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Clinical Consensus in Intellectual Disability Cases
Information about tests commonly discussed in *Atkins* cases

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I. INTRODUCTION.

This handout is intended to give you some basic information about a variety of different tests commonly discussed in *Atkins* litigation. Intellectual disability ("ID") is characterized by significant limitations both in intellectual functioning and in adaptive behavior, which originate during the developmental period. In other words, the clinical definition of ID consists of three basic criteria: (1) significant limitations in intellectual functioning; (2) significant deficits in adaptive behavior; and, (3) onset during the developmental period (usually before age 18).

We want to stress that a clinically appropriate assessment of ID involves a thorough, systematic collection and rigorous review of all available information relevant to these three criteria, by a qualified expert, using her/his clinical experience, training and judgment. There is no single test that can, standing alone, provide a definitive "answer" about whether or not your client meets the criteria for ID.

Some of the tests we discuss below are reliable, appropriate measures of certain aspects relevant to ID, and some are not. By providing this information to you, we are not necessarily recommending one particular test over another for your individual case. Please consult with your ID experts about which tests, if any, may be most appropriate to consider for your client and why.

However, there are a number of tests commonly mentioned (and inappropriately relied upon) by courts and experts in *Atkins* cases which do NOT measure anything relevant to ID. We have clearly indicated (either in the text immediately before each chart, or in the text of the chart itself) which tests are not relevant, informative or appropriate for a determination of ID.

II. RELIABLE MEASURES OF INTELLECTUAL FUNCTIONING.

Intellectual functioning is best represented by full-scale (global functioning) IQ scores that are obtained from standardized and comprehensive tests of intellectual functioning that are individually administered. The following tests are reliable measures of intellectual functioning. For consideration of the Flynn Effect (or norm obsolescence), note that the date of publication is not necessarily the same as the date on which the test was normed.

Test Name	Date of Publication	Date of Norming
Wechsler Intelligence Scale for Children (WISC)	1949	1947
WISC-R	1974	1972
WISC-III	1991	1989
WISC-IV	2003	2001
WISC-V	2014	2014
Wechsler Adult Intelligence Scale (WAIS)	1955	1954
WAIS-R	1981	1979
WAIS-III	1997	1995
WAIS-IV	2008	2008
Stanford-Binet Intelligence Scales (SB)	1916	1916
SB II	1937	1937
SB III	1973	1973
SB IV	1986	1986
SB V	2003	2001
Kaufman Adolescent and Adult Intelligence Test (KAIT)	1993	1991
Kaufman Assessment Battery for Children (KABC)	1983	1979
KABC-II	2004	2003
Woodcock-Johnson Cognitive Measure	1977	1977
WJ-R	1989	1989
WJ-III	2001	2000
WJ-IV	2014	2012

III. INSTRUMENTS THAT DO NOT YIELD A COMPREHENSIVE MEASURE OF INTELLECTUAL FUNCTIONING.

The following tests are often mentioned, and even relied upon, by courts and experts in *Atkins* cases as evidence of intellectual functioning. And yet, none of these tests are appropriate for use when the purpose of the evaluation is to make a determination of intellectual disability. Frequently, defense experts and attorneys encourage courts to disregard these test results, or give them less weight, because these instruments are not among the "gold standard" measures of IQ. However, in the face of competing testimony or bad legal precedent, ill-informed courts may nonetheless rely on such test scores. We encourage defense practitioners to offer more evidence, whenever possible, about *why* these tests are not reliable or appropriate for an ID determination. We have given you a bit of information about each test below to get you started.

Test Name	**What is it? What does it measure?**
Peabody Picture Vocabulary Test (PPVT) Includes PPVT-R, PPVT-III and PPVT-4	The PPVT scale is ***not a test of intellectual functioning***. It is a norm-referenced, wide-range instrument for measuring the receptive (hearing) vocabulary of children and adults. It measures response to vocabulary instruction and aids in the diagnosis of reading difficulties and in designing instructional interventions.
Otis Intelligence Scales	The Otis Intelligence Scales is a group-administered test of abstract thinking and reasoning.
Kaufman Brief Intelligence Test (KBIT), KBIT-2	The Kaufman Brief Intelligence Test is an abbreviated test of intelligence that is individually administered. It is a short form/quick measure.
The Slosson	The Slosson intelligence test is a screening tool designed to assess general verbal cognitive ability. It is individually administered in a spoken format, and it takes between 15-30 minutes to complete.
Beta, Beta-Revised, Beta-III, Beta-4	The Beta test of intelligence was first developed to quickly screen the intelligence of army recruits. The Beta version was developed as a non-verbal test. It is often administered as a group measure and used with non-native English speakers. It continues to be a group administered non-verbal test of intelligence in its revised form.
Culture Fair Intelligence Test	Measure of cognitive abilities (intellectual functioning) that is non-verbal – lower

