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# Hamilton County

## Juvenile Court

### Department of Behavioral Health Services

*Innovative Psychological Assessment & Wellness*  
2020 AUBURN AVE.  
CINCINNATI, OHIO 45219-3025  
(513) 946-2800

#### INITIAL COMPETENCY EVALUATION

Name: J A R  
 Court Party ID No: 1250829  
 Date of Evaluation: 09/17/16  
 Date of Birth: 02/13/2000  
 Chronological Age: 16 years and 7 month(s)  
 Educational Level: School: Children's Home Grade: 9

Referral Source: Naomi Simmons, Probation Officer

Evaluator: Joy McGhee, Psy.D., Clinical Psychologist

Pending Charges: Obstruct Official Business (M2)  
 Falsification (M1)  
 Obstruct Official Business (M2)  
 Aggravated Robbery (F1)

Next Court Date: 09/23/16

#### Reason for Suggestion of Incompetency:

☐ Intellectual Disability    ☐ Developmental Immaturity    ☒ Mental Health Disorder    ☐ Unknown

#### Understanding of Key Elements:

<u>Role of Key Personnel:</u>	<u>Factual Awareness</u>	<u>Adequate Appreciation</u>
Judge/Magistrate role	Yes	Yes
Youth defense lawyer's role	Yes	Yes
Prosecutor's role	Yes	Yes

Using a picture to guide the discussion, J identified the image as a "Courtroom" and he was able to correctly identify where he and his defense attorney, the prosecutor, the Judge, and a witness would be seated.

J understood that the defense attorney would be on his side and described the role of the defense attorney as, "Get me out of jail" and thought they would accomplish this goal by, "Fighting for me." J also understood that a defense lawyer would ask about the details of the arrest, "So they can defend my case better." I provided J with additional teaching and upon subsequent questioning, he described the role by saying that a defense

attorney would, "Get lower consequences and defend my case." (*Q-What are they trying to prove?*) "That I'm innocent."

J<sub>1</sub> understood that the prosecutor's role is, "To get me locked up." (*Q-What are they trying to prove?*) "That I'm bad." He understood that the prosecutor would tell, "The police" side of the story, "Because that's who side they on." I provided him with additional teaching and when asked to describe the role of the prosecutor at the end of the interview, he said, "To get you locked up."

When asked to describe the role of the Judge, J<sub>1</sub> replied, "To decide." (*Q-Decide what?*) "What to do....what to do about me with the case." He understood that the Judge was the authority in the courtroom but he also thought that the Judge would be on the side of, "The prosecutor" and would make a decision about a defendant's guilt or innocence by, "Just choosing" because he thought, "Court [is] not fair." I provided J<sub>1</sub> with additional teaching and, because he asked relevant questions, I provided clarification about several other court related matters. When I asked J<sub>1</sub> to again describe the role of the Judge he replied, "To hear evidence on both sides and decide if I'm innocent or guilty."

Overall, J<sub>1</sub> was able to demonstrate factual awareness of and adequate appreciation for the **Roles of Key Courtroom Personnel**.

<u>Nature and Purpose of the Trial:</u>	<u>Factual Awareness</u>	<u>Adequate Appreciation</u>
Aware of serious nature of offense	Yes	Yes
Understanding of possible pleas	Yes	Yes
Understanding of trial outcomes	Yes	Yes
Awareness of possible punishments	Yes	Yes

When I asked J<sub>1</sub> to tell me about his current charges, he said, "I don't know. Robbery." I provided him with information about the other charges of Falsification and Obstruction and the meaning of each charge. He identified the Aggravated Robbery as a, "Serious charge.... A felony I guess." He also thought the Obstruction charge was a felony and he was uncertain about the relative seriousness of the Falsification charge. I asked him to describe the difference between a felony and a misdemeanor and he said, "One is serious and one is not so serious." (*Q-Which one is not serious?*) "Misdemeanor." When asked to do so, J<sub>1</sub> identified, "Stealing a car, having a gun" as *more* serious offenses and, "Fighting or having an argument with your parents" as *less* serious offenses. Upon subsequent questioning J<sub>1</sub> was able to recall all of his current charges.

