

* U.S. NEWS
* MAY 17, 2011

Loughner's Mental Competence Is Doubted By JOHN R. EMSHWILLER And TAMARA AUDI

Two federal court filings Monday in the criminal case of the man accused in the January shooting of Rep. Gabrielle Giffords and 18 others in Tucson, Ariz., strongly suggest that two health professionals who evaluated his mental state have determined he isn't competent to stand trial, according to legal experts.

The filings, one by the defense and one by the prosecution, indicate that a competency hearing for Jared Loughner scheduled in a Tucson federal court for May 25 could largely be a formality. Both filings agreed that the two doctors who evaluated Mr. Loughner wouldn't need to testify. The filings also said neither side would dispute the doctors' written reports.

If these reports, which are under seal, hadn't concluded Mr. Loughner was incompetent to stand trial, the defense would almost certainly be planning to put up a fight, experts said.

"My initial gut reaction would be that both have found him not competent to stand trial," said Kurt Altman, a former assistant U.S. attorney in the Phoenix office who isn't involved in the case. Mr. Altman said defense lawyers wouldn't object to a finding of incompetence since it would delay Mr. Loughner's trial. Mr. Loughner could face the death penalty.

At the same time, prosecutors wouldn't be in a position to argue the findings of the two doctors, given that they pushed to have the competency exams done, say people familiar with the matter.

A decision by Judge Larry Burns, who is presiding over the case, that Mr. Loughner was currently incompetent could postpone any trial of Mr. Loughner for months or even years, say legal experts.

In cases where a defendant is found incompetent to stand trial, the defendant is kept in custody until it is determined he is able to understand the charges against him and able to aid his lawyers in his own defense. Such people could be treated with drugs, possibly without their consent, legal experts said.

The Jan. 8 shooting rampage left six people dead, including a federal judge and a young girl, as well as 13 wounded. Rep. Giffords is recovering from a bullet wound to the head. On Monday, she was in Florida to watch a space shuttle launch captained by her husband, astronaut Mark Kelly.

Mr. Loughner has been in custody since being arrested at the scene of the shooting.

Write to John R. Emshwiller at john.emshwiller@wsj.com and Tamara Audi at tammy.audi@wsj.com