Issues and Considerations Regarding the Use of Assessment Instruments in the Evaluation of Competency to Stand Trial

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Since the early 1960s, a number of instruments, reflecting a broad range of assessment methods, have been developed to assist in the evaluation of competency to stand trial. These instruments have taken various forms including checklists, self-report questionnaires, sentence-completion tasks, and interview-based instruments with and without criterion-based scoring. This article reviews these assessment instruments with a specific focus on their contribution to the competency evaluation process. Furthermore, relevant issues and considerations regarding the use of these instruments are outlined, including a comparison of screening versus assessment applications of these instruments, balancing standardized approaches with individualized assessments, the integration of instrumentally derived data with other components of a competency evaluation, and the communication of results to the fact finder. Each of these issues is discussed in relation to specific competency assessment instruments. Overall, we argue that each of the competency assessment instruments developed to date can make a contribution to the competency evaluation process and this article serves to delineate those areas in which these contributions are made.

Provisions allowing for a delay of trial because a defendant is incompetent to proceed have long been a part of legal due process. English common law allowed for the arraignment, trial, judgment, or execution of an alleged capital offender to be stayed if he or she “be(came) absolutely mad” (Hale, 1973; cf. Silten & Tullis, 1977). Over time, statutes have been created that have further defined and extended the common law practice. The modern standard in U.S. law was established in

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Dusky v. United States (1960). Although the exact wording varies, all states use a variant of the Dusky standard to define competency (Favole, 1983). In Dusky, the Supreme Court held that

It is not enough for the district judge to find that “the defendant is oriented to time and place and has some recollection of events,” but that the test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him (p. 402).

Although the concept of competency to stand trial has been long established in law, its definition, as exemplified by the ambiguities of Dusky, has never been explicit. What is meant by “sufficient present ability?” How does one determine whether a defendant “has a rational as well as factual understanding?” To be sure, some courts (e.g., Wieter v. Settle, 1961) and legislatures (e.g., Utah Code Annotated, 1994) have provided some direction to evaluators in the form of articulated Dusky standards, but the typical forensic evaluation is left largely unguided except by a common principle, in most published cases, that evaluators cannot reach a finding of incompetency independent of the facts of the legal case.

Partly as a result of this ambiguity in the definition of competency and partly because of the fact that mental health professionals were being tasked with performing large numbers of competency evaluations, researchers and clinicians began to develop instruments to assist in these evaluations of competency. Currently, competency evaluations are the single most significant mental health inquiry pursued in the criminal justice system (Nicholson & Kugler, 1991) with recent estimates placing the number of competency evaluations performed each year in the United States around 60,000 (Bonnie & Grisso, 2003).

The purpose of this article is to outline the assessment instruments that have been specifically developed for the evaluation of competency to stand trial and to delineate some issues and considerations regarding the use of these instruments in these evaluations. The reader is directed to other sources for comprehensive reviews and critiques of specific competency assessment instruments (see Goldstein, 2002; Grisso, 2003).

**HISTORICAL EVOLUTION OF COMPETENCY ASSESSMENT INSTRUMENTS**

In this section a brief overview of the assessment instruments that have been developed to assist in evaluations of competency is provided. The main purpose of this overview is to document the differences between these instruments in terms of their utility for competency assessment purposes. The reader is referred to other sources for a more comprehensive review of each instrument as well as a full discussion of the psychometric properties and available research on each instrument (e.g., see Cooper & Grisso, 1997; Goldstein, 2002; Grisso, 1986, 1992, 2003;

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1Although much current work focuses on competency issues in juvenile defendants (see Grisso & Schwartz, 2000), this discussion will focus solely on the adult defendant.
Prior to 1960 there were no formal assessment instruments available for the evaluation of competency to stand trial. Since that time a number of instruments have been developed, with each instrument taking one of two approaches—either a specific focus on the legal abilities required of an individual, or a focus on both the legal abilities and the mental state or psychological abilities of the individual. Certainly, the issue of an individual’s mental status is inherently tied to competency status and needs to be considered in every evaluation of competency (especially in light of the requirement that any legal impairment be a result of mental disorder). The distinction made above, with respect to the approaches taken by different competency assessment instruments, refers specifically to what the instrument attempts to accomplish, with the understanding that the instrument is only one piece of data to be considered in the evaluation of a particular individual’s competency.

In terms of the evolution of these competency assessment instruments it is evident that the focus of the first instruments was on providing checklists of items or content areas to be considered in competency evaluations with few, if any, scoring guidelines. These checklists were soon followed by the development of instruments that used a more structured approach to competency evaluation with specific questions and probes to be used in the assessment of each relevant content area. The scoring criteria included with these instruments tend to be more loose or subjective in nature. In recent years, there has been a move towards the development of instruments that have a focus on standardization in terms of both administration and scoring.

