SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff vs. _____, Defendant DOB:_____	Case No. **Order for Competency Evaluation under RCW 10.77.400 (ORCE)** [ ] Next hearing date:_____ **Clerk's Action Required:** para. 3 (interpreter), 6, 8

This matter came before the court on the motion of [ ] the attorney for the defendant [ ] the prosecutor [ ] the court as to the defendant's competency based on sufficient facts that as a result of a mental disease or defect, the defendant may lack the capacity to understand the proceedings against them or to assist in their own defense.

The defendant is charged with:

[ ] the felony crime/s listed in the charging document, dated _____

[ ] the felony crime/s of _____

The highest charge against the defendant is a:

[ ] Class A Felony

[ ] Class B Felony

[ ] Class C Felony

[ ] Class C specifically listed in RCW 10.77.645(1)(b)

[ ] the non-felony crime/s of _____ and:

[ ] **At least one of the non-felony charges** is a "serious offense" as defined in RCW 10.77.665

[ ] **None of the non-felony charges** are a "serious offense" as defined in RCW 10.77.665.

Leesa Manion (she/her)
Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, WA 98104
(206) 296-9000 FAX (206) 296-0955

[ ] The court is reserving ruling on whether any of the non-felony crimes charged are a serious offense as defined in RCW 10.77.665.

[ ] This matter is not pending trial. The current probation report and/or other supplemental materials are attached.

[ ] There is reason to believe that the defendant may have an intellectual or developmental disability.

(Information regarding why it is believed the defendant may have an intellectual or developmental disability may be added here):

[ ] The defendant receives Developmental Disability Administration Services.

[ ] The defendant received special education services specifically for a developmental disability.

[ ] Other: _____

[ ] The court has been advised by a party that the defendant may have [ ] dementia [ ] traumatic brain injury or [ ] another relevant neurocognitive disorder.

The Court Finds:

That there is a genuine doubt as to the defendant's competency based on sufficient facts provided by counsel, judicial colloquy, and/or direct observation.

The following additional information supports the request for evaluation *(Information regarding why it is believed the defendant is not competent may be added here):*

_____

_____

_____

The Court Orders:

1. Evaluation. The court orders a competency evaluation of the defendant.

The defendant is to be evaluated by:

[ ] DSHS Evaluator: a qualified expert or professional person who shall be approved by the prosecuting attorney, and who is designated by the Secretary of the Department of Social and Health Services (DSHS).

[ ] Other: _____

The evaluation shall be completed as specified below.

2. Place of Evaluation. The evaluation shall occur at the following location (*check only one*):

[ ] Evaluation in a **Jail/Detention Facility.** The defendant is held in _____ Jail/Detention facility, and the examination shall take place in that facility. If the defendant is transferred to another Jail/Detention facility, the Jail/Detention facility and the parties are to immediately inform DSHS at the contact information listed on

Leesa Manion (she/her)
Prosecuting Attorney
W554 King County Courthouse
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the final page of this order. If the defendant is transferred to another Jail/Detention facility, the examination shall take place in that facility.

If the evaluator determines that the evaluation should take place at a facility designated by DSHS, then the evaluator shall notify the court, the prosecutor, and the defense attorney of that fact, as soon as is reasonably practicable. *Written notice and a conformed copy of this order, without more, shall direct transport in compliance with this order.*

[ ] **Evaluation of a Defendant on Electronic Home Monitoring (EHM.)** The defendant is on court-ordered EHM, which is a form of detention. The defendant's attorney and DSHS will work together to schedule and arrange an appointment for examination at an agreed location. DSHS shall prioritize scheduling this matter over matters where the defendant is not detained.

[ ] **Out-of-Custody Evaluation.** As the defendant is not currently in custody, the defendant's attorney and DSHS will work together to schedule and arrange an appointment for examination at an agreed location.

[ ] **Inpatient Evaluation.** The examination shall occur at a state hospital or other secure facility determined by DSHS. The defendant is committed to the care and custody of DSHS for up to 15 days from the date of admission to the facility, based upon the following (*check the appropriate finding*):

[ ] The defendant is charged with murder in the first or second degree;

Or

[ ] The court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation;

Or

[ ] The court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant.

If the defendant is in custody, transportation shall be arranged as stated in this order. If the defendant is released from custody prior to the examination, the defendant's attorney shall contact DSHS to schedule an appointment for admission to the facility. A released defendant must obtain medical clearance prior to admission to the facility.

3. Evaluation Requirements. The following requirements supplement those found in chapter 10.77 RCW:

[ ] **Developmental Disabilities Professional.** Based upon advisement that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional.

[ ] **Interpreter.** The defendant requires the services of an interpreter in the following language: _____

[ ] **Defense Attorney Presence.** (*Only check this box if defense counsel wants notice and opportunity to be present*). The defense attorney requests notification of the time and place of the evaluation at the contact information provided below. **The defense attorney may be contacted at:** _____

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[ ] The evaluation may proceed without the defense attorney present if notice has been provided.

[ ] The evaluation may not proceed without the defense attorney present. The current criminal charge/s shall not be discussed with the defendant outside the forensic interview, unless immunity has been granted.

[ ] **Defense Expert.** A defense expert has been appointed under RCW 10.77.400, and DSHS is directed to contact the defense attorney to determine whether the expert will be witnessing DSHS's evaluation.

