juveniles did the Court order an evaluation of adjudicative competence?	Range 0-6 M = 1.96 Sum = 51	Range 0-30 M = 6.83 Sum = 273	Range 0-6 M = 2.30 Sum = 23	Range 0-30 M = 4.51 Sum = 347

Computed: When the issue of competency is raised, the judge orders a competency evaluation what % of the time? (one GAL raised the issue, but the judge did not order a competency evaluation, and one defense attorney raised the issue three times, but the judge only ordered a competency evaluation in one of those cases. In the courts in which you practice, what are the barriers to raising the issue of juvenile competency to stand trial?	100%	98.9	95.8%	98.9%
Evaluations of Juvenile Competency Ordered Pursuant to § 16.1-356 I am aware of the training and qualification requirements for juvenile competency evaluators. The juvenile competency evaluation reports I have received have clearly addressed the legal criteria required by <i>Ducky</i> . The juvenile forensic evaluator who testified in court provided testimony which was useful in clarifying the juvenile's adjudicative competence. The juvenile forensic evaluator was neutral to both the prosecution and the defense. Restoration to Competency Services Pursuant to §16.1-357 Section 16.1-357 provides that juvenile competency restoration services may be provided in the least restrictive setting permitted by the court (i.e., non-secure community setting), for example, the juvenile's home, the home of a family member, or a foster home. Section 16.1-357 provides that juvenile competency restoration services may be provided in a secure facility, such as a juvenile detention center, if necessary. The juvenile competency restoration counselor was neutral to both the prosecution and the defense. When the judge has ordered the DBHDS Commissioner to arrange for the provision of juvenile competency restoration services pursuant to §16.1-357, to the best of my knowledge services were provided in accordance with the judge's order. The juvenile competency restoration counselors provided intensive case management services, if needed, to assist the juvenile to overcome the barriers to his adjudicative competence. The juvenile competency restoration counselor used an appropriate curriculum and age-appropriate learning tools to assist the juvenile to attain adjudicative competence, to the extent possible. I received timely reports from the juvenile competency restoration provider. When I received a copy of the post-restoration evaluation report, the cover letter from the director of juvenile competency restoration services included useful recommendations and options available to the court.	See Results	See Results	See Results	
	25.9 (22.2)	19.0 (31.0)	30.0 (20.0)	22.8 (26.6)
	70.4 (14.8)	81.0 (16.7)	70.0 (20.0)	75.9 (16.5)
	34.6 (53.8)	43.6 (51.3)	50.0 (50.0)	41.3 (52.0)
	69.2 (23.1)	56.1 (34.1)	80.0 (20.0)	63.6 (28.6)
	88.9 (7.4)	92.9 (7.1)	90.0 (10.0)	91.1 (7.6)
	92.6 (3.7)	95.1 (4.9)	100	94.9 (3.8)
	81.5 (18.5)	63.4 (26.8)	90.0 (10.0)	73.1 (21.8)
	85.2 (11.1)	87.8 (9.8)	90.0 (10.0)	87.2 (9.0)
	46.2 (53.8)	29.3 (53.7)	55.6 (44.4)	38.2 (52.6)
	37.0 (59.3)	26.8 (68.3)	44.4 (55.6)	32.5 (63.6)
	85.2 (3.7)	61.9 (16.7)	60.0 (20.0)	69.6 (12.7)
	55.6 (33.3)	53.5 (37.2)	60.0 (30.0)	55.0 (35.0)

inadequate funds to pay them”; and “[s]ervice providers to perform evaluations.” Further responses suggested “[s]ome prosecutors are hostile; one judge is hostile to the process”; “[t]he commonwealth attorney’s offices in many jurisdictions are insensitive to this issue”; “*Dusky* criteria always cited, not always in a way that applies to the case”; “[i]dentification of issue—particularly in more quiet clients.” In one court, the defense attorney referenced the “formality of requiring a written motion to raise the issue,” and in another problems with “[p]ersuasion of court to order evaluation.” The adversarial nature of the proceeding was also addressed by one defense attorney, who stated “[t]he prosecutors are often unwilling to accept my determination and believe the kids are ‘faking it’ ”.

Nine of the 10 guardians *ad litem* (90 percent) responded to this question, although six of the nine reported no barriers. However, one guardian *ad litem* reported “[t]he attorney’s ignorance”, another reported “[c]ost of evaluations”, and another reported “[s]ome prosecutors argue not a proper issue for a juvenile”.

