

Criminal Competency and Court Process

Courts, Corrections and Justice Interim
Committee

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Objectives

Building upon the objectives outlined in Part 1...

- ❖ Provide a framework for understanding the current competency process in New Mexico
- ❖ Explore the current criminal competency process from a court procedural perspective
- ❖ Distinguish criminal competency as a legal concept from civil mental health cases

Competency Cases in New Mexico

- In fiscal year 2023 approximately 72,000 criminal cases were filed.
- In fiscal year 2023, approximately 3000 criminal cases were involved in the competency determination process.
- Competency was involved in 4% of criminal cases during this time period.
- Of those cases competency involved cases, 1,200 were misdemeanors cases and 1,800 were felony cases.

Nature of the Process

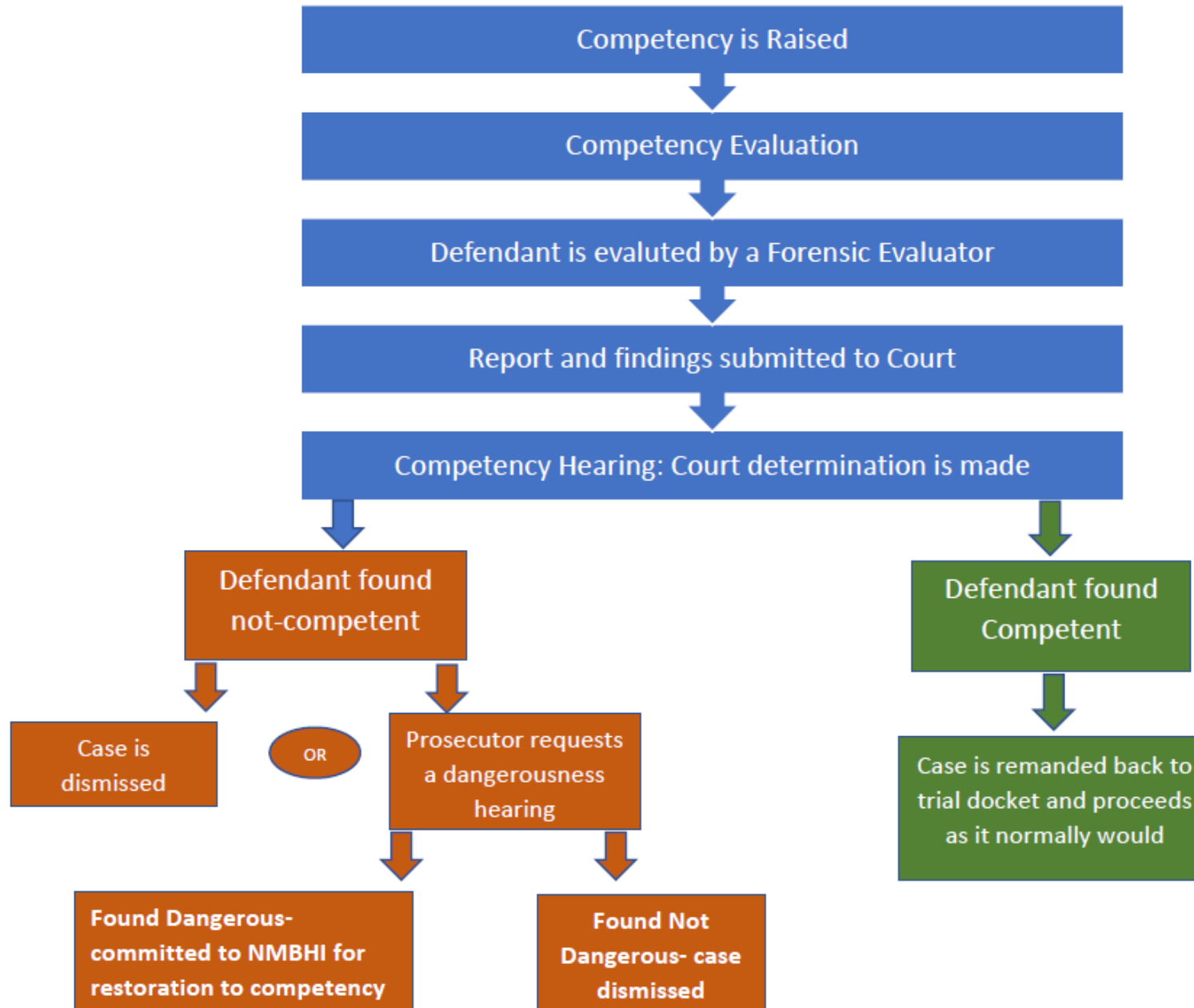
The competency determination process is a matter of due process and not intended to “benefit” the defendant. The sole purpose of the legal process is to protect the individual’s due process rights.

Jurisdiction Snapshot: 5th Judicial District (Chaves, Eddy, Lea Counties)

- In 2012, there were 75 mental health cases.
- In 2023, there were 250 mental health cases.

Criminal Competency Case Walkthrough

Felony Competency Process



Civil Mental Health Case Walkthrough

Competency Evaluation and the Court

Evaluation Timelines

In- Custody Evaluations

- Average time it takes for the defendant to be seen by the evaluator is about 1-3 months.
- The evaluator's report can take an additional 30 days to prepare and submit to the court.

Out of Custody Evaluations

- Average time it takes for the defendant to be seen by the evaluator is 6 months but can take over 1 year.
- The evaluator's report can take an additional 30 days to prepare and submit to the court.

