

## CPCS Screening Checklist for Enhanced Screenings

If you determine that a motion to withdraw a guilty plea is warranted, please email the checklist along with the new trial motion to Maudelcia Tuitt, at ([MTuitt@publiccounsel.net](mailto:MTuitt@publiccounsel.net)). If you are recommending against assignment of counsel, please email the checklist and screening report to Liz Dembitzer, at ([edembitzer@publiccounsel.net](mailto:edembitzer@publiccounsel.net)) This document is not intended to be all-inclusive. It is intended to provide screening attorneys with the minimum areas for investigation.

Please remember, if you are granted a hearing for a new trial motion you should email Liz Dembitzer for assignment of co-counsel unless you have significant trial experience or have taken the Litigating New Trial Motions training in the last three years. Please also remember to consult with Ira Gant ([Igant@publiccounsel.net](mailto:Igant@publiccounsel.net)) in the CPCS Innocence Program prior litigating a motion under G.L. ch. 278A for forensic testing.

Resources for Screenings Attorneys can be found on MyGideon (please email [kmunichiello@publiccounsel.net](mailto:kmunichiello@publiccounsel.net) for a user name and password for access).

The following information should be