



Antoinette Kavanaugh Ph.D. Forensic Clinical Psychologist

Knowledge, Clarity and Passion at the Intersection of Psychology and Law.

This report is confidential and cannot be released to parties external to the matter before the Court without permission of the Court.

NAME: Connie Samuels
CASE NUMBERS: [REDACTED]
DATE OF BIRTH: July 29, 1994
DATE OF REPORT: May 3, 2012
EXAMINER: Antoinette Kavanaugh, Ph.D.

REASON FOR REQUEST

Connie is currently charged with Attempted Murder and Aggravated Battery with a Firearm. Her attorneys requested this evaluation to assess her fitness abilities. Her legal team is particularly concerned about her ability to assist in her defense in light of her low IQ, memory difficulties, difficulties with the concept of time, and circumstantial and tangential thinking.

CRITERIA FOR DETERMINING FITNESS

In the State of Illinois, a “defendant is unfit if, because of his mental or physical condition, he is unable to understand the nature and purpose of the proceedings against him or to assist in his defense.” (725 ILCS 5/104-10)

EVALUATION TECHNIQUES

Connie was interviewed in the evaluator’s office on January 26, February 28 and March 5, 2012 for a total of approximately seven hours. Her biological mother, Ms. Morales was interviewed in the evaluator’s office on March 7, 2012 for approximately one hour. Ms. Gomez, Connie’s foster mother, was interviewed by telephone on March 22, 2012 for approximately twenty minutes. Connie’s therapist, Ms. Richards, was interviewed by telephone on March 21, 2012 for approximately twenty minutes. Connie’s teacher, Ms. Blanchard, was also interviewed by telephone on March 24, 2012 for approximately twenty minutes. The evaluator left multiple messages for Mrs. Butler, her former legal guardian, but she did not return the calls.



At the start of each interview the interviewee was informed of the limits of confidentiality and the purpose for the assessment. Only upon each interviewee indicating their understanding of this information and confirming their willingness to participate, did the interview or assessment take place.

See Appendix A for a list of records reviewed and relied upon in forming a clinical opinion.

RELEVANT INFORMATION OBTAINED FROM RECORDS

Court Record: CCJCC Evaluation Completed by Robin Taylor, Psy.D.

Dr. Taylor completed a fitness evaluation of Connie in September 2011. As part of that evaluation, Dr. Taylor reviewed JTDC records from February and March of 2011. Dr. Taylor's review of those records indicated that the JTDC staff described Connie as rambling, tangential, circumstantial and a poor historian with flight of ideas. The staff questioned if her presentation was "secondary to a thought disorder or low intellectual functioning." Dr. Taylor's review of the JTDC notes also indicates that "Dr. Lopez indicated that [Connie's] strange thought processes [were] more low intelligence than mental illness." Dr. Taylor opines that Connie was fit to stand trial. Dr. Taylor acknowledges, however, that "Connie's ability to assist in her defense will likely be impaired to a degree by her disorganized thought process and reported failure to remember her own events on the day that she was arrested..." and "Connie's difficulty providing organized narratives is associated with her low intelligence. However, her ability to think clearly is impaired even further by her emotional response engendered when talking about her family members and events that occurred from the day of the shooting up to the day she was arrested." Consequently, Dr. Taylor recommends that Connie continue therapy and be asked, "closed-ended questions requiring yes, no responses" during testimony. Furthermore, Dr. Taylor acknowledges "testifying will be challenging for Connie if she is required to provide a narrative on the stand, given her history of providing disorganized and confusing accounts of events." Finally, Dr. Taylor notes that having Mr. Longley and Ms. Butler in the courtroom when Connie testifies "may distract from her ability to testify accurately."

Academic Records¹

(For comparison, this section concludes with a chart of the results of her prior cognitive test scores.)

Connie has a long-standing history of receiving special education services. The IEP and related documents from March of 2003 and June of 2004 include a Psychological Evaluation Report from when she was eight years old. The report indicates that she began receiving special education

¹ The Conference Reports and Conference Summary Reports indicate that the conferences were convened for some aspect of an IEP - either initial IEP, annual review, or reevaluation. Consequently, in this section "Conference Reports" and "Conference Summary Reports" are used interchangeable with "IEP." Materials relied upon or reviewed in developing an IEP can include a social assessment, psychological report, and/or reports from teachers as well as other documents.

services in kindergarten and notes prior IQ scores from 2000. In 2000, she earned a Verbal IQ score of 57, Performance IQ of 79, and Full-Scale IQ of 65. The results of the testing from 2003 were consistent with the 2000 testing. Specifically, in 2003 she earned a Verbal IQ score of 60, a Performance IQ of 77 and a Full-Scale IQ of 66. Her scores on the standard measure of adaptive behavior were in the Low range and were equivalent to a youth of five years and six months old although she was eight years and seven months old at the time (see Social History Update). She was eligible for special education due to mental retardation and speech or language impairment.² The special education records from June of 2004 indicate that she continued to be eligible for special education due to “MI & Sp/Lang, & social work.” Her eligibility status did not change the following year. That IEP indicates, “Connie has made very little progress in all academic areas. Connie has had social and emotional difficulties which also impact her learning...”

