

# **Minnesota State Competency Attainment Curriculum – Workbook**

**As recommended by the Minnesota State  
Competency Attainment Board**

**September 28, 2023**

# CLIENT WORKBOOK FOR COMPETENCY ATTAINMENT

You have been ordered by the judge in your case to participate in treatment to help you understand your legal rights, what goes on in court, how you may assist your defense attorney, and how to participate appropriately in your upcoming criminal proceedings.

The Court has ruled that you are not competent to stand trial on the crime(s) you are charged with. Competency to stand trial requires you to understand the nature and purpose of the legal proceedings against you. This means you need to be able to cooperate with your attorney in your defense. You must be able to understand the charge against you and the penalties if you are convicted. You need to understand the legal process, courtroom procedure, and the duties of the people in the courtroom.

Once the facilitator providing you with this competency attainment program thinks you have benefited as much as you can from the program, you will be re-evaluated on your competence to stand trial for the crime(s) with which you are charged. An evaluation of your competence must take place at the minimum of every six months (unless ordered sooner by the court). This evaluation will be sent to the court to make a decision about your competence to stand trial.

During your competency program you will be asked to show you understand your rights and what happens in court. You may read this book on your own and ask questions of the facilitator.

This workbook contains facts about what happens in court. You may need to learn this information as part of your ability to become competent to stand trial. Please read and study these items. If you have questions or do not understand something, read this workbook, make notes, and ask the facilitator or your attorney for help.

You have a right to remain silent. This means you should not discuss your side of what happened except with your attorney. If you choose to make notes about your specific case in this workbook, make sure to keep your workbook in a safe place to protect your private information.

# PART ONE: WHAT IS COMPETENCY?

Being competent to stand trial means that at the present time you can show the following:

- ✓ You understand and can talk about the facts in your case with your lawyer.
- ✓ You understand your charges and possible penalties for them.
- ✓ You understand the meanings of different legal words related to your case.
- ✓ You know the roles of the people in the courtroom.
- ✓ You know your legal rights.
- ✓ You can help your lawyer in your defense in a calm and reasonable manner.
- ✓ You can behave as you should in the courtroom.

You must also have a rational and reality-based understanding of your charges and the possible punishments for those charges. This does not mean that you agree with what you are being charged with; it simply means that you understand what the police are saying you did or what happened.

To be able to do these things, you might need to receive treatment to manage a mental illness, which may include taking prescribed medication.

## WHY YOU ARE CURRENTLY “NOT COMPETENT TO STAND TRIAL”

- ✓ Competency to stand trial requires you to understand the nature and purpose of the legal proceedings against you. This means you need to be able to cooperate with your attorney in your defense. You must be able to understand the charge against you and the penalties if you are convicted. You need to understand the legal process, courtroom procedure, and the duties of the people in the courtroom.
- ✓ You have been accused of and charged with a crime and during the legal process your ability to do some of the things listed above was questioned.
- ✓ The court ordered that an evaluation of your competence be completed. A psychologist or psychiatrist evaluated you, wrote a report, and gave the opinion you were “not competent to stand trial.” The judge agreed that you were not competent, sometimes it is called “incompetent”. Your case cannot move forward until the judge finds you to be competent to stand trial.

Every case is different, but here are some examples of why the court may have found you not competent:

- ✓ You may not have much knowledge about the legal system.
- ✓ You may not have been able to understand the charges against you.

- ✓ You may not have been following the recommended treatments for your mental illness, like taking medication regularly, which may have led to you not thinking clearly about your case and/or the legal system.
- ✓ Symptoms of mental illness may have prevented you from working appropriately with your attorney.