An inspection of available competency assessment instruments demonstrates that numerous methods for the evaluation of competency are represented, including checklists, self-report questionnaires, sentence-completion tasks, and interview-based techniques with and without criterion-based scoring of items. To facilitate the discussion of these assessment instruments, they will be grouped according to a broad categorization. Only those instruments that are currently available for use with a general adult population of defendants will be discussed.

**CHECKLISTS, SELF-REPORT QUESTIONNAIRES, AND SENTENCE-COMPLETION TASKS**

Some of the first competency assessment instruments to be developed took the form of checklists. Ames Robey (1965) has been credited with developing one of the first standard methods for the assessment of competency to stand trial—a

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2Richard Rogers and his colleagues have been working on developing a competency assessment instrument—the ECST-R—which incorporates an evaluation of feigned incompetence in addition to specific competence-related abilities. This instrument was not available at the time of writing but is apparently scheduled to be released in the near future (Tillbrook, personal communication, October 23, 2002).

3It should be noted that there have been competency assessment instruments developed for use with special populations such as adults with mental retardation (see, for example, the CAST*MR: Everington, 1990; Everington & Luckasson, 1992); however, these are beyond the scope of the present discussion.
checklist of items meant to guide clinician’s evaluations of competency. Others, such as Bukatman, Foy, and de Grazia (1971), soon followed suit with checklists and sets of interview questions. These checklists were seldom used by clinicians performing competency evaluations (Schreiber, 1978) and the field quickly moved beyond simple checklists to the development of more standardized instruments.

Competency Screening Test (CST)

The work of A. Louis McGarry and his colleagues at the Harvard Medical School’s Laboratory of Community Psychiatry gave the field the first two “tests” for the assessment of competency—the Competency Screening Test (CST; Lipsitt, Lelos, & McGarry, 1971) and the Competency to Stand Trial Assessment Instrument (CAI; Laboratory of Community Psychiatry, 1973; McGarry & Curran, 1973, to be discussed in the next section).

The CST is a 22-item sentence-completion task developed for the purposes of screening defendants for competency—identifying those defendants who are clearly competent so as to minimize the need for lengthy inpatient evaluations of competency. It takes approximately 25 minutes to administer and sample items include: “When I go to court, the lawyer will . . . ,” “When Bob disagreed with his lawyer on his defense, he . . . ,” and “When the jury hears my case, they will . . . .” Each item is scored 0 (incompetent), 1 (marginally competent), or 2 (competent) and defendants scoring 20 or below are referred for a more comprehensive evaluation of their competence (using the CAI, discussed below).

The focus of the CST is on the legal abilities of the defendant. While the CST was certainly an improvement over traditionally used unstructured interviews where subjectivity was inherent, the scoring method for the CST has been criticized (Roesch & Golding, 1980) because of its subjectivity and idealized perception of the legal system. The CST has not often been used as a screening instrument because of various validity considerations (i.e., extremely high false positive rate and inconsistent factor structure; see Melton et al., 1997, for a more detailed review).

Computer-Assisted Competence Assessment Tool (CADCOMP)

The CADCOMP (Barnard et al., 1991) is a computer-assisted self report questionnaire that consists of 272 items that tap into various aspects of a defendant’s social history, legal knowledge, and psychological functioning. The average administration time is 60–90 minutes and the output consists of a computer-generated report summarizing the information provided by the defendant. The CADCOMP was developed as a means of accumulating and assimilating information from a defendant into a report that clinicians could have access to before seeing the defendant for further interview, with the idea being that certain aspects of the computer-generated report would be followed up on in more detail during interview. In addition, the CADCOMP was designed with the hope of serving as a measure of competency that could be completed by (presumably incompetent) defendants at various points in time over the course of their treatment for restoration.
and, therefore, serve as an indicator of when a defendant might be adequately restored to competency.

While the CADCOMP assesses a defendant’s abilities in a broad range of areas, one limitation of this instrument is the length of time that it takes to complete relative to other competency assessment instruments. In addition, because the CADCOMP is completed on a computer, the clinician does not have the opportunity to observe and interact with the defendant as he or she completes this instrument. In every circumstance, it is necessary for the clinician to follow up on the defendant’s self-reported information, which adds an additional component to the evaluation that necessarily overlaps with information already sought by the computer, perhaps making the evaluation process more cumbersome than is necessary. In addition, the self-report nature of the CADCOMP and concerns about the validity of this information might be viewed as a limitation if clinicians using this instrument rely too heavily on the information provided in the computer-generated report, perhaps missing other areas of deficit not detected by the CADCOMP.

