

## Background

### Competency to Stand Trial (CST)

“sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding – and...a rational as well as factual understanding of the proceedings against him “

(*Dusky v. United States*, 362 U.S. 402, 1960).

- The Dusky standard is the competency standard used in most states
- However, *Dusky* did not specifically address what to do with defendants declared incompetent to stand trial (IST).

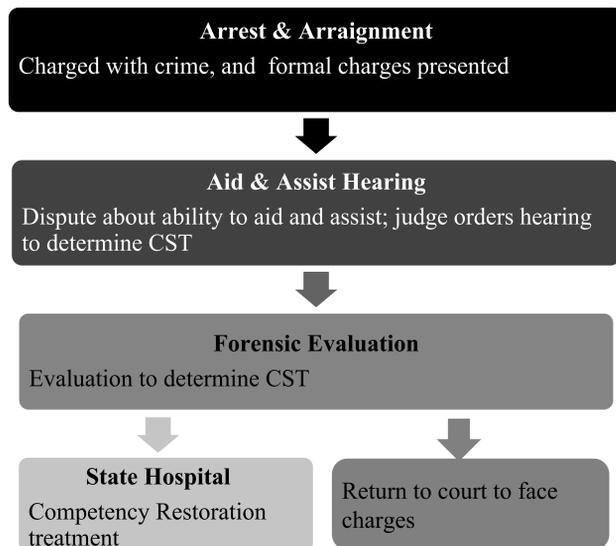
“cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain competency in the foreseeable future”

(*Jackson v. Indiana* 406 U.S. 715, 1972, p. 11).

An estimated 50,000 to 60,000 US adult defendants undergo CST evaluations each year

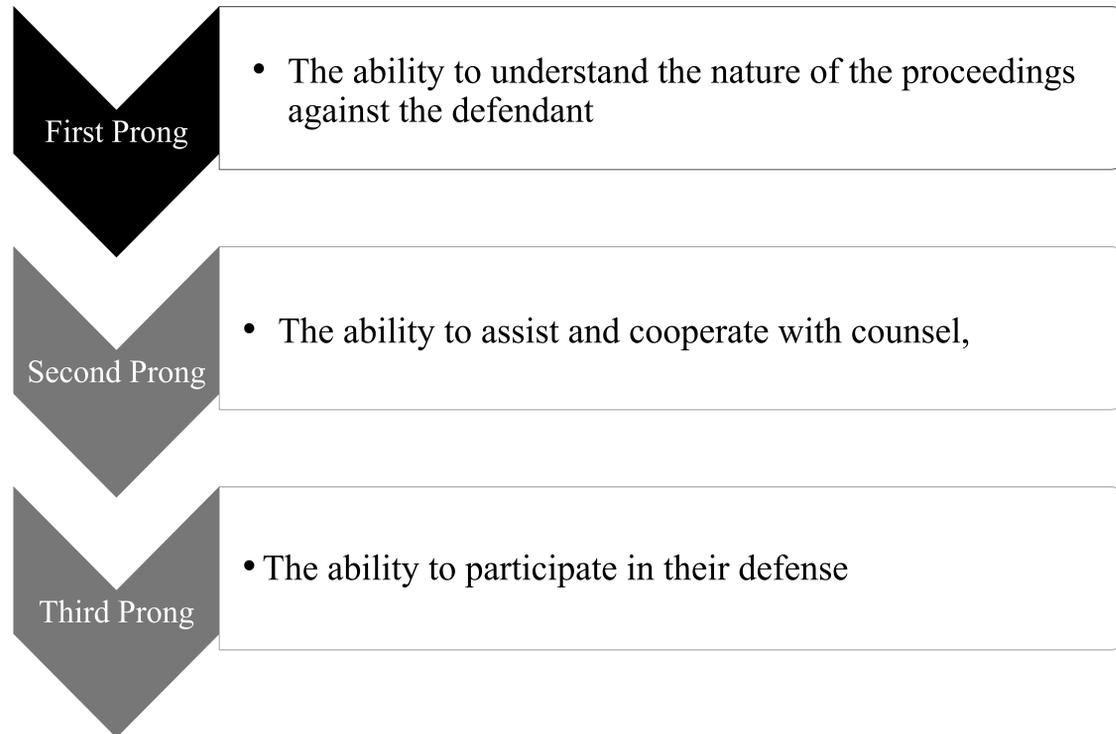
#### CST can be raised by:

1. the defendant or the defendant's attorney
2. the prosecuting attorney, or
3. the trial judge.



- State hospitals determine the chance that the defendant will be fit to proceed in the near future, report to the judge, and evaluate defendants ability to aid and assist in order to resume their trial proceeding.
- In Oregon, a defendant can be at the hospital for no more than three years or no longer than the sentence that could have been imposed (Determination of fitness, 2017).

## Oregon competency prongs



## Diagnosis and Competency Decisions

<i>Factors associated with IST findings</i>	
<b>Psychiatric Diagnosis</b>	Most powerful variable in restorability opinions
<b>Psychotic Disorders</b>	May make defendants eight times more likely to be found IST
<b>Severe psychopathology</b>	Strong influence on IST findings
<b>Severe cognitive deficits</b>	Found to have influenced IST
<b>Prior psychiatric history</b>	Found to have influenced IST
<b>Dementia</b>	Found to have influenced IST

(Blashfield et al., 1994, Rosenfield & Wall, 1998, Cooper & Zapf, 2003; Mossman, 2007; Pirelli et al., 2011; Warren, et al., 2013).

## Gap in the Literature

<b>Inconsistencies and a lack of standardization in CST evaluations in the US, such as:</b>
No universal certification requirements for CST evaluators
No standardized evaluation protocol
State to State differences
Varied definitions of competency

(Bonnie & Grisso, 2000; Cooper & Zapf, 2003; Dawes et al., 2008; Colewell & Ganesini, 2011; Hubbard & Zapf, 2013; Mossman, 2007).

## Proposed study

While several barriers to restoration of defendants found IST have been identified in the literature, very few research studies have examined how mental health symptoms impact specific abilities needed for competency restoration. One study by Gay et al. (2015) found:

- Factual understanding was impaired with the presence of a thought disorder, impaired orientation, or a diagnosis of mental retardation.
- Delusions were associated with impaired rational understanding and impaired ability to assist with counsel.

However, very few research studies have examined how mental health symptoms impact the specific abilities (prongs of competency) needed for competency restoration.

- Exploring each of the prongs individually will give the field of competency a better understanding of restoration treatment and where improvements can be made.
- This study seeks to fill the gap in the literature through reviewing 2,500 forensic evaluation reports completed at the Oregon State Hospital between the years of 2012 and 2015.
- The study will examine the effects of diagnosis on IST defendant's performance on each competency prong and the contribution to length of stay.

## Factors Exploring

Our in-progress research is an exploratory study addressing:

- 1) defendant's diagnosis and finding on each of the three prongs
- 2) how the diagnosis competency prongs relate to length of stay.

## Selected References

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