Across all attorneys, responses indicated less familiarity with the competency evaluation process. Agreement was considerably lower regarding statements about the training required of competency evaluators, the usefulness of their testimony, and their neutrality. However, responses indicated that attorneys generally perceived that competency evaluators address the legal criteria outlined in *Dusky* when writing their reports.

There was general agreement among attorneys regarding the locations in which juvenile competency services may be provided, that juvenile services were provided in those cases in accordance with the judge’s order, and somewhat agreement that the Restoration Counselor was neutral to the prosecution and defense. There was less agreement, however, regarding whether the juvenile competency Restoration Counselors provided intensive case management services and knowledge about the curriculum used by Restoration Counselors. Attorneys also reported lower levels of agreement that the cover letter from the director of the restoration program included useful recommendations and options available to the court (i.e., judges). It is noteworthy that many of these responses were neutral, possibly indicating a lack of knowledge related to these aspects of the program, and it is likely that the cover letter is less germane to attorneys who may be primarily interested in the evaluation results.

Judges’ Survey

Results for judges are summarized in Table 2. Virginia’s juvenile court judges take juvenile competency seriously, they feel it is their responsibility to order restoration services if the youth before them appears to have an intellectual impairment or a serious emotional disturbance, they are knowledgeable about the purpose of juvenile competency restoration services, they know how to access those services, and they know that *Dusky* applies to juvenile as well as adult competency.

The vast majority of judges (93percent) have had the issue of juvenile competency raised in their court, with 59 percent having had the issue raised between 1 and 10 times, 34 percent having had the issue raised between 11 and 75 times, and 7 percent having never had the issue raised. (These numbers do not consider the number of years

TABLE 2
Frequencies, Mean and Range for Judges' Survey Regarding Juvenile Competency Restoration Services (N = 43)

Question/Statement	Response Categories			Mean	Range
	Disagree (%)	Neutral (%)	Agree (%)		
Section A. Juvenile Competency					
The issue of juvenile competency to stand trial is of considerable importance in the juvenile justice system.	2	7	91	2.88	1-3
It is my responsibility to consider ordering an evaluation of competency to stand trial when I see a youth in my courtroom who appears to have an intellectual impairment and/or a serious emotional disturbance.	0	12	88	2.88	2-3
The purpose of juvenile competency restoration services is to assist juveniles to attain adjudicative competence so that they may fully participate in the adjudicatory process.	0	7	93	2.93	2-3
I know how to order and obtain juvenile competency restoration services for juveniles before my court.	5	2	93	2.88	1-3
The standard for juvenile competency to stand trial is the same as the standard for adult competency to stand trial as articulated in <i>Dukey v. United States</i> , 362 U.S. 402 (1960): "it is not enough for the District Judge to find 'the defendant is oriented to time and place and has some recollection of events', but that the 'test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.'"	0	15	85	2.85	2-3
How many times has the issue of juvenile competency to stand trial been raised in your court?	58% 1-10 times	35% 11-75 times	7% never		
I have ordered an evaluation of juvenile competency to stand trial <i>ita sponte</i> .			65% Yes		
Section B. Evaluations of Juvenile Competency Ordered Pursuant to § 16.1-356					
I know how to access the names of trained juvenile forensic evaluators.	5	10	85	2.79	1-3
I am aware of the training and qualification requirements for juvenile competency evaluators.	15	26	59	2.44	1-3
The juvenile competency evaluation reports I have received have clearly addressed the legal criteria required by <i>Dukey</i> .	0	15	85	2.85	2-3
The juvenile forensic evaluators who have testified in my court have provided testimony which was useful in clarifying issues of juvenile adjudicative competence.	0	40	60	2.59	2-3
The juvenile forensic evaluators are neutral to the prosecution and the defense.	0	15	85	2.85	2-3
Section C. Restoration to Competency Services Pursuant to §16.1-357					
Section 16.1-357 provides that juvenile competency restoration services may be provided in the least restrictive setting permitted by the court (i.e., non-secure community setting), for example, the juvenile's home, the home of a family member, or a foster home.	0	5	95	2.95	2-3
Section 16.1-357 provides that juvenile competency restoration services may be provided in a secure facility, such as a juvenile detention center, if necessary.	0	3	97	2.97	2-3
The juvenile competency restoration counselors are neutral to the prosecution and the defense.	0	11	89	2.89	2-3
When I have ordered the DBHDS Commissioner to arrange for the provision of juvenile competency restoration services pursuant to § 16.1-357, services have been provided in accordance with my order.	3	18	79	2.76	1-3
The juvenile competency restoration counselors provide intensive case management services to assist juveniles to overcome barriers to adjudicative competence whenever necessary.	8	46	46	2.38	1-3
Juvenile competency restoration counselors use an appropriate curriculum and age-appropriate learning tools to assist juveniles in attaining adjudicative competence.	0	54	46	2.46	2-3
I receive timely reports from the juvenile competency restoration counselors.	0	18	82	2.82	2-3
When I receive a post-restoration evaluation report, the cover letter from the director of juvenile competency restoration services includes useful recommendations and options available to the court.	2	32	66	2.63	1-3

