



## Psychiatry & Behavioral Science Section - 2016

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### **I11 Stopping the Revolving Door: Identifying Factors Associated With Repeated Trial Competency Evaluations**

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After attending this presentation, attendees will understand clinical and legal characteristics of defendants who have been found unfit to stand trial two or more times on a single charge.

This presentation will impact the forensic science community by providing information on an understudied subset of incompetent defendants. This information could help direct future clinical and legal interventions in order to reduce the likelihood of prolonged detention and delayed adjudication.

The Supreme Court's 1960 decision in *Dusky v. United States* created a federal standard for competence to stand trial, establishing that a defendant must have "sufficient present ability to consult with his lawyer" and a "rational as well as factual understanding of the proceedings against him." In New York, if a defendant's competence is called into question, Article 730 of the Criminal Procedure Law (CPL 730) ensures that he or she undergoes a competency assessment before the trial process can continue. If a defendant has a felony charge and is deemed incompetent to stand trial, he or she is referred to a New York State Office of Mental Health facility for restoration of competency.

However, there is a constitutional limit to how long a defendant can be hospitalized for the purpose of restoration. In 1972, the Supreme Court ruled in *Jackson v. Indiana*, that a defendant deemed incompetent to stand trial "cannot be held more than the reasonable period of time to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future." Estimating the probability that a defendant can be restored to competency has proven to be a difficult task. Past research has investigated the characteristics of restorable versus non-restorable defendants, with the goal of more accurately predicting which defendants are more or less likely to be restored. Others have examined attributes of a subset of incompetent defendants who require long-term (greater than six months) restoration as well as defendants requiring multiple competency examinations for different charges. Common factors associated with lower likelihood of competence restoration include older age, a lower level of charges, a history of a chronic psychotic disorder, and a history of cognitive impairment.

There has not been significant research into the characteristics of defendants who have been found competent but then lose competency before their case can be adjudicated. These inmate/patients can have several competency evaluations and subsequent restoration hospitalizations. This population of defendants is of particular interest because of the burden that multiple and long-term episodes of incompetence pose on the correctional and mental health systems, in addition to the civil rights concern over prolonged detention and delayed adjudication. This situation has multiple clinical, ethical, legal, and cost implications.

The purpose of this study is to identify characteristics of defendants who have been found unfit to stand trial on two or more occasions for the same charge and have had a history of hospitalization in the Bellevue Hospital Forensic Psychiatry Service. The more that is known about this subset of defendants, the more capable clinicians will be in providing targeted interventions that could reduce the length of time to adjudication.

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#### **Competency Evaluation, Fitness Restoration, Incompetent Defendants**