**INTERVIEW-BASED INSTRUMENTS WITHOUT CRITERION-BASED SCORING**

The majority of competency assessment instruments that have been developed can be considered interview guides that use subjective ratings. These instruments serve to provide structure to the evaluation yet remain open to additional issues that the evaluator deems important to a specific case. These instruments tend to differ in terms of the comprehensiveness of material covered and their emphasis on various aspects of competency (e.g., foundational aspects versus decisional aspects of competency; see Bonnie, 1992, 1993).

**Competency to Stand Trial Assessment Instrument (CAI)**

The second instrument developed by McGarry and his colleagues, the CAI, contains 13 items related to legal issues. Representative items include “appraisal of available legal defenses,” “quality of relating to attorney,” and “capacity to disclose pertinent facts.” Each item is scored on a 1–5 scale, ranging from “total incapacity” to “no incapacity.” The CAI manual contains clinical examples of levels of incapacity as well as suggested interview questions.

The original intent for the CAI was to be used as part of a two-stage process, with the CST used first as a screen for competency and then the CAI used in follow-up evaluations with those individuals who scored sufficiently low on the CST so as to be referred for further evaluation. Although the CAI has been used in a number of jurisdictions, it tends to have been used more as a structuring device for evaluations rather than in the aforementioned two-stage process (Schreiber, 1978). In 1995, Borum and Grisso found that the CAI was the most commonly reported forensic instrument used in competency evaluations. Given that a number of new instruments have been introduced since then, this may have changed.

The CAI has served as the basis for the subsequent forensic assessment instruments, which have expanded upon its content (e.g., the FIT and the IFI; see below).
While the CAI appears to be useful as an interview-structuring device, its main drawback is in its limited range of legal abilities articulated and its lack of focus on the nexus between psychopathology and legal impairment.

**Georgia Court Competency Test (GCCT)**

The Georgia Court Competency Test (GCCT) was originally developed by Wildman et al. (unpublished manuscript) and has since gone through a number of revisions (see Bagby, Nicholson, Rogers, & Nussbaum, 1992; Johnson & Mullet, 1987; Nicholson, Briggs, & Robertson, 1988; Wildman, White, & Brandenburg, 1990). The original version consisted of 17 items and the revised version, referred to as the Mississippi State Hospital Revision (GCCT-MSH), consists of 21 items. The first seven items of the GCCT-MSH require the defendant to visually identify the location of certain participants in the courtroom. This is then followed by questions related to the function of certain individuals in the courtroom, the charges that the defendant is facing, details about the alleged crime, the consequences of being found guilty, the defendant’s relationship with his or her lawyer, and expectations about courtroom behavior.

Like the CST, the GCCT was originally designed as a screening instrument to eliminate those individuals who were clearly competent from further evaluation. Administration time takes approximately 10 minutes and explicit scoring criteria are used to assign points to each item (total scores can range from 0 to 100). A cut-off of 69 has been established, with defendants scoring at or below this cut-off referred for further evaluation.

The GCCT and its revision—the GCCT-MSH—are the only instruments to use a visual location identification methodology. This method might boast enhanced utility over purely verbal methodologies, especially for more intellectually limited defendants or for less verbal defendants. The major drawback of the GCCT and GCCT-MSH is that they focus upon foundational competencies (e.g., the capacity to understand the charges and the nature and the purpose of the criminal process, and the capacity to rationally communicate the facts of the case to counsel) and relatively ignore the arguably more important decisional competencies (e.g., cognitive skills, conceptual abilities, and the capacity for rational manipulation of information), which are emphasized in other instrument approaches (see IFI and FIT below).

**Interdisciplinary Fitness Interview (IFI)**

The IFI was designed to assess both the legal and psychopathological aspects of competency (Golding, Roesch, & Schreiber, 1984). The original IFI comprised three major sections: (i) legal issues (five items); (ii) psychopathological issues (11 items); and (iii) overall evaluation (four items), with each of the general items representing an organizing scheme for more specific subareas that have been seen to influence competency decisions. For example, six subareas are subsumed under the broad

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4The reader is referred to Bonnie (1992, 1993) for a more detailed discussion of foundational and decisional competencies.
“capacity to appreciate,” which forms the core of item one. These are (i) appreciating the nature of the state’s criminal allegation; (ii) ability to provide a reasonable account of one’s behavior prior to, during, and subsequent to the alleged crime; (iii) ability to provide an account of relevant others during the same time period; (iv) ability to provide relevant information about one’s own state of mind at the time of the alleged crime, including intentions, feelings, and cognitions; (v) ability to provide information about the behavior of the police during apprehension, arrest, and interrogation; and (vi) projected ability to provide feedback to an attorney about the veracity of witness testimony during trial, if a trial is likely to be involved.

