Art. 16.22 & 17.032 Procedure Flowchart

Sheriff or Jailer determines that an inmate exhibits mental illness or intellectual disability Within 12 hours, the sheriff or jailer shall provide written or electronic notice to the magistrate. This notice to the magistrate must contain all information related to the determination of a mental illness or intellectual disability, including details of the defendant's behavior and the results of any assessment given to the defendant.

Magistrate at 15.17 hearing determines that an inmate exhibits mental illness or intellectual disability

If there is reasonable cause to believe that the defendant has a mental illness or intellectual disability, the magistrate **shall** order the service provider that contracts with the jail, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health expert to interview the defendant, collect information, and give the magistrate a written report.

If the defendant refuses to give information, the magistrate may order them to be evaluated at a jail, or in another place determined to be appropriate by the local mental health or intellectual and developmental disability authority for up to 72 hours.

This is not required if the defendant was only arrested/charged with an offense punishable as a Class C, is no longer in custody, has already been interviewed since they were arrested, or if they have been determined to have a mental illness within the previous year.

If an interview is ordered, it may be conducted in person in the jail, by phone, or through a telemedicine medical or telehealth service.

If the defendant is still in custody, the magistrate must receive the report within 96 hours, otherwise within 30 days.

The report is confidential, except that it must be given to:

- the prosecutor, defense attorney, trial court, sheriff or other person responsible for the defendant's medical records while confined; and
- as applicable, either the personal bond office of the county where the defendant is confined OR the director of the office that is responsible for supervising the defendant while released on bail and receiving mental health/disability services as a condition of bail.

Release on Personal Bond

A magistrate **SHALL** release a defendant on personal bond unless good cause is shown otherwise (or an exception applies, see Chapter 2 of the Magistration Deskbook) if all of the following five conditions apply:

- 1) The defendant is not charged with and has not been previously convicted of a **violent offense** as **defined by Art. 17.032(a)**;
- 2) The defendant is examined as described above;
- 3) The expert concludes that the defendant has a mental illness or intellectual disability and recommends mental health treatment or intellectual and developmental disability services;
- 4) The magistrate determines that treatment or services are available; and
- 5) The magistrate determines that release on personal bond would reasonably ensure the defendant's appearance in court and the safety of the community and the victim of the alleged offense.

The magistrate, unless good cause is shown, **SHALL** require as a condition of the bond that the defendant submit to mental health treatment or intellectual/developmental disability services as recommended if the defendant's condition is chronic in nature, or if the defendant's ability to function independently will continue to deteriorate if they do not.

The oath described by CCP 17.04(a)(3) is not required if a defendant is released on a personal bond under this article.