

## REPORT WRITING CHECKLIST FOR ADJUDICATIVE COMPETENCY REPORTS IN JUVENILE COURT (WARREN, 2015)

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### THE NATURE OF ADJUDICATIVE COMPETENCY IN JUVENILE COURT:

- 1. Oriented to present:** The competency assessment is functional in nature, and limited in scope to present competency, as defined by the U.S Supreme Court in *Dusky v. United States*, 362, U.S. No. 402 (1960).
- 2. Based on capacity:** The focus of the assessment is on the capacity of the youth to navigate the legal system, and is not dependent on her or his fund of legal knowledge.
- 3. Specific to proceeding:** The assessment is dependent on the complexity of charges a youth faces, and the degree of capacity/understanding required to ensure a fair proceeding.
- 4. Bound by statute:** Ideally, juveniles will have their competency evaluated without subjecting themselves to examinations that might prompt self-incrimination.
- 5. Specific in focus:** Reports should be concise, without irrelevant information, and be written so as to demonstrate the reasoning that culminates in the opinion regarding competency.

### CONSIDERATIONS:

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | <b>Have you listed all the relevant sources of information used in completing your report?</b><br>It is helpful to interview the primary caregiver of a youth to determine their general level of functioning and the developmental course of any conditions that seem to be impairing their functioning at that time. It is useful to reference information or individuals that you sought and believed would be relevant to your evaluation but were unable to obtain/contact prior to the completion of your report.   |
| <input type="checkbox"/> | <b>Have you included information about past psychiatric contact, relevant diagnoses and medications, and past educational testing?</b><br>It is important to remember that there must be a reason that a youth is incompetent, so you need to point out the relevant deficits early in the report so that the reader can track your opinion formation when you apply these deficits to your final competency opinion. In instances in which you opine competency or incompetency, all impairments should be identified and discussed as they pertain to the ultimate or penultimate opinion in the report.  |
| <input type="checkbox"/> | <b>Have you included direct quotes pertaining to the youth's capacity to work with her or his attorney and understand court procedure?</b> Direct quotes convey the essence of the level of capacity being demonstrated, and offer a richer and more immediate description of youth's functional abilities, and as such are more compelling and convincing than abstract references to their comprehension of legal constructs. However, all quotes used must be reviewed for accuracy, as well as to ensure they do not convey or imply responsibility for the alleged offense.  |
| <input type="checkbox"/> | <b>If conducting psychological testing, have you explained the relevance of each specific test?</b><br>In most instances it is not necessary to conduct psychological testing to reach an informed opinion regarding adjudicative competency. Often, it is more useful to summarize concisely prior testing and explain any inconsistencies that might be found. Psychological testing that is irrelevant can create a false sense of precision, and can distract the evaluator from focusing on collecting the functional information and conveying this information in a logical, timely manner to the court.   |
| <input type="checkbox"/> | <b>Does your mental status examination convey the specific characteristics and qualities of the youth being evaluated?</b><br>Informing the reader of the youth's mental status need not be a dry, abstract, jargon-laden endeavor, and with a thoughtful choice of words can provide an approachable, vivid portrayal of the youth as they presented at the time of the evaluation. This type of information not only helps to inform the court, but can also be of value to those responsible for remediation efforts after a finding of incompetence.  |
| <input type="checkbox"/> | <b>Have you included a formal psychiatric diagnosis?</b><br>Care should be taken when considering including a formal psychiatric diagnosis, due to the difficulty in obtaining a well-informed diagnosis in the context of a competency evaluation, the potential misuse of some diagnostic categories, and the lack of relevance many diagnoses to the ultimate question regarding competence. However, should a psychiatric diagnosis bear clear relevance to a youth's competence, or subsequent attainment of competence, then this information should be included and described in a straightforward manner, without any overuse of clinical jargon. In some instances there will also be a significant psychiatric diagnosis that does not undermine the youth's competence, and this lack of relevance should also be clearly explained to the reader. |
| <input type="checkbox"/> | <b>Do you document an attempt to teach the youth information that is lacking at the time of the assessment?</b><br>Competency addresses the capacity of the youth, and not the current fund of knowledge; therefore, it is important to assess the ability of the youth to absorb and apply legal information to their own situation. This ability will determine if any deficits can be addressed by the defense attorney, or if there are more fundamental barriers that would better be addressed through remediation services. It is also important to remain aware of that fact that competency does not require agility with legalese, but rather an understanding of the basic rights and requirements of legal processes.   |