The IFI has been revised (Golding, 1993) to reflect changes in constitutional law and the adoption by many states of “articulated” competency standards (e.g., Utah, 1994). In its current form, the Interdisciplinary Fitness Interview—Revised (IFI-R) taps 31 relatively specific psycholegal abilities organized into 11 global domains. The IFI-R was developed on the original model used by Golding et al. (1984), but was altered to reflect a decade of experience, numerous court opinions, and the accumulated professional literature on competency assessments. For example, it specifically addresses the issue of the iatrogenic effects of psychotropic medications, a defendant’s decisional competency to engage in rational choice about trial strategies, pleading guilty, proceeding pro se, and competency to confess. It was developed to mirror Utah’s (1994) new articulated competency code, which mandates that examiners address its 11 global domains.

The IFI and IFI-R were designed so that evaluators would have to consider both legal and mental status issues, but neither in isolation. The format of this assessment instrument requires evaluators to relate their observations to the specific demands of the legal situations. For each item, evaluators are asked to rate the degree of incapacity of the defendant, as well as to give the item a score to indicate the influence that the incapacity might have on the overall decision about competency.

The IFI and IFI-R emphasize a wide range of abilities and content areas and include inquiries into both the foundational and decisional aspects of competency. The IFI is unique in that it was designed to be administered by a mental health professional in conjunction with a legal professional, although, in practice, this poses numerous logistical difficulties. The focus of the IFI-R appears to be more in line with traditional competency assessment instruments and is designed for use by a mental health professional.

Fitness Interview Test (FIT)

The Fitness Interview Test (FIT; Roesch, Webster, & Eaves, 1984) was originally created in 1984 to assess fitness to stand trial in Canada, although it can be easily adapted for use in the United States and other jurisdictions. The original FIT has since been extensively revised to reflect changes in Canadian law regarding competency and the current version is referred to as the Fitness Interview Test (revised edition) (FIT or FIT-R; Roesch, Zapf, Eaves, & Webster, 1998). The FIT-R takes approximately 30 minutes to administer and consists of a structured assessment of various psycholegal abilities organized into 11 global domains.
interview containing 70 questions divided into three main areas: (i) the ability to understand the nature or object of the proceedings (factual knowledge of criminal procedure), (ii) the ability to understand the possible consequences of the proceedings (the appreciation of personal involvement in and importance of the proceedings), and (iii) the ability to communicate with counsel (to participate in the defense). Each of these three sections is broken down into a series of items (each including a number of specific questions), which tap different areas involved in competency to stand trial. The first section (six items) assesses the defendant’s understanding of the arrest process, the nature and severity of current charges, the role of key players, legal processes, pleas, and court procedure. The second section (three items) assesses the defendant’s appreciation of the range and nature of possible penalties, appraisal of available legal defenses, and appraisal of likely outcome. The final section (seven items) assesses the defendant’s capacity to communicate facts to the lawyer, relate to the lawyer, plan legal strategy, engage in his or her own defense, challenge prosecution witnesses, testify relevantly, and manage courtroom behavior. Each item is rated on a three-point scale with a score of 0 indicating “no impairment,” 1 indicating “some impairment,” and 2 indicating “severe impairment.”

The FIT-R can be used in one of two ways: as a brief screening device or as a means of structuring a more comprehensive evaluation of competency. When used as a brief screening device, the focus of the FIT-R is solely upon the legal abilities of the individual with minimal attention paid to the cause of functional deficits. That is, in order for an individual to be considered incompetent, he or she must show impairment in one or more required legal abilities and this impairment must be a result of mental disorder or cognitive deficit. When used as a screening device, the focus of the FIT-R is on the defendant’s legal abilities, with the idea that those defendants demonstrating legal impairment would then be referred for further evaluation that would examine the reasons for the legal deficits.

When the FIT-R is used as part of a comprehensive evaluation of a defendant’s competency, the evaluator is instructed to pay attention to the underlying causes for any noted legal deficits and to use additional assessment instruments as he or she sees fit. Like the IFI-R, the FIT-R emphasizes a wide range of abilities and content areas and includes inquiries into both the foundational and decisional aspects of competency. Both the IFI (IFI-R) and the FIT (FIT-R) were developed to guide the evaluator through the majority of relevant topics to be addressed in a competency evaluation; however, because of the open-textured nature of the competency construct, they also allow the evaluator to decide what additional areas might need to be addressed in each specific case.

