

# Pre-Trial Mental Health Diversion

James Holden, PhD

## Level

Intermediate

## Room

## Track

PALs

## CE

CPA/BBS/CJER

## Bio

**James Holden, PhD** is a California-licensed psychologist who has maintained a private practice in Mendocino County for 30 years. His practice currently consists entirely of conducting forensic evaluations for the courts and attorneys; primarily evaluations of pre-trial mental health diversion, competency to stand trial, and LPS mental health conservatorship. He has conducted competency restoration training workshops for numerous county Mental Health Departments and national law enforcement and correctional organizations, and workshops in competency restoration and LPS mental health conservatorships at previous FMHAC annual conferences.

## Narrative

As an alternative to adjudication and sentencing, California Penal Code section 1001.36 provides for pre-trial mental health diversion for qualifying defendants. Qualifications include having a recent qualifying DSM-V diagnosis, willingness and ability to benefit from mental health treatment, and not being a serious danger to public safety if treated in the community. The burden of proof that a defendant qualifies for diversion rests with the defense. If granted diversion by the court, the defendant's charges are suspended pending completion of a specified course of mental health treatment. If the defendant successfully completes treatment the charges are dismissed. If the defendant does not successfully complete the treatment, charges are reinstated and the case proceeds to trial. This presentation will cover applicable law, evaluation methodology, and psychological and institutional barriers. It will also include several case examples.

## Learning Objectives

1. Describe the background and purpose of the diversion legislation
2. List inclusionary and exclusionary criteria for mental health diversion
3. Assess whether a defendant qualifies for diversion