

Restoring Youth in the Community

The Virginia Model for Restoring Youth Adjudicated Incompetent to Stand Trial

To: Steve Monte, SCC Juvenile Restoration Program Director
Re: Policy Guideline Update to RY Manual
Date: September 4, 2013

At the beginning of services being offered to any youth in the RY-VA program model, an Admission Competency Assessment (ACE) is conducted by a licensed mental health professional trained in conducting juvenile competency evaluations. This assessment is designed: (1) to review and synthesize the expert opinions used by the court in determining the youth's trial competency; (2) to identify the barriers to competency that will need to be addressed through the restoration process; and (3) to formulate an opinion, when possible, of whether the youth is likely or unlikely to be restored to competency.

It has been our experience that a small minority of youth can be identified based upon the ACE assessment as being *likely* irremediably incompetent. These instances often involve a youth with significant cognitive deficits which have been identified by multiple examiners over a number of years combined with a significant mental illness. Our data indicate that only 50 percent of youth with these conditions can be remediated. These data are in contrast to youth who are incompetent due to developmental immaturity or cognitive or mental health impairments, singularly, where we find rates of remediation to be approximately 72 percent.

It is our practice to provide these youth a minimum of eight sessions during which efforts are made to initiate a restoration process using all interventions and techniques available to our program. During these sessions, the Restoration Counselor seeks to ascertain if any progress is being made which might be indicative of a further response to services. At the end of these eight sessions, the Restoration Supervisor reviews all of the available documentation and meets face-to-face with the youth to further assess their progress toward restoration. If there has been no progress, and there are no indications either in the behavior of the youth or sources of collateral information to suggest dissimulation or malingering, an Independent Competency Assessment (ICE) is ordered. This assessment provides an independent and unbiased opinion concerning the continued incompetency of the youth and the probability that they will be restored to competency in the foreseeable future.

This practice was developed to capture the spirit of the ruling in *Jackson v. Indiana* (1972) in which the U. S. Supreme Court opined that an adult defendant "cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future" (406 U.S. 738). Our program model assumes that this sentiment is even more compelling in instances involving youths and that it is in the best interest of the youth, the restoration program, and the juvenile court to have the competency issue resolved as soon as there is compelling evidence to suggest that it is unlikely that a particular youth will be restored to competency.