As “first generation” competency assessment instruments, all of the aforementioned tools have provided evaluators with conceptual guidelines for the evaluation of competency. However, these instruments have been criticized as having limitations in their clinical usefulness and psychometric properties including poor construct and criterion-related validity (Grisso, 1992). After reviewing the progress in the area of competency to stand trial to that point, Grisso (1992) concluded examiners still are without any instrument offering standardized administration and scoring (as contrasted with CST interview guides and subjective ratings) to assess the domain of CST-related abilities for the general population of defendants who are referred for CST evaluations (pp. 366–367).
This call for progress in the area of competency assessment prompted a number of clinicians and researchers to further refine existing instruments (i.e., revisions of the FIT and IFI) as well as to develop new instruments offering more standardized administration and scoring.

**INTERVIEW-BASED INSTRUMENTS WITH CRITERION-BASED SCORING**

Currently, only one instrument exists that uses both standardized administration and standardized scoring—the MacCAT-CA. This instrument is considered to be a “second generation” instrument and was developed to address some of the noted limitations of the first generation instruments. The development of the MacCAT-CA was, in part, a response to Grisso’s call for progress in competency assessment (above).

**MacArthur Competency Assessment Tool—Criminal Adjudication (MacCAT-CA)**

The MacCAT-CA was developed between 1989 and 1996 by the MacArthur Foundation Research Network on Mental Health and the Law. After a comprehensive research instrument, the MacArthur Structured Assessment of the Competencies of Criminal Defendants (MacSAC-CD; Hoge et al., 1997b) was developed, pilot tested, and refined, a large field study was conducted (Bonnie et al., 1997; Hoge et al., 1997a, 1997b; Otto et al., 1998). The MacCAT-CA was developed from this comprehensive research instrument.

The MacCAT-CA (Hoge, Bonnie, Poythress, & Monahan, 1999; Poythress et al., 1999) consists of 22 items and takes approximately 30 minutes to administer. It is divided into three sections that assess a defendant’s understanding, reasoning, and appreciation abilities respectively. The basis for the first 16 items is a short vignette about two men who get into a fight and one is subsequently charged with a criminal offense. The first eight items assess the individual's understanding of the legal system. Most of these items consist of two parts. The defendant’s understanding is first assessed and, if it is unsatisfactory or appears to be questionable, the information is then disclosed to the defendant and his or her understanding is again assessed. This allows the evaluator to determine whether or not the individual has the capacity for understanding independent of the defendant’s knowledge. The next eight items assess the individual’s reasoning skills by asking which of two disclosed facts would be most relevant to the hypothetical case. Finally, the last six items assess the individual’s appreciation of his or her own circumstances. Each of the 22 items is scored (0, 1, or 2) according to specific criteria delineated in the MacCAT-CA manual.

The MacCAT-CA sets itself apart from all the previously discussed competence assessment instruments on a number of grounds. Unlike previously developed measures of competency, the MacCAT-CA uses standardized administration and criterion-based scoring, and includes a systematic distinction between defendants’ existing legal knowledge and the capacity to attain such knowledge. One of the most important cited advances of the MacCAT-CA is that, unlike other competence...
assessment instruments, it was developed on the basis of a strong theoretical foundation (Hoge et al., 1997a).

Bonnie's (1992, 1993) theoretical reformulation of competency to stand trial (adjudicative competence) is the foundation upon which the MacCAT-CA was developed. Bonnie conceptualizes competency in terms of both foundational as well as decisional abilities and this is reflected in the content of the MacCAT-CA. While the standardized administration and scoring of the MacCAT-CA make it an ideal instrument for use in competency research, its vignette format limits its clinical utility somewhat as it appears to be one step removed from the defendant’s actual case.

There are a number of issues to be considered in the evaluation of competency, which impact upon the specific assessment instruments that might be chosen to assist in this matter. Such issues include a consideration of screening versus assessment applications of these instruments, balancing standardized approaches with individualized assessments, the integration of instrumentally derived data with other components of a competency evaluation, and the communication of results to the fact finder. We will now turn to a discussion of each of these considerations in relation to the above competency assessment instruments.

**COMPARISON OF SCREENING VERSUS ASSESSMENT APPLICATIONS**

Given that the research literature has provided strong evidence that a large majority of individuals for whom the court has ordered competency evaluations are actually competent (see Roesch et al., 1999), it has been argued that the use of screening instruments would considerably reduce the number of individuals who must undergo comprehensive competency evaluations (see, e.g., Roesch & Golding, 1980; Zapf & Roesch, 1997). The use of screening instruments would be especially important in those jurisdictions that mainly utilize inpatient evaluations of competency.