The Conference Summary from March of 2008 provides relevant information. It indicates that “Connie works hard to succeed; however, weak auditory/visual language and short term memory inhibit her ability to learn and retain information needed for her academics. She has difficulty processing information and understanding material and direction. She needs constant review and drill of previous presented material for retention. Connie benefits from the use of concrete tools, cues, visual presentation, and various modes of formatting presentations and learning.” Forty-six of the seventy-six pre-typed accommodation and modifications were checked for Connie. Those that are relevant to this evaluation include “curricular concepts reduced and simplified,” “give extra cues or prompts,” “have student repeat directions,” “avoid time/pressure situations,” and “more difficulty level for worksheets.”

The IEP from April of 2009, when Connie was fourteen years of age, indicates that “Connie is very polite. She can be social with her peers and always does what is asked of her.” Additionally, she “participates when asked, expect [sic] on several occasions when social issues in her life distract her from task at hand.” The accompanying Goals and Instructional Objectives/Benchmarks notes “Connie struggles with expressive language...”³ It was determined that she continued to need special education services due to her disabilities which were “mental retardation and emotional disorder.”

The April of 2009 Conference Summary includes a Social Development Study and Psychological Evaluation Report from January of 2009. Her adaptive behavior was assessed using a standardized test and was determined to be in the low range. As part of the Psychological Evaluation Report, she was given tests of academic cognitive abilities.⁴ Her academic abilities were in the “Extremely Low” range with ninety-nine percent of her same age peers demonstrating more advanced reading, math and writing abilities. Her performance on the test of cognitive

² At some point, Connie no longer qualified for speech and language services.

³ This is also mentioned in her IEP for 2009.

⁴ In this report and in the records from 2009, Connie’s name was spelled incorrectly. It has been corrected in this report.



abilities was fairly consistent with her prior testing. Specifically, she earned a Full-Scale IQ of 66, a Verbal Comprehension Index of 67, and Perceptual Reasoning of 84.⁵ In interpreting the performance on the test, the evaluator indicates “Connie’s full-scale score is 66...in the Extremely Low range...this means that Connie may find it difficult to keep up with other children her age when these thinking and reasoning skills are needed.” Regarding her verbal comprehension abilities, the clinician notes “generally speaking, Connie’s skills in understanding verbal information, thinking with words, and expressing thoughts in words are in the Extremely Low range.” In describing her memory ability, the clinician indicates, “In general, her skills in attention, concentration, and mental reasoning are in the Extremely Low range.” Finally, the clinician notes that Connie “sometimes expressed herself clearly but gave very concrete answers but almost never made an abstract connection. When attempting to answer vocabulary words, she often answered questions by restating the questions in a slightly different form. She had extreme difficulty remembering what she had just heard. She would retain part of the sentence or part of the group of numbers.” In conclusion the psychologist opines that Connie was “mildly mentally retarded” and “has serious problems with her memory and verbal comprehension. She seems to have extreme difficulties making abstract connections and is very concrete in her approach to problems. She repeatedly forgets questions as well as directions.”

The conference report from January 2011 notes some of Connie’s functioning deficits. For example, “she is in a reading class and struggles with letter sounds, and sight word vocabulary.” Additionally, “she is counting coins to \$0.50 and telling time to the 5 number minute intervals.”

The most recent IEP is from July of 2011. It notes that Connie made limited gains in her reading abilities. Although she was in the eleventh grade at the time of the conference, she was reading at a third grade reading level in terms of fluency. (In contrast, the 2005 summary report notes that she was having difficulty decoding words.) Her reading comprehension was at the second grade level. Similarly, her functional abilities did not improve greatly. Specifically, “counting and recognizing coins does still need to be practiced. When telling time, Connie does well with both digital and analog time. She did have difficulty figuring out the amount of time that had lapsed between two activities.”

Summary of Prior Cognitive Tests*

Year	Full Scale IQ	Verbal Comprehension Index or Verbal IQ	Perceptual Reasoning Index or Performance IQ
2000	65	57	79
2003	66	60	77
2009	66	67	84

⁵ Verbal comprehension in prior versions of the intellectual test was called verbal IQ and perceptual reasoning was called performance IQ.

*Index or IQ scores equal to or less than 70 are in the Extremely Low range. Less than 2.2% percent of the population is expected to earn scores equal to or less than 70.

DCFS Records

Connie has been involved with DCFS on multiple occasions prior to the current petition. According to the Illinois Department of Children and Family Services Integrated Assessment Social History with Clinical Screener form from Youth Outreach Services, at age seven, Connie reported that she and her siblings were being sexually molested by a babysitter and DCFS became involved with her family. She reported that she was molested multiple times. When she was approximately eleven years old, she testified against the perpetrator who was convicted. Sometime thereafter she received approximately two years of psychological services to address issues related to the abuse but services were terminated prematurely.

In 2008, Connie was involved with DCFS after she alleged she was being sexually abused by one of Ms. Butler's relatives. The alleged perpetrator for this allegation was arrested and the allegation was "indicated."

Connie became involved with DCFS again in 2009. The allegation was that Ms. Butler used excessive punishment; specifically, she made Connie and her siblings do squats for one hour or more as a form of punishment. The investigation revealed that although Ms. Butler acknowledged using squats as a form of punishment, she said she only required that they squat for fifteen minutes. This allegation was "unfounded" and Ms. Butler agreed not to use squats as a form of punishment.