the judge has served on the bench.) However, only 65 percent of judges have actually ordered restoration services. Regarding juvenile competency evaluators, judges know how to access the names of juvenile forensic evaluators, they find the evaluation reports have addressed the legal criteria required by *Dusky*, and they perceive the testimony of those evaluators as neutral to the prosecution and defense. However, fewer judges felt that the evaluator's testimony was helpful in clarifying issues of juvenile adjudicative competence, which may simply reflect that judges already understand these issues. Even fewer judges were familiar with the training and qualifications of juvenile forensic evaluators. Perhaps because of Virginia's statute requiring certification, judges may assume a certain level of expertise obviating the need for an intimate knowledge of evaluator's qualifications.

Judges were extremely knowledgeable regarding where restoration services could be administered (i.e., in the least restrictive setting), while acknowledging that a secure setting was also admissible. While judges perceived the Restoration Counselors as neutral to the prosecution and defense, judges were slightly less likely to agree that Restoration Counselors provide intensive case management services and that Restoration Counselors use an appropriate curriculum to provide these services. It is perhaps not surprising the judges are less aware of this information because they are most concerned with whether the youth was restored to competency.

Finally, although judges were generally satisfied with the timeliness of reports from the restoration program, they were slightly less likely to agree that the services they have requested were delivered in accordance with the judge's order. Judges were also slightly less likely to agree that the cover letter provided by the program director provided useful recommendations for the court's consideration.

DISCUSSION

Our findings indicate that youth are generally positive about the process of their restoration services. Sometimes they had preferences for one tool over another, but they tended to experience the various activities as interesting and of benefit to them in understanding the relevant legal constructs. They also perceived themselves as benefiting from their relationship with the Restoration Counselor and overall, thought that these individuals were helpful to them, positively invested in their learning, and possibly of value in an even wider scope of involvement in their court appearances. As can be expected with youth, they did not like it when restoration activities interrupted their preferred activities such as sleeping and going to the gym.

Many youth who were court-ordered into restoration services in Virginia reported varying degrees of difficulty in learning legal concepts despite the use of interactive and engaging materials to teach these concepts. It is not uncommon for youth to master the more factual information that is being presented to them before they can understand and apply more abstract and probabilistic concepts such as the nature of legal rights, the process of accepting a plea, and the idea of reasonable doubt. For many youth, this requires the use of different types of tools over significant periods of time to ensure

youths' rational as well as factual understanding of the concept. Given the one-to-one relationship used in our model, the Restoration Counselor can tailor a multifaceted set of exercises, games, and experiences for the youth based upon their knowledge and familiarity of the interests and activities of each youth. The development of new gaming techniques and interactive learning platforms further enriches the offering of this type of material in ways that are interesting and challenging to youth of different ages.

The relationship between the youth and the Restoration Counselor is central to the Virginia program's success, and it serves a number of different functions, all of which maximize the probability that each youth will benefit to the extent possible from the services provided to him/her. First, this relationship allows the Restoration Counselor to assess on an ongoing basis the types of impediments that are impacting each youth's competency-related abilities with immediate feedback concerning legal topics to be covered, issues that require case management, and the different learning styles and interests of each youth as he/she proceeds through the restoration process. Second, the relationship often seems to create a motivation for learning as youth respond to the efforts made by the Restoration Counselor to assist and support the youth as they navigate through a disturbing and at times confusing situation. Third, the one-to-one relationship eradicates any contamination from other youth that may occur in group settings. Finally, the collaborative nature of restoration services is expressed through restoration sessions being held at the time and location that is most preferable to the youth and their family.