J<sub>1</sub> was not familiar with what it means to enter a plea or the plea options of Admit and Deny. After I provided him with additional teaching, he said that a plea of Admit means, "To tell the truth" and a plea of Deny means, "To say you didn't do it." He also understood that a plea of Admit would lead to, "You go to jail" and a plea of Deny would result in, "Trial."

Regarding the possible outcomes of a trial, J<sub>1</sub> understood that if the Judge found him guilty, he would, "Get sent to DYS... have consequences" and if a defendant were found innocent, "They get set free" but he thought the charges would remain on the record. After I provided clarification that the charges would be dropped if a defendant is found innocent, J<sub>1</sub> verbally indicated his understanding.

Upon initial questioning, J<sub>1</sub> was unfamiliar with the range of consequences typically given in juvenile court as he only identified, "Jail." When I reminded him of his previous legal involvement, he recalled, "Work detail" as a consequence. I provided him with teaching about all of the possible consequences and then asked him to think about the consequences he could get for his current charges and he said, "Since they're serious, DYS." Again I reminded him about the relationship between the seriousness of an offense and the seriousness of the potential consequences and he verbally indicated his understanding.

Overall, J demonstrated factual awareness of and adequate appreciation for the serious nature of the offense, trial outcomes, possible pleas and punishments. He needed additional clarification about the relationship between the seriousness of an offense and the resulting loss of freedom.

<u>Understanding of Trial Process:</u>	<u>Factual Awareness</u>	<u>Adequate Appreciation</u>
What happens at a trial	Yes	Yes
Role of evidence	Yes	Yes
Role of witness	Yes	Yes
How Judge makes decision	Yes	Yes

J was initially unfamiliar with what happens during a trial and after I provided him with teaching, he described a trial by saying, "They say both they sides [of the story] and the Judge listens and decides."

I reminded J that a Judge needs evidence in order to make a decision about a defendant's guilt or innocence and then asked him to describe evidence. He proceeded to describe evidence as, "Stuff to help the Judge decide what to do with the charges." I provided him with additional teaching and then asked him to identify examples of things that can be used as evidence in court and he said, "Witness, pictures."

When I asked J to describe the role of a witness he said, "Testify." (*Q-To what?*) "To the case." He understood that a prosecution witness would testify against him and a defense witness would testify on his behalf. I provided J with additional teaching and upon subsequent questioning he described the role of a witness as, "To tell them what they saw and heard."

Finally, J previously demonstrated his awareness that a Judge makes a decision about guilt or innocence by listening to witnesses and evidence but he maintained his belief that the Judge would be more aligned with the prosecutor.

Overall, J demonstrated factual awareness of and adequate appreciation for what happens at a trial and the role of a witness. He also demonstrated factual awareness for examples of evidence and adequate appreciation for the role of evidence as proof of innocence or guilt. J understood that a Judge makes a decision about a defendant's guilt or innocence by listening to evidence. However, it should be noted that he still expressed a belief that the Judge would be more aligned with the prosecutor.

<u>Reasoning and Decision Making:</u>	<u>Factual Awareness</u>	<u>Adequate Appreciation</u>
How to assist lawyer	Yes	Yes
How to make a plea	Yes	Yes
Aware of issues related to plea bargains	Yes	Marginal

When I asked J about the ways in which he could help his attorney with his case, he said, "Stay calm, patient." He was not aware of the meaning of the word *confidentiality* but he did not express any concerns about his lawyer talking to others about his case. Upon direct questioning, J shared that he did not think his lawyer was doing a good job and he wanted the lawyer to do, "Something to get me out of here." When I asked J how he should proceed if he did not understand something his lawyer said or did, he said, "Go along with it." However, I provided J with additional teaching and clarification about assisting his lawyer and his right to ask questions and he verbally indicated his understanding.

When I initially asked J if he'd considered what plea option he might enter, his response reflected that he recalled the available plea options and the implications of each. However, further discussion revealed his reasoning and decision making with regard to his plea decision was more motivated by his desire to be released from detention without regard to potential consequences.