Youth Outreach Services

The MRAI Social Summary from May 2011 indicates that Connie needs "a structured and nurturing placement designed to work with her cognitive limitation[s] and traumatic experiences." The Illinois Department of Children and Family Services Integrated Assessment-Social History with Clinical Screener form completed by Youth Outreach Services provided information related to Connie's ability to convey information. Specifically, "Connie was able to recall some significant events and timeframes, however, had difficulty recalling some specific details. Connie indicated that she 'blurred' painful memories from the past and tried to forget distressing events such as sexual abuse." Furthermore, "Connie seemed to disassociate when she discussed specifics about her history of sexual abuse and she referred to herself in the third person and the tone of her voice changed." Additionally, she demonstrated "low tolerance for negative emotions." Similarly, "Connie displayed difficulty managing overwhelming feelings" and she "appeared hyper-vigilant..." as she closely observed the IAT." The same document also indicates that Connie voiced some paranoia. Specifically, "Connie explained that she was fearful of going outdoors alone at night and felt like someone's [sic] was coming after her. Connie felt like she saw shadows of two people walking and they reminded her of her stepparents."



MENTAL STATUS AND BEHAVIORIAL OBSERVATIONS

Connie is a young lady who looks her stated age. Although she was easy to engage in the interview process, her ramblings and tangential speech pattern made the interview process difficult. She rarely answered the question directly. Her accounts were often so rambling that the evaluator was left trying to figure out how her response related to the question posed. Furthermore, she tended to speak in pronouns so it was often difficult to determine to whom she was referring. Another characteristic of her presentation that was noteworthy was that she frequently smiled. Although this is not unusual in and of itself, her smile was often incongruent with the topic of conversation. For example, she smiled when discussing her academic history and her special education status or Ms. Butler punishing her by making her do strenuous physical activity. Additionally, her eye contact was inconsistent.

Connie endorsed symptoms of PTSD. She also endorsed symptoms of paranoia. Similarly, Ms. Morales described Connie as complaining people are looking at her and hiding in the bushes although Ms. Morales has not noticed these things to be true. She and Ms. Gomez both indicated that Connie complained about people being after her or following her. Connie denied experiencing auditory, visual, or tactile hallucinations. She denied having homicidal or suicidal thoughts. She acknowledged that she frequently feels “sad or down” for no reason. She indicated a change in appetite, energy and sleep since the alleged shooting.

RELEVANT BACKGROUND INFORMATION

(As the court has had multiple opportunities, from a variety of sources to become familiar with Connie’s background, this section will be very concise. Connie, her current foster mother, Ms. Gomez, and her biological mother, Ms. Morales were informants for this section. The evaluator made several unsuccessful attempts to interview Ms. Butler, Connie’s guardian for a significant portion of her life.)

Connie’s biological parents were together for about four years after her birth. Ms. Morales indicated that she had all her prenatal care and Connie was born without any medical complications. Ms. Morales indicated, however, that Connie’s father frequently abused her when she was pregnant with Connie and the abuse continued until they separated. Ms. Morales reported that Connie did not have any developmental problems. She indicated that Connie’s father took her from her care when Connie was about six years old. At that time he was involved in a relationship with Ms. Butler. From that time until July of 2011, Ms. Morales had sporadic contact with Connie. She explained that this was due to a variety of factors such as: Connie’s father obtained orders of protection against Ms. Morales preventing her from seeing Connie; he went to jail and Ms. Butler cared for Connie and her two siblings; and Ms. Butler frequently moved. Consequently, Ms. Morales was unable to locate Connie and her two siblings. At some point, Ms. Morales signed guardianship over to Ms. Butler. However, since July of 2011, Ms. Morales and Connie have had a consistent visitation schedule.

Connie grew up with her two siblings and spent most of her life in Ms. Butler's care. Connie described various forms of abuse while living with Ms. Butler. For example, Connie indicated that her father frequently physically abused her. After ending the relationship with Connie's father, Mrs. Butler frequently kept the children inside the house and changed residences often because, according to Connie, Ms. Butler would tell them that her father (or his family) might find them, take them away, and harm them. Connie indicated that Ms. Butler was frequently verbally abusive and belittling. Connie described the manner in which Ms. Butler punished her. She indicated that Ms. Butler frequently used physical punishment such as making her do squats or "heads and toes." The evaluator asked Connie to demonstrate what she meant by heads and toes and she smiled and explained that demonstrating made her uncomfortable but she showed the evaluator nonetheless. In doing so, she appeared to be doing a combination of a plank position and a downward dog yoga position. Connie reported that Ms. Butler "hit" her multiple times since the alleged shooting.

Connie reported that she has been sexually abused by two different perpetrators. She indicated that when she was about eight years old, a male babysitter sexually abused her multiple times over the course of a year. She testified against the perpetrator and he was ultimately found guilty of the offense. In describing testifying in this case, Connie said that testifying was when "the lawyers they asked questions and then if I don't want to answer them, the judge said 'she didn't have to,' but then I had to answer. Some of them were okay, some of them were not okay to answer. The lawyer asked the questions and I had to answer them." When the evaluator asked her what she meant when she said, "some of them were okay, some of them were not okay to answer," Connie explained, "they were trying to trick me to thinking that I was lying when I was not. I was telling the truth." The evaluator further clarified and reiterated by asking, "What made some of them okay, some of them not okay to answer?" she simply responded "yeah."

The second perpetrator was a relative of Ms. Butler. As Connie recalled it, she was thirteen years old when this male sexually assaulted her.

Connie has a significant mental health history. She is currently in weekly therapy. Connie was in treatment after being sexually abused by the babysitter. She also indicated that in relation to another DCFS involvement, she was seen at [Name Withheld]. She denied any inpatient hospitalization.

Connie acknowledged joining a gang when she was fourteen years old. She denied current gang involvement but acknowledged socializing with gang members.

