

THE 16.22 PROCESS STEP-BY-STEP

STEP 1: ARRIVAL AT JAIL

- The defendant is arrested for Class B misdemeanor or higher and is brought to jail.

STEP 2: IDENTIFICATION OF INDIVIDUAL SUSPECTED OF MENTAL ILLNESS

Initial identification can come from any source of credible information, which may include:

- Information from:
 - » Texas Commission on Jail Standards (TCJS) [Jail Screening Form](#) – mandatory for all jail intake
 - » TLETS CCQ (*Texas Law Enforcement Telecommunications System, Continuity of Care Query*)
 - » Witnesses / Witness Statements / Probable Cause Affidavit
 - » Staff familiar with the individual from the Local Mental Health Authority (LMHA), Local Intellectual or Developmental Disability Authority (LIDDA), or other care providers
 - » Defendant's family members or friends
 - » Medication brought into the jail with or for the defendant
- Observations of:
 - » Law Enforcement
 - » Jail Staff*
 - » Magistrate Judge

**Magistrate Judge must be notified of any credible information within 12 hours of the discovery of that information by jail staff.*

STEP 3: MAGISTRATE MAKES REASONABLE CAUSE DETERMINATION

1. Magistrate should:
 - Review the notification of credible information and any supporting documents
 - Review the defendant's charges and criminal history
 - Meet with the defendant
 - Communicate with the LMHA/LIDDA/LBHA/Mental Health Service Provider
2. Magistrate then decides whether there is reasonable cause to believe the defendant has a mental illness or IDD.

STEP 4: IF REASONABLE CAUSE IS FOUND

- If reasonable cause is found that an individual has a mental illness or IDD, then the magistrate shall order a qualified mental health professional to interview the individual and complete a 16.22 report.

STEP 4B: EXCEPTIONS TO ORDERING THE INTERVIEW AND REPORT

- If the defendant had a 16.22 interview and report done within the year prior to the arrest date, then Magistrate may, but does not have to, elect to use the previous report instead of ordering a new one.
- If the defendant is no longer in custody, then Magistrate may choose whether to order a 16.22 Interview and Report.

STEP 5: MAGISTRATE REVIEWS THE 16.22 REPORT

- Magistrate Receives Report: For a newly ordered report, the interview and report must be completed and received by the Magistrate within 96 hours of the order (or 30 days of the order if the defendant is out of custody).
- The Magistrate must review the 16.22 report.
 - » The Report must contain:
 1. A description of the procedures used in the interview and collection of information; and
 2. Expert's observations pertaining to:
 - a. Whether the defendant has MI or IDD;
 - b. Whether the defendant may be incompetent; and
 - c. Any appropriate or recommended treatment or service.

STEP 6: DISTRIBUTION OF THE 16.22 REPORT

Whether the Magistrate elects to use a previous report or a new report,

- The Magistrate must send a copy of the 16.22 report to the following stakeholders:
 - » Trial Court
 - » Prosecutor's Office (County or District Attorney's Offices, or both)
 - » Defense Counsel
 - » Sheriff (or other person that is responsible for the defendant's medical records while they are in custody)
 - » Personal Bond Office/ Director of Pretrial Supervision Office.
- The Magistrate should send a copy of the report to:
 - » The County or District Clerk for inclusion in the case file and recording; the clerk then uses the reports to report to the Office of Court Administration (OCA).