J. was aware of plea bargains based on his previous court experience and he described it by saying, "If you admit to a charge." (Q-What do you get in return from the prosecutor?) "Less consequences." He did not demonstrate understanding of the risks associated with turning down a plea bargain.

Overall, J. demonstrated factual awareness of and adequate appreciation for how to make a plea although his motivation to choose a plea was based on his desire to be released from detention rather than the facts of the case or consideration of potential consequences. He also demonstrated factual awareness of how to assist a lawyer but less than adequate appreciation for the inherent risk related to plea bargains. However, he is capable of understanding the inherent risk involved and would benefit from additional support and education from his attorney when entering a plea and making decisions about a plea bargain.

**Ability to Participate at Hearing:**

Ability to attend to event	Yes
Ability to maintain self-control	Yes
Ability to testify	Yes

J. presentation and behavior during the interview reflected his ability to maintain his attention and appropriate behavior for the duration of the interview.

J. manner of responding to questions reflected his ability to provide relevant responses and ask relevant questions. His responses were typically brief but he was able to elaborate when asked to do so.

**Concern Regarding Effort:** Yes: ☐ No: ☒

**Assessment Methods Support Inadequate Effort:**

Strongly: ☐ Moderately: ☐ Weakly: ☐ No Evidence of Inadequate Effort: ☒

**Sources of Information:**

- Review of file information, which consisted of;
  - Hamilton County Juvenile Court Record of Complaints (as of 09/14/16)
  - Hamilton County Juvenile Court Youth Information Sheet
  - Hamilton County Juvenile Court Social History Information completed by Naomi Simmons, Probation Officer, on 09/13/2016
  - School records from Cincinnati Public Schools
- Clinical interview with J. R

**Tests Administered:**

- Portions of the Juvenile Adjudicative Competence Interview (JACI)
- Wechsler Abbreviated Scale of Intelligence – Second Edition (WASI-II)
- Wide Range Achievement Test – Revision 4 (WRAT-4)
- Beck Youth Inventories-Second Edition (BYI-2)

**Statement of Informed Consent:**

Prior to the interview, J. was informed of the purpose, procedures, and non-confidential nature of the competency evaluation. He verbally acknowledged understanding of this information and signed an assent form.

**Competency Evaluation Summary:**

J. R. a 16 year, 7 month old, African-American male who was evaluated to determine whether he was competent to stand trial on charges of Obstruct Official Business (M2), Falsification (M1), Obstruct Official

Business (M2), and Aggravated Robbery (F1). This is his twenty-second delinquency contact with this Court. He has five previous adjudications.

### Relevant History:

#### *Developmental and Family History*

Records reflect that J. is the product of a full-term uncomplicated pregnancy and that he met all of his developmental milestones within typical timeframes.

J. reported that he currently lives with his mother and two sisters with whom he described having good relationships. He does not have a relationship with his father.

He described his household rules as doing chores such as cleaning the bathroom, his room, and the yard and respecting a curfew of 10:30. J. acknowledged that he often needs reminders to complete his chores and that, because he would prefer a later curfew, he often does not abide by the curfew. The typical consequence for these infractions is losing his phone privilege.

#### *Educational and Social History*

J. reported that he was expelled from Chase School related to his disruptive behaviors and was placed on home instruction. Within the past few months he was enrolled in the 10<sup>th</sup> grade at The Children's Home but he reported that he attends the after-school program because he is too distracted when he is there with other kids. He was not able to describe his history of academic performance because, "I don't care." Records reflect that he has attended multiple schools including St. Joe's Villa, St. Aloysius, and he previously attended Children's Home in 2011. He has a current IEP and receives special education services under the classification of Emotional Disturbance.

#### *Mental Health History*

J. reported that he has a history of being diagnosed with ADHD and Bipolar Disorder and he recalled being prescribed Abilify and Risperdal although he has not taken this medication since being placed in detention. Records reflect that he has also participated in mental health services through Lighthouse, Children's Hospital, and Talbert House. Supporting documents for these reported services were not available at the time of this report.