Connie acknowledged a history of using drugs and alcohol but was inconsistent regarding when this started. At one time she stated that she started drinking at age thirteen. However, at another

point, she said she started drinking when she was fifteen. She indicated that she started using drugs when she was thirteen and her last use was at age sixteen.

Regarding her academic history, Connie indicated that she has been a special education student since age thirteen because she had difficulty reading. At that point, with the help of her teacher, she began to learn to read. Connie indicated that because they moved around frequently and because of her special education status, she does not know the highest grade she completed. However, she is currently in her junior year of high school.

Ms. Gomez's and Ms. Morales's perception of Connie's fitness abilities

Ms. Gomez said that Connie does not think like someone her own chronological age. She indicated that Connie “acts like a little girl, not like a seventeen year old.” She also indicated that she believes Connie is easily influenced by others. She explained, “I say you do this, you do this, she's going to do it just like she's ten years old.” Ms. Gomez indicated that she has talked to Connie multiple times about court and “sometimes she's confused” and doesn't understand what happened. Ms. Gomez feels that Connie does not understand the judge's role but indicated that Connie “says the judge is nice.” Ms. Gomez has tried to teach Connie about the Assistant State's Attorney's role and she feels like Connie still does not understand it. Ms. Morales said that Connie knows that the Assistant State's Attorney “is trying to get her upstairs at the juvenile.” Ms. Gomez indicated that Connie initially thought that the Assistant State's Attorney was one of her attorneys. However, Ms. Gomez feels that Connie now knows the Assistant State's Attorney is not her attorney. Ms. Gomez reports that Connie likes Ms. Franks and “she understands that the lawyer is protecting her. She says, ‘That is the only person I trust.’” Ms. Morales is not certain that Connie understands the plea bargain concept.

COLLATERAL CONTACTS

Ms. Richards, Therapist

Ms. Richards has been seeing Connie in weekly therapy since November 8, 2011. She described Connie's speech and thinking processes as tangential and circumstantial. She explained, “she just says whatever she's thinking.” She indicated that Connie “frequently” does not answer questions asked of her. According to Ms. Richards, Connie perseverates (or gets stuck on an idea) at times and this also affects her ability to respond to what is asked of her. For example, Ms. Richards explained, “I have to talk to her about how she is coping with flashbacks [related to trauma] with coping mechanisms and she just wants to talk about her innocence.”

In Ms. Richards's opinion, Connie's thinking is “not as well” developed as others her age. Ms. Richards explained that Connie “has mild MR...but I suspect she has some developmental stuff going on. Asked what made her suspect that, she responded, “The way she dances around the question or sometimes her reaction...Her reactions are off. Sometimes she doesn't have them or

sometimes she is angry uncontrollably.” She also indicated that although Connie can paraphrase information, Connie has difficulty appropriately applying the same information.

Ms. Richards described Connie’s overall presentation. She indicated that Connie “is usually pretty happy for the most part unless something happened that day that upset her. In that case, she withdraws and her eye contact is poor.” She indicated that Connie smiles a lot and “she reacts the opposite way I expect. She laughs and smiles out of nervousness.”

Ms. Richards has diagnosed Connie with PTSD. She does not believe Connie is taking any psychotropic medications. The symptoms of PTSD that she endorses include flashbacks and hyper-vigilance.

Ms. Richards and Connie have not had substantial conversations about her court case. When asked how she thought Connie might respond if she to face the victim and his wife in court, Ms. Richards responded, “That is what I worried about. In a family session we mentioned her [Ms. Butler] she [Connie] started to rock back and forth. This was over a month and a half ago. When Delia was mentioned she felt very anxious.”

Ms. Blanchard, Connie’s Teacher

Ms. Blanchard teaches Connie “functional academic courses.” She explained that functional math involves “time, money, budgeting, addition, subtraction and nothing higher than multiplication.” Ms. Blanchard has taught Connie since June of 2011, including summer school.

Ms. Blanchard was asked to describe Connie relative to other students Connie’s age. Ms. Blanchard described Connie as “very immature” emotionally and in terms of how she thinks and responds to things. Ms. Blanchard explained that Connie over-personalizes and “jumps to [incorrect] conclusions.” Ms. Blanchard explained that Connie “is very concrete...when you get too figurative and inferences are mostly lost on her.” The evaluator asked Ms. Blanchard if she felt that Connie could weigh different options, and consider the long- and short-term consequences of them to figure out how she should proceed (as one would do when considering a potential plea bargain offer). She emphatically responded, “No, she is very concrete and lives in the moment. She has difficulty understanding consequences.”

In describing Connie’s communication style, Ms. Blanchard explained that Connie is “very circular in her answers. She goes from one thing to one thing, never answering the questions. You never feel like you get the same story.” She also explained that Connie “mixes things up in her head.” Ms. Blanchard indicated that on more than one occasion, Connie has said things to her in a manner that seemed accurate and reality based; however, after she attempted to confirm the information with others, it became apparent that it was not accurate. She explained that it was like Connie was “taking an idea and running with it or blowing it out of proportion...[or it’s] been

an overreaction for the most part.” In describing Connie’s communication, Ms. Blanchard said Connie “will smile, giggle and laugh at nothing.”

In describing her personality, Ms. Blanchard also indicated that Connie is “very much a people pleaser. She will say she agrees with me if that’s what she thinks I want because she wants me to be happy with her and I’ve seen this with aides and other people besides myself. She wants people to be happy with her and she will smile and agree but when we’re all alone I can tell that she did not agree.”

