

OFFICE OF THE STATE PUBLIC DEFENDER  
**REFERRAL QUESTION/ISSUE CHECKLIST**  
**A.K.A. CHECKLIST**

**THIS CHECKLIST IS FOR A(N):**

\_\_\_\_ INITIAL MH PRE-APPROVAL      \_\_\_\_ SUPPLEMENTAL MH PRE-APPROVAL

**Introduction**

The intent of this checklist is to assist the attorney in relating information to the mental health expert regarding the specific nature and intent of the referral. Please indicate all of the following issues that are of interest in order to assist in your defense.

No matter the issue, please do not generate or have the mental health (MH) professional provide a written report until after you speak with the MH professional and ascertain whether the report is required and will be helpful to your client.

**Referral Issues/Questions:**

**Fitness To Proceed (FTP)**

- FTP Please advise whether the client has the capacity to understand the proceedings and to assist counsel; competency/fitness to proceed to adjudication (§46-14-103, M.C.A.).

**Screening**

- It appears that this client may have a mental health defense. Therefore, please provide a screening by doing the following:
  - Review records regarding client legal/mental health history
  - Meet with client for a clinical interview
  - Provide a diagnostic impression
  - Provide recommendations for further evaluation as needed
  - Testing as needed to address specified concerns about client indicated by attorney
  - Verbally report results and recommendations to attorney
  - Written report ONLY at the request of attorney
- Evaluate diminished capacity issues related to:
  - Specify: \_\_\_\_\_  
(e.g. coercion).

**Previously Assessed**

- Client was previously assessed via an OPD referral and a more comprehensive examination was recommended to address *Checklist* indicated item(s).

**Comprehensive**

- It appears that this client may have a mental health defense. Therefore, please provide a comprehensive evaluation by doing the following:
  - Review records regarding client legal/mental health history
  - Meet with client for a clinical interview

- Testing as needed to address specified concerns about client indicated by attorney
- Verbally report results and recommendations to attorney
- Written report ONLY at the request of attorney
  
- Please assess whether the client had the capacity “to act with knowledge and purpose” at the time of the alleged offense per §46-14-102 & 301, M.C.A.
- Did the client have the capacity to “appreciate the criminality of his behavior and/or to conform his behavior to the requirement of the law” per §46-14-312, M.C.A.?

### **Miranda/Waiving Rights**

- Please ascertain whether the client had the competency to “knowingly and voluntarily” waive his/her Miranda rights?
- Please ascertain whether the client had the capacity to knowingly and voluntarily wave or give consent to whatever law enforcement wanted consent for (e.g. search house, search purse, have car searched etc.)?

### **Risk**

- Please assess this client’s risk for violence or potential for recidivism.

### **Sex Offender Evaluation**

- Sex Offender Evaluation (SOE). Perform a Montana Sex Offender Treatment Association (MSOTA) Psychosexual Evaluation. Please also do as indicated below:
  - Prepare a confidential written report for the defense
  - Prepare a written report for the court.<sup>1</sup>

### **Chemical Dependency (CD)**

- Please perform a (CD) Substance Abuse evaluation.
- Please perform a CD/MCDC evaluation

### **Civil Commitment**

- This is a request for a Civil Commitment/Mental Health Professional Person specific evaluation.<sup>2</sup>
  - Civil commitment evaluation is for a first opinion
  - Civil commitment evaluation is for a second opinion
  - Civil commitment evaluation is for an additional opinion (i.e. at the request of the client but is not the initial or second opinion)

### **Neuropsychological**

- Please perform a neuropsychological evaluation to assess neuropsychological functioning as it relates to the current legal charges.

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<sup>1</sup> In almost all instances, reports prepared for the court at sentencing will be paid for by the court. Please be sure to specify such in your referral request.

<sup>2</sup> Professional person evaluations are paid for by the county of residence per §53-21-118, M.C.A., and *In the Matter of K.G.F.*

**Pre-adjudication transfer**

- Evaluate the suitability for pre-adjudication transfer of a juvenile to adult court
- Evaluate the suitability for pre-adjudication transfer to and/or placement in:
  - o Specify: \_\_\_\_\_ (e.g. home electronic monitoring, substance abuse treatment program, etc.).

**Sentencing**

- Evaluate the suitability for alternative sentencing program of:
  - o Specify: \_\_\_\_\_ (e.g. work release, home electronic monitoring, probation and parole, etc.)
- It appears that this client may have a mental health defense relating to sentencing (“appreciate” or “conform” per §§46-14-311 & 312, M.C.A.) Therefore, please provide a diagnostic impression with recommendations regarding placement (e.g. DPHHS v DOC).

**Parenting**

- Parenting evaluation. Client has received an unfavorable parenting evaluation and is at risk of having parental rights terminated. Another evaluation is needed to assist in defending my client.

**Testimony**

- Testimony regarding psychological issues previously identified or specified herein. Court testimony is necessary in this case. Testimony is specifically related to expert’s recent assessment of the client and/or psychological issues relevant to the case.

**Medication**

- Client is or is supposed to be taking medications prescribed by a licensed medical professional due to symptoms/diagnosis of a medical or mental health condition. Specifically, is the medication an element of the current legal predicament?

**Additional comments or requests:**

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