### Current Interview:

#### **Mental Status**

At the time of the current evaluation J. appeared his stated age, being of similar height and weight compared to same aged peers. He was appropriately groomed and dressed in a detention center smock; his hygiene was appropriate.

J. was oriented to person, place, time, and situation. He appeared irritated and annoyed as he was eating dinner when I arrived to conduct the evaluation. I invited him to finish his meal and the evaluation began. J. was cooperative but not responsive to attempts to establish rapport. He maintained minimal eye contact.

There were no observed impairments in vision or hearing and J. ambulation and mobility appeared unimpaired. His speech was average in rate and rhythm, with sufficient volume with no evidence of speech articulation issues.

J. long-term and short-term memory appeared unimpaired as he was able to recall details of his personal history and was able to acquire, retain and recall new information. His manner of responding to questions reflected adequate verbal comprehension and the ability to clearly express his thoughts.

J. described his predominant mood by saying, "It depends... just chillin" and reported a history of poor sleep and decreased appetite. He did not identify these experiences as symptoms of depression and he did not report previous or current symptoms of anxiety. There was no history or current indication of hallucinations, delusions, or otherwise disordered thought processes. J. verbal responses to questions suggested that he possessed poor insight and poor judgment. Based upon his use of vocabulary/language, educational history, and current presentation, it is likely that he is functioning within the Borderline range of intelligence. While he acknowledged a history of suicidal ideation, there was no current indication of suicidal or homicidal ideation.

#### **Behavioral Observations During Psychological Testing:**

J. was held on unit 202A of the Hamilton County Youth Center at the time of psychological testing. He was dressed appropriately in a clean Youth Center uniform and accompanied me to the interview room willingly.

It was easy to establish rapport with J. He engaged in friendly conversation with me prior to the testing. He was able to demonstrate an understanding of the nature and purpose of the testing session after some explanation. There were no indicated difficulties with receptive or expressive language. J. vision and hearing abilities were within normal limits. He did not require the use of any auditory or visual assistive devices.

During testing, J. attention and concentration were within normal limits. He seemed adequately motivated to perform to his potential. For example, he asked me to repeat several items to ensure he understood the question, and he made use of most of the allotted time during a math task. He was not easily frustrated and was persistent on challenging tasks. He did not display a preference for one type of task over the other.

Based on the above observations, the following test results are considered a valid and reliable estimate of J. current levels of cognitive and academic functioning.

#### **Test Results:**

In order to estimate J. level of cognitive functioning, Morgan Costanza, M.A., under the supervision of Shelly Jebens, Psy.D., Psychologist, administered the Wechsler Abbreviated Scale of Intelligence-Second Edition (WASI-II). He earned a Full Scale IQ score of 66 (1<sup>st</sup> percentile, *Extremely Low range*) based on a Verbal Comprehension Index of 75 (5<sup>th</sup> percentile, *Borderline range*) and a Perceptual Reasoning Index of 60 (0.4<sup>th</sup> percentile, *Extremely Low range*). There was a significant difference between his Verbal Comprehension and Perceptual Reasoning Index Scores. As such, his Full Scale IQ score may not be an accurate estimate of his overall cognitive functioning. Looking at each domain separately, J. demonstrated lower than average ability to verbally express his knowledge of vocabulary words and identify concrete and abstract relationships between words and concepts. His performance on non-verbal tasks reflected significantly lower than average ability to utilize his visual-spatial skills to identify visual patterns and recreate abstract visual designs with blocks.

J. academic achievement was estimated using the Wide Range Achievement Test-4 (WRAT-4). His performance on this measure reflected better developed verbal skills compared to his performance on the cognitive measure. Specifically, J. ability to read novel vocabulary words and understand word in context fell with the Low Average range as did his ability to solve basic math problems. His ability to spell dictated vocabulary words was significantly lower than average. His standard scores (based on age), percentiles and grade scores are as follows:

	<b><u>Standard Score</u></b>	<b><u>Percentile</u></b>	<b><u>Grade Score</u></b>
Word Reading	80	9	4.4
Sentence Comprehension	85	16	6.8

Spelling	76	5	3.9
Math Computation	80	9	4.8

### *Emotional Functioning*

J. R. responses to the Beck Youth Inventories (BYI) reflected clinical elevations on scales measuring symptoms of depression and anxiety.