Finally, Ms. Blanchard explained that Connie frequently talks to her about court. As such, it is apparent to Ms. Blanchard that she does not understand what occurred in court. Moreover, in court if things were discussed as being possibilities, Connie understood them as if they were actualities. However, this only became apparent to Ms. Blanchard after she asked Connie’s legal team about these things. For example, Ms. Blanchard explained that Connie told her that the judge was making her wear an ankle bracelet. Instead, Connie’s attorney informed Ms. Blanchard that this had not been decided yet, but had simply been discussed in court.

ABILITIES RELATED TO FITNESS:

Understanding of Charges and Potential Consequences:

Connie indicated that she is charged with “Attempted Murder and I don’t know what the other one is.” She indicated that she is accused of “planning the shooting like trying to kill the person but really I know that I didn’t do it.” The evaluator asked her to clarify what she “didn’t do” and she responded, “I did not do the crime, other people did. Only I know it is my job to say that I did not do it even though other people are saying that I did it but they don’t have proof on their side to say I did it. The State’s Attorney they are just charge me because of the law.” Connie defined Attempted Murder as “you attempted to kill the person but they are not dead. They did get hurt but they are still alive.” She stated that murder was a more serious charge because “the person is dead and they can’t bring the person back. Then they get charged for murder and they did the murder and they are saying they didn’t do it but then the body says they do it or the evidence is saying that they did do it.”

Connie was asked, as it applies to her, if attempted murder is a serious charge and she responded, “Yes but I try not to think about it because I know I didn’t do it so that’s why people say you got an attempted murder. Let’s say Roseanne says ‘oh you got attempted murder, a serious case, you need to take serious’ but I don’t because I know I didn’t do it so why take it serious. To me it doesn’t matter because I know I didn’t do it so other people are saying that I did it but I know who did it but I am afraid to get them down because I feel guilty to them even though they did it and I know they did it. I don’t have no evidence to lead that they did not. The evidence is gone. There is no proof of anything even though they are admitting to it. There is no evidence that he

did it.” (When asked, Connie clarified that Roseanne is her case worker.) It is important for the reader to keep in mind that Connie provided all of this information in response to the question: “As it applies to you, is attempted murder a serious charge?” Additionally, Connie explained, “I was forced to say that I did do it so I don’t think I should be charged.”

Connie indicated that if she pleads guilty she is telling the court “that I did the crime.” In contrast, if she pleads not guilty, she believes that is equivalent to telling the court “that you did not” do the charge. Initially, Connie indicated that she did not know the potential consequences if found guilty. Later, the evaluator asked her “what will happen if the judge finds you guilty of the charges?” and she responded, “You get arrested because they just found you guilty so they are going to lock you up.” Connie was inconsistent regarding how long she could be sentenced to IDJJ or DOC (as it is often still referred to). Once she indicated that she “did not know.” Another time, the evaluator asked what was the most amount of time that she could be sentenced to DOC, and she responded, “10 months.”

A week after she indicated that she could be sentenced to DOC, the evaluator asked Connie “How might you be sentenced if found guilty?” and she responded, “I don’t know.” The evaluator rephrased the question, asking, “What can happen if you are found guilty?” and she responded, “I could go to jail or I don’t know.” The evaluator also asked Connie if she felt that she could be sentenced to residential treatment to which she responded, “For what, to get me help, yeah, they could but [Connie smiled], me, I don’t see myself going like that because that is what my brother is in.” Finally, when asked, she indicated that she could be sentenced to probation. Connie was able to cite conditions of probation and possible consequences of violating probation.

Understanding of the Trial Process:

Initially, Connie indicated that when she goes to court for her delinquency case, the following people are in the courtroom “my judge, my mom, Robin...there is Joe...the person who got shot, Delia, his wife, and their lawyers, and the State’s Attorney, and then the judge.” She explained that the Assistant State’s Attorney’s role was to “find something about the case that is true, that if the person really did the crime, they’re supposed to find something, anything they can use against the person who’s getting charged.” When asked how the Assistant State’s Attorney uses it against them, she responded, “I don’t know, to lock them up.” She then became silent, smiled and covered her face and said, “That was a hard question.”

When asked “Who decides if the person gets locked up?” Connie provided the following response without pausing: “the lawyer, I mean the judge; the judge decides if they really did the crime, if the evidence is there, then that person goes to jail. The Assistant State’s Attorney found something or evidence on the minor, then the minor gets charged by the judge, then the minor gets arrested or stuff like that and then the lawyer’s job is to help the minor out so they won’t get in trouble, and to help them with the case and stuff like that.” As her answer suggested some

confusion regarding the order in which things occur, the evaluator asked which comes first “charged by the judge” (her phrase) or getting arrested. She responded “getting arrested and then getting charged. If they found anything on them or if they admit it or anything like that.”

She indicated that the judge decides if a person is guilty or not guilty. She explained that the judge “looks at both sides and he figures it out each is what is best. But if the person really did the crime and the evidence says they did it, they get arrested, but the judge looks at both sides. He listens to them, the state’s attorney and the lawyer.”

When asked to provide general examples of evidence, Connie smiled and said, “I don’t know,” sat silently and appeared to be thinking and then said, “A weapon that they’ve used or some time of day, stuff like that, people, yeah people, other things” and then smiled. She went on to explain that the weapon would be evidence if “it has blood on it or if like fingerprints or blood or a hair, anything that’s evidence is going to be used in court but the State’s Attorney will use it on the minor.” In turn, she explained people could be evidence “if the person that got killed and whatever’s on them, on the dead person...they will find evidence on their nails that leads to the person that killed them, stuff like that.” When asked if the defendant could have evidence, she repeated the question, then asked for clarification. With clarification, she responded affirmatively, indicating, “It leads to them that they were not there that night or that they were somewhere else.”

