

# PROTOCOL FOR PRE-ADJUDICATION PSYCHOLOGICAL AND PSYCHIATRIC EVALUATIONS

## I. PURPOSE OF THE PROTOCOL

The undersigned agree that it is sometimes necessary to obtain and review a psychological or psychiatric evaluation before a case is adjudicated. However, this must be balanced against the need to protect a minor's right against self-incrimination. Therefore, this protocol has been created to clarify how a pre-adjudication psychological or psychiatric evaluation may be obtained, distributed, and used.<sup>1</sup>

## II. DELINQUENCY CASES

- A. Role of the Evaluator: The role of a Juvenile Probation Panel evaluator approved by OptumHealth Treatment and Evaluation Resource Management (TERM) is to provide meaningful placement recommendations and to articulate interventions for a young offender, while keeping in mind that maintaining victim/community safety is paramount. The evaluator is expected to review all background information provided by the referring probation officer and to obtain clarity on the specific referral questions prior to interviewing the youth. In the report, the evaluator should describe the environment that may best assist the young offender in developing a pro-social lifestyle. The evaluator should also specify the intervention(s) needed to help reduce the offender's propensity for recidivism.
- B. Referral Process: OptumHealth TERM maintains a database listing of Juvenile Probation evaluators. When the court orders a psychological or psychiatric evaluation, the court clerk logs into the OptumHealth TERM database (TRes III) and conducts a search. The database allows the clerk to search the entire Probation Panel or to conduct a search based upon specialized criteria (such as expertise with fire setting or juvenile sex offenders) or language proficiency. The database search provides the clerk with the names of three evaluators in a random rotation. The minor's attorney then ranks these names according to her/his preference. The rankings are placed in the minute order. Upon receipt of the minute order, the probation officer calls the first name on the list and offers the evaluation. If the first evaluator does not respond within eight working hours, the next evaluators are called in order, and are asked to respond within four working hours. If all three evaluators decline or are unavailable, the probation officer calls TERM for three more names and then contacts the minor's attorney to rank the three names. If the attorney does not respond within 24 hours, the probation officer will pick the first available evaluator. All probation evaluators are expected to submit their reports within 10 court days. This timeline is obligatory for *pre-adjudicated* cases.
- C. Distribution of the Report: An evaluation ordered by the court is not privileged during any stage of the proceedings. However, the court and the probation officer will not review the report until after the offense has been adjudicated, either by a plea or a trial. The evaluator will mail, fax or deliver a copy of the completed report to OptumHealth TERM. The evaluator will not release a pre-adjudication report directly to the probation officer or the court. After the report has passed quality review, OptumHealth TERM will release the report to the minor's attorney within the timeline and to the probation officer upon receipt of the minute order. The report will be reviewed by the probation officer and court only after the offense has been adjudicated.

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<sup>1</sup> This protocol does not apply to competence evaluations, which are governed by the Protocol for Competence Evaluations.

### III. DUAL JURISDICTION CASES


HHSA and Probation may obtain and review a psychological evaluation prior to finalizing the Meet-and-Confer process.

- A. The court may order a psychological evaluation at any hearing in order to assist in the Meet-and-Confer process. The court may also issue an ex parte order upon the request of the social worker or the probation officer. The court order should specify any particular questions the court wants answered.
- B. Upon completion, the evaluation may be immediately released to the social worker and probation officer for purposes of conducting the Meet-and-Confer process. The evaluation will be attached to the joint assessment report, which is distributed to the court and the court clerk, the DA, the minor's delinquency attorney, the minor's dependency attorney, the probation officer, the social worker, the CASA, and County Counsel.
- C. If the minor is to remain or become a dependent of the court, those who received copies of the joint assessment report may retain their copies of the psychological evaluation.
- D. If the minor is to remain or become a delinquent ward of the court, any person who has obtained the psychological evaluation in connection with the Meet-and-Confer process, with the exception of the minor's delinquency and dependency attorneys, must return all copies of the evaluation to the court. The court will seal the copies until the delinquency court takes jurisdiction.

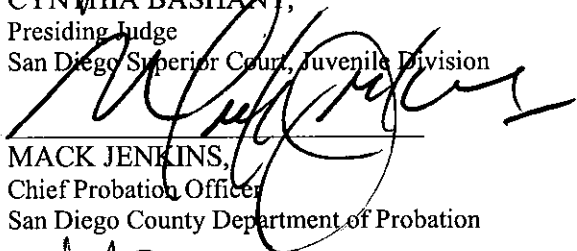
### IV. AGREEMENT

The parties hereby agree to the terms of this protocol.

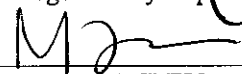
DATE: 4/1/11

  
CYNTHIA BASHANT,  
Presiding Judge  
San Diego Superior Court, Juvenile Division

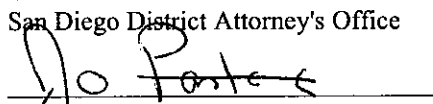
DATE: 4/6/11

  
MACK JENKINS,  
Chief Probation Officer  
San Diego County Department of Probation

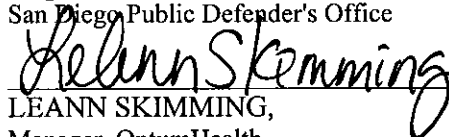
DATE: 4/18/11

  
MICHELE LINLEY,  
Chief of the Juvenile Division  
San Diego District Attorney's Office

DATE: 4/14/11

  
JO PASTORE,  
Supervising Attorney for Juvenile Delinquency Cases  
San Diego Public Defender's Office

DATE: 4/1/11

  
LEANN SKIMMING,  
Manager, OptumHealth  
Treatment and Evaluation Resource Management