



# **Fitness Restoration Manual**

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# Fitness Restoration Manual

## Fitness Standard

“A defendant is presumed to be fit to stand trial or to plead, and be sentenced. A defendant is unfit if, because of his **mental or physical condition**, he is unable to **understand the nature and purpose of the proceedings** against him or to **assist in his defense**.”

## Court Order for Fitness Restoration

1. Adjudicated Unfit to Stand Trial.
2. Referred to the Illinois Department of Human Services or other treatment program.
3. Fitness restoration services conducted either on an inpatient basis or outpatient basis.

## Fitness Restoration Strategy

1. Review available **records**.  
- e.g., court order, forensic report, police report, etc.
2. Complete intake **assessment**, focusing on barriers to fitness restoration.  
- e.g., symptoms of mental illness, cognitive deficits, etc.
3. Clinically **stabilize** the UST patient.  
- Provide mental health treatment, including medication management, individual counseling, etc.
4. Educate the UST patient on the **court process**.  
- Review court terminology, give homework assignments, etc.
5. Conduct **ongoing assessments** of fitness to stand trial  
i.e., clinical stability, understanding of the court process, compliance with treatment, etc.
6. Strive for **consensus of treatment team** regarding fitness to stand trial.  
- Entire staff should agree when recommending someone as Fit to Stand Trial.
7. Once assessed as Fit, notify the court via **written report**.  
- Fitness reports are mailed at least every 90 days to the Judge, Public Defender, State’s Attorney, and Department of Human Services.

## **Fitness Education**

The concepts and definitions needed to meet the fitness standard are as follows:

### **Judge:**

Controls what happens in court, listens to testimony of witnesses, and looks at evidence.  
Makes the decision if you are guilty or not guilty.  
Sentences people who are found guilty.

### **Public Defender:**

Your lawyer, who is on your side and protects your rights.  
Works with the person accused of the crime.

### **State's Attorney:**

Lawyer who works against you and tries to have you found guilty.

### **Defendant:**

The person accused of the crime.

### **Jury Trial:**

A jury is a group of 12 people who are chosen by the court to hear your trial.  
The jury decides if you are guilty or not guilty.

### **Bench Trial:**

No jury present.  
The judge alone decides if you are guilty or not guilty.

### **Evidence:**

Material (things) that are from the scene of the crime, or testimony (reports in court) from people who witnessed the crime.

### **Verdict:**

Outcome of the trial.  
Possible outcomes include guilty, not guilty, and not guilty by reason of insanity.

### **Sentence:**

Punishment given out by the court to people who have been found guilty.  
Possible sentences include prison, probation, court supervision, and/or community service.

### **Plea Bargain:**

A deal made by the State's Attorney and Public Defender, and approved by the Judge.  
Defendant must plead guilty and give up the right to a trial.  
In exchange, the defendant will receive a lesser charge and/or lesser sentence.

## **Decision-Making Process**

When assessing a UST patient for fitness, there are two primary questions to ask:

1. Does the patient have an adequate **understanding of the court process**?
2. Is the patient clinically stable enough to adequately **assist in his/her defense**?

If the answer to both of these questions is “yes,” then the patient is likely Fit to Stand Trial, and the court should be notified.

If the answer to either of these questions is “no,” then the patient likely remains Unfit, and further fitness restoration efforts are needed.

## **Fitness Training Materials** (See Appendix)

1. **Court Terms (Levels I, II, III)**
  - Once clinically stabilized, UST patients need to begin learning court terminology.
  - Start teaching Level I terms, and assign court terms to learn over the course of the week.
  - When an individual has an adequate understanding of Level I terms, start teaching Level II terms which provide more detail.
  - Finally, discuss Level III terms when Level I and Level II terms have been mastered.
2. **Police Station and Courtroom Picture**
  - For individuals who are more visually oriented, the pictures of the police station and courtroom can be helpful learning tools.
  - Individuals should be able to identify the Judge, Witness, State’s Attorney, Jury, Defense Attorney, Defendant, and Evidence.
3. **UST Questionnaire**
  - The UST Questionnaire assesses an individual’s understanding of the court process.
  - This assessment can be given on a monthly basis.
  - A score of 80% or above (i.e., 20/25 or higher) can indicate an adequate understanding of the nature and purpose of court proceedings, but should **not** be used as the only indicator of fitness to stand trial.

## **Fitness Evaluations** (See Appendix)

Fitness Evaluations are submitted to court every 90 days in order to report on the UST patient’s progress in treatment. In the Appendix, there are templates of a cover letter and a 90 Day Progress Report which can be used when writing court reports.

# Appendix

## Court Terms

### Level I:

<b>Judge</b>	Runs the trial.
<b>Defendant</b>	The person accused of committing a crime.
<b>State's Attorney</b>	Works against the defendant.
<b>Public Defender</b>	Works for the defendant.
<b>Jury</b>	Twelve people who decide whether or not the defendant is guilty.