### Summary & Opinion:

The following opinions and recommendations are based on the information obtained during the Competency evaluation, review of records and psychological testing.

J. R. is a 16 year, 7 month old, African-American male who was evaluated to determine whether he was competent to stand trial on charges of Obstruct Official Business (M2), Falsification (M1), Obstruct Official Business (M2), and Aggravated Robbery (F1). This is his twenty-second delinquency contact with this Court. He has five previous adjudications.

Regarding the current competency evaluation, J. R. was able to demonstrate factual awareness of and adequate appreciation for the roles of the defense attorney, prosecutor, and Judge. He also demonstrated factual awareness of and adequate appreciation for the serious nature of the offense, trial outcomes, possible pleas and punishments. He needed additional clarification about the relationship between the seriousness of an offense and the resulting loss of freedom. J. R. demonstrated factual awareness of and adequate appreciation for what happens at a trial and the role of a witness. He also demonstrated factual awareness of examples of evidence and adequate appreciation for the role of evidence as proof of innocence or guilt.

While J. R. understood that that a Judge makes a decision about a defendant's guilt or innocence by listening to evidence he still expressed a belief that the Judge would be more aligned with the prosecutor. J. R. demonstrated factual awareness of and adequate appreciation for entering a plea although his motivation to choose a plea was based on his desire to be released from detention rather than the facts of the case or consideration of potential consequences. He also demonstrated factual awareness of how to assist a lawyer but less than adequate appreciation for the inherent risk related to plea bargains.

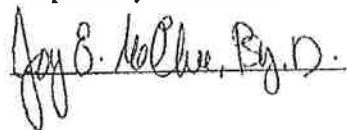
Overall, J. R. demonstrated that he understood and had an appreciation for much of the requisite competency related information. The areas in which he did not demonstrate knowledge or appreciation appeared to reflect his perception that the court process is more aligned with the prosecutor and thus not fair. His reasoning and decision making also appear to be motivated by his desire to be released from the detention center which likely contributes to his apparent disregard for potential consequences and vulnerability to acquiescence. However, J. R. ability to learn and recall the additional teaching he received throughout the evaluation demonstrates his capacity to understand and appreciate court proceedings. He will benefit from use of accommodations such as additional support and education from his attorney, comprehension checks, use of simple concrete language and close ended questioning during hearings and other legal meetings.

**Opinion:** According to the *Ohio Revised Code (ORC)*, an individual is competent if he is presently capable of understanding the nature and objective of the proceedings against him and of presently assisting in his defense. Based on the ORC Competency standards, it is my opinion, within a reasonable degree of psychological certainty that J. R. is Competent to Stand Trial with accommodations on charges of Obstruct Official Business (M2), Falsification (M1), Obstruct Official Business (M2), and Aggravated Robbery (F1).

**Recommendations:**

1. As previously described, it is my opinion, held with a reasonable degree of psychological certainty that J. is Competent to Stand Trial with Accommodations. He has developed the requisite knowledge and skills to meet the standard for competence described in the *Ohio Revised Code (ORC)*.
2. The following represent potential obstacles that could interfere with competency. Recommendations to address the obstacle are also listed below:
  1. ADHD diagnosis and untreated symptoms
    - a. Encouragement from the court to continue with current treatment for ADHD including the continuation of medication.
    - b. Use of recommended accommodations during Court proceedings by all courtroom personnel.
  2. Severe behavioral problems
    - a. Additional support and education from his attorney.
    - b. Verbal redirection and prompts for appropriate behavior.
3. See attached Initial Treatment Plan

Respectfully Submitted,



Joy E. McGhee, Psy.D.  
Clinical Psychologist  
OH 5616





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**Competency Evaluation**  
**Initial Treatment Plan – 09/23/16**

Name: J. A. R.  
 Court Party ID No: 1250829  
 Date of Evaluation: 09/17/16  
 Date of Birth: 02/13/2000  
 Chronological Age: 16 years and 7 month(s)  
 Educational Level: School: Children's Home Grade: 9

