

Example of application funded under the following solicitation:

National Initiatives: FY 2009 Encouraging Innovation: Field-Initiated Program

Applicant: National Judicial College

**APPLICATION FOR**

<b>1. TYPE OF SUBMISSION</b> Application Non-Construction		<b>2. DATE SUBMITTED</b> 06/24/2009	<b>APPLICATION IDENTIFIER</b>	
		<b>3. DATE RECEIVED BY STATE</b>	<b>STATE APPLICATION IDENTIFIER</b>	
		<b>4. DATE RECEIVED BY FEDERAL AGENCY</b>	<b>FEDERAL IDENTIFIER</b>	
<b>5. APPLICANT INFORMATION</b>				
<b>Legal Name</b> The National Judicial College		<b>Organizational Unit</b> Academic Department		
<b>Address (city, state, and zip code)</b> Judicial College Building MS358 Reno, Nevada 89557-0002		<b>Name and telephone number of the person to be contacted on matters involving this application</b>  Joy Lyngar (775) 327-8263		
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN)</b>		<b>7. TYPE OF APPLICANT</b> Non-Profit (Judicial Education)		
<b>8. TYPE OF APPLICATION</b> New		<b>9. NAME OF FEDERAL AGENCY</b> Bureau of Justice Assistance		
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE</b> Number: 16.751 CFDA Title: 16.751 & 16.738 National Initiatives		<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT</b> Mental Competence Best Practices Model Program		
<b>12. AREAS AFFECTED BY PROJECT</b> National				
<b>13. PROPOSED PROJECT</b>		<b>14. CONGRESSIONAL DISTRICT(S) OF</b>		
<b>Start Date:</b> 10/01/2009	<b>Ending Date:</b> 09/30/2012	<b>a. Applicant</b> NV02	<b>b. Project</b> NV02	
<b>15. ESTIMATED FUNDING</b>		<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>		
a. Federal	\$371,119	Program is not covered by E.O. 12372		
b. Applicant	\$0			
c. State	\$0			
d. Local	\$0			
e. Other	\$0			
f. Program Income	\$0			
g. Total	\$371,119	<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b> N		
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.</b>				
<b>a. Typed Name of Authorized Representative</b> William Dressel		<b>b. Title</b> Judge		<b>c. Telephone number</b> (775) 327-8260
<b>d. Signature of Authorized Representative</b>			<b>e. Date Signed</b>	



THE NATIONAL  
JUDICIAL COLLEGE

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**ENCOURAGING INNOVATION:  
Field-Initiated Programs FY 2009  
Competitive Grant Announcement**

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*Mental Competence  
Best Practices Model Program*

PROGRAM NARRATIVE

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ADVANCING JUSTICE THROUGH EDUCATION

# MENTAL COMPETENCE BEST PRACTICES MODEL PROGRAM

## Program Narrative

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The United States Constitution's "mental competence" standard "forbids trial of an individual who lacks a rational and factual understanding of the proceedings and sufficient ability to consult with his lawyer with a reasonable degree of rational understanding." *Indiana v. Edwards*, 128 S.C. 2379 (2008). Issues involving mental competence at the pretrial, trial, and post-trial stages of a criminal proceeding are complex and challenging.

Defense attorneys are increasingly raising the issue of defendants' mental competence to proceed in criminal cases. With a startling 31 percent of women and 14.5 percent of men entering jails with a serious mental illness, the likelihood of a person lacking the present ability to consult with his or her lawyer with a reasonable degree of rational understanding, and a rational understanding of the proceedings against him or her, is on the increase.<sup>1</sup>

In a typical proceeding, the attorneys, detention center personnel, or the behavior of the defendant raises the issue that the defendant may not have the requisite mental competence to proceed. The judge must then decide whether to require an initial evaluation and, if so, whether to detain the defendant for the evaluation.

In a significant number of cases, the person performing the initial evaluation finds the defendant has a mental condition of some sort requiring the court to make findings as to his or her mental status; the court must then rule on whether to order a complete mental competence exam. Most, if not all, of the states face a serious budget crisis, and mental health facilities generally do not have the capacity—physically or financially—to detain defendants for long periods of time. It generally takes a minimum of 30 days for an opinion as to whether the person is competent; it takes longer for further observation if an assessment cannot initially be made. If the pending charges against the defendant are for a misdemeanor(s) or lower level felony, no one

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<sup>1</sup> As of 2000, an estimated 25,000 to 39,000 competency evaluations were conducted in the United States annually. Patricia A. Zapf and Ronald Roesch, "Mental Competency Evaluations: Guidelines for Judges and Attorneys," COURT REVIEW, Summer 2000, p. 28.

in the criminal justice community wants to detain the defendant if his detention under observation will last longer than the sentence for the crime.