Connie indicated that the person who is getting charged with the crime is called the “minor.” Connie was asked what the minor’s role was during trial and she responded, “After getting charged, if they are getting charged for something that they do, I don’t know. This is a hard one.” She sat in silence and then continued, “Their job is to listen or to listen to what is going on in their case and if something is going to happen in their case and if they are going to get locked up or not and it’s their job to not get in trouble or not make the case worse.”

Connie provided the following description of a witness: “Witness is where they see something or someone or they seen the person getting shot, they were there at the time or place when the crime happened and the witness could help the minor on their case or it can turn like the Assistant State’s Attorney can use [silence] no the minor is getting charged for the crime they have done. Then they try to see a witness, if the witness seen, if they seen the minor do something or didn’t, it is a witness that can help the minor’s case. The witness has testified for them or anything like that.” When asked what testifying means, she said, “a witness is testifying for you to try to help your case but not hurt your case.” When asked, she responded that although the witness could lie on the witness stand, he or she is not supposed to lie and if the judge finds out that they have lied, then “they get in trouble that person [Connie smiled, sat in silence] yeah, they could get in trouble, they can’t testify for anything else that happened in that case.” The evaluator specifically asked if a witness could go to jail for lying to which Connie responded, “just for lying, no I don’t

think so.” When asked what an oath was, Connie repeated the question, smiled and said, “I don’t know.”

Over the week time span in which the fitness material was reviewed, Connie demonstrated an inability to accurately and consistently apply her understanding of the trial process and legal system to her case. For example, at times she indicated that there was no evidence against her. Other times, she indicated that there was evidence against her alleged statement and that this was strong evidence but she minimized the role of this evidence in the court process. She insisted that she gave the statement only because she had been repeatedly physically assaulted and “my life was threatened.”

Finally, after discussing the concept of witness as well as other matters relevant to fitness with Connie and at the conclusion of an interview session, she asked the evaluator if in court, she could have a witness “if they are going to help me.”

Ability to Participate in Her Defense and Make Relevant Decisions:

Connie indicated that she trusts her legal team and was able to identify things that would make her lose trust in them. She indicated that she had multiple discussions with her attorney.

Connie indicated that she understands that it is her decision whether or not to testify. She stated that she will talk to her legal team to help her determine if she will or will not testify. She explained that she would testify “if it’s going to help my case, yes, but if not, then not.” However, she went on to say that she wants to testify “because I know that I can do it. I can tell the truth even though people are saying that I’m making up the story. The reason why they are thinking that is because they were going to ask me on that Tuesday and I’m thinking about Thursday but then they’re asking me about Sunday and then they go back to Tuesday and then they’re asking about Tuesday and I’m thinking about Sunday. That’s what I’m going to say.” (The reader is reminded that Connie provided this response in her attempt to explain why she felt that she would testify.) Connie indicated that she knows that if she testifies people can “be asking me questions and trick me.” Despite this, she still wants to testify because “I believe I can get through it, I can do it.”

The evaluator discussed with Connie her tendency to smile inappropriately. She explained that she is not always aware that she is doing this but she often does it when “I’m not sure or nervous...that’s just how it is, I don’t know how to explain it.” Connie recognizes that on the stand she will be nervous and will probably smile a lot. The evaluator asked her if she is concerned about what people will think about her testimony given her tendency to smile. She responded, “People be thinking that I had something to do with the shooting or that I’m lying or something like that. People can think like that.” When asked if this worries her she responded, “What anybody thinks? It doesn’t matter what people think about me but it does matter to me

what I'm being charged with." When asked if she is worried about how the judge will perceive her testimony given her tendency to smile, she responded, "He's going to be thinking that I'm not taking it serious or that I'm playing games, stuff like that...he might think like I'm not telling the truth and I'm lying. He might think like that." The evaluator asked Connie to explain why she wants to testify given her tendency to smile and the impact that it may have on how her testimony is perceived. She indicated that she still wants to testify because "it would help me if I testify, it would make me feel good inside because I know it's going to be done. People can ask me questions."

Connie indicated that when she does not understand what's going on in court, she asks her legal team for an explanation. She said that in court she should be quiet and listen to what people are saying. Connie indicated that things have been said in court that made her "mad and upset" and she responded by letting her lawyer know when this occurred. For example, she believed that the Assistant State's Attorney told the court a lie and Connie became upset but simply stared at the ASA and did not become belligerent. Connie recalled that she told her lawyer when this occurred.

Finally, Connie's account of her whereabouts and what occurred during the time period related to the alleged offense was rambling and difficult to follow.

Understanding and Appreciation of the Plea Bargaining Process:

Connie indicated that she understands that it is her decision whether or not to accept the plea bargain. She also indicated that she knew that in court the Assistant State's Attorney makes the plea bargain offer. When asked to describe a plea bargain process, Connie stated, "It is where they make a deal that you say you did it but you get less time or something or there can be some other ways, you could tell the police that he's the person that did it and you see them and you go down but you get less time." The evaluator asked her to explain more about how this worked and she continued, "That person's getting accused of doing something they did not do but they are getting accused because they're actually there but they didn't do it and the police say okay, they ask you to take a plea bargain and they say you were there. Can you tell us who did it? You're going down too because you were there and you're going to get less time or you may not get charged, something easy for their time. They are going to help the police." Connie went on to say that if you accept the plea bargain, you do not go to trial because "you are helping them, you are getting less time and that person is going to know that you said they did do it."