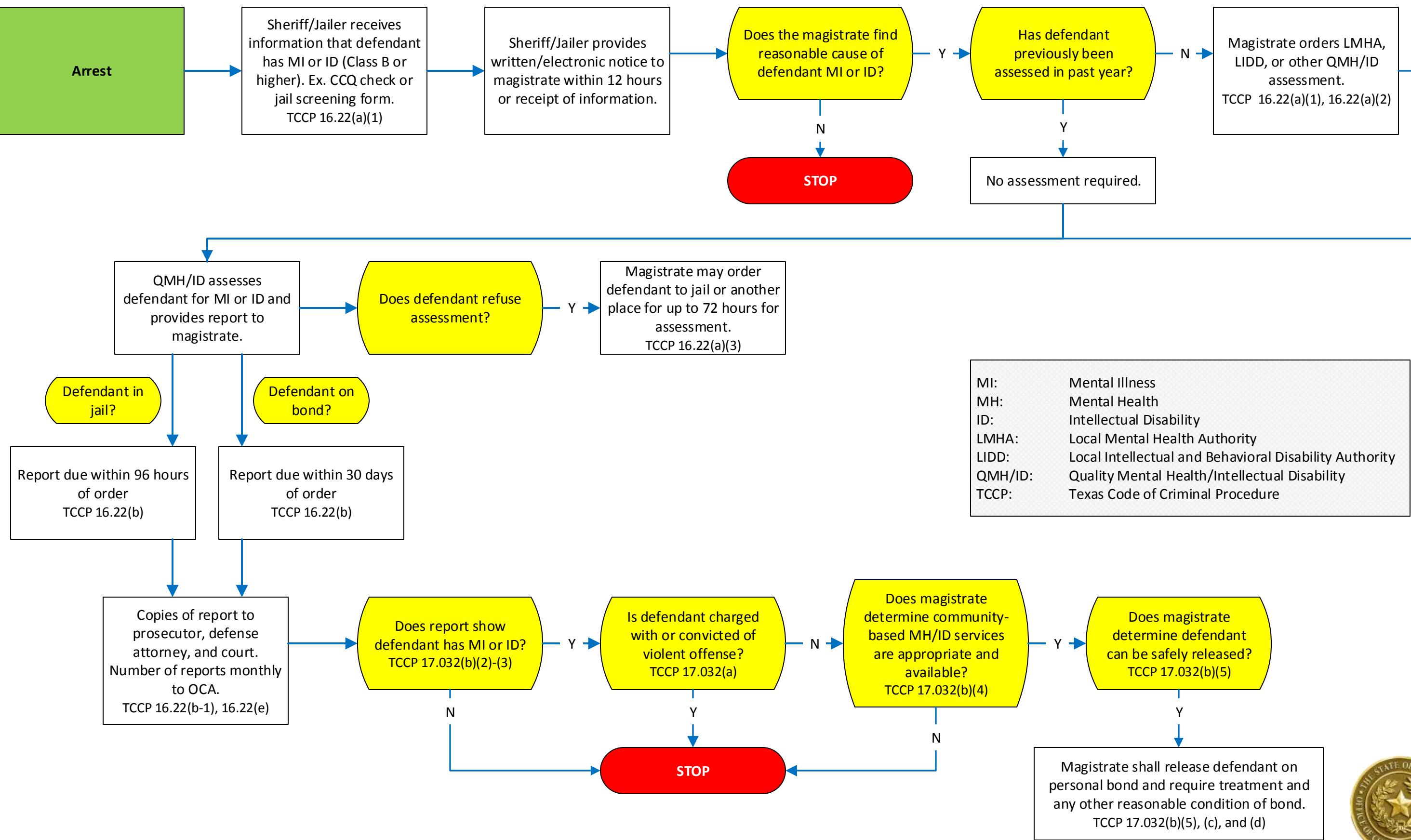
STEP 7: TRIAL COURT USES & CONSIDERATIONS OF 16.22 REPORT

The Court can use the results of the 16.22 report for a variety of purposes, including:

- Considering a mental health personal bond pursuant to CCP art. 17.032. CCP art. 16.22(c)(1).
 - » *Note that MH personal bond is required in certain circumstances under CCP art. 17.032(b) unless good cause shown otherwise.*
- Resuming or initiating competency proceedings under CCP art. 46B. CCP art. 16.22(c)(2).
- Consideration of 16.22 report during penalty phase as a part of the pre-sentence investigation report, or in imposition of conditions of a community supervision program. CCP art. 16.22(c)(3).
- Referring the defendant to a specialty court or docket. CCP 16.22(c)(4).
- Release on bail and transfer of individual to a civil court for court-ordered outpatient mental health services (regardless of competency status) CCP art. 16.22(c)(5).
- Appointment of defense counsel. CCP art. 26.04.
- Specifically tailored bond conditions. CCP art. 17.032.