## COMPETENCY ATTAINMENT PROCESS:

- ✓ Once the court has found you incompetent to stand trial, you will be ordered to receive competency attainment services.
- ✓ These services can take place in a variety of settings, including the community, hospital, or jail. The judge will determine the location you will be ordered to receive services.
- ✓ You will work with your assigned forensic navigator, who will assist with locating a competency attainment program, communicate with you and the court about your needs, and a variety of other things.
- ✓ If necessary, you will also be referred to mental health treatment services and will work with a treatment team for assessment and treatment options.
- ✓ If your competency attainment program believes you may have become competent to stand trial, they will request a repeat examination of your competency to take place by a court examiner.
- ✓ Minimally, a court examiner will assess your competency at least every 6 months and report back to the court on your progress toward attaining competency.
- ✓ Once you are found competent to stand trial, your case will proceed.

## PART TWO – PEOPLE IN THE COURTROOM

**Defendant:** This is you—the person charged with doing a crime or breaking the law. You have the right to not talk in court. Your lawyer will talk for you.

**Defense Attorney, Defense Lawyer, or Public Defender:** This is your lawyer. Your lawyer is working for you. Their job is to review your case with you, advise you about the strengths and weaknesses of the State’s case against you, get you the best deal possible or fight the charges in trial. The only differences between a private defense attorney and a public defender are that you choose and pay for a private defense attorney while if you qualify for a public defender you are assigned an attorney and you do not pay them.

**Prosecutor, Prosecuting Attorney:** This is the lawyer working for the county or state. Their job is to prove or show the judge or jury that you did what they (police, prosecutor) are saying you did.

**Judge:** The judge is the boss or top person in the courtroom. The judge acts like a referee in a game. Their job is to:

- ✓ Make sure your rights are protected.
- ✓ Make sure the defense and prosecution lawyers follow the law and rules of the courtroom.
- ✓ In a bench trial, the judge decides if you are guilty or not guilty based on the evidence presented.
- ✓ In a jury trial, the judge makes sure the jurors follow the law and rules of the courtroom.
- ✓ Decide the sentence when a defendant is found guilty.

**Witness:** This is a person who saw something or knows something about the case. The witness is supposed to answer questions truthfully about what they know about the crime. The prosecutor and your defense attorney can each have witnesses. Your defense attorney and the prosecutor will ask all the witness questions. Sometimes the judge will also ask questions.

**Court Reporter:** This person types on a small machine about everything anyone says in court. They are neutral and not on anyone's side.

**Clerk of the Court:** This person works for the judge like a secretary. They complete a variety of tasks for the judge. This includes scheduling hearings, taking care of evidence, and swearing in witnesses (giving them the oath to tell the truth). They are neutral and not on anyone's side.

**Bailiff:** This person is like a police officer in court. They often wear a police uniform. Their job is to protect and serve the court under the direction of the judge.

**Jury:** This is a group of 6 to 12 citizens from the community. They listen to what witnesses have to say and think about evidence presented by the prosecutor and your defense attorney. They decide together if you are guilty or not guilty of the crime. They are only allowed to talk to each other about the things they hear in court.

## **PART THREE: ROLE OF THE PROSECUTION & DEFENSE**

The prosecuting and defense attorneys are like coaches for opposing teams in a game.

### **PROSECUTING ATTORNEY**

Other names for "Prosecuting Attorney":

- ✓ District Attorney (DA)

- ✓ State's Attorney
- ✓ Prosecutor
- ✓ County Attorney

1. The Prosecuting attorney's job:

The prosecuting attorney is NOT ON YOUR SIDE. The role of the prosecuting attorney is to prove to the jury or judge that you did what they are saying you did.

2. The prosecuting attorney's goal:

The prosecuting attorney uses witnesses and evidence to try to make the jury or judge believe you are guilty "beyond a reasonable doubt". They will work hard to make sure you are found guilty.

The prosecuting attorney may offer you a plea bargain. If you accept, you admit guilt and there will be no trial.

## DEFENSE ATTORNEY

Other names for "Defense Attorney":

- ✓ Public Defender
- ✓ Defense Counsel
- ✓ Defense Lawyer
- ✓ Your Lawyner
- ✓ Your Attorney

1. Your defense attorney's job:

Your attorney is ON YOUR SIDE. They are ethically required to help you as much as possible. Your defense attorney will review the evidence and discuss your options with you. Your attorney will coach you about what you should expect in court. They will help you make decisions about what to say and how much to say.

