

## **COURT ORDER FOR A PSR WITH A PSYCHOLOGICAL/PSYCHIATRIC ASSESSMENT AS PART OF THE PSR**

### **Crown Counsel Office**

#### **Ordering a PSR with Psychological/Psychiatric Assessment as part of the PSR**

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*, 2007 BCSC 1486 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*, 2007 BCSC 1486 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*, 2007 BCSC 1486 type of order, or when the Court wants a psychological/psychiatric assessment, but does not want to order an accompanying PSR.

Crown Counsel will seek an adjournment of 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 and included in the PSR.

#### **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 ordered as part of the PSR.

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 just because it has not received its copies of the PSR & P/PA form and other documents from the Court Registry.

The Crown Counsel Office provides one copy of the RCC, Information or Indictment and Victim Impact Statements to Community Corrections.\*\*

## **Receiving a copy of the PSR with Psychological/Psychiatric Assessment ordered as part of the PSR – Timing**

The FPSC Clinic will complete the psychological/psychiatric assessment and submit it to the Court Registry and a copy to Community Corrections at least five business days prior to the sentence hearing date. Community Corrections will consider the copy of the psychological/psychiatric assessment and attach it to their PSR as a combined document, make three copies of that combined document and file the original and three copies at the Court Registry, at least two business days prior to the sentence hearing date. The Crown Counsel Office will receive one filed copy of the PSR, with the psychological/psychiatric assessment attached to it, from the Court Registry prior to the sentencing hearing.

### **Short Delay of Psychological/Psychiatric Assessment – Late but available prior to the Sentencing Hearing Date**

If the FPSC Clinic completes the psychological/psychiatric assessment before the sentence hearing date, but cannot submit it to the Court Registry and a copy to Community Corrections at least five business days prior to the sentence hearing date, it sends it to the Court Registry and a copy to Community Corrections as soon as possible. Community Corrections files the PSR without a copy of the psychological/psychiatric assessment attached if they did not receive the assessment or did not have sufficient time to review the psychological/psychiatric assessment before filing the PSR. The Crown Counsel Office receives one filed copy of each of the PSR and psychological/psychiatric assessment from the Court Registry on or before the sentence hearing date.

### **Long 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. Unless the Court directs otherwise, the Crown Counsel Office still receives a filed copy of a PSR from the Court Registry prior to the original sentence hearing date. However, the PSR will have a copy of the letter from the FPSC Clinic attached, instead of the psychological/psychiatric assessment. In these circumstances, 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 filed at the Court Registry. The Crown Counsel Office receives a filed copy of the psychological/psychiatric assessment from the Court Registry prior to the new sentence hearing date.

### **Delay of PSR, - Late and unavailable until after the original Sentencing Hearing Date**

If the probation officer is unable to complete the PSR by the sentence date, Community Corrections sends a letter to the Court Registry, addressed to the Judge, seeking more time, at least two business days prior to the sentence hearing date. The Crown Counsel Office receives a copy of this letter from the Court Registry. In these circumstances, the Crown or the defence may apply to adjourn the sentence hearing date. If the Court decides to adjourn, Community Corrections will send the PSR, with a copy of the psychological/psychiatric assessment attached, to the Court Registry before the new sentence hearing date and a filed copy will be sent by the Court Registry to the Crown Counsel Office.

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

\*\*Practices for the provision of Crown information to Community Corrections vary. In some locations it is sent by the Crown Counsel Office. In other locations, Community Corrections obtains it on their own by reviewing files at the Crown Counsel Office or by accessing JUSTIN.