Referral Source: Naomi Simmons, Probation Officer

Evaluator: Joy McGhee, Psy.D., Clinical Psychologist

Pending Charges: Obstruct Official Business (M2)  
 Falsification (M1)  
 Obstruct Official Business (M2)  
 Aggravated Robbery (F1)

Next Court Date: 09/23/16

1. **OFFENSE (S):** (check all that apply) ☒ Felony ☒ Misdemeanor

2. **JUVENILE'S CURRENT LOCATION:**

☐ Home of Family ☐ Foster Home ☐ Residential ☐ Psychiatric Hospital

☐ Home of Relative ☐ Group Home ☒ Detention Center

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Understand and appreciate the charge(s) against them, including seriousness of the offense.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> MARGINAL
Understand the adversarial nature of the proceedings and the trial process including, pleas, pleas deals, evidence, what happens at trial and trial outcomes.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> MARGINAL
Understand and appreciate the role of the Judge, Defense Attorney, Prosecuting Attorney, Guardian Ad Litem or Court Appointed Special Assistant and Witnesses.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> MARGINAL
Capable of assisting in their defense and communicating with counsel, including ability to attend, maintain self-control and testify.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> MARGINAL
Comprehend and appreciate the consequences that may be imposed or result from the proceedings.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> MARGINAL

**4. COOPERATION LEVEL DURING EVALUATION:** ☒ Good ☐ Fair ☐ Poor**5. CURRENT SCHOOL PLACEMENT:**A. Grade Level: 9<sup>th</sup> School: The Children's Home of CincinnatiB. Classroom Type: ☐ Regular Class ☒ Self-Contained Class ☐ Combined ☐ UnknownC. 504 plan: No ☒ Yes ☐ (if yes, specify disability):D. IEP: No ☐ Yes ☒ (If yes, specify type in section E below)**E. Special Education Designation (check all that apply)**

- ☒ ED (Emotionally Disturbed) ☐ OHI (Other Health Impaired)  
☐ SLD (Specific Learning Disability) ☐ Visually Impaired  
☐ CD (Cognitive Disability) ☐ Hearing Impaired ☐ Speech/Lang Impaired

**6. CURRENT SERVICES: (check all that apply)**

- ☒ Medication Management ☐ Intensive Outpatient (IOP) ☐ Inpatient Hospital  
☐ Home-Based Services ☐ Substance Abuse Treatment

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- ☒ Mental Health Therapy      ☐ Other (*specify*):  
☐ Residential Treatment Services      ☐ None

**7. PSYCHOSOCIAL AND ENVIRONMENTAL BARRIERS TO COMPETENCY:**

Barriers to Competency	Recommended Interventions to Facilitate Competency
ADHD diagnosis and untreated symptoms	1. Encouragement from the court to continue with current treatment for ADHD including the continuation of medication.  2. Or encouragement from the Court to follow through with an evaluation to determine the appropriateness of medication to manage diagnosed ADHD symptoms.
History of behavioral problems	1. Use of recommended accommodations during attainment classes and during Court proceedings by all Courtroom personnel. (see section #9 below).  2. Additional support and education from his attorney.

**8. RECOMMENDATION TO THE COURT:***Opinion**Recommendation*

<input checked="" type="checkbox"/> <b>Competent with Accommodations</b>	Understands the objectives and the proceedings against them and able to assist in their defense with <u>reasonable accommodations</u> . (See Section 9 below)
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**9. REASONABLE ACCOMMODATIONS: (During Court Proceedings)**

- ☐ Extended Time to Process Information      ☐ Use of Open Ended Questions  
☐ Repetition of Questions      ☒ Comprehension Checks (*repeat in their own words*)  
☒ Use of simple concrete language      ☒ Short Breaks after 30 minutes  
☐ Use of Yes or No Questions      ☐ Offer 2 Options to Answer Question

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☒ Redirection and Prompts for Behavior

☒ Use Closed Ended Questions

☐ Speak Slowly and Use a Calm Voice

☐ Other:

Respectfully Submitted,

Joy B. McPherson, Psy.D.