Your attorney may talk to the prosecuting attorney outside of the courtroom to discuss possible plea bargains. Your attorney will answer your questions to help you make the decisions about if you want to accept a plea, challenge evidence, or have a trial.

A Public Defender is a defense attorney the court has assigned to you if you cannot afford to pay for your own attorney. Even though the Public Defender is appointed to you by the court, they are NOT working for the court/judge/state. They are NOT on the side of the prosecutor.

If your defense attorney has any concerns about your competency, they must tell the court/judge. If you disagree, this may make you unhappy with your attorney, but this is not considered a breach of

confidentiality. If the judge, prosecuting attorney, or defense attorney request a competency evaluation it is because the law requires them to do so.

## 2. Defense attorney's goal:

The goal of your attorney is to keep the prosecutor from proving you are guilty. Your defense attorney does NOT have to prove that you are innocent. Your attorney will provide you with information and answer your questions so that you can make the decisions (1) if you want to plead guilty or not guilty, (2) if you want a trial by jury or judge or (3) if you want to testify. Your attorney will make strategic decisions in the case.

## 3. Why is it important to help my defense attorney?

Your defense attorney needs your help to do the best job they can. It is helpful for them to know everything you know or remember about the alleged crime or if you did not commit the alleged crime. If there is information you keep from your defense attorney, it could come out later and harm your defense. It is very important that you only talk about what happened or what you remember in private with your attorney.

All information you tell your defense attorney in private is CONFIDENTIAL. This means they cannot tell anyone what you have told them without your permission. This includes the judge. They will tell you what confidential information they think would be good to use in court and what would not be good, but you will make the final decisions.

# PART FOUR: CHARGES

## WHAT IS A CHARGE?

A charge is the official statement of what you are accused of doing that broke the law. It results in the state "prosecuting" you.

## WHAT IS A CRIMINAL COMPLAINT?

It is a report of important facts about the alleged crime. It gives information about what evidence could be used and who the witness might be. It is filed by the prosecutor's office with the court, which begins the criminal process.

## LEVELS OF CHARGES

**Misdemeanor:** It is the least serious level of crime. It is also known as a minor crime. Many misdemeanors are punished with the defendant paying a fine. There is usually little or no injury inflicted on another person.

**Gross Misdemeanor:** This is the name given to crimes that are less serious than Felony charges but more serious than Misdemeanor charges.

**Felony:** This is the name given to the most serious crimes. Felonies are crimes that have the most severe punishment.

## PART FIVE: PLEAS AND SENTENCES

### WHAT IS A PLEA?

It is a defendant's answer in the courtroom to being charged with a particular crime.

### ENTERING A PLEA

Your attorney will help you enter a plea. You must be competent to stand trial before you can enter any type of plea. You enter a plea at a hearing after you are found competent.

The judge decides whether to accept the plea from the defendant (you). The judge can refuse to accept it if they do not believe it is fair.

### TYPES OF PLEAS

There are 3 types of pleas you can give the court:

- ✓ **Not Guilty:** This means you are saying you did NOT do the crime.
- ✓ **Guilty:** This means you are saying you did the crime for which you are charged.
- ✓ **Not Guilty by Reason of Mental Illness (NGMI) or Cognitive Impairment:** You are admitting you committed the crime but stating that you should not be considered guilty. You are saying that you were so mentally ill or cognitively impaired at the time of the crime that you should not be held responsible.

### WHAT HAPPENS IF I PLEAD A CERTAIN WAY?

The type of plea you give determines which direction the criminal process will go:

#### **Not guilty**

- ✓ If you plead not guilty, your case will proceed or move forward. You may have pre-trial hearings, a plea hearing and/or there will then be a trial in front of a jury or judge to decide if you are guilty or not.

#### **Guilty**

- ✓ If you plead guilty, there will be no trial. There is no need because you already said you did the crime so there is nothing the prosecutor needs to prove.
- ✓ Instead, you would then have a sentencing hearing. This is the hearing when the judge gives you the sentence for the crime.

