

**INFORMATION ABOUT THE COMPETENCY TO STAND TRIAL AND SANITY AT
TIME OF THE OFFENSE EVALUATIONS**

Updated March 2017

The following information describes the process of competency and sanity evaluations and provides guidance about what you can expect and how you can assist. Please note that Dr. Nelson is typically appointed to conduct these evaluations by the Court as a neutral evaluator.

Why have I been ordered to have a competency or sanity evaluation?

If the Court has ordered a competency evaluation, then the Court is wanting to ensure that you have at least a basic understanding of the legal system and your case and that you are capable of assisting your attorney in preparing a defense. These evaluations are frequently ordered when a person has a history of treatment for a mental illness, a history of learning difficulties, and/or has no prior experience with the legal system. If a sanity evaluation was ordered, then the Court is wanting to get more information about whether you had a mental illness at the time of the alleged offense and if and how it impacted your decision making and actions at the time.

Where will the evaluation be done?

Dr. Nelson will see you either on an outpatient basis at our office, another outpatient location that is mutually acceptable to you and Dr. Nelson (such as a room in a local courthouse or an attorney's office) or in jail, detention, prison, or another facility where you are being held.

Who gets the report(s)?

By law, your lawyer, the judge, and the Commonwealth's attorney get a copy of the competency evaluation. Also by law, only your lawyer gets a copy of the sanity evaluation.

What if I disagree with the results?

Your lawyer can request a second opinion or your lawyer can challenge the results of the assessment in court.

What if I am incompetent to stand trial?

Being incompetent to stand trial is not typically a way out of one's legal difficulties. Instead, you will go through a process called "restoration." During the period of restoration, you will take a class to learn more about court and/or get psychiatric care to address mental health issues that are interfering with your capacity to assist counsel in preparing your defense. Sometimes this is done on an outpatient basis through your local Community Services Board and sometimes it is done on an inpatient basis, typically at Central State Hospital.

What if you recommend that I was legally insane at the time of the alleged offense?

You and your lawyer will have to determine if that is an outcome you wish to pursue, as it involves an often lengthy (meaning years long) hospitalization at Central State Hospital. Also, if you decide to pursue this, the Commonwealth's attorney has the right to a second opinion. You

should consult with your attorney to find out if this disposition is a good option for you in your case.

How much will these evaluations cost?

Typically these evaluations are ordered by the Court and paid for through a fund with the Virginia Supreme Court. The Commonwealth of Virginia has a set schedule of fees for reimbursement. Private evaluations are done at Dr. Nelson's hourly rate of \$275.

What if I choose not to participate?

Dr. Nelson will submit a letter to the Court indicating your decision. The Court will then decide how to proceed.

How many times will I meet with Dr. Nelson?

In general, you should expect to meet with Dr. Nelson once. Dr. Nelson will interview you with regard to the referral question(s), review relevant materials, and speak with relevant collateral sources. If a second interview is required, Dr. Nelson's office will contact you to arrange for this.

What if I want to talk to Dr. Nelson about the report after I read it?

If you want to talk to Dr. Nelson after you have read the report, please call the office to set up a phone or in person appointment. If you have additional information you want Dr. Nelson to review or if you want to ask Dr. Nelson to rethink something in the report, please contact the office to ensure this happens. If the new information or discussion leads Dr. Nelson to draw different conclusions, then an addendum to the original report will be submitted.

Is Dr. Nelson going to provide counseling to me?

Dr. Nelson is a Clinical Psychologist who is licensed to diagnose and treat mental disorders, but his/her practice involves exclusively court related evaluations. Dr. Nelson will not provide treatment to anyone he/she has previously assessed or is currently assessing as that would be a conflict of interest.

Does the judge always follow Dr. Nelson's recommendations?

No. The Court is the trier and finder of fact and will make its own ruling based on all of the information presented. You or the other side may either present additional information that Dr. Nelson did not have or the Court may review Dr. Nelson's report and conclusions and disagree with all or part of them.