

COURT REQUEST FOR A PSYCHOLOGICAL/PSYCHIATRIC ASSESSMENT (NOT A COURT ORDER AS PART OF THE PSR)

Crown Counsel Office

Whenever the Crown, the defence or the Court wants a psychological/psychiatric assessment for sentencing purposes, the Crown Counsel, while exercising appropriate discretion, will generally:

1. First, seek a Court Order for a PSR with a psychological/psychiatric assessment as part of the PSR (R. v. Blackwell, BCSC type of order) rather than agree to a request, regardless of whether or not the offender consents in court to an assessment. A court order is enforceable, so even if the offender changes his mind and does not participate in the assessment, the FPSC clinic will complete an assessment based on collateral information, whereas, a request for an assessment by the Court is an unenforceable voluntary process dependant upon the consent of the offender. If the offender withdraws his consent and does not cooperate with the assessment, no assessment will be completed.

2. In cases where the Crown has applied for a Court Order for a PSR with a psychological/psychiatric assessment as part of the PSR (R. v. Blackwell BCSC type of order) and a Court has determined that it will not make such an order and the offender is willing to consent to an assessment, the Crown and the defence may ask the Court to request a psychological/psychiatric assessment without making an order. With the agreement of both the Crown and the defence, the Court may request that an assessment be done on the understanding that the offender will voluntarily participate. It should be made clear to the FPSC by the Court Registry on their 'Pre-Sentence Report and Psychological/Psychiatric Assessments' form and by the Crown Counsel office on their 'Forensic Psychiatric Services General Referral Form' that the Court has requested a psychological/psychiatric assessment rather than having ordered one. Examples of when such requests may be agreed to by the Crown include cases in which the Court has determined the circumstances of the case do not support an R. v. Blackwell type of order, or when the Court wants psychological/psychiatric assessment, but does not want to order an accompanying PSR.

Crown Counsel will seek an adjournment of no less than 5 weeks (35 days) if the offender is in custody or 7 weeks (49 days) if the offender is out of custody to allow sufficient time for the assessment to be completed.

Requesting a Psychological/Psychiatric Assessment independently of a PSR and providing Information:

The Crown Counsel Office receives a copy of a PSR & P/PA form, the Information or Indictment and the Record of Proceedings from the Court Registry. The PSR & P/PA form will indicate that an assessment has been requested.

The Crown Counsel Office completes a "Forensic Psychiatric Services General Referral Form".

The Crown Counsel Office sends a package to the FPSC Clinic containing an original Forensic Psychiatric Services General Referral Form along with copies of the RCC, Information or Indictment and Victim Impact Statements.* The Crown Counsel Office should not delay sending its package to the FPSC Clinic simply because it has not received its copies of the PSR & P/PA form and other documents from the Court Registry.

Receiving a copy of the Psychological/Psychiatric Assessment:

The FPSC Clinic completes the psychological/psychiatric assessment and submits it to the Court at least five business days prior to the sentence hearing date. The Crown Counsel Office receives one filed copy of the psychological/psychiatric assessment from the Court Registry.

Delay of Psychological/Psychiatric Assessment – Late and unavailable until after the original Sentencing Hearing Date

If the FPSC Clinic is unable to complete the psychological/psychiatric assessment prior to the original sentence hearing date, it sends a letter to the Court Registry, addressed to the Judge, seeking more time, at least five business days prior to the sentence hearing date. The Crown Counsel Office receives a copy of that letter from the Court Registry. The Crown or the defence may apply to adjourn the sentence hearing date. If the Court decides to adjourn, the psychological/psychiatric assessment will be produced before the new sentence hearing date and the Crown Counsel Office will receive a filed copy of it from the Court Registry prior to the new sentence hearing date.

No Psychological/Psychiatric Assessment Done

Because no court order has been made, if the offender decides not to participate, the FPSC Clinic will send a letter to the Judge indicating that the offender has chosen not to participate and that an assessment cannot be done. The Crown Counsel office receives a filed copy of that letter from the Court Registry.

*Depending on established local practices, the Crown Counsel Office may send its package along with the documents being sent by the Court Registry to the FPSC Clinic.