Date: Click here to enter text.

Evaluator’s Name: Click here to enter text.

Evaluator’s Address: Click here to enter text.

Dear Click here to enter text.

 Thank you for accepting the court appointment to evaluate the minor for the purposes of determining competency and possible treatment.

 Pre-Trial Competency Evaluations are submitted no later than two (2) business days prior to the Court date scheduled to receive the evaluation and by 3:30 pm. The report shall be submitted to the Court Clerk office, to be distributed to the appropriate court.

 Please personally interview the minor and review all available records including but not limited to, medical, educational, behavioral health, court records, police reports, and probation reports concerning the minor and the minor’s case.

 Please evaluate whether the minor suffers from a mental disorder, developmental disability, developmental immaturity, and/or other conditions and, if so, whether the condition or conditions impair the minor’s competency. Welf&Ist Code **§**709.

“A minor is incompetent to proceed in delinquency court if he or she lacks sufficient present ability to consult with counsel and assist in preparing his or her defense with a reasonable degree of rational understanding, or lacks a rational as well as factual understanding, of the nature of the charges or proceedings against him or her.” Welf & Inst Code §709; Pen. Code §1367; Timothy J. v. Superior Court (2007) 150 Cal.App.4th 847.

You should form an opinion regarding whether the minor understands: 1) what the current allegation(s) is/are, 2) that the minor’s attorney is there to represent or help the minor respond to the allegations, 3) that the minor can say (testify) the allegations are true or not true, 4) that the minor has the right to say nothing, 5) that the minor can communicate with the minor’s attorney if the minor wants to, 6) that if the minor says the allegations are not true, the judge can hear the one or two sides of the story (have a trial) and the judge decides what happened.

 You should examine the minor’s understanding, taking into consideration the perspective of children in general. For instance, most children do not understand adult language in questions such as “Do you remember when the peace officer interrogated you?” or “Do you recall when you were advised of your Miranda rights?” Your examination and testing must contain language and concepts within a child’s range of comprehension.

 Competency evaluations for juveniles should be made in light of juvenile, rather than adult norms. A juvenile need not be found incompetent just because, under adult standards, the juvenile would be found incompetent to stand trial in a criminal proceeding. However, immaturity may affect a minor’s ability to be competent.

 You should describe the minor being examined in comparison to average children of the same age. For instance, most children are immature because they lack maturity. This may or may not rise to the level of the “immaturity” as it relates to competency. However, immaturity may affect a minor’s ability to be competent. You should take into consideration that the court may be able to provide accommodations to the minor in court to assist in the minor’s understanding of the process and communication with the minor’s attorney.

 There may be no need to discuss the underlying facts of the alleged offense with the minor. You do not necessarily need to determine whether the minor committed the charged crimes. The criterion is whether the minor understands the current charges, not whether he/she committed the alleged crimes. If it helps you in your determination of competency to discuss the underlying facts or to ask the minor if he/she committed the acts, you can do so. If the minor volunteers incriminating statements, you can include them in your assessment and report. Anything the minor tells you cannot be used in the prosecution or defense of the minor. Your report will only be used to assist the judge decide if the minor is presently competent. Copies will be provided to all parties.

 A minor who states he has no memory of the offense or a minor who actually suffers from forgetfulness, intoxication at the time of the alleged offense, or amnesia, may still be found competent. If a minor at the time of the alleged offense and arrest understood the nature of the alleged offense and arrest that does not necessarily mean the minor currently understands the nature of the court proceedings.

 You are entitled to all relevant court, police, Probation, and former evaluator records in order to render your opinion. You do not need to file Welf & Inst Code §§827 or 828 motions to obtain records. Records will be made available to you as result of this referral.

Alameda County Behavioral Health Care Services (BHCS) records will be made available to you through the Guidance Clinic. A packet of al other records will be prepared by the Probation Department, delivered to the Guidance Clinic and will be available for you to pick up at the Guidance Clinic. This packet includes the following:

* Name of judge and department to which the evaluator will be reporting;
* All former psychiatric and psychological evaluations;
* All behavioral health records;
* Medication information;
* All petitions or notices (with a note indicating which petition/notice is currently at issue regarding competency; past petitions/notices may not be at issue);
* All police reports;
* Relevant educational records, including Individualized Education Plans (IEP);
* Programs and Psycho Educational Assessments;
* Regional Center reports;
* Name, phone number, email, and FAX number of the probation officer;
* Name, phone number, and email of defense attorney for the minor;
* Name, phone number and email of the deputy district attorney;
* Location, address and phone number of the minor; and
* Names, addresses, and phone numbers for the parents, guardians, or

 guardian *ad litems* for the minor.

 All documents from Probation, the court, police departments, and previous evaluators are confidential; they cannot be shared with third parties without a court order.

 The court requires a written report from you. Your report should include (at a minimum) explicit answers to the following questions. These questions should appear in your report as stated in this letter, followed by your answer either "yes" or "no" to each question, and then provide a more detailed response for each question.

1. Does the minor have significant deficits in competency-related abilities? (yes/no) elaborate answer
2. Does the minor have a mental disorder, developmental disability, or some other condition? Is the minor developmentally immature? (yes/no) elaborate
3. Does mental disorder, developmental disability, developmental immaturity, and/or some other condition cause deficits in competency-related abilities? Is there a causal link between disorders/conditions and competency-related abilities? (yes/no) elaborate answer
4. Is it the evaluator's opinion that the minor is incompetent to stand trial? (yes/no) explain
5. If the opinion is that the minor is incompetent, what is the likelihood the minor can be restored or can attain competency within the foreseeable future? What services/interventions would assist in restoring and/or attaining competence? (yes/no) elaborate answer

Sincerely,

Court Authorized Personnel

Click here to enter text.