

## Where We Stand:

NAMI believes in minimizing justice system response to people with mental illness, while ensuring that any interactions preserve health, well-being and dignity. NAMI supports public policies and laws that expand and promote the use of community-based competency restoration services.

## Why We Care:

In the U.S., every person facing criminal charges has the constitutional right to a fair trial. The 1960 U.S. Supreme Court Case, *Dusky v. United States*, recognized that part of this right includes being competent to stand trial (CST). The case set the standard that a defendant must be able to understand the charges against them and be able to participate in their own defense. A judge might question if someone experiencing certain symptoms of a mental illness are CST and order a competency evaluation before the criminal case can proceed.

Unfortunately, many states' competency restoration systems are overwhelmed and face significant backlogs, with some defendants waiting weeks or months for assessment and restoration services to become available. Many who have been charged with low-level misdemeanor crimes can spend more time incarcerated, waiting for competency restoration services, than what they would have served if they had been convicted of the crime for which they are accused. For people with mental illness, these unnecessary and lengthy stays can result in mental health symptoms worsening due to the inadequate access to mental health care in jails. Furthermore, state psychiatric hospitals are struggling to meet the increased demand for forensic beds for those requiring [hospital-level care](#).

Community-based competency restoration is a promising practice that allows some defendants, who may not require hospital-level care, to receive competency restoration services while living in the community, instead of an institutional setting like a jail or hospital. This model has shown to be [less expensive](#) than traditional competency restoration services and

has favorable restoration rates. More importantly, it allows some defendants to remain in the community where they can continue to receive support from friends and family and connect with community mental health services to support long-term recovery. By allowing those who do not require hospital-level care to stay in their community, these programs also help to reserve institutional based care for people with the most significant needs.

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Many states allow community-based competency restoration — [16 states](#) have formal community-based competency restoration programs and [35 state](#) mental health agencies report that they pay for these services. Unfortunately, institutional-based competency restoration remains the norm in many places.

Expanding community-based competency restoration services is a key strategy to prevent prolonged and unnecessary incarceration, and an alternative to more restrictive institutional based services. By incorporating practices such forensic navigators, community-based competency restoration can help individuals involved in the criminal justice system to focus on fostering recovery and community connections.

To learn more about NAMI's work on this issue, visit [www.nami.org/Advocacy/Policy-Priorities](http://www.nami.org/Advocacy/Policy-Priorities)