## Court Terms

### Level II:

1.     **Unfit to Stand Trial (UST)**                     The defendant is unable to understand what is happening in court or is unable to cooperate with his or her attorney.
2.     **Judge**                                     Runs the trial. Decides the verdict in a bench trial.
3.     **State's Attorney**                     The lawyer for the State. Also called the prosecutor. Works against the defendant.
4.     **Defense Attorney**                     The lawyer for the defendant. Gives legal advice to the defendant. Can be a private attorney, hired and paid by the defendant, or a Public Defender, appointed by the judge if the defendant can't afford a private attorney.
5.     **Jury**                                     Twelve people who listen to the evidence and agree on a verdict in a jury trial.
6.     **Charge**                                     The crime the defendant is accused of committing. The State's Attorney, not the victim of the crime, decides whether to bring charges against the defendant.
7.     **Trial**                                     The process by which the State's Attorney must present evidence to try to prove the defendant is guilty of the charge(s), and the Defense Attorney may present evidence to try to prove the defendant is not guilty.
8.     **Evidence**                                 All matters relating to whether or not the defendant is guilty which the judge or jury consider. Evidence may be the testimony of the victim, the defendant, or witnesses. Evidence may also be things, such as illegal drugs found on the defendant, or a weapon with the defendant's fingerprints on it.

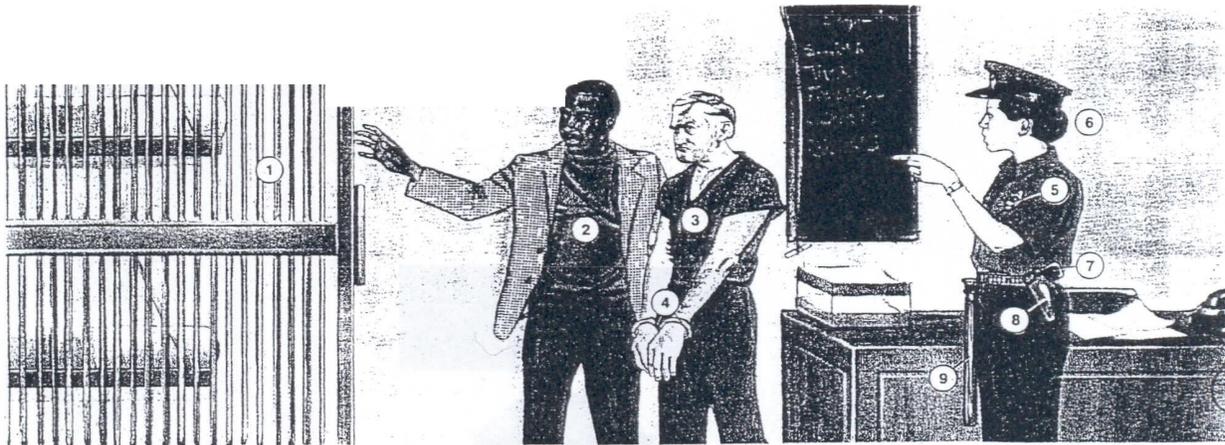
**Level II (continued):**

9.     **Witness**
- A person who knows something that will help the judge or jury decide whether or not the defendant is guilty. Witnesses testify in court. That means they tell the truth about what they know at the trial.
10.    **Verdict**
- The decision made by the judge or the jury at the end of the trial. There are four possible verdicts. These are:
- a) Guilty. The defendant goes to prison or jail, or gets probation.
  - b) Not Guilty. The defendant goes free.
  - c) Not Guilty by Reason of Insanity. The defendant usually goes to a secure forensic facility for treatment.
  - d) Guilty but Mentally Ill. The defendant goes to prison or jail.
11.    **Sentence**
- The punishment given to the defendant by the judge after a verdict of guilty. There are three common sentences. These are:
- a) Prison time for serious crimes.
  - b) Jail time for less serious crimes.
  - c) Probation for less serious crimes by first offenders.