Instruments such as the CST and GCCT were specifically developed for use as screening devices. One problem with using these instruments in the manner in which they were intended is that each of them employs a cut-off score to determine who will be referred on for further evaluation. Therefore, the possibility exists that an individual who has a specific deficit in one particular area but who shows no other deficits might be screened out and not evaluated further. Of course, this is only a problem if the particular deficit noted would impact upon that individual’s ability to perform the necessary abilities required of him or her to proceed.

We argue that each of the competency assessment instruments reviewed above could be used as a screen for competency, although some will be more useful than others. Ultimately, a good screening instrument would be quick, easy to administer, and would identify those defendants who are clearly competent, that is, screen out those individuals who do not have any deficits in the required legal abilities. We argue that it is not necessary for a screening device to address the link between legal deficits and psychological deficits, but rather, only to identify the presence of legal deficits. The linkage between noted legal deficits and psychological deficits should be addressed in a comprehensive evaluation of competency (which would utilize competency assessment instruments in addition to other sources of data).
The CAI, IFI (IFI-R), and FIT (FIT-R) differ in terms of the range of legal abilities assessed and, therefore, their utility as screening instruments. The CAI focuses on more foundational aspects of competency and so would not identify those individuals with deficits in their decisional abilities. The IFI-R and the FIT-R each address decisional abilities in addition to foundational abilities and, therefore, have a better chance of identifying individuals with deficits in these areas, with the IFI-R being slightly more comprehensive than the FIT-R. The MacCAT-CA assesses both foundational and decisional aspects of competency but the hypothetical format for most of the items limits its applicability to the defendant’s particular situation.

Because the IFI-R, FIT-R, and the MacCAT-CA were developed to emphasize the linkage between psychological deficits and legal deficits, they are probably best used in more comprehensive evaluations of competency.

**BALANCING STANDARDIZED APPROACHES WITH INDIVIDUALIZED ASSESSMENTS**

Each of the aforementioned assessment instruments, because of the methodology employed, the range of legal abilities covered, and the degree to which they incorporate a consideration of the link between legal and psychological abilities and deficits, has differential utility in the evaluation of competency to stand trial. To some extent, each of the existing assessment instruments provides some standardization to the evaluation, which, by definition, moves away from an individualized approach. However, not one of these assessment instruments purports to be comprehensive enough to be the only piece of data considered in a competency evaluation. Indeed, it would be the negligent clinician who would use the results of any of these instruments as the sole basis for a decision regarding competency.

Although there are numerous ways in which to conduct competency evaluations, we believe that the most reasonable approach to the assessment of competency is based on a functional evaluation of a defendant’s ability matched to the contextualized demands of the case. While an assessment of the mental status of a defendant is important, it is not sufficient as a method of evaluating competency. Rather, the mental status information must be related to the specific demands of the legal case. Some cases are more complex than others and may, as a result, require different types of psycholegal ability. Thus, the specific psycholegal abilities required of a particular defendant are the most important aspect of assessing fitness. This contextual perspective was summarized by Golding and Roesch (1988) as follows:

Mere presence of severe disturbance (a psychopathological criterion) is only a threshold issue—it must be further demonstrated that such severe disturbance in this defendant, facing these charges, in light of existing evidence, anticipating the substantial effort of a particular attorney with a relationship of known characteristics, results in the defendant being unable to rationally assist the attorney or to comprehend the nature of the proceedings and their likely outcome (p. 79).

The importance of a contextual determination of specific psycholegal abilities has been repeatedly demonstrated by empirical findings that assessed competencies in one area of functioning are rarely homogenous with competencies in other areas of functioning (Bonnie, 1992; Golding & Roesch, 1988; Skeem, Golding, Cohn, &
By their very nature, contextualized evaluations of competency are necessarily individualized assessments, taking into consideration those psycholegal abilities and issues relevant to a particular defendant. Semi-structured interview-based competency assessment instruments, such as the FIT-R and IFI-R, work well for these types of evaluation in that they provide structure to the evaluation but do not limit it to only those content areas covered by the particular instrument. In addition, these instruments include broad coverage of legal abilities and allow for an exploration of both legal as well as psychological deficits and abilities and their relations to each other. Instruments such as the CAI and the GCCT provide a more limited range of legal abilities to be considered (than do the IFI-R and the FIT-R) and do not take into consideration the psychological abilities of the defendant, but still allow for the evaluator to go beyond the specific content of the instrument in making an evaluation of a defendant’s competency.

