
BOOK, SOFTWARE, & TEST REVIEW SECTION

The Forensic Clinician's Toolbox I: A Review of Competency to Stand Trial (CST) Instruments

It appears indisputable that assessment psychologists previously working in mental health settings have extended their interest to forensic psychological assessment. Otto and Heilbrun (2002) distinguished among three types of assessment instruments used in forensic settings: (a) clinical measures and assessment techniques: “psychological testing measures developed for assessment, diagnosis, and treatment planning with clinical populations in therapeutic contexts”; (b) forensically relevant instruments: measures that “do not assess or focus on specific legal standards and the associated functional capacities of the examinee . . . rather they address clinical constructs that are often pertinent to evaluating persons in the legal system”; and (c) forensic assessment instruments: “measures that are directly relevant to a specific legal standard and reflect and focus on specific capacities, abilities, or knowledge that are embodied by the law” (p. 9).

The quality of forensic assessment reports depends heavily on the procedures and instrumentation relied on by the clinician (Robinson & Acklin, 2010). The Forensic Clinician's Toolbox will focus on various domains of forensic psychological assessment and a survey of tools to assess relevant constructs (competency to stand trial [CST], criminal responsibility, etc.). There are a number of measures informally and commercially available for evaluating CST. We focus first on published, readily available measures designed to assess CST: The MacArthur Competence Assessment Tool—Criminal Adjudication (MacCAT-CA; Poythress et al., 1999); the Evaluation of Competency to Stand Trial—Revised (ECST-R; Rogers, Tillbrook, & Sewell, 2004); and the recently published Inventory of Legal Knowledge (ILK; Otto, Musick, & Sherrod, 2010). More detailed reviews of the MacCAT-CA and the ECST-R are found in Melton, Petrila, Poythress, and Slobogin (2007).

Adjudicative competence is best conceptualized in the work of University of Virginia Law Professor Richard Bonnie

(1992), who distinguished between “basic” and “decisional” competency—factors deriving from the 1960 U.S. Supreme Court case, *Dusky v. US* (1960). *Basic competence* includes understanding of charges, concept of a criminal defense, knowledge of judicial concept and procedures, and general ability to work with defense counsel. *Decisional competence*, on the other hand, assesses the quality of the defendant’s reasoning process—the rational prong of *Dusky* CST criteria. CST evaluations typically involve a clinical and forensic interview, and administration of clinical, forensically relevant, and forensic assessment instruments depending on the evaluator’s strategy (Robinson & Acklin, 2010).

The MacCAT-CA, developed by the MacArthur Foundation Research Network on Mental Health and the Law, is the queen of CST instruments. It is a 22-item, portable measure that requires approximately 35 to 45 min to administer and produces indexes for three *Dusky*-derived competence-related abilities: understanding, reasoning, and appreciation. The instrument was normed on adult defendants. A defendant’s capacities are assessed through responses to a series of vignettes. Scores for each vignette are summed and compared to three groups of defendants ($N = 729$), including unscreened jail inmates, jail inmates receiving mental health services, and hospitalized incompetent defendants. Normative interpretation of MacCAT-CA scores include minimal/none, mild, and clinically significant impairment.

Psychometric properties of the MacCAT-CA are reported in the manual. The tool demonstrates good internal consistency (alpha coefficients for understanding, reasoning, and appreciation were all in the .80 range). Indexes of interrater reliability also fall into the acceptable range (8 raters scored 47 cases) with ICCs of .94 for understanding, .85 for reasoning, and appreciation the lowest at .75. With respect to validity, criterion-related validity was examined by investigating differences between hospitalized incompetent, jailed and treated, and jailed unscreened defendants. All scales statistically separated the three groups. Concurrent validity was demonstrated by clinicians blind to the defendant’s performance provided a global rating of present competence at the time of protocol administration. All correlations were positive and significant. “All three MacCAT-CA measures are related to indices of psychopathology and mental capacity and predicted and theoretically meaningful ways” (p. 28) using standard psychological measures (Wechsler Adult Intelligence Scale-Revised estimated IQ,

Note: The Forensic Clinician's Toolbox is an occasional contribution to the *Journal of Personality Assessment's* Book, Software, & Test Review Section. The focus is on reviews of emerging forensic assessment instruments with utility in enhancing the quality and admissibility of forensic psychological assessment reports. The section will focus on applications in both criminal and civil forensic psychology, including criminal (competency to stand trial, criminal responsibility) and civil competencies (testamentary capacity, assessment for guardianship), malingering, and violence risk.