- ✓ In Minnesota you cannot plead no contest or nolo contendere. There are ways to enter a guilty plea if you do not remember or do not agree with all the facts (such as an Alford or Norgaard plea) if the Judge approves. You can discuss these options with your attorney.

### **Not Guilty by Reason of Mental Illness (NGMI) or Cognitive Impairment**

- ✓ If you use this plea, you and your lawyer must show evidence that you were significantly mentally ill or cognitively impaired at the time the crime was committed.
- ✓ There may be a trial before a jury or a judge.
- ✓ If the judge or jury decides there is enough evidence to prove you were not guilty by reason of mental illness or cognitive impairment, you will be “acquitted” of your charge (your charge is dismissed).
- ✓ If you are found NGMI you may be evaluated for civil commitment. If you are civilly committed, the judge will order you to have mental health treatment. The amount of time you stay in treatment will vary.
  - You may stay in a hospital (or other treatment) longer than you would have served in jail/prison had you been found guilty of the offense.

## **WHAT IS A SENTENCE?**

A sentence is the punishment or consequences a judge gives a defendant. This happens only after you plead guilty or are found guilty at a trial.

If you plead guilty or you are found guilty at a trial, the judge decides what punishment or consequence (sentence) they believe you deserve for the crime you were found guilty of.

**Mitigation:** If you believe there are special circumstances, sometimes called mitigation, the court should consider before sentencing, such as the presence of mental illness, please discuss these with your attorney and they will advise you.

## **TYPES OF SENTENCES:**

The judge can combine two or more of the options below to create sentences for defendants who are found guilty:

- ✓ Sentences for Misdemeanors can be fines up to \$1000 and/or up to 90 days in jail and/or probation (or all three - probation, jail and fine).
- ✓ Sentences for Gross Misdemeanors can be fines of up to \$3,000 and/or up to a year in jail and/or probation (or all three – probation, jail and fine).
- ✓ Sentences for a Felony vary but people may be sent to prison for one year and one day or more and a fine or probation with possible jail time and fine.

**House Arrest:** it is possible that you will not need to go to jail or prison but still need to report to the Department of Corrections to be closely monitored. This can also occur after release from jail or prison. For example, you may be placed on house arrest and required to wear an ankle monitor, or you could serve your time at a workhouse.

**Probation:** On probation, a probation officer supervises you and you must follow rules while living in the community or a treatment facility.

- ✓ The court sets the rules (or “conditions”) you must follow.
- ✓ These might include:
  - Taking your medications as prescribed
  - Not drinking alcohol or using drugs
  - Electronic monitoring
  - Being at home by a certain hour
  - Going to school or getting a job
  - Not being around others on probation or parole
  - Not having weapons

**Fine:** You may have to work off a fine with community service hours or pay the fine in money to the court. The judge will tell you the amount of your fine and how your fine is to be paid.

**Restitution:** This is when you must pay the owner for the item you stole or the property damage you caused.

## **PART SIX: PLEA BARGAINING**

### **PLEA BARGAINING OR PLEA AGREEMENT**

Instead of having a trial, you and your defense attorney make a deal with the prosecutor so that you both benefit.

- ✓ You agree to plead guilty (something that benefits the prosecutor)
- ✓ The prosecutor agrees to give you a lesser charge or sentence (something that benefits you).
- ✓ Because you both get something that you want, it is often called plea bargaining.
- ✓ If you disagree with some of the facts or do not remember what happened talk to your attorney about your options for a plea agreement.

### **WHAT WOULD YOU GET?**

- ✓ The prosecutor might change the charge you were first given to one that is not as severe.
- ✓ If you have multiple charges, the prosecutor might drop some of them.
- ✓ You could be sentenced to a shorter period of time than you would get if you were found guilty of the original charge(s).

### **WHAT WOULD THE PROSECUTING ATTORNEY GET?**

- ✓ The prosecuting attorney will get a guilty conviction.
- ✓ They will not have to prove you are guilty beyond a reasonable doubt at trial.
- ✓ Plea bargaining is a less time-consuming and less expensive process for everyone.

