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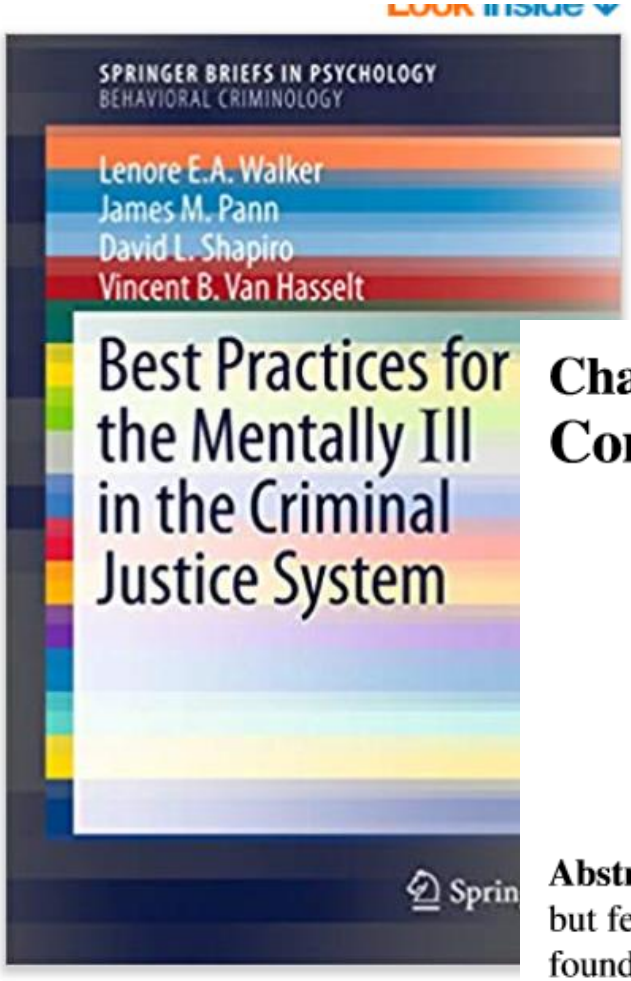
Help is here

Competence Restoration: Components



Chapter 4
Competency Restoration Programs

Abstract Competency restoration programs have had various features in common but few are comprehensive in trying to restore or build competency in those people found incompetent to proceed to trial. A model program outline is proposed here.

Elements of Competence Restoration

1. *Systematic Competence Assessment*—Defendants, upon admission, will undergo a comprehensive assessment to determine the specific reasons for the incompetence, be they psychotic and confused thinking, limited intelligence, mood fluctuations, or brain impairment.
2. *Individualized Treatment Program*—Each defendant will have treatment program tailored to her or his specific needs. Deficits identified in the initial assessment will be addressed by specific treatment modalities.
3. *Education*—This will be the didactic component consisting of education surrounding charges, sentencing, plea bargaining, roles of courtroom personnel, the trial process, and understanding evidence.

Competence Restoration

4. *Anxiety Reduction*—Defendants will be taught anxiety reducing techniques to help them deal with the stress of court proceedings.
5. *Additional Education for Defendants with Limited Intelligence*—If incompetence stems from intellectual deficits, a specific intervention based on the results of an intellectual assessment at the outset will be used here. Didactic material may be reviewed a number of subsequent times in individual sessions to address aspects of the group program that were not well understood by the defendant.
6. *Periodic Reassessment*—Each defendant will be reassessed on at least two occasions, focusing on the individualized treatment modules to see whether progress is being made.
7. *Medication*—For those defendants whose incompetence is based on psychosis or mood disorders, appropriate medications will be prescribed and regularly monitored. Medication reassessment will coincide with the periodic reassessment of competence to see if the pharmacotherapy needs to be altered.
8. *Assessments of Capacity*—A procedure needs to be set in place for the assessment of competency to make treatment decisions, especially when medication is involved. This may vary by depending on relevant statutes and case law.
9. *Risk Assessment*—Considering the fact that some defendants who are unrestorable need to be evaluated for involuntary commitment, there needs to be a standard protocol for assessing risk of future violence using empirically based instruments.

REGULAR ARTICLE

Competency Restoration for Adult Defendants in Different Treatment Environments

Graham S. Danzer, PsyD, Elizabeth M.A. Wheeler, PhD, Apryl A. Alexander, PsyD, and Tobias D. Wasser, MD

The optimization of trial compet
forensics, psychology, criminal la
severe psychotic disorders and cc
be found incompetent to stand tri
identified some of the benefits of a
different diagnoses or levels of c
restoration, and, in some cases, hc
outcome. We sought to review
implications for current practice
advantages and disadvantages of
restoration, length of stay neces
restorability, while controlling fo

J Am Acad Psychiatry Law 4

Competency Restoration for Adult Defendants

Table 1 Attributes of State Hospital, Jail and Outpatient Restoration Programs

Treatment Setting	State Hospitals*	Jails†	Outpatient‡
Costs	$300–$1,000 per day	$42–$222 per day	$100–$500 per day
Rates of restoration	80–90%	55–86%	54–70%
Mean LOSR (per research)	73 days	57.4 days, usually followed by transfer to state hospitals	149–207 days
Patients served	High % of defendants with psychotic disorders	Moderate % of defendants with psychotic disorders	Moderate to low % of defendants with psychotic disorders
Crime type/risk	Moderate to high level of dangerousness	Moderate to high level of dangerousness	Moderate to low level of dangerousness
Medication considerations	High % of adherence, largely due to greater resources to administer involuntary medications	Limited resources for involuntary medication administration	High % of adherence, largely based on screening
Malingering considerations	May teach defendants how to malinger more convincingly	Theoretically ideal for malingerers	Setting less likely to affect malingering either way

* Data on hospital-based restoration obtained from References 2, 3, 5, 8, 13, 16, 19, 23, 29.
† Data on jail-based restoration obtained from References 1, 16, 17, 36, 37, 38.
‡ Data on outpatient-based restoration obtained from References 2, 8, 16, 17, 29, 39, 40.
LOSR = length of stay necessary to achieve restoration.

Does Competence restoration work?

Competency Restoration for Adult Defendants

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A brief case – some details changed

- JP – 35 yo man who had criminal charges related to child pornography possession 5 years ago. He was found Not Competent to Stand Trial. Criminal charges were dropped.
- Recently, he experienced psychosis and admitted to possession of child pornography again and the belief that he had a mutual romantic connection with a young girl.
- Likely could have been restored to competence and resolved his charges.
- Conflict between individual's wishes and community safety interest.

A Second Case

- JB – Criminal Charges related to threatening neighbor with a firearm and shooting neighbor's dog
- Found not competent to stand trial
- Charges dropped
- Lengthy inpatient hospitalization
- Initially presented with psychosis, psychosis resolved well with medication

JB Continued

- Discharged to community on ONH
- Likely could have been restored to competence
- Did not adhere to conditions of ONH – Did not engage with DA clinical team, adhere to medications.
- DMH declined to petition for revocation of ONH because he was not overtly dangerous
- No effective oversight or treatment – continued to decline to engage with DA