Minnesota Multiphasic Personality Inventory–2, and the Brief Psychiatric Rating Scale). The tool demonstrates good classification between groups with the MacCAT–CA significantly improving overall classification accuracy. “These analyses support the proposition that the MacCAT–CA provides information that is both relevant and useful in discriminating among defendants whose psycholegal abilities differ with regard to adjudicative competence” (Poythress et al., 1999, p. 29).

Although the vignette methodology has received some criticism, in this reviewer’s opinion, the primary strength of the measure is the opportunity to evaluate the quality of the defendant’s reasoning: the basis for decisional competency. The open response format seems particularly sensitive to the infiltration of impaired reasoning. The professional manual provides a conceptual background for the instrument and detailed exposition of norms, reliability, and validity information.

The ECST–R, developed by Richard Rogers and his colleagues, is a hybrid interview organized into separate semistructured and unstructured components, designed for use “as a validated psychological measure for competency to stand trial and closely related psycholegal constructs” (Rogers et al., 2004, p. 2). The measure is designed for individuals 18 years of age or older, for individuals with IQs greater than 60, and English-speaking populations. The measure provides a number of scales derived from the *Dusky* standard: ability to consult with counsel, factual understanding of court proceedings, rational understanding of courtroom proceedings, and reflecting Rogers’s ongoing interest, atypical presentation, which assesses response style and potential attempts to feign incompetence. Here, too, the psychometric properties of the measure are quite strong and the manual details the research foundations of the measure.

The ECST–R utilizes a semistructured interview format with 18 items that yields scores for four scales that assess competency to stand trial. In addition, the tool contains 28 items yielding scores on five Atypical Presentation scales that screen for feigned incompetency. The measure underwent extensive and sophisticated development, including competency referrals, jail and correctional referrals from offender samples, and suspected malingeringers and simulators. The tool demonstrates acceptable internal consistency for all nine scales (range = .63–.93). Inter-rater reliability was established with two or three independent examiners yielding reliability coefficients ranging from .88 to 1.00. With respect to validity, scale development tactics included rational item choice, prototypical analysis, and exploratory and confirmatory factor analysis with the *Dusky* components as targets. The manual notes, “The three-factor model provides important evidence to support the *discrete abilities* approach to the *Dusky* standard” (Rogers et al., 2004, p. 136). The authors note, with respect to criterion validity, the comparisons of ECST–R data with legal determinations of competency “have been deliberately avoided” due to criterion contamination issues. Diagnostic efficiency statistics (sensitivity, specificity, hit rate, Positive Predictive Power and Negative Predictive Power) “provide strong evidence of external validity of the ECST–R” (Rogers et al., 2004, p. 138). The authors of the ECST–R note that the impetus for development of the tool was the generally less than adequate correspondence of other measures to the *Dusky* standard. In comparison to the MacCAT–CA, overall abilities with defendants were moderately correlated ($r = .55$). Of significant

interest to the forensic examiner, the authors note, “Specifically, the ECST–R relies on Dusky, whereas the MacCAT–CA focuses on Bonnie’s (1992) decisional competence” (Rogers et al., 2004, p. 138). Nevertheless, the two scales demonstrate convergent validity. Finally, aside from assessing competence abilities, the ECST–R Atypical Presentation (ATP) scales provide information for potential feigning based on two broad domains (psychotic vs. nonpsychotic content) and two strategies (rare symptoms vs. symptom severity). Diagnostic efficacy scores indicate excellent hit rates; the scales perform well irrespective of gender and ethnicity.