### **PROCESS OF PLEA BARGAINING**

Your attorney and the prosecuting attorney will discuss plea agreement options.

It is **your decision** whether to accept a plea agreement.

- ✓ The Judge must approve the plea agreement.
- ✓ If you accept a plea agreement or plea bargain, you then plead guilty and waive rights including your right to a trial and your right to remain silent. You will review all these rights with your attorney.

## PART SEVEN: TESTIMONY AND EVIDENCE

### EVIDENCE

Any information that is presented during your trial that (1) helps the prosecutor show that you committed the crime OR (2) helps your defense attorney show that you did not commit the crime. Evidence can be used to help you or can be used against you.

- ✓ Sometimes evidence is called “proof.”
- ✓ Evidence can be either direct or indirect.

### DIRECT and PHYSICAL EVIDENCE

Direct evidence is when a witness testifies to what they saw, heard, or experienced or by physical objects (that can be touched, held, shown, smelled, heard, etc.)

Examples of physical evidence include:

- ✓ Witness testimony
- ✓ Fingerprints
- ✓ Weapons
- ✓ Photos
- ✓ Body fluids/DNA
- ✓ Documents
- ✓ Video/Audio tape

### INDIRECT and CIRCUMSTANTIAL EVIDENCE

Circumstantial evidence is evidence that you cannot physically see, touch, hear, etc.

- ✓ This is information that helps show you *may* have committed the crime.

Examples of circumstantial evidence:

- ✓ A witness makes a statement that they saw the defendant enter a bank and run out a few moments later. The bank had been robbed.
- ✓ Motive – why you might have committed this crime (e.g., money)

- ✓ Opportunity – Did you have the possibility to commit the crime (e.g., You had the keys to the bank that was robbed)?

## WITNESSES AND TESTIMONY:

Witnesses are people who saw or heard something and/or have information about the crime.

Witnesses testify (answer questions asked by the attorneys) during a trial. This is the way the witness tells the court what they know about the alleged crime.

### Types of Witnesses

**Eyewitness:** An eyewitness is someone who actually saw the alleged crime happen.

- ✓ Example: A convenience store cashier who identifies the defendant as the person who stole money from the cash register.

**Expert Witness:** An expert witness is someone who the court says is an “expert” on a certain subject. They know more about that subject than most people do. If they testify in court, it is ONLY related to the subject they are considered an “expert” on.

- ✓ Example: The psychiatrist who will testify about the severity of your mental illness.

**Character Witness:** A character witness is someone who knows about you or another person and can tell the court what kind of person they are. Character witnesses are not usually allowed to testify except at sentencing hearings. You can ask your attorney about when they can be called.

All witnesses take an **OATH** to tell the truth. An oath is when you swear to tell the truth in court.

- ✓ A witness who does not tell the truth in court can be charged with **PERJURY**. Perjury is lying under oath in court.
- ✓ A witness who does not answer questions asked of them could be charged with **CONTEMPT OF COURT**.

There are two types of questioning that each witness must answer:

- ✓ **Direct examination:** This is when the witness is questioned by the attorney that asked the witness to testify in court. The attorney that asked the witness to testify in court will ask questions of that witness first during the trial.
- ✓ **Cross examination:** This is when the witness is questioned by the other attorney after the first attorney has finished their questioning. The attorney tries to show that what the witness says is not important or not right.

- ✓ Example: If your defense attorney called a witness, he would question the witness first (direct examination). Then the prosecuting attorney would get a chance to question the witness when the defense attorney is done (cross examination).

## DO YOU HAVE TO TESTIFY?

You do NOT have to testify in court. This is one of your most important rights as a defendant (see below). No one can make you testify, not your attorney, the prosecuting attorney, or the judge.

- ✓ Your attorney will review with you the benefits or risks if you testify. Your attorney will advise you about testifying or not, but it is your decision to testify or not.
- ✓ It is important to listen to your attorney's reasons for recommending that you do or do not take the stand.
- ✓ If you choose to testify, your attorney will prepare you before you take the stand.
- ✓ Sometimes defendants WANT to testify. If you choose to testify, it is important to remember the prosecutor and judge could ask questions and you would have to answer their questions honestly.

