Mental Co and Court	ompetency room 14	
Penal Code section 1369(f)	·The defendant is presumed to be competent to stand trial.	
Penal Code 1367(a)	A defendant is incompetent to stand trial if, as a result of a mental disorder or developmental disability, he or she is unable to understand the nature of the criminal proceedings or assistant counsel in the conduct of a defense in a rational manner.	

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- ·Defense counsel
- ·The Court
- ·The People?



- Substantial evidence
- This gets more complicated the more serious the case gets
- - Appoint an expert
 - · Defense has in camera hearing
 - Court accepts defense's representation
 - Court declares doubt based on its observations

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- Criminal proceedings are suspended
- Expert is appointed
 - If defense seeking finding of incompetence one expert
 - . If defense NOT seeking finding of incompetence two experts
- Expert evaluation In custody or out of custody
- Expert report
- Jury Trial?



·Continued for placement recommendation

7



- *Both sides are entitled to a jury trial on the issue of competency
- Waive jury?

Burden of proof is on the side claiming the defendant is NOT competent

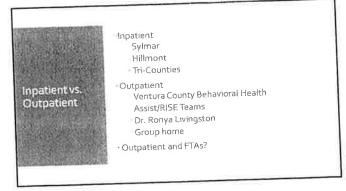
- Burden of proof is preponderance standard
- Expert testifies + any other relevant witness
- Defense attorney can testify. Privilege?

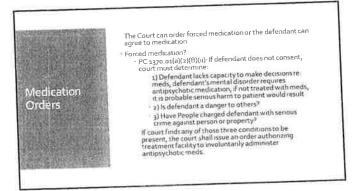
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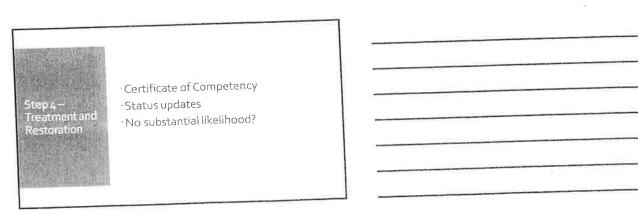


- If defendant is mentally disordered and charged with a misdemeanor, follow PC section 1370.01
- Once the defendant is found to be incompetent, VCBH takes over

Outpatient vs. inpatient treatment * How is this determined?









We do not have to stipulate to it. DA's in other counties have successfully argued that we have a right to a Court Trial on the issue. (pursuant to cases of People v. Murrell (1987) 196 Cal.App.3d 822 and People v. Mixon (1990) 225 Cal.App.3d 1471.)

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- Can only be confined for the maximum term of imprisonment for the most serious offense charged on the misdemeanor complaint
- People v. G.H., 230 Cal. App. 4th 2548
 Pre-commitment custody does NOT count towards the period of confinement for treatment, under

Motions to dismiss based on 1370.2 WRITE AND FILE RESPONSES

- DA is entitled to 10 days notice
- · Potential registration? Stay aways? Priorable?
- Not maxed out

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- PC 1370.01(c)(2): If it appears to court that defendant is gravely disabled, court shall order the conservatorship investigator of county to initiate conservatorship proceedings
- Case dismissed
- Restoration of competency Criminal proceedings reinstated Trial date set

Etc.	Please put your files in the cart Letters need to be in files This allows the calendar DDA to see the defendant's treatment compliance If the defense has filed a written motion to dismiss, respond in writing Keep in mind that each case is its own—i.e., PDs put all of their case numbers on one motion. Its easy to get credit calculations confused this way. Appear on your own motions or leave notes (only if we are submitting)
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