A program under fire in the state of Nevada demonstrates what the failure to have a best practices model for handling mental competence issues in the courts can devolve into. There, cases in which the mental competence of the defendant is raised are referred to a "competency court." *Before* the competency court was established, criminal defendants languished in jail for months waiting for a mental health evaluation; they were jailed an average of two months waiting to be transferred to a mental health facility for observation, evaluation, and treatment; their medications did not remain consistent throughout their detention. *After* establishing the competency court a few years ago, the wait time for competency determinations shortened to less than 10 days on average, but worse calamities were visited upon the criminal defendants and justice system. The judge did not provide full mental competence reports to defense counsel; did not permit defense attorneys to contact the doctors conducting the mental competence evaluations; did not allow defense attorneys to offer testimony or evidence from doctors of their choosing to make a competency evaluation; and did not allow attorneys to challenge the court rulings on the defendants' mental competence.<sup>2</sup>

From a clinical standpoint, issues such as the following arise: (1) the standards for evaluating competence; (2) who should perform the evaluations—from a licensed clinical social worker to a physician, and how they are trained; (3) the timeline for restoration and subsequent court review if the criminal defendant is found not competent; (4) because competency may span

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<sup>2</sup> See "Justices conduct hearing on 'competency court': Rights issues alleged by public defenders," Law Vegas Review Journal, Apr. 8, 2008, <http://www.lvrj.com/news/17380744.html>. For another example of this crisis in the criminal justice system, see "Abbott case proceeds with mental competency questions: Judge to decide whether to order mental health examination at trial," Juneau Empire, August 12, 2008, [http://www.juneauempire.com/stories/081208/loc\\_317780443.shtml](http://www.juneauempire.com/stories/081208/loc_317780443.shtml), where four months passed without a mental evaluation although the behavior of the defendant raised the issue of his mental competence to proceed; and the court denied prosecution's request for an independent psychiatric examination of his competence *because the defense had not given notice of its intent to raise the defendant's mental state as an issue at trial*—a separate issue from the defendant's mental competence to proceed as protected under the U.S. Constitution.

a short time period, the procedure for continuing treatment after restoration and moving court dates to capture the highest levels of functioning.

These and similar issues arise within the criminal justice system at all stages of the case when the defendant's mental competence is raised. A defendant's mental competence can be raised at his/her first appearance before the court and every subsequent appearance until the case is finally resolved. Once the issue is raised, the criminal proceedings must be held in abeyance unless and until the criminal defendant's mental competence is established.

## Section II

## Program Design and Implementation

This project is innovative for two reasons: First, every judge presiding over a criminal docket faces these issues, cases, and persons on a day-to-day basis without the benefit of a best practices model; and, second, there is currently no practices-wide consensus on how best to address mental competence issues in the courts and criminal justice system. These issues are distinct from issues of *access* to mental health and other treatment services in the criminal justice system because competence to proceed in a criminal case must be established before the court may proceed if and when the issue is raised at any stage of a hearing, trial, post-trial or other criminal justice proceeding.

The proposed innovative project may contribute to evidence-based strategies or promising practices through devising a best practices model for use by courts across the country. The model, and lessons learned, will be disseminated by publication on a specially created online resource center supported by a listserv.

The project outcomes could be replicated nationwide through adoption of the best practices model to the individual court or statewide. The project will develop, at a minimum, the following practical tools and materials for the criminal justice field: a website with a resource center of information on the best practices mental competence model and supporting

documentation, including contacts, learning sites, and experts; and methods to adopt the best practices model.

The recipients or beneficiaries of the work are the citizens of the United States, but especially those who preside over criminal law dockets; those who work in the criminal justice system; and those who come before the criminal courts in all the states.

**Deliverable One:** NJC staff will review the practices utilized by courts across the country, confer with experts throughout the country, and research evidence of best practices to devise a model for best practices in all aspects of managing mental competence in the courts.

The NJC will kickoff this program by identifying the key experts from across the country in the criminal justice and mental health fields with particular expertise in various aspects of mental competence issues, including criminal court presiding and trial judges, psychiatric health systems and hospital associations and professionals, jail and corrections associations and professionals, academic and other recognized experts in the field (the "collaborative panel").