## PART EIGHT: YOUR RIGHTS

### BASIC RIGHTS

Individuals often have difficulty remembering their rights in the criminal justice system, so here is a way to help you remember them. Each letter stands for one of the rights. To help you recall your rights, just remember “**NEWS AT 6**”:

1. **NOT GUILTY:**
  - ✓ You have the right to plead NOT GUILTY.
  - ✓ Even if you did the crime you are charged with, you can still plead not guilty. A not guilty plea is used for a variety of reasons your attorney can help you better understand.
2. **EVIDENCE:**
  - ✓ You and your attorney do not have to submit any EVIDENCE. But you have the right to present evidence in your defense if it would be helpful.
  - ✓ You also have the right to challenge evidence presented by the prosecutor.
3. **WITNESSES:**
  - ✓ If there are witnesses in your case that would be helpful to your case, your attorney can ask that they be ordered to come and testify.
  - ✓ You have the right to confront witnesses who have testified against you. This means you have the right to challenge what the prosecutor's witnesses have said in the courtroom.
  - ✓ Your defense attorney will ask the questions for you because they represent you. Your attorney will ask the prosecuting attorney's witnesses questions to try to show they are incorrect or not telling the truth. They may call witnesses to support your defense.
4. **SILENT:**
  - ✓ You have the right to remain SILENT. This means you have the right to not speak or testify against yourself. This is called the right against self-incrimination.

- ✓ As mentioned before, your lawyer may suggest that you testify in court, but it is not required. You choose.
  - ✓ If you choose to testify in court, the prosecuting attorney can ask you questions to try to make you look guilty.
  - ✓ Once you take the stand you can no longer use the right to remain silent. You must answer the questions the judge or prosecutor asks you.
5. **ATTORNEY:**
- ✓ You have the right to an ATTORNEY who will help you with every part of the criminal proceedings against you.
  - ✓ If you do not have enough money to pay for a lawyer, a public defender will be assigned to your case. This public defender is on your side and will help you as much as a paid defense attorney would.
6. **TRIAL:**
- ✓ You have the right to a TRIAL. A trial is when the prosecuting attorney must try to prove you did the crime.
  - ✓ A trial cannot occur until you are competent to proceed.
  - ✓ You get to decide whether to have a trial and if your trial is decided by a jury or the judge.

## **PART NINE: TRIALS AND HEARINGS**

### **HEARINGS**

Hearings are any court proceedings when the judge makes decisions about your case.

Examples of Hearings:

- ✓ Arraignment
- ✓ Preliminary
- ✓ Competency
- ✓ Sentencing

### **TRIALS**

This is the court proceeding where all the evidence in your case is presented. It is during the trial that witnesses testify.

A jury or a judge listens to all the evidence and testimony in the case and decides if you are guilty or not guilty.

It is your right to decide whether to have a jury or a judge decide the verdict in your case.

### **WHAT IS A JURY?**

A jury is a group of 6 to 12 people chosen randomly from the community.

- ✓ They are supposed to be a “jury of your peers,” meaning they are citizens of your community, like you.
- ✓ They are not legally trained.

Sometimes one or more alternate jurors are seated in case any of the jurors get sick or cannot continue through the whole trial.

After all the testimony and evidence is presented, jury members meet in a separate room to discuss the case and decide the verdict. They present their decision to the court. The judge announces the verdict.

All jury members must agree on the same verdict to convict the defendant of the charges.

- ✓ The prosecuting attorney must prove to all members of the jury that you are guilty.
- ✓ This is generally a slower court process than a bench trial.

If the jury cannot agree, it is considered a hung jury.

- ✓ The judge would declare a mistrial.
- ✓ If a mistrial is declared, the prosecutor can decide to drop the charges or start the trial process over with a new jury.

