

Chapter 8

Commitment of Defendants Found Incapable of Proceeding

8.1	Overview	8-2
8.2	North Carolina Defender Manual: Capacity to Proceed	8-2
8.3	Terminology Used in this Chapter	8-3
8.4	Applicability to Adults and Juveniles Alleged to Be Delinquent	8-4
8.5	Determination of Incapacity to Proceed	8-4
	A. Standard for Determination	
	B. Criminal Court Procedure	
8.6	Referral of Defendant for Civil Commitment Proceedings	8-8
	A. Determination by Criminal Court	
	B. Law Enforcement Officer to Assume Custody or to Transport	
	C. First Examination Requirements	
	D. Second Examination by Physician	
8.7	Attorney Representation	8-10
	A. Attorney for Respondent	
	B. Attorney for State	
8.8	Preparation for Hearing	8-10
8.9	Hearings	8-11
	A. Time Limit for Hearing	
	B. Venue and Change of Venue	
	C. Continuances	
	D. Discharge Pending Hearing	
	E. Not Contesting/Not Resisting	
	F. Waiver of Appearance	
	G. Criteria for Involuntary Commitment	
	H. Evidence	
8.10	Dispositional Alternatives	8-13
8.11	Rehearings	8-14

8.12 Termination of Commitment	8-14
8.13 Supplemental Hearings in Criminal Court	8-15
8.14 Defendant's Return to Stand Trial Upon Regaining Capacity	8-15
Appendix 8-1 Capacity and Commitment Flowchart	8-16