Connie was given the following example of a plea bargain offer. The Assistant State's Attorney said that the state would drop the charge of Attempted Murder if she pled guilty to the charge of Aggravated Battery with a Firearm. The evaluator asked Connie to think out loud about if she would accept such a plea. However, before she could do so, Connie wanted to know why the Assistant State's Attorney would make the offer to drop the charge of Attempted Murder. The evaluator explained that the Assistant State's Attorney did not have to convey their reasoning for

making the offer. Again, Connie was prompted to explain why she would or would not accept the offer and she responded, "To me it would be a good offer because Attempted Murder, it is hard, because if you can't prove that you didn't do it, but with a gun it's easy." The evaluator asked her to clarify what she meant by "easy" and she said, "To prove that you did not do it." She went on to say "to me that is like saying you did the shooting so they can trick you and so that is like admitting to the crime." The evaluator asked her to clarify which crime she was referring to and she responded, "Of the shooting, that you did try to kill the person so they could trick you in that way." When asked, she clarified that they would "be tricking you" because "they are going to say we will drop the Attempted Murder but you did the shooting but you were going to admit to it now that they have that so the person who did get shot could say something and it might help and it might not help. Like if they say that person did the shooting but I didn't see her do it."

CLINICAL OPINION

In my clinical opinion, with a reasonable degree of psychological certainty, Connie is not fit to stand trial. Connie is a young lady with significant cognitive impairments, an extensive history of trauma and abuse, as well as a tendency to acquiesce to the wishes of others. These characteristics, coupled with her rambling, tangential, and circumstantial thought process, and odd affect, are the conditions that significantly impede her ability to assist in her defense and render her unfit.

Description of Her Condition:

Connie's significant cognitive impairments were acknowledged eleven years ago as indicated in her academic records and as recently as one year ago, as indicated in the MRAI Social Summary from May 2011. Consistent with this, both her current therapist and teacher acknowledge her cognitive limitations. Her academic records indicated that she was diagnosed with mild mental retardation long before she became involved with the court related to this case. In describing her cognitive abilities, a psychologist in 2009 noted, "generally speaking, Connie's skills in understanding verbal information, thinking with words, and expressing thoughts in words are in the Extremely Low range." Additionally, "She had extreme difficulty remembering what she had just heard. She would retain part of the sentence or part of the group of numbers" and Connie "has serious problems with her memory and verbal comprehension. She seems to have extreme difficulties making abstract connections and is very concrete in her approach to problems. She repeatedly forgets questions as well as directions." Consistent with the testing results from 2009, Connie's current teacher and therapist report that her thinking is not as developed as her peers her same age. For example, Ms. Blanchard, Connie's teacher, explained that Connie is "very immature" and "very concrete...when you get too figurative and inferences are mostly lost on her." It is important to note that her current teacher described her as "very concrete" as did a psychologist three years ago. Thus, this characteristic of her thinking has not changed in three years.

In my clinical opinion, Connie acquiesces to the wishes of others. Her school records indicate that she “always does what is asked of her.” Similarly, her current teacher, who has known her for approximately ten months, indicated that Connie is “very much a people pleaser. She will say she agrees with me if that’s what she thinks I want because she wants me to be happy with her and I’ve seen this with aides and other people besides myself. She wants people to be happy with her and she will smile and agree but when we’re all alone I can tell that she did not agree.” Similarly, Ms. Gomez explained, “I say you do this, you do this, she’s going to do it just like she’s ten years old.”

Connie’s thinking process is rambling, tangential, and circumstantial. In my clinical opinion, this is not something that should be overlooked or minimized. In fact, JTDC staff questioned if her unusual thinking process was “secondary to a thought disorder or low intellectual functioning.” Dr. Lopez of the JTDC concluded, “[Connie’s] strange thought processes [were] more low intelligence than mental illness.” Connie’s teacher and therapist described her unusual thought process in a very similar manner. For example, her teacher said that Connie is “very circular in her answers. She goes from one thing to one thing, never answering the questions and you never feel like you get the same story.” Similarly, Ms. Richards said that Connie “dances around the question.” Clinically, it is relevant that Connie displays a rambling, tangential and circumstantial thought process in a variety of settings. Specifically, this suggests that she was not feigning or malingering during the current evaluation.

Relationship between Connie’s condition and her ability to understand the nature and purpose of the proceedings or to assist in her defense:

Despite undergoing a fitness evaluation six months ago and despite her legal team’s effort, Connie continues to present with deficits in her understanding of the nature and purpose of the proceedings against her. However, it is not clear if these deficits alone are sufficient enough to render her unfit. In contrast, in my clinical opinion, it is clear that her deficits in her ability to assist in her defense are sufficient to render her unfit. In my clinical opinion to a reasonable degree of psychological certainty, Connie’s significantly impaired cognitive abilities, PTSD, circumstantial and tangential thinking pattern, odd affect, and tendency to acquiesce converge to render her unfit and unable to assist in her defense.

In my clinical opinion, Connie’s ability to communicate effectively with her legal team and to provide a coherent and detailed account of events related to the alleged crime is significantly impaired. In my clinical opinion, this is related to her significant cognitive impairments and impaired thought process.