After identifying the members of the collaborative panel, the NJC will create a substantive interviewing guide to elicit the most valuable information from the collaborative panel. The NJC will then conduct telephone conferences with experts in mental health and criminal justice fields to obtain information and opinions on best practices in managing mental competence issues. The third step in the research aspect of the project is to research approaches taken by the majority, if not all, states in managing mental competence issues, including creating various models and surveying states as to which model they follow. The NJC will then confer with the collaborative panel on proposed best practices via web conferences. Finally, the NJC will schedule three on-site visits to successful programs to confer with the judges and other personnel and attorneys in their criminal justice systems. This multi-faceted approach enables the NJC to gather and analyze the greatest amount of information.



This deliverable will enable the NJC to gather, research, and analyze best practices in managing mental competence issues in the criminal justice system.

**Deliverable Two:** After gathering, researching, and analyzing best practices in managing mental competence issues in the criminal justice system, the NJC will draft a model for the best practices in all aspects of managing mental competence in the state courts. To achieve this central goal, the NJC will confer further with the collaborative panel on best practices. After thorough research, analysis, and discussion, the NJC will then draft a best practices model.

Once the draft is complete, the NJC will circulate the draft model to the collaborative panel for comment and conduct web conferences to discuss their input. Following the comment period, the NJC will revise the model to ensure it reflects the best practices in all aspects of managing mental competence in the criminal justice system.

This deliverable will enable the NJC to prepare a draft, final, and revised best practices model for managing mental competence issues in the criminal justice system.

**Deliverable Three:** Once the NJC has begun its dialogue with the various experts and its research on the best practices model, the NJC will create a website to begin publishing supporting information. As the process and information evolves, the NJC will continually build and update the website to publish the best practices model, supporting documentation, resources, database, platform for networking, contacts, and information on implementation of the best practices model.

This deliverable will enable the NJC to publish the best practices model and all the supporting information and documentation, as well as create an online environment for networking with respect to the best practices model for managing mental competence in the criminal justice system.

**Deliverable Four:** At the same time that the NJC is creating a website on the best practices model for managing mental competence in the criminal justice system, the NJC will create a listserv to apprise the participants and other states/jurisdictions and experts of information posted to the website and ongoing activities. The NJC will utilize the listserv to apprise subscribers and, once identified, participant courts or jurisdictions and other courts or jurisdictions, of information posted to the website and ongoing activities. In other words, the NJC will use the listserv to continually draw attention to information of importance published on the website.

This deliverable will assist the NJC in keeping the leading state court and presiding judges, all interested organizations and individuals, and other experts informed of the activities of this important project.

**Deliverable Five:** NJC staff will create and conduct a series of Webinars to educate judges and other professionals on the best practices model to assist them in implementing the model in their courts or jurisdictions. The Webinar series will be a graduated series of three courses. The NJC will create a curriculum with the assistance of one or more members of the collaborative panel and prepare materials to use for the Webinars, including evaluations for the series. The NJC will record the Webinars and upload them to the website so individuals can view the Webinars at a later date.

With this deliverable, the NJC will educate the most judges and other professionals possible in the most efficient manner on how to implement the best practices model for managing mental competence in the criminal justice system.

**Deliverable Six:** After educating judges and other professionals how to implement the best practices model, NJC staff will provide technical assistance to assist those educated and others interested in implementing the best practices model in their courts or jurisdictions. To do

so, the NJC will solicit interest and gauge the level of assistance needed in each court or jurisdiction to implement best practices model. The NJC will then characterize the states into different levels according to their current practices and assistance requested or required.

Once identified, the NJC will provide ongoing technical assistance to the courts or jurisdictions via telephone, the Internet, and e-mail to assist them in implementing the best practices model.

This deliverable enables the NJC to provide technical assistance to the courts or jurisdictions to implement the best practices model for managing mental competence in the criminal justice system.

### Section III

### Capabilities/Competencies

NJC is celebrating 46 years of excellence in judicial system education this year. Located on the historic 255-acre University of Nevada, Reno, campus, NJC is the nation's top judicial training institution. Each year, courses are held onsite, across the nation, and around the world. NJC offers an average of 120 programs annually with more than 2,500 judges and other justice system professionals enrolling from all 50 states, U.S. territories and more than 150 countries. Since it opened in 1963, NJC has awarded more than 80,000 professional education certificates.