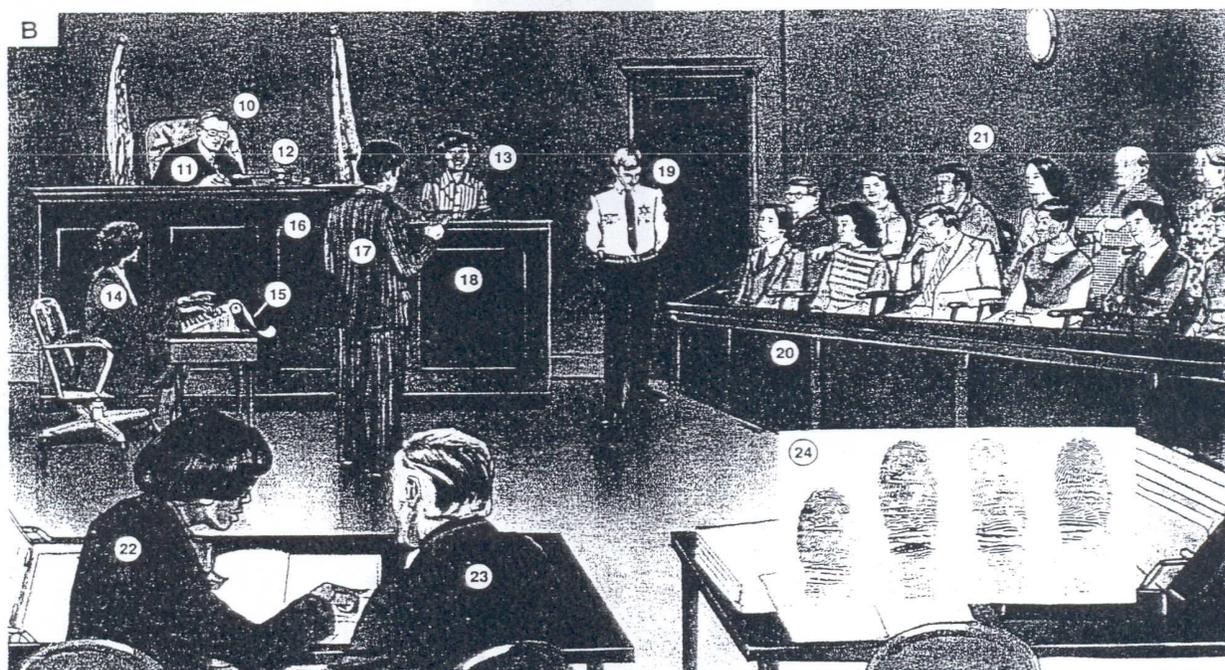


## Police Station and Courtroom

A



B



A. Police Station

1. Jail
2. Detective
3. Suspect
4. Handcuffs
5. Badge
6. Police Officer
7. Gun
8. Holster
9. Nightstick

B. Courtroom

10. Judge
11. Robes
12. Gavel
13. Witness
14. Court Reporter
15. Transcript
16. Bench
17. State's Attorney
18. Witness Stand
19. Court Officer
20. Jury Box
21. Jury
22. Defense Attorney
23. Defendant
24. Evidence (fingerprints)

## UST Questionnaire

Name \_\_\_\_\_

Date \_\_\_\_\_

**NOTE: There may be more than one correct answer for each item.**

1. A bench trial is:
  - a) a trial decided by a jury
  - b) a trial decided by the prosecutor
  - c) a trial decided by the judge
2. The state's attorney is:
  - a) the same as the prosecutor
  - b) your lawyer
  - c) the defendant
3. A verdict is:
  - a) the same as the sentence
  - b) the outcome of the trial
  - c) evidence
4. The judge is the person who:
  - a) prosecutes you
  - b) runs the trial
  - c) defends you
5. The public defender's job is:
  - a) to have you found guilty
  - b) to have you found not guilty
  - c) to run the trial
6. A sentence is:
  - a) evidence presented at the trial
  - b) testimony of people involved in the crime
  - c) a punishment given out by the court
7. A jury trial is:
  - a) a trial decided by 12 people
  - b) a trial decided by the prosecutor
  - c) a trial decided by the judge
8. Several possible verdicts are:
  - a) not guilty
  - b) unfit to stand trial
  - c) guilty
  - d) not guilty by reason of insanity
  - e) probation
9. The defendant is:
  - a) the public defender
  - b) the judge
  - c) the person accused of a crime

10. Who is usually *not* an attorney?
- a) the judge
  - b) the defendant
  - c) the state's attorney
  - d) the public defender
11. Evidence can be:
- a) the same as the verdict
  - b) testimony of people who were involved in the crime
  - c) a sentence
  - d) material from the scene of the crime
12. You are guilty until proven innocent:
- a) true
  - b) false
13. Some types of sentences are:
- a) time in jail
  - b) being found unfit to stand trial
  - c) probation
  - d) community service
  - e) being found not guilty by reason of insanity
  - f) supervision
14. A trial is:
- a) a sentence
  - b) a legal process in court to determine innocence or guilt
  - c) a verdict
  - d) being found unfit
15. Being unfit to stand trial means:
- a) you are not guilty
  - b) you are not mentally able to participate in your defense
  - c) you need to do some exercise
  - d) you are guilty of the charges
16. To be found not guilty by reason of insanity means:
- a) you didn't do the crime
  - b) you are unfit to stand trial
  - c) you did the crime but did not appreciate the criminality of your conduct
  - d) you are not responsible for your behavior
17. The person in court who tries to have you found guilty is:
- a) the defendant
  - b) the public defender
  - c) the judge
  - d) the state's attorney
18. Understanding the charges against you is part of being found:
- a) not guilty by reason of insanity
  - b) fit to stand trial
  - c) unfit to stand trial
19. A plea bargain means:
- a) you plead guilty to a lesser charge
  - b) you bargain for a new judge
  - c) you plead insanity