Evaluation Situations

- Testimony from evaluator
- Contested evaluation reports
- Second opinions
- Defendant refusal to participate
- Additional testing

Competency Determinations

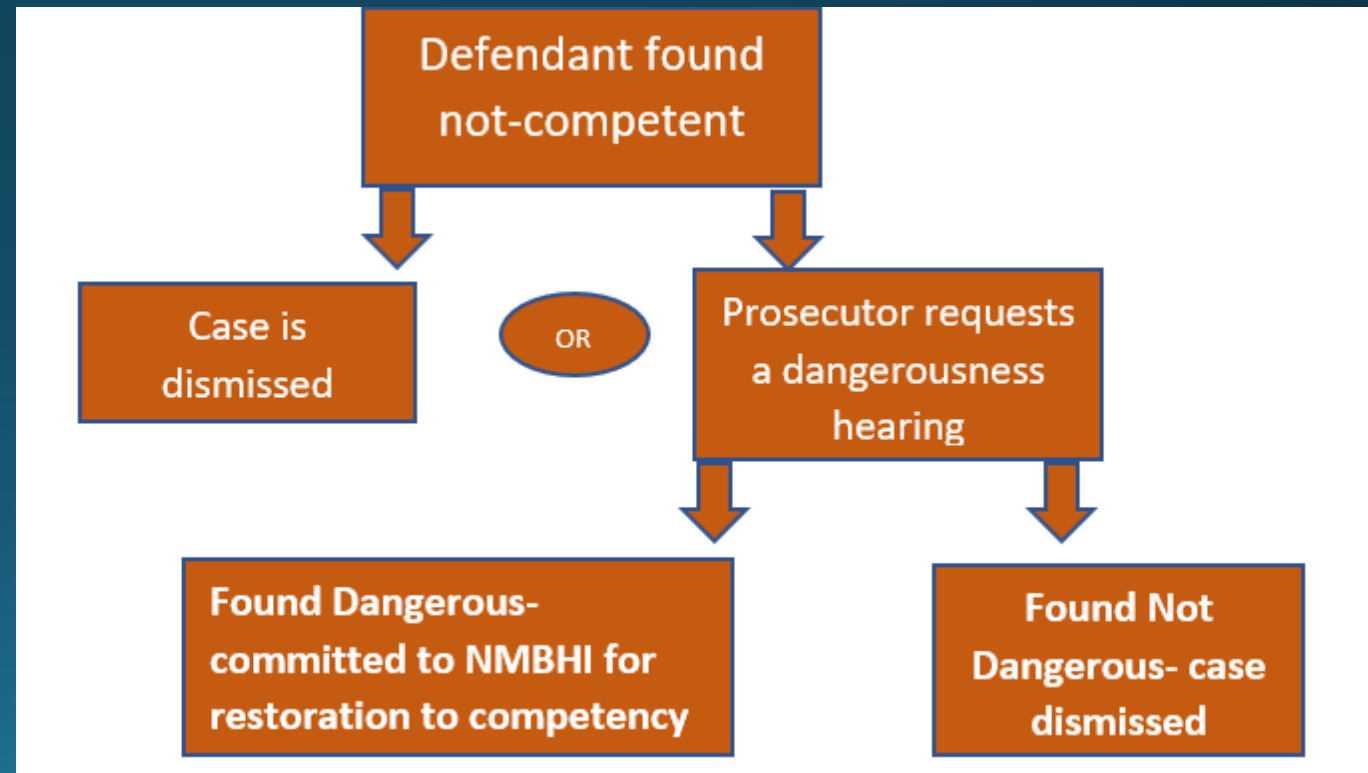
Case Outcomes

Competent

If the defendant is found competent, and the determination is not contested, the case is remanded back to the original trial docket.

Not-Competent/Incompetent

- If the defendant is found not competent and dangerousness is not raised, the case is dismissed
- If the defendant is found not competent and the State pursues dangerousness, the Court will conduct a dangerousness hearing
- If the defendant is found not dangerous, the case is dismissed
- If the defendant is found dangerous, the defendant is committed to NMBHI for restoration to competency



Dangerousness

- If the court determines the defendant is dangerous, the defendant is committed to NM DOH for up to 9 months to be restored to competency.
- Once committed for 30 days, an evaluation is sent to the court, and a 90 day review hearing is set by the Court.
- If competency has been restored, the case is placed back on the court's remanded back to the original trial docket.
- If competency has not been restored, the defendant continues restoration treatment at NMBHI for up to 9 months.

Dangerousness continued

- If the defendant has still not been restored to competency, the court will hold a hearing. The court may find:
 - The defendant did not commit a crime, resulting in a dismissal of the case;
- OR
- The defendant committed a crime but is not dangerous, resulting in dismissal of the case;
- OR
- The defendant committed a crime and IS dangerous. The defendant is detained by NMBHI in a locked facility for a period of time equal to the maximum sentence defendant would have been subject to had defendant been convicted at trial.
 - This is reviewed every 2 years to determine if defendant has attained competency or is no longer dangerous.

Restoration

Services, education and treatment specifically tailored to the goal of returning an individual to competency.

While restoration and treatment can occur simultaneously, restoration is its own unique process.

Other Considerations

Community Resources

- Comprehensive Community Support Services (CCSS)
- Assertive Community Treatment (ACT)
- Forensic Community Treatment (FACT)
- Intensive Case Management (ICM)
- Housing and other basic needs
- Medication Management