Both judges and attorneys were generally knowledgeable about juvenile competency, with the vast majority having had experience with either raising the issue or having had the issue raised in court. Importantly, criminal justice professionals considered the provision of services to be neutral in intent and not affected by the adversarial process. Both the defense and the prosecuting attorneys generally believe that juvenile competency is an important legal safeguard, with the prosecuting attorneys looking to the defense to identify these problems in a timely fashion given their greater pretrial contact with youth. However, responses were not uniformly positive, with some judges not wanting to slow down the case, the occasional prosecutor and judge showing a personal antipathy to the competency process in juvenile court, and participants complaining about a lack of trained juvenile forensic evaluators who can evaluate youth in a timely fashion. The University of Virginia's Institute of Law, Psychiatry, and Public Policy has been responsible for offering this training since the laws came into effect in 1999, but the state's large expanse makes it an ongoing challenge to ensure that there are trained evaluators available in the state's less populated areas. Not unexpected, some prosecuting attorneys tend to believe that youth are faking incompetency, a fact that is true in a small minority of cases but one that is commonly dealt with by ordering a 10-day inpatient evaluation where 24-hour observation can quickly clarify the actual level of functioning of most youth. Training on assessing and ruling out malingering in all forensic evaluations is also a focus in the juvenile forensic evaluation along with the multi-sourced data collection methodology that lies at the foundation of all accurate forensic assessments.

Juvenile competency evaluators in Virginia must hold at least a master's degree and be a licensed mental health professional. Evaluator credentials have become a hotly

debated issue in other states, with differing outcomes being codified in various state statutes. Based upon our experience in training forensic evaluators for many years, it seemed clear that master's level licensed professionals had the clinical expertise necessary to address the mental health issues that might be identified with youth of all ages. In reality, new intellectual testing is seldom required given that significant, credible intellectual impairments are typically well documented in past academic and psychological reports. Perhaps most importantly, we were philosophically committed to a community-based program that would provide services in a timely fashion to all youth in the least restrictive setting allowed by the court. This service delivery requirement could not be achieved if the requirement for evaluators was limited to doctoral-level clinical psychologists and medically trained psychiatrists.

Our data suggest that despite familiarity with the pretrial issues surrounding competency, many judges and attorneys are less knowledgeable about juvenile competency evaluators and the services provided by the Restoration Counselors and supervisors through the auspices of the restoration program. This is not surprising given that these activities are more tangential to their courtroom activities. However, support from these criminal justice professionals might be enhanced by presentations that demonstrate the tools, interventions, software, and personal experiences that emanate from these services. This type of back-end familiarity might also help to better ground contested competency hearings which often unfold devoid of any insight into the processes that have been used successfully or unsuccessfully to remediate or restore a particular youth to adjudicative competency.

As with many satisfaction surveys, our study was limited by the low response rate across the three samples which may have biased the results. For example, it may be that judges who were more familiar with juvenile competency were more inclined to participate. Alternatively, attorneys who were more adversarial might have been more invested in criticizing the performance of opposing attorneys. Concerning youth responses, we are currently launching the *Restoring Youth in the Community* case management software into the Santa Clara County, California, program. It will provide the program administrator with a termination prompt ensuring that a client satisfaction survey has been obtained from both the youth and the guardian prior to when the case is formally archived to ensure more comprehensive feedback from clients. Furthermore, interviews with stakeholders will be included in our ongoing efforts to develop an evidence-based practice for remediating youth in a community setting.

Overall, our findings indicate that very few attorneys reported barriers to raising the issue of juvenile competency, and there was no discernible pattern among those who did cite barriers, indicating local-level issues rather than systemic issues. Judges across Virginia were well informed, and committed to providing this type of review when it was requested by either the defense or the prosecutor, and also *sua sponte* when they discerned significant impairment in the understanding of youth that they saw in their individual courtrooms. Youth generally felt that the services were useful to them and that they were better equipped to proceed after their work with a well-trained Restoration Counselor. Some critics of juvenile competency laws argue that all incapacitated youth should be diverted from the juvenile justice system. Their intent is humane and compassionate, but

the provision of restoration services provides youth an opportunity to become more informed and be better able to work with their attorney in developing their defense. As one young man commented, “[i]t was awesome and now I have confidence and help . . .”

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