NJC has expertise in forming unique coalitions to address criminal justice challenges. For instance, under a recent grant from BJA, NJC brought together experts from across disciplines, and across the country, to devise a curriculum on sentencing adult sex offenders. NJC tapped experts in the fields of psychiatry, policy-making, probation and parole, the judiciary, and the bars. Like the proposed grant-based project, the sentencing sex offenders curriculum combines this vast practical, clinical, and legal knowledge and experience to arrive at a comprehensive understanding of the best practices for sentencing sex offenders.

NJC staff has extensive research experience. The NJC employs six full-time program attorneys plus three other attorneys who serve as directors in addition to the judge-president. Daphne Burns, the program attorney designated as the project director for this proposed grant, has nearly 20 years of experience in research and writing.

NJC has expertise in devising models to resolve criminal justice challenges. The most recent project where such expertise was utilized is the technical and training assistance project funded by the BJA to improve case flow management. That project involved community mapping, team-building, action-planning, and many other aspects to improve the justice system for all the stakeholders. This project will devote more resources to researching best practices and arriving at a best practices model.

NJC has extensive experience in providing technical assistance. NJC relies upon its more than 340 active judicial educators—many of whom volunteer their time and expertise because of their passion to improve the justice system. NJC also regularly conducts custom-designed programs that are responsive to the expressed needs of individual jurisdictions.

NJC has had success with creating and maintaining websites and online resource centers. Under a grant from the BJA, NJC created and maintains an online capital cases resource center for state trial judges (see <http://capitalcasesresources.org>). The *Capital Cases Resources* online center serves as a database for relevant publications, articles, and reports and other data from state, national and other federal sources. Likewise, NJC developed *Commercial Driver's Licensing Laws: Resources for Judges* (see <http://cdlresources.org>) which provides state laws and regulations for all 50 states, course material so that judges who have taken NJC's CDL course can access the material when they are developing their own in-state CDL presentations, and a national forum for judges to report their individual CDL cases.

NJC has the ability to provide listserv capacity in a trusted and virus secure environment. NJC is able to maintain e-mail privacy and integrity, virus scan listserv announcements prior to sending, and ensure that only appropriate access the listserv. Using e-mail management software designed to facilitate the listserv properties, NJC will provide a safe computing platform for establishing and controlling the listserv.

NJC has the proven capacity to plan, create, and host distance learning opportunities. NJC was one of the first judicial education organizations to educate judges via an asynchronous, Internet-based learning management system. In 1999 and 2000, NJC created its first distance-learning program to respond to the needs of judges who did not have the financial ability to travel to a course. Today, the six-week WebCampus program features weekly web conferences via WebEx, quizzes, video, readings, simulations, rich discussions among the participants and faculty, exercises (including the drafting of an opening statement for judges when they begin court), as well as many other learning modalities.

For the above-stated reasons, NJC is uniquely qualified to fulfill the important objectives of the proposed project.

**Section 4: Impact/Outcomes, Evaluation and Performance Measures, Data Collection Plan**

**Objective:** To improve the capacity of the criminal justice system to effectively plan, manage, and allocate resources and to encourage information sharing to reduce the incidence of crime and drug abuse, to provide responsive law enforcement services, to enhance local courts, to enhance local corrections and offender reentry, prevent or combat juvenile delinquency and/or assist victims of crime (other than compensation).

**Deliverable One:** NJC will report on the collaborative panel of experts organized and the progress in debriefing the collaborative panel. NJC will likewise report on the progress in researching best practices for the model. Finally, NJC will report on the on-site visits completed.

**Deliverable Two:** NJC will report on the progress and completion of drafting the best practices model.

**Deliverable Three:** NJC will report the launch of the website, including the resource center, and substantive updates; publication of the best practices model; publication of the website center survey; periodic results of the website/resource center survey; and traffic and website analytics. NJC will also periodically send out a survey request to inquire of users as to what services they used and ask about the quality of the products. NJC will also keep data about the number of inquiries received. NJC will use Google Analytics to track the activity and different page hits for the website.

**Deliverable Four:** NJC will report on the completion of creating a listserv and its effectiveness vis-à-vis the amount of traffic it generates to website. NJC will also periodically send out a survey request to inquire of users as to what services they used and ask about the quality of the products. NJC will also keep data about the number of inquiries received.