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<input type="checkbox"/>	<b>Have you offered a thoughtful opinion addressing the youth's specific abilities as they pertain to the legal standard for competency?</b> This opinion section should emerge naturally from everything that you have included in the report and in so doing integrate the clinical material with the legal standards in a straightforward manner. Every condition or impairment noted in the earlier portions of your report should be presented and discussed in terms of how you believe they do or do not affect competency.
<input type="checkbox"/>	<b>Is your opinion contextualized according to the complexity of the charges and proceedings the youth faces?</b> There is no absolute standard for competency, but rather the need to determine if a youth understands enough to ensure they receive fair and reasonable treatment by the court. There are clear differences between the demands placed on a youth who is charged with a minor offense, as contrasted to one charged with a serious, violent, felony.
<input type="checkbox"/>	<b>If you opine the youth incompetent, have you included recommendations related to remediation?</b> After conducting an evaluation, you are likely opinions about interventions that might optimally be used to assist the youth in achieving trial competency, and it is useful to include these in your report to guide and inform the efforts of subsequent remediation efforts. If you believe that the youth is unlikely to achieve competence, it is also helpful to convey this to the court as this will alert remediation staff to the need for careful evaluation to ensure that interventions do not continue unnecessarily.
<input type="checkbox"/>	<b>Have you included any practical needs of the youth in your recommendations?</b> There is a tendency to prioritize explicitly clinical needs of the youth, at the exclusion of other more basic, but no less pertinent needs of the youth to appropriately interact with the courts. A youth may require special help in obtaining and using sensory aids, such as glasses and hearing aids, and may also require supervision in maintaining compliance with prescribed medication. A youth may also require an interpreter, which will generally be provided by the court.
<input type="checkbox"/>	<b>Have you ensured that there is no account of the offense included in the report?</b> It is important to obtain an account of the alleged offense to ensure that the youth can provide one to her or his attorney; however, this account should not be included in the report as it could infringe upon the youth's constitutional right against self-incrimination. The account should also not be included in notes taken during the assessment, as these could be subpoenaed, and in some jurisdictions used to argue guilt in subsequent proceedings.
<input type="checkbox"/>	<b>Have you ensured that responsibility for the offense is not implied in other comments included in the report?</b> It is possible that responsibility for an offense can be conveyed by quotes included in the report for valid reasons, such as the youth's understanding of the ramifications of their behavior, the involvement of peers in the alleged criminal behavior, and/or a discussion of the evidence relevant to their particular charges. This may require a specific review of the report contents to ensure no such implications are contained in the section that summarizes the functional ability of the youth being evaluated.
<input type="checkbox"/>	<b>Have you removed aggravating information that is not relevant to adjudicative competency?</b> A competency report should not provide information with direct applicability to assessing violence risk, as it is generally not pertinent to the functional requirements of a competency, and can introduce into the adversarial process information that has not been obtained by court order, and without the informed consent of the juvenile and/or her or his parent. Any statements regarding possible or observed criminal behavior, even if contained in educational or other records, should not be included in your report.
<input type="checkbox"/>	<b>Have you carefully re-read and edited your report?</b> Revisions should include checking for common grammatical errors, such as incorrect word choice (trail vs. trial; there vs. their vs. they're), consistency in names and use of titles, and formatting across the different sections of the report. Extraneous information, however interesting, should be removed, especially if it is potentially aggravating. Ideally a competence report should not exceed five to six pages, to ensure the reader is not tempted to only read the conclusions.

### RECOMMENDED READING:

Dusky v. United States, 362 U.S. No. 402 (1960)

Grisso, T., Borum, R., Edens, J. F., Moyer, J., & Otto, R. K. (2003). *Evaluating competencies: Forensic assessments and instruments*. New York, NY: Kluwer Academic/Plenum Publishers.

In re Gault, 387 U.S. 1 (1967)

Jackson v. Indiana, 406 U.S. 715 (1972)

Melton, G. B., Petrila, J., Poythress, N. G., & Slobogin, C. (2007). *Psychological evaluations for the courts: A handbook for mental health professionals and lawyers*. New York, NY: The Guilford Press.

Warren, J. I., Jackson, S. L., & Coburn, J. J. (2016). Evaluation and restoration of competency to stand trial. In Heilbrun, K., DeMatteo, D., & Goldstein, N. E. S. (Eds.), *APA handbook of psychology and juvenile justice* (pp. 489-514). Washington, DC: American Psychological Association. <http://dx.doi.org/10.1037/14643-000>