The MacCAT-CA allows for an evaluation of the defendant’s capacity to understand, in addition to his or her actual knowledge; a component not formally incorporated into any of the other assessment instruments. However, this is done within the context of a hypothetical vignette, as opposed to a consideration of the specific demands of the defendant’s own legal case. This approach, while allowing for better comparisons between defendants, limits the utility of the MacCAT-CA for making conclusions about a particular defendant with respect to his or her own situation. Zapf, Skeem, and Golding (manuscript under review) summarize the trade-off that occurs as a result of using competency assessment instruments that have been developed from different conceptual approaches as follows:

the MacCAT-CA is unique in its attempt to assess systematically reasoning and decisional capacities relevant to competency. As a normative tool, the measure’s primary conceptual weakness concerns its inability to link normative scores to an individual, contextualized decision. Paradoxically, alternative devices, such as the IFI-R and the FIT (revised edition), being developed under a different conceptual approach, have as their strength a direct focus on the linkage of an individual’s psycholegal abilities to a contextualized decision, and, as their weakness, an inability to normatively reference an individual’s psycholegal abilities (p. 24).

The conceptual approach of the assessment instrument selected must be carefully considered by evaluators, who must then take care to supplement the information obtained through the assessment instrument with other information as appropriate.

INTEGRATING INSTRUMENTALLY DERIVED DATA WITH OTHER COMPONENTS OF A COMPETENCY EVALUATION

Although some evidence indicates that specific assessment instruments (i.e., Robey’s checklist, the CST) are not used in practice (Schreiber, 1978), recent data indicate that this appears to be a more global phenomenon. Borum and Grisso (1995) concluded, after surveying clinicians (psychologists and psychiatrists) who conduct competency evaluations, that very few clinicians use any formal forensic assessment

instruments in their evaluations. Specifically, 36% of forensic psychologists and 80% of forensic psychiatrists reported that they never use forensic instruments in competency evaluations, whereas 36% of the psychologists and 11% of the psychiatrists reported that they almost always use them. Borum and Grisso note that this may, in fact, reflect an increase in forensic instrument use over earlier decades.

In light of research that demonstrates increased rates of agreement in evaluators’ decisions of competency when semi-structured competency assessment instruments are used (Golding et al., 1984; Nicholson & Kugler, 1991) and research that indicates that judges appear to value reference to competency assessment instruments in evaluators’ reports (Terhune, 1990), it seems appropriate that evaluators use competency assessment instruments when conducting evaluations for the courts. Caution must be taken, however, to integrate the data obtained vis-à-vis these instruments with other relevant data sources in making conclusions regarding a defendant’s abilities and deficits. The majority of the assessment instruments reviewed above were developed as a means of structuring the competency evaluation while leaving leeway for the evaluator to include other relevant inquiries in the evaluation. Each instrument was developed to be used as a piece of data in the evaluation process, with the understanding that other sources of information would also be integrated with the instrument data (with the exception—note above—of when the instrument is being used as a screen for competency). Other sources of information to be integrated in the evaluation could include interview data, functional evaluation data, consultation with defense counsel, mental health records or other relevant records, collateral interviews or information, or any other information as the evaluator sees fit.

Instruments such as the IFI-R and the FIT-R were developed to assist in this integration process as they focus on both the legal and psychological abilities (deficits) of the defendant and the linkage between the two. These instruments, by the very nature of the conceptual approach that they employ, focus specifically on the evaluation in an idiographic manner, therefore making the integration of other clinical and legal information relatively straightforward. This is in opposition to the approach taken by the MacCAT-CA, which is nomothetic in nature, and does not focus specifically on the defendant’s case in the majority of the items. However, the MacCAT-CA does provide information regarding the defendant’s abilities in relation to those of other defendants. In either case, no matter which instrument is selected for use in an evaluation, the results obtained must be integrated with additional clinical and legal information.

One difficulty that exists in the integration of information from the MacCAT-CA with other aspects of the evaluation is that the two types of information obtained are at odds with one another. That is, normative data are obtained using the MacCAT-CA but all other information obtained will presumably be idiographic. The developers of the MacCAT-CA have not provided rules or principles for integrating the normative data with other clinical and legal considerations.