**Deliverable Five:** NJC will report on the completion of each in the series of Webinars, including the number of participants who completed the educational session and the participants' ratings. For those who do not participate in the live presentation of the Webinars, but rather view the Webinars after they've been uploaded to the website/resource center, NJC will create an online evaluation instrument to gauge the performance of the faculty and the success of the Webinar.

**Deliverable Six:** As part of the technical assistance work, NJC will provide an evaluation instrument whereby each participating member will answer close-ended questions about the quality of the technical assistance provided.

THE NATIONAL JUDICIAL COLLEGE

October 1, 2009 - September 30, 2012

**Personnel**

Personnel is based on current rates with an anticipated 3% increase annually. Program Attorney and Course Administrator rates are blended rates for these positions.

	2009 Annual Rate	Daily Rate	% of 225 Working Days	Days Allocated	Amount
<b>Personnel</b>					

Fringe Benefits :

Budget Allocation

Rate

Personnel

THE NATIONAL JUDICIAL COLLEGE

October 1, 2009 - September 30, 2012

**Total Fringe Benefits** **50,878**

**Travel**

Airfare rates are based on management decision for budgeting purposes for travel within the United States (coast to coast and regional pricing). \$735 is used where coast-to-coast travel is anticipated. \$365 is used where regional travel is anticipated for 2009-2010 with an anticipated approximate 7% increase annually. Miscellaneous ground travel is also included in these rates.

Reno Lodging is based on contracted rates for 2009-2010 with an approximate 5% increase annually. Lodging for locations to be determined is based on blended CONUS rates (with estimated taxes) for DC, San Francisco, Atlanta, and Denver with anticipated approximate 5% increases annually.

Per Diem meals are based on 2009 Reno CONUS rates and blended rates for TBD locations (DC, SF, Atl, Den) plus approx 5% increase annually.

Conference meals are additional estimated expenses for catered meals during conferences and meetings and are reduced for meal allocations included in the per diem calculation for traveling staff, faculty, consultants, and participants (ie 2009-2010 Reno conference meals budgeted at 43.00 for non traveling participants and 20.00 for traveling participants with budgeted per diem meals 43.00 - 10.00 bkfast - 13.00 lunch = 20.00). Conference meals are estimated figures with anticipated approximate 5% increases annually.

		No. People	Amount	Days	No. Trips	Total
Airfare						
Staff Travel	Research Best Practices	1	735		2	1,470
Staff Travel	Research Best Practices	1	365		1	365
Lodging						
Staff Travel	Research Best Practices	1	220	3	3	1,980
Per Diem Meals						
Staff Travel	Research Best Practices	1	60	3	3	540
<b>Total Travel</b>						<b>4,355</b>

**Contractual/Consultants**

We describe those national experts who do not require a consultant fee as "faculty." This includes the hundreds of judges who regularly serve as faculty for NJC.

If a national expert requires a daily stipend, we use the term "consultant," whether the service provided is presenting, providing input on a curriculum or attending a meeting.

Consultants are budgeted at 450.00 per day but actual rates will be determined when the individual is identified and will not exceed 450.00 without prior approval.

	Number	Rate	Day	
Research Best Practices	6	450	5	13,500
Draft Model for Best Practices	6	450	5	13,500
Webinars	3	450	3	4,050
<b>Total Consultants Fees</b>				<b>31,050</b>
<b>Total Contractual/Consultant</b>				<b>31,050</b>

**Material/Supplies**

Supplies, binders, shipping, conference calls, and webex costs are based on historical rates for similar items. Note: Web Ex rates are the number of minutes per session X the rate of .095 per minute

		Number Participating	Rate		
Research Best Practices	WebEx Conference Calls	5	0.10	300	Minutes 143
Draft Model for Best Practices	WebEx Conference Calls	5	0.10	120	Minutes 57
Website	Web Hosting	1	500.00	12	Months 6,000
Webinars	WebEx	300	0.095	270	Minutes 7,695
Technical Assistance	Handouts	200	2.50	1	Each 500
					<b>14,395</b>

**Total Direct Expenses** **213,738**

Indirect costs **157,381**

**Budget Grand Total** **371,119**



**Budget Summary**

Personnel	113,061
Fringe Benefits	50,878
Travel	4,355
Equipment	-
Supplies	14,395
Construction	-
Consultants/Contracts	31,050
Other	-
Total Direct Costs	213,738
Indirect Costs	<u>157,381</u>
<b>TOTAL PROJECT COSTS</b>	<b>371,119</b>
Federal Request	371,119
Non-Federal Amou	-