20. You can have a mental illness and still be fit to stand trial:

- a) true
- b) false

21. The prosecutor is also called:

- a) the public defender
- b) the judge
- c) the state's attorney
- d) the defendant

22. The public defender does not have to be a lawyer:

- a) true
- b) false

23. Testimony of people who were involved in the crime is considered to be:

- a) the truth
- b) evidence
- c) the lies of witnesses

24. The final verdict can be rendered by either:

- a) the state's attorney
- b) the jury
- c) the public defender
- d) the judge

25. The verdict is based upon:

- a) the evidence
- b) the feelings of the judge
- c) the opinion of the public defender

26. The charge(s) in my case are:

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27. The name of my public defender or defense attorney is:

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28. The name of the judge in my case is:

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**UST Questionnaire Key**

1. C
2. A
3. B
4. B
5. B
6. C
7. A
8. A, C, D
9. C
10. B
11. B, D
12. B
13. A, C, D, F
14. B
15. B
16. C
17. D
18. B
19. A
20. A
21. C
22. B
23. B
24. B, D
25. A

***(Agency Letterhead)***

*(Date)*

The Honorable *(Judge's name)*  
Judge of the Circuit Court of Cook County  
Criminal Courts Building  
2600 S. California Avenue  
Chicago, IL 60608

RE: *(Patient's name)*  
*(Case number)*

Dear Judge *(Judge's name)*:

Pursuant to Your Honor's Order dated *(Date of court order)*, *(Patient's name)* continues to receive outpatient treatment for fitness restoration at *(Agency's name)*. The details of his/her progress in treatment are enclosed.

If you require additional information, please do not hesitate to contact me at *(Telephone number)*.

Sincerely,

*(Program Director's name)*

cc: Public Defender's Office  
State's Attorney's Office  
Ray S. Kim, Ph.D. - Chicago Metropolitan Forensic Services, 1200 South First  
Avenue, Hines, Illinois 60141  
Cynthia Liberty - Forensic Services, 401 South Clinton Street, 2<sup>nd</sup> Floor, Chicago, Illinois  
60607

**ILLINOIS DEPARTMENT OF HUMAN SERVICES  
MENTAL HEALTH CENTER  
UNIT/PROGRAM  
90-DAY PROGRESS REPORT**

**Date of Evaluation:****I. IDENTIFYING INFORMATION**

Patient Name: \_\_\_\_\_ Legal Status: \_\_\_\_\_ Docket#: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Sex: \_\_\_\_\_ Intake Date: \_\_\_\_\_

**II. CONFIDENTIALITY**

Mr/Ms **XXX** was informed of the purpose and the non-confidential nature of this evaluation in that the findings would be reported to the judge, the state's attorney, and the defense attorney. He/She acknowledged his/her understanding of limited confidentiality and agreed to proceed with an interview.

**III. RESPONSE TO TREATMENT AND CLINICAL FINDINGS****Treatment Course:**

Condition at Intake: Brief statement on condition at time of intake (should remain same across reports)

Interventions:

Medications: Name, dosage, purpose and effect of medication on defendant's appearance, actions, and demeanor

Treatment: (Fitness classes, groups, etc.) related to Fitness Restoration Treatment

Response to Interventions: Medication (current meds, dosage, purpose, adjustments) and Compliance with Treatment

Unusual Occurrences: Positive/Negative (e.g., increased participation, special precautions, restraints, seclusion, elopement, etc.)

**Mental Status:**

Present Condition:

Mental Status Exam:

**IV. DIAGNOSIS:****V. THE ISSUE OF FITNESS**

Reason for a Finding of UST: From the Examiner's Report – (should remain the same across reporting)

Fitness Examination: Using direct quotes if appropriate

Assessment: e.g., R/O malingering where appropriate and if applicable

**VI. STATUTE AND OPINION**

(725 ILCS 5/104-10) A defendant is unfit if, because of his mental or physical condition, he is unable to understand the nature and purpose of the proceedings against him or to assist in his defense.

**Statement of Opinion:**

This should include the ability/capacity of the patient with respect to the statutory language above and/or the impairment in the patient that prevents the ability/capacity in the statute.

**VII. RESPONSIBLE STAFF**

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**Psychiatrist/Treatment Coordinator**

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**Social Worker/Psychologist**

## Contacts

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