In my clinical opinion, Connie is not able to testify coherently and effectively due to her impaired cognitive abilities and disorganized thinking. Connie’s thought process hinders her ability to communicate effectively. As indicated previously, Connie displays a rambling, tangential and

circumstantial thought process in a variety of settings. This suggests that this feature is not dependent upon the setting. Consequently, if she were to testify, it is reasonable to expect her to communicate and think in a rambling, tangential and circumstantial fashion. In fact, this is something Dr. Taylor and I agree upon. Dr. Taylor indicated, "Connie's difficulty providing organized narratives is associated with her low intelligence." Dr. Taylor opined that "testifying will be challenging for Connie if she is required to provide a narrative on the stand, given her history of providing disorganized and confusing accounts of events." I agree with this assertion; however, I contend that since her lawyers imagine that she will have to testify in her case and she wants to testify, it is reasonable to expect her to have to provide narratives on the stand, especially during direct examination. It is my clinical opinion that her thought process and cognitive abilities are so impaired that they will prevent her from testifying effectively.

Two other factors will impede Connie's ability to testify effectively and coherently. The first factor is having Mr. Longley and Ms. Butler in the courtroom. As Mr. Longley is the victim in the case, it seems reasonable to expect that he be allowed in the courtroom for the proceedings. If this is the case, than I agree with Dr. Taylor that his presence will further impede Connie's ability to provide testimony in a coherent manner. The second factor that will impede her ability to testify effectively and coherently is her affect. Not only does she smile often and at inappropriate times, but according to her teacher, Connie "will smile, giggle and laugh at nothing." Clearly, this will prevent her from testifying effectively and may impede her ability to maintain appropriate demeanor in the courtroom.

Connie's tendency to acquiesce is another factor that significantly impedes her ability to assist in her own defense. In the client-attorney relationship, Connie is the client and she is supposed to make decisions independently after consulting with her attorneys. Her attorneys are supposed to carry out those decisions. In my clinical opinion, Connie's tendency to acquiesce, which has been described by other adults in her life, puts her at risk of doing what the attorneys want her to do and not acting independently.

It is my clinical opinion that Connie's impaired cognitive abilities and impaired thought process prevent her from making a reasoned decision in her case such as if she should accept a potential plea bargain offer. For example, her concrete and immature thinking style make it difficult for her to weigh the long- and short-term consequences or the pros and cons of relevant legal decisions such as accepting a plea bargain offer. Her inability to think in a manner that is consistent with her age increases the likelihood that she will acquiesce and do what she believes her legal team wants. In sum, it is my clinical opinion that Connie presents with a variety of factors that contribute to her being unable to assist in her defense and render her unfit.



Opinion regarding obtaining fitness with one year and providing fitness services:

In my clinical opinion, it is unlikely that the condition that renders her unfit will sufficiently diminish or remit in one year. If this condition is virtually unchanged, then she will not be fit in one year. Many factors suggest that this condition will not sufficiently remit or diminish in a year. For example, the manner in which Connie's thinking and communication style as described in a Psychological Evaluation Report from 2009 is similar to the way in which her current teacher and therapist described her thinking and communication style. This similarity suggests that this feature of her condition will not change in a year. To this end, one year ago the JTDC staff described Connie's thinking as disordered and "strange" and attributed it to her low intelligence as opposed to a mental disorder. During the current evaluation, she continued to display this "strange," rambling, tangential, and circumstantial thought process. Additionally, The JTDC staff attributed her thinking to her low intelligence. As the chart in the *Academic Records* section of this report indicates, Connie's cognitive abilities have been stable over time and are consistent with someone who is mentally retarded. Specifically, her IQ in 2000 was 65 and in 2009 was 66. Based on this, there is little to suggest that her cognitive abilities will improve in one year. As it is unlikely that the condition that rendered her unfit will significantly diminish in one year, it is unlikely that she will obtain fitness in one year.

Finally, if the court finds her unfit and in need of fitness "restoration" services, in my clinical opinion she can receive these services on an outpatient basis. This opinion is based on the fact that the records reviewed did not indicate that Connie missed appointments while in Ms. Gomez's care. Consistent with this, Connie was prompt for the appointments with this evaluator.

Respectfully submitted,

Antoinette E. Kavanaugh, Ph.D.
Licensed Clinical Psychologist



APPENDIX A

1. Police and Court Documents
 - a. Petition for Adjudication of Wardship for Case No. XX JD XXXXX filed February 28, 2011
 - b. Juvenile 101 Information Sheet dated February 28, 2011
 - c. Arrest Report
 - d. Response to Request for Clinical Information completed by Robin Taylor, Psy.D., dated September 26, 2011

2. Education Documents
 - a. Social History Update 3-Year Re-evaluation dated March 7, 2003
 - b. Psychological Report dated February 8, 2003
 - c. [Name Withheld] Special Education (IEP Case Conference) dated June 19, 2004
 - d. Parent/Guardian Notification of Conference Recommendations dated June 26, 2005 and accompanying IEP with the same date
 - e. [Name Withheld] Special Education Summary Report dated April 17, 2016
 - f. Conference Reports dated March 13, 2008; April 10, 2009; January 11, 2009 and July 10, 2011 and accompanying documents
 - g. Youth Outreach Services
 - h. MRAI Social Summary dated May 2, 2011
 - i. Illinois Department of Children and Family Services Integrated Assessment and Social History with Clinical Screener, Incomplete 31-page form (note - fax cover letter indicates that this is from Youth Outreach Services)

3. Department of Children and Family Services (DCFS) Records
 - a. Investigation Transition/Handout document, Investigation ID: #####A
 - b. Investigation Transition/Handout document, Investigation ID: #####B