Post-adjudication: If an individual is remanded to the custody of TDCJ then the 16.22 report must be included in the individual's pen packet. Any other mental health records, screening reports, or similar information must also be included.

Screening/Assessment for Arrested Defendant with MI/ID



Screening Form for Suicide and Medical/Mental/Developmental Impairments

County:	Date and Time:	Name of Screening Officer:
Inmate's Name:	Gender:	DOB: If female, pregnant? Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/>
Serious injury/hospitalization in last 90 days? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
Currently taking any prescription medications? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, what:		
Any disability/chronic illness (diabetes, hypertension, etc.) Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
Does inmate appear to be under the influence of alcohol or drugs? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
Do you have a history of drug/alcohol abuse? If yes, note substance and when last used		
*Do you think you will have withdrawal symptoms from stopping the use of medications or other substances (including alcohol or drugs) while you are in jail? If yes, describe		
*Have you ever had a traumatic brain injury, concussion, or loss of consciousness? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe:		
*If yes, Notify Medical or Supervisor Immediately		
<i>Place inmate on suicide watch if Yes to 1a-1d or at any time jailer/supervisor believe it is warranted</i>		
YES NO "Yes" Requires Comments		
IF YES TO 1a, 1b, 1c, or 1d BELOW, NOTIFY SUPERVISOR, MAGISTRATE, AND MENTAL HEALTH IMMEDIATELY		
Is the inmate unable to answer questions? If yes, note why, notify supervisor and place on suicide watch until form completed.		
1a. Does the arresting/transporting officer believe or has the officer received information that inmate may be at risk of suicide?		
1b. Are you thinking of killing or injuring yourself today? If so, how?		
1c. Have you ever attempted suicide? If so, when and how?		
1d. Are you feeling hopeless or have nothing to look forward to?		
IF YES to 2-12 BELOW, NOTIFY SUPERVISOR AND MAGISTRATE. Notify Mental Health when warranted		
2. Do you hear any noises or voices other people don't seem to hear?		
3. Do you currently believe that someone can control your mind or that other people can know your thoughts or read your mind?		
4. Prior to arrest, did you feel down, depressed, or have little interest or pleasure in doing things?		
5. Do you have nightmares, flashbacks or repeated thoughts or feelings related to PTSD or something terrible from your past?		
6. Are you worried someone might hurt or kill you? If female, ask if they fear someone close to them.		
7. Are you extremely worried you will lose your job, position, spouse, significant other, custody of your children due to arrest?		
8. Have you ever received services for emotional or mental health problems?		
9. Have you been in a hospital for emotional/mental health in the last year?		
10. If yes to 8 or 9, do you know your diagnosis? If no, put "Does not know" in comments.		
11. In school, were you ever told by teachers that you had difficulty learning?		
12. Have you lost / gained a lot of weight in the last few weeks without trying (at least 5lbs.)?		
IF YES TO 13-16 BELOW, NOTIFY SUPERVISOR, MAGISTRATE, AND MENTAL HEALTH IMMEDIATELY		
13. Does inmate show signs of depression (sadness, irritability, emotional flatness)?		
14. Does inmate display any unusual behavior, or act or talk strange (cannot focus attention, hearing or seeing things that are not there)?		
15. Is the inmate incoherent, disoriented or showing signs of mental illness?		
16. Inmate has visible signs of recent self-harm (cuts or ligature marks)?		
Additional Comments (Note CCQ Match here):		
Magistrate Notification Date and Time: Electronic or Written (Circle)	Mental Health Notification Date and Time:	Medical Notification Date and Time:
Supervisor Signature, Date and Time:		

County Jail

Inmate Mental Condition Report to Magistrate

NAME _____ OFFENSE _____

ARRESTING AGENCY: _____

BOOKING OFFICER _____ BOOKING TIME _____ DATE _____

The above inmates may have mental health issues based on:

- Observation of law enforcement officer at time of arrest
- CCQ return show possible match
- Self admission by inmate at booking
- Subject is violent and appears to be a danger to themselves or others
- Medical evaluation by Emergency Room or other Medical Professional
- Previous arrest/medical records of the jail
- Observation of Jail Staff
- No Indication/No Notification Made

Details: _____

As required by law, this notification is made to the magistrate in reference to an observation or report of possible mental illness by the above listed means. It is required within 12 hours after receiving credible information of reasonable cause to believe that a defendant committed to the Sheriff's custody: 1) Has mental illness 2) Is a person with mental retardation or 3) the observations of the defendant's behavior immediately before, during and after the defendant's arrest and the results of any previous assessment of the defendant for mental illness. (Art. 16.22 (a))

MAGISTRATE SIGNATURE: _____

MAGISTRATE NOTIFIED AT _____ **ON** _____ **BY** _____
(Fax-Email-Direct)

OFFICER SENDING NOTIFICATION: _____

San Patricio County Jail

Inmate Mental Condition Report to Magistrate

NAME: _____ OFFENSE(S): _____

ARRESTING AGENCY: _____

BOOKING OFFICER: _____ BOOKING TIME: _____ DATE: _____

The above inmate may have mental health issues based on:

CCQ return show possible match Client ID _____
LMHA _____
Phone _____

- * Observation of law enforcement officer at time of arrest
- * Self-admission by inmate at booking
- * Subject is violent and appears to be a danger to themselves or others
- * Medical evaluation by Emergency Room or other Medical Professional
- * Previous arrest/medical records of the jail
- * Observation of Jail Staff
- No Indication/No Notification warranted (make sure to check)

(If * box checked – should put all details for magistrate)

* Details: _____

As required by law, this notification is made to the magistrate in reference to an observation or report of possible mental illness by the above listed means. It is required within 12 hours after receiving credible information of reasonable cause to believe that a defendant committed to the Sheriff's custody: 1) Has mental illness 2) Is a person with an intellectual disability or 3) the observations of the defendant's behavior immediately before, during and after the defendant's arrest and the results of any previous assessment of the defendant for mental illness. (Art. 16.22 (a))

LMHA NOTIFIED AT _____ ON _____ BY _____ NOT NOTIFIED _____

SUPERVISOR NOTIFIED - BADGE # _____ AT _____ ON _____ BY _____

MEDICAL NOTIFIED - NURSE _____ AT _____ ON _____ BY _____

MAGISTRATE NOTIFIED AT _____ ON _____ BY NAME _____ BADGE # _____

MAGISTRATE SIGNATURE: _____

16.22 EVALUATION ORDERED BY MAGISTRATE - YES _____ DATE _____ NO _____

STATE OF TEXAS § IN THE SAN PATRICIO COUNTY
VS. § JUSTICE COURT, PCT. _____

DEFENDANT § SAN PATRICIO COUNTY, TEXAS

**ORDER FOR MH/ID EVALUATION, COLLECTION OF INFORMATION, AND REPORT
REGARDING MENTAL ILLNESS AND/OR INTELLECTUAL DISABILITY**

On _____, 20_____, Defendant appeared before me as a magistrate on the offense(s) of 1. _____ 2. _____ 3. _____ .

The court **FINDS** there is reasonable cause to believe that Defendant has a mental illness or is a person with an intellectual disability.

- Interview Defendant and otherwise collect information regarding whether Defendant has a mental illness as defined by Health & Safety Code Sec. 571.003, or is a person with an intellectual disability as defined by Health & Safety Code Sec. 591.003, including if applicable, information obtained from any previous assessment of Defendant and any previously recommended treatment or service; **and**
- Provide a written report of the interview and other information collected on the form approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments within 96 hours if Defendant is in custody, otherwise within 30 days. The magistrate must provide copies of this report as required by Code of Criminal Procedure Art. 16.22(b-1).

If Defendant refuses to submit to the interview, Defendant is **ORDERED** to submit to the interview at _____ for _____ (not to exceed 72) hours.

____ The court ORDERS _____ to submit a copy of the Collection of Information Form for the evaluation that was performed on the above Defendant within the last 12 months.

ISSUED AND SIGNED on _____, 20____.