[ ] **Additional Evaluation Requirements** _____

_____

4. **Report Contents and Distribution.** The evaluator shall distribute the report to the court, prosecuting attorney, defense attorney, the designated crisis responder (DCR), and the professional person at the Jail/Detention facility. Distribution of the evaluation report by a facility providing inpatient services shall ordinarily be accomplished within 2 working days or less following the final evaluation of the defendant. The report of the evaluation shall include the following pursuant to RCW 10.77.400:

- A description of the nature of the evaluation;
- A diagnosis or description of the current mental status of the defendant;
- **COMPETENCY:** If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;
- **NON-FELONY, SERIOUS OFFENSE:** For a non-felony defendant charged with at least one serious offense, an opinion as to whether the defendant is unlikely to be restored within the statutory restoration period;
- **DCR EVALUATION:** An opinion as to whether the defendant should be evaluated by a DCR under chapter 71.05 RCW.
- **Other:** _____

The secretary may execute such agreements as appropriate and necessary to implement this section, which may include designation of more than one evaluator.

5. **Timing.** The evaluation shall be completed and the report distributed within the timelines set out under RCW 10.77.405 and .605.

In-Jail Evaluations: Defendant shall be evaluated in-jail and the evaluation report distributed within 14 days of the receipt of this order or 21 days from the signature date of this order, whichever is shorter.

Inpatient Evaluations: In-jail defendants who are ordered to receive an inpatient evaluation shall be admitted for inpatient competency evaluation within 7 days of receipt of this order or 14 days from the signature date of this order, whichever is shorter. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within 2 working days or less following the final evaluation of the defendant.

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Evaluations in the Community: Pursuant to RCW 10.77.605, there is a performance target of 21 days or less for an evaluation in the community and the distribution of the evaluation report.

DSHS shall provide written notice to the court if it is unable to meet the maximum time limits established in RCW 10.77.605 and identify the reasons for the delay and provide a reasonable estimate of the time necessary to complete the competency services. Good cause is presumed absent a written response from the court or a party when received by DSHS within 7 days of its notice.

[ ] The court finds good cause to extend the timing of the evaluation and the distribution of the report until (*date*) _____ because:

_____

[ ] Other: _____

_____

6. Records. In accordance with RCW 10.77.400, the evaluator is granted access to all records held by any mental health, medical, educational, long-term services or supports, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant for the purpose of conducting the examination.

The evaluator is also granted access to records of the Development Disabilities Administration of DSHS and to records of the Aging and Long-Term Support Administration of the Department, if the court has been advised the defendant may have a developmental or intellectual disability, dementia, or another relevant neurocognitive disorder.

In consideration of the urgent nature of this evaluation, it is ordered that all records requested by the evaluator shall be provided as soon as possible, but no later than 2 days from the date requested.

For the purpose of this evaluation, the evaluator is also specifically granted access to records containing information regarding alcohol and drug abuse evaluation and treatment, and the authority to disclose this information to the undersigned court, the prosecuting attorney, the defense counsel, and others as designated in RCW 10.77.400 and 10.77.405. Access and authority to disclose is granted in compliance with the confidentiality requirements set forth in RCW 70.02.230 and 42 CFR Part 2.

Within 24 hours of the signing of this order:

- The **clerk of the court** shall provide this order and the charging documents, including the request for bail and certification of probable cause to DSHS.
  [ ] Instead of the clerk of the court providing these documents, they shall be provided by _____.
- The **prosecuting attorney** shall provide the discovery packet, including a statement of the defendant's criminal history, to DSHS or the county appointed evaluator.

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- The **jail administrator** shall provide the defendant's medical clearance information to DSHS, if this order requires transportation of the defendant to a facility designated by DSHS.

7. Transportation and Discharge. The Jail/Detention facility shall transport the in-custody defendant from the Jail/Detention facility to the facility designated by DSHS and back. Transportation to the facility shall occur within 1 day of the receipt of an offer of admission of the defendant for competency evaluation.

Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report.

If the defendant is discharged to the custody of a Jail/Detention facility, the Jail/Detention facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and there is no forced medication order in effect.

8. Next Hearing and Presence. The next hearing date is scheduled for: _____

☐ The Court ☐ Defense Counsel requests that DAJD transport defendant to the next hearing.

[ ] All previously established court dates are stricken, except (*leave this blank if nothing continues to be set for hearing*) _____

[ ] A separate scheduling order shall be filed (*if required by local practice*).

If the defendant is admitted to a facility designated by DSHS from a Jail/Detention facility, the defendant shall be returned to jail before this court date, except as provided below:

[ ] All parties agree [ ] to waive the presence of the defendant and/or [ ] to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

9. Immunity Agreement.

The parties have not made any immunity agreement.

10. Stay of Proceedings.

All time from the entry of this order and during this examination period and until this court enters an order finding the defendant to be competent to proceed is excluded from the calculation of time for trial under CrR 3.3, CrRLJ 3.3, and JuCR 7.8.

[ ] The case is at the post-sentencing stage. Jurisdiction is tolled. RCW 10.77.600; *State v. Campbell,* 95 Wn.2d 954, 957 (1981).

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Dated: _____

_____
Judge

Print Name: _____

Approved for entry:

_____
Deputy Prosecuting Attorney

Print Name: _____

WSBA No. _____

Approved for entry:

_____
Attorney for Defendant

Print Name: _____

WSBA No. _____

Contact and distribution list (contact information including name, email address, phone, and/or fax number, should be provided below to receive scheduling communications and/or reports).

1. State Hospital/DSHS

   [ ] DSHS Office of Forensic Mental Health Services
   ofmhscourtorders@dshs.wa.gov

   [ ] Child Study and Treatment Center
   cstcforensicsteam@dshs.wa.gov

2. Ordering Court _____
3. Jail/Detention Facility _____
4. Designated Crisis Responder _____
5. Prosecuting Attorney PAOWSHFEL@kingcounty.gov
6. Defense Attorney _____
7. Alternate Contact for Defense _____
8. Forensic Navigator forensicnavigators@dshs.wa.gov
9. Other _____

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