

### Forensic Evaluations in Delinquency Matters

Legal Issue/ Stage of Case	Indicators that Evaluation May be Helpful	Referral Questions	Special Issues and Potential Dilemmas
<p>Capacity to Proceed NCGS §15A1001-1008</p>	<p>History of Intellectual Disability, learning problems, failure in school</p> <p>Acquiescing to others/ “parroting back”</p> <p>Neurological impairment</p>	<p>“Evaluate juvenile to determine if s/he has a mental health diagnosis or intellectual disability that impairs his/her capacity to proceed to trial or to enter into a plea agreement”</p>	<p>Confidentiality regarding statements about alleged offense (recommend the evaluator not question about the juvenile’s version of events)</p>
<p>Capacity to Waive Miranda Rights</p> <p>NCGS §7B-2101</p> <p><i>In re JDB v NC 131 S. Ct. 2394 (2011)</i></p> <p><i>In re KDL, 207 NC App. 453, 459 (2010)</i></p>	<p>Age/experience with legal system</p> <p>Intellectual/learning problems</p> <p>Evidence of impairment at the time (intoxication, extreme fear)</p> <p>Multiple or conflicting statements</p>	<p>“Evaluate the juvenile to determine his/her capacities to waive Miranda rights in the context of a police interrogation.”</p> <p>“Evaluate the juvenile to determine the juvenile’s capacities to waive Miranda rights and the risk of being coerced into making a statement”</p> <p>“To determine if there were any coercive factors associated with the conditions of the interrogation that – when combined with the juvenile’s risk of being coerced – would have made the waiver involuntary”</p>	<p>Involves assessing a past mental state and requires much collateral data</p> <p>Timing: how much time has occurred since the statement is highly relevant since the capacities of adolescents will change over time more than for adults</p> <p>Adolescents’ decision making is not as sophisticated as adults (e.g., characterized by short-term thinking, impulsivity, failure to weigh risks).</p> <p>Adolescents may be more influenced by circumstances of questioning and feel more pressure than an adult</p> <p>JDB v NC (2011) Evaluators need to determine when the client was <i>in custody</i> vs when s/he perceived s/he was in custody</p>

Legal Issue	Indicators	Referral Question	Special Issues and Potential Dilemmas
<p>Juvenile Transfer (Waiver)</p> <p>NCGS §7B-2203</p>	<p>Age/experience with legal system</p> <p>Mental health and/or trauma history</p> <p>Immaturity (“follower”)</p> <p>Behavior marked by impulsivity, poor decision making or consideration of consequences</p>	<p>“Evaluate the juvenile with respect to those factors of 7B-2203 that may be addressed by mental health assessment...”</p> <p>Evaluate the juvenile’s intellectual functioning, mental health status, maturity.....treatment needs and amenability</p>	<p>Assessment of “risk of harm” and the problem of the alleged offense</p> <p>Right to avoid self-incrimination</p> <p>Opinions about “risk” should be <i>estimates</i> &amp; be specific to type and timeframe</p> <p>What is maturity? Sophistication?</p>
<p>“Mental State at the time of Offense “ or Culpability</p>	<p>Age/exper/IQ, mental health, IEP/BIP</p> <p>Autism Spectrum Disorder</p> <p>Behavior of alleged offense deviates from prior behavior</p> <p>Trauma history/exposure</p>	<p>““What was the juvenile’s level of functioning /mental capacities at the time of the alleged offenses?”</p> <p>“What situational factors may have been present at the time of the alleged offense? What effect would they have on decision making and behavior, given his/her level of functioning at the time?”</p>	<p>Involves assessment of prior mental state. Therefore, the time between alleged offense and evaluation is relevant to memory functioning, cognitive development and maturity over time</p>
<p>Disposition</p> <p>NCGS § 15A-1477c</p>	<p>As above, as well as history of treatment successes/failures in past</p> <p>Changes in support system or other environmental factors</p> <p>Consideration of risk and how to manage the risk (“last chance” before adult system)</p> <p>Juvenile has been involved in numerous programs &amp; may have need for multiple types/coordination of services.</p>	<p>To obtain clarification as to what has and hasn’t worked.</p> <p>To determine who should be involved in treatment and how</p> <p>To establish a plan for treatment that includes transitioning to community</p>	<p>Risk Estimates, not predictions; Consider “risk management” versus “risk of harm”</p> <p>Aggression is oftentimes multifaceted: people may be at higher risk in some situations than in others</p> <p>Adolescence is change: limits the degree to which we can make good predictions/estimates about their behaviors.</p> <p>Confidentiality: Revealing undetected behavior.</p>