COMMUNICATING RESULTS TO THE FACT FINDER

Findings from competency evaluations have a significant influence on the courts and research has shown that judges highly value expert testimony on the competency
issue (Roesch & Golding, 1980). It has been estimated that the courts agree with the conclusions of evaluations with respect to competency in over 90% of cases (see Cruise & Rogers, 1998; Freckelton, 1996) and more recent data have shown a 99.6% rate of agreement between evaluators’ decisions and the courts’ determination with respect to competency (Zapf, Hubbard, Cooper, Wheelis, & Ronan, in press). One interpretation of data such as these is that evaluators have a strong influence on how competency is defined.

Given that evaluators appear to have a large role in defining competency for the courts, it is important that the competency evaluation reports be comprehensive and of high quality. That is, they must address all information that is statutorily required in a particular jurisdiction (as well as any other information that might be relevant to the particular defendant and his or her case) and address the bases for the conclusions reached. It is simply not enough for an evaluator to provide his or her conclusions (be they “ultimate issue” conclusions or not7) but multiple sources of converging evidence should be assimilated and specifically related to the defendant’s functional deficits. As noted earlier, competency assessment instruments would serve as only one piece of this information.

Available practice guidelines emphasize the importance of documenting the bases for any conclusions that are made, especially with respect to any noted functional deficits (see Committee on Ethical Guidelines for Forensic Psychologists, 1991; Melton et al., 1997). Contrary to this, however, many researchers have found competency evaluation reports to be deficient with respect to providing the rationale or bases for the conclusions reached or showing the link between functional deficits and psychopathology (see, e.g., LaFortune & Nicholson, 1995; Nicholson & Norwood, 2000; Robbins, Waters, & Herbert, 1997; Skeem et al., 1998). Skeem and her colleagues (1998) found that only 10% of a sample of randomly selected competency evaluation reports provided data or reasoning delineating the relationship between psychopathology and noted deficits in legal abilities. In addition, these researchers concluded that the examiners primarily paid attention to understanding and appreciation abilities of the defendant and neglected the defendant’s capacity to make decisions in a large majority of the reports.

Assessment instruments such as the IFI-R and FIT-R provide structure to the evaluation process and serve to reduce the chances that specific areas of inquiry will be overlooked by the evaluator. In addition, the IFI-R (and the FIT-R to a lesser extent) necessitates that the link between psychopathology and functional deficit be addressed. While the CAI and the GCCT also serve to provide structure to the competency evaluation, the content of these instruments is more limited in scope than the IFI-R and FIT-R, therefore, inquiries into a defendant’s decisional abilities, for example, would need to be initiated by the evaluator outside of the context of the assessment instrument. The MacCAT-CA allows the evaluator the opportunity to interact with the defendant in much the same way that an attorney would interact with his or her client, with the opportunity to provide information to the defendant and then to assess the defendant’s ability to comprehend that

6Although research data indicate that judges seldom disagree with mental health professionals about a defendant’s competency, no independent criterion is available against which to compare mental health professionals’ opinions (Melton et al., 1997).

7For a discussion of both sides of the “ultimate issue” debate, the reader is referred to additional sources (see Grisso, 1986; Melton et al., 1997; Rogers & Ewing, 1989; Slobogin, 1989).
information. The use of the MacCAT-CA adds a functional component to the evaluation that is not necessarily inherent in instruments such as the IFI-R and the FIT-R. That is, it provides the opportunity to assess a defendant’s capacity to understand, independent of his or her actual understanding or knowledge at the time of evaluation.

If evaluators choose to use an assessment instrument that does not specifically address the link between psychopathology and functional deficit (such as the CAI or the GCCT), it will be important to make this link in the evaluation report. If an instrument that does address this relation is used (such as the IFI-R, FIT-R, or MacCAT-CA), the evaluator will need to be sure to include this information in the report. Of course, this link is addressed by each of these instruments to a different degree and so evaluators using the MacCAT-CA or the FIT-R might need to incorporate additional information to address this link, whereas evaluators using the IFI might not. Regardless of which assessment instrument is chosen for the evaluation, it is absolutely necessary for the evaluator to make explicit the bases or rationale for his or her conclusions in the evaluation report.

**SUMMARY**

The past 50 years have shown remarkable advancement in the area of competency assessment (see Zapf, Viljoen, Whittemore, Poythress, & Roesch, 2002, for a complete overview). Numerous assessment instruments have been developed to assist in competency evaluation and research in the area has helped to define the construct of competency and refine the assessment process. The previous discussion has highlighted a number of issues for consideration when selecting assessment instruments to assist in the evaluation of competency and has outlined a number of instruments from which to choose. As can be gleaned from the above discussion, each instrument makes a different contribution to the overall evaluation process. It is necessary for each evaluator to consider what a particular instrument can contribute as well as to determine where that instrument might fall short so that these areas can be supplemented appropriately.

**REFERENCES**