Judge / Magistrate _____
Justice of the Peace, Precinct _____
San Patricio County, Texas

Print name

Order # _____

STATE OF TEXAS

§

IN THE SAN PATRICIO COUNTY

VS.

§

JUSTICE COURT, PCT. _____

§

SAN PATRICIO COUNTY, TEXAS

CERTIFICATE OF COMPLIANCE

I, _____, certify that a written report as required by Article 16.22(b), Texas C.C.P., has been submitted to the Magistrate in compliance with the above stated Order for Examination on this the _____ day of _____, 20____.

I, _____, was unable to complete the assessment due to the above-mentioned individual refusing to cooperate with the interview on the _____ day of _____, 20____.

I, _____, was unable to complete the assessment due to the above-mentioned individual being released from custody before I could complete the interview on the _____ day of _____, 20____.

I, _____, certify that this is a true copy of the Collection of Information and Evaluation that was performed on the above defendant by _____ (entity) on _____ (date).

Person performing examination

Title of person performing examination

[Provider: Append this certificate to your written report]

CERTIFICATE OF DELIVERY BY MAGISTRATE

I, _____, Justice of the Peace, Precinct _____ / Magistrate, certify that a copy of the report has been forwarded to the following individuals as required by Article 16.22(b) and (b)(1), Code of Criminal Procedure, on the following date(s):

() S.P. County Attorney
() S.P. District Attorney
() S.P. County Court at Law 1
() S.P. County Court at Law 2
() S.P. County Clerk
() 36th District Court
() 156th District Court
() 343rd District Court
() S.P. District Clerk
() S.P. County Sheriff
() S.P. County Jail Medical
() Bond or PreTrial Supervision Office
() Coastal Plains Integrated Health
() Attorney for the Defendant _____
() Other _____

____ day of _____, 202____
____ day of _____, 202____

SIGNED this _____ day of _____, 202____.

[Magistrate: Append this certificate to the written report.]

Justice of the Peace, Pct _____ / Magistrate
San Patricio County

**COLLECTION OF INFORMATION FORM FOR
MENTAL ILLNESS AND INTELLECTUAL DISABILITY**

AUTHORITY: Texas Code of Criminal Procedure art. 16.22; Texas Health and Safety Code § 614.0032
Approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI)

SECTION I: DEFENDANT INFORMATION

Defendant Name (*Last, First*): _____ Offense: _____

Date of Birth: _____ CARE Identification # (*If available*): _____ SID or CID # (*If available*): _____

Last Four Digits of Social Security Number: _____

Current County or Municipality of Incarceration: _____ Date of Magistrate Order: _____

SECTION II: PREVIOUS HISTORY

Has the defendant been determined to have a mental illness or to be a person with an intellectual disability within the last year?

Yes No Unknown

Date of Previous Written Report of Collected Information (*if applicable*): _____

Previous Mental Health and/or Intellectual Disability Information (*if available*):

SECTION III: CURRENT INFORMATION

Most Recent Diagnosis(es) and Date(s) (*if available*):

At time of the collection of information or as indicated on the jail screening form for suicide and medical/mental/developmental impairments, is the defendant acutely decompensated, suicidal, or homicidal according to self-report?

Yes- Circle Above No Not Applicable- Reason _____

Other relevant information pertaining to mental health and intellectual disability history and/or previous treatment or service recommendations:

Observations and Findings Based on Information Collected:

Defendant is a person who has a mental illness. Defendant is a person who has an intellectual disability.
 There is clinical evidence to support the belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B, Code of Criminal Procedure.
 Any appropriate or recommended treatment or service:

None of the above.

Procedures Used to Gather Information:

SECTION IV: INFORMATION OF PROFESSIONAL SUBMITTING FORM

Name, Credentials & Organization of Person Submitting Form: _____ Date of Submission: _____

This form and the contents herein may only be shared in accordance with Texas Health and Safety Code § 614.017 and Texas Code of Criminal Procedure article 16.22(f). This form and its contents are otherwise confidential and not subject to disclosure under Chapter 552 of the Government Code.