Some of the benefits of having a jury trial:

- ✓ A jury’s decision must be unanimous. It can be hard for the prosecutor to convince all 6 or 12 jurors that you are guilty.

## WHAT IS A BENCH TRIAL?

This is a trial that has no jury. In this trial, a judge looks at all of the evidence and decides if you are guilty or not guilty.

Some of the benefits of having a bench trial include:

- ✓ The judge is knowledgeable about the law. This can be helpful if there are many technical details in the case.
- ✓ Your defense attorney needs to convince only one person (the judge) that the prosecuting attorney has not proven the case or that you are not guilty.
- ✓ Because there is only one person (judge) to hear the evidence and testimony and decide the verdict, this is generally a faster trial.

## PART TEN: AIDING YOUR DEFENSE

### COURTROOM BEHAVIOR AND APPEARANCE

There are certain expectations for how a defendant behaves and dresses in the courtroom.

- ✓ Appropriate Behavior:
  - In general, you must be quiet and not be disruptive in court.
  - Be polite, sit quietly and listen to what is said.
  - If you hear a witness say something that is not accurate, quietly let your attorney know. Your attorney may have you write down questions to review together.
  - If you need to talk to your lawyer during a court proceeding, whisper and keep it short or write them a short note.
  - Let your attorney speak for you, unless your lawyer tells you it is OK for you to speak. Do not cuss, yell, swear or call anyone names.
  - Do not talk to your family or friends during the hearing or trial.

## WHAT HAPPENS IF YOU BEHAVE INAPPROPRIATELY?

- ✓ You may be given a warning by the judge for poor behavior.
- ✓ If you cannot manage your behavior, you could be removed from the courtroom or your trial could be delayed or continue without you.
- ✓ The judge could also give you additional charges for your poor behavior such as contempt of court.
- ✓ The court is not allowed to continue if someone has active symptoms of a mental illness that would interfere with getting a fair trial.

**Appropriate Dress:** In general, try to make a good impression.

- ✓ Wear clean and neat clothes.
  - You do not necessarily need to be dressed up, but your clothing should be clean and neat.
  - Sometimes your defense attorney will suggest you dress up. Ask them for help finding clothes if you do not have any.
- ✓ Shower, shave, and groom before you go to court.
  - No hats or sunglasses
  - No clothes with gang symbols, profanity, or content which may be considered disrespectful.

## WORKING WITH YOUR ATTORNEY

- ✓ Cooperate with your defense attorney and help plan your legal strategy.
  - Tell your defense attorney what you know or remember about the offense. If a surprise comes up, your attorney may not be prepared for it. It helps your case if your attorney is aware of everything you know.
  - NEVER LIE to your attorney.
  - Tell your attorney if someone is lying about evidence or lying on the witness stand.
  - Discuss your plea options with your defense attorney.
  - If you have any questions about your case, what is going on in court or about the law in your case, ask your attorney.

- If you disagree with your attorney, talk to them about it and try to work it out. The Judge has no control over which attorney is assigned to your case.
- Attorneys have other clients and are often in court. If you cannot reach your attorney, leave a voicemail message, send an email, or write a letter. They may not be able to get back to you immediately, but that doesn't mean they are not working on your case or have forgotten about you.

## TESTIFYING IN COURT

When testifying in court, witnesses are asked questions by both attorneys, this is called a testimony or direct and cross examination.

- ✓ Remember, you do not have to testify. You have a right to remain silent.
- ✓ Neither the judge nor prosecutor can order you to testify.

If you do choose to testify, the prosecuting attorney will ask you questions, and you will need to answer. If you do not answer you could be charged with contempt of court. Not answering questions could also impact your defense.

- ✓ **Direct examination:** This is when the witness is questioned by the attorney that requested the witness to testify in court. The attorney that requested the witness to testify in court will ask questions of that witness first during the trial.
- ✓ **Cross examination:** This is when the witness is questioned by the other attorney after the first attorney has finished their questioning.

Example: If your defense attorney called a witness, they would question the witness first (direct examination). Then the prosecuting attorney would get a chance to question the witness when the defense attorney is done (cross examination).