The ILK, despite its title, “is not a test of an adjudicative competence. High scores on the ILK do not indicate that the defendant is knowledgeable about the legal process or competent to proceed, and low scores do not indicate that a defendant is uninformed about the legal process or incompetent to proceed. The ILK is solely a measure of response style” (Otto et al., 2010, p. 4). It is designed to assess whether the defendant is feigning ignorance of legal knowledge. The 61-item true–false inventory is designed for English-speaking persons 12 years or older. The inventory is examiner administered. The test is designed to “detect feigned deficits in legal knowledge” using a methodology similar to symptom validity approaches with normative comparisons to five groups of defendants. The normative base of the measure is limited to two pilot studies ($N = 145$). The authors note that the ILK has not likely attained “general acceptance” for the purposes of expert testimony.

The ILK manual notes that the measure is used “to assist in the assessment of the response style of defendants undergoing evaluations of adjudicative competence, not to assess defendant’s legal knowledge” (Otto et al., 2010, p. 29). In contrast to the other measures, development of the ILK is less sophisticated and complete. The manual reports the rationale for item development, four pilot studies using five groups of psychiatric patients, adults adjudicated as incompetent, honest competency examinees, and malingering adult competency examinees. Internal consistency data indicate mean item–total correlation coefficients of .32 with a range of .10 to .53. Coefficient alpha was calculated to evaluate the internal consistency of the measure, with an alpha coefficient of .88. Test–retest studies ranging from 5 to 11 days yielded a statistically significant correlation coefficient of .76, with evidence of a practice effect. Scale development included simulation and known group studies. Diagnostic efficiency statistics were examined using Area Under The Curves that were large and “indicate that the ILK has considerable potential to identify persons motivated to feign deficits in their knowledge of the legal process” (Otto et al., 2010, p. 33). Convergent validity studies examined ILK data with commonly used measures of poor effort or malingering (Test of Memory Malingering, Rey Fifteen Item Test, Reliable Digit Span) demonstrating convergent validity with these commonly used measures of response style.

However, a recently published review of the ILK (Rubenzer, 2011) raised significant concerns about the scale’s development and performance, concluding that “the recommended cutoff score of 47 produces unacceptable levels of false positives among defendants classified as actually incompetent and should not be used.” The reviewer produced a number of caveats about application of the scale, including “users should probably not consider ILK scores as an indication of feigning except

when they are significantly below chance," "the ILK should be used with caution with persons with significant intellectual limitations, and only significant below-chance scores interpreted," and noting that the ILK falls short of Standards for the Reporting of Diagnostic Accuracy Studies recommendations for reporting of the methodology and evaluation of diagnostic tests. The reviewer concluded, "Given these observations, it is hard to recommend the ILK until more favorable, quality data are presented" (p. 79).

Having administered all three CST measures, the MacCAT-CA and ECST-R seem to be indispensable for the forensic clinician's toolbox. Although more lengthy than a structured forensic interview, the free-response MacCAT-CA provides fine-grain, real-time analysis of the defendant's reasoning, the foundation of decisional competency. The format for findings is easy to use by the reader of the report. The ECST-R taps a different but related domain of issues. The ECST-R is very helpful where there is a question of psychosis or malingering of psychosis. On the negative side, they are insufficient in their sampling of knowledge about judicial and legal terms and procedures (best accomplished through a detailed interview). They are complex measures that require thorough understanding of the underlying legal standards, constructs, rationale, and administration, scoring, and interpretation procedures. Integration of these measures into the forensic clinician's regular practice will require study of the measures, repeat administrations, and careful consideration of their role in the clinician's assessment strategy and reporting. The ILK, on the other hand, is a more limited measure that appears potentially useful as an adjunctive measure of the defendant's response style, particularly on issues of faking ignorance of basic legal knowledge. The tool appears

to be early in development. Lack of legally relevant knowledge, of course, does not necessarily constitute lack of competency; the proper test is whether the individual lacks the capacity (as in all civil or criminal competencies).

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