	content containing. It remains a brief/narrow measure of intelligence.
TONI	Test of Nonverbal Intelligence; measure of nonverbal reasoning/intelligence; individually administered and takes approximately 15-20 minutes to complete.
C-TONI	Comprehensive Test of Nonverbal Intelligence; individually administered measure of nonverbal reasoning/intelligence; takes approximately 1 hour to complete. Despite its name "comprehensive," the C-TONI provides a narrow-band measure of intellectual functioning.
The Shipley Scale	Measure of intellectual functioning and cognitive impairment; can be administered individually or in a group.
Lorge-Thorndike	Comprised of 8 different tests that span developmental period; measures intellectual functioning; group-administered test.

IV. MALINGERING.

Clients involved in *Atkins* litigation are often accused of malingering (or faking) low IQ scores, deficits in adaptive behavior, or both. Courts and experts sometimes seek to rely on test results as evidence of malingering. These tests present a series of very easy questions or test stimuli. The assessed individual who does not have any severe and obvious memory impairments should do well on these tests; those who do poorly are suspected of faking pathology (faking "bad"). However, there are no formal tests of malingering designed to measure whether a person is faking evidence of ID. There are some test instruments designed to measure whether a person is attempting to malinger other things, but none of these tests have been normed on individuals with intellectual disability. Therefore, it is not appropriate to use any of these tests as evidence of malingering ID. The best anti-malingering measures in an *Atkins* case are: (1) general consistency across multiple full-scale IQ test administrations over time; (2) consistency overall regarding your evidence of adaptive deficits; and, (3) corroboration of that evidence by using multiple sources of information and as many social history records as possible.

The following tests are commonly cited as evidence of malingering, but are NOT reliable or appropriate measures for *Atkins* cases. Again, we encourage defense practitioners to consider offering the fact-finder detailed information about what these tests actually are, what they are truly designed to measure and why they are not useful for assessing the possibility of malingering in ID cases. We have given you some basic information to get you started, but we encourage you to consult with your own experts and conduct further research if these instruments are at issue in your case.

Test Name	What is it? What does it measure?
Test of Memory Malingering (TOMM)	The TOMM is a visual recognition test designed to help psychologists and psychiatrists distinguish between malingered and true memory impairments. Used to detect feigned memory impairment.
Validity Indicator Profile	A tool used in forensic and neuropsychological evaluations—is used in some determinations of competence or culpability. The Validity Indicator Profile (VIP) is a general assessment of response style designed to identify valid and invalid responding. Poor performance indicates insufficient effort to respond correctly or suboptimal attention and concentration during testing.
Rey 15 Item Test	Used to assess symptom validity or feigned memory impairment. The Rey presents a series of simple stimuli to assess the individual's visual memory and to detect faking or exaggeration of memory problems.

The 21 Item Test	Consists of 21-item word lists that are read to participants and then said participants are asked to recall at various times (revealing suboptimal performance).
Miller Forensic Assessment of Symptoms Test	M-FAST is a brief 25-item screening interview for individuals ages 18 years and older. It is designed to assess the likelihood that a person is feigning psychiatric disorders (not ID).
The Structured Inventory of Malingered Symptomatology	The SIMS is a 75-item, true-or-false screening instrument that assesses both malingered psychopathology and neuropsychological symptoms. Used to detect feigned or exaggerated psychiatric disturbances and cognitive dysfunction associated with psychiatric symptoms, including: (a) Psychosis, (b) Neurologic Impairment, (c) Amnestic Disorders, (d) Low Intelligence, and (e) Affective Disorders.

V. MEASUREMENTS OF ADAPTIVE BEHAVIOR.

The use of standardized measures of adaptive behavior, normed on the general population, can be informative as to whether your client suffers from significant limitations in adaptive behavior. Please keep in mind that no existing measure of adaptive behavior completely measures all adaptive behavior skills, nor can the results of such a test, on their own, adequately support a diagnosis of ID. More importantly, not all measures of adaptive behavior may be appropriate or useful in your particular case. Many of the instruments below require responses from one or more collateral witnesses who have enough information about your client's development over time to complete the testing instrument, which may not be possible in every case. There are a number of other considerations to think through, in consultation with your experts, before deciding to move forward with administration of one or more standardized measures of adaptive behavior. Again, we have given you some basic information here, but we encourage you to educate yourself further about any particular test your expert recommends so that you understand how it works, what it measures, why your expert proposes to use it, and why she has selected that particular test over other alternatives.

Test Name	**How it works**	**Normed on general population?**	**Good measure for Dx of ID?**
Vineland Adaptive Behavior Scales, Vineland-II, Vineland-3	Domain-level versions of interview, parent/caregiver, and teacher forms; provides scores for adaptive behavior domains and overall composite (Communication: receptive, expressive, written; Daily Living Skills: personal, domestic, community; Socialization: interpersonal relationships, play and leisure, coping skills; Also includes Motor Skill and Maladaptive Behavior Domains)	General Population People with and without ID	Yes
Adaptive Behavior Assessment System (ABAS)	Incorporates current AAID guidelines spanning 3 fundamental domains (Conceptual; Social; Practical); Assesses all 10 specific adaptive skills areas specified in the Diagnostic and Statistical Manual of Mental Disorders - 4th Edition; proposed to determine the complete	General Population People with and without ID	Yes

	picture of a person with ID, spanning 1) response to daily demands; 2) capability to live independently; 3) better determines appropriate intervention/treatment/training goals		
Adaptive Behavior Scale, Residential and Community	Consists of two parts: Part 1: evaluates coping skills concerned with autonomy/independence and daily living responsibilities across 10 domains (Independent Functioning; 2) Physical Development; 3) Economic Activity; 4) Language Development; 5) Numbers and Time; 6) Domestic Activity; 7) Prevocational/Vocational Activity; 8) Self-Direction; 9) Responsibility; 10) Socialization; Part II: focuses on problem behavior.	Normed only on people with ID	No. **Not appropriate for use in determining ID** – used mainly for intervention planning with people with known ID diagnosis.
Adaptive Behavior Scale: School Edition; ABS-SE: 2	Consists of 2 parts: Part One - items are grouped into nine adaptive behavior domains: (1) Independent Functioning, (2) Physical Development, (3) Economic Activity, (4) Language Development, (5) Numbers and Time, (6) Prevocational/Vocational Activity, (7) Self-Direction, (8) Responsibility, and (9) Socialization. Part Two contains content related to problem behaviors.	Normed on a general population of children (with and without disabilities) – good for use with ID determination.	Yes
Independent Living Scales (ILS)	Assesses functioning according to activities of daily living—includes caring for both themselves and their property, which are connected to themes of autonomy/independence; spans five scales that are	Cut scores are provided as a means of establishing criterion validity with adults 65 and older who are living independently, semi-independently,	No Not appropriate for use in assessing adaptive behavior for the purpose of ID Dx.

	purported to fully consider this construct: 1) Memory/Orientation, 2) Managing Home and Transportation, 3) Health and Safety, 4) Managing Money, and 5) Social Adjustment. Mostly used to assess decline/loss of cognitive functioning.	or dependently. Performance data are also provided on samples of individuals, 17 years of age and older, who have a psychiatric diagnosis, dementia, mental retardation, or traumatic brain injury.	
Scales of Independent Behavior (SIB-R)	The *Scales of Independent Behavior-Revised* (SIB-R) is a comprehensive, norm-referenced assessment of adaptive behavior used to determine a person's level of functioning in key behavior areas. It may be administered in a structured interview or by a checklist procedure. SIB-R provides a comprehensive assessment across 4 skill domains (motor, social interaction & communication, personal living, and community living) and a Overall AB standard score.	Normed on a sample of the general population (with and without disabilities) between birth to 80+ years. Note: getting old – last revised/normed in 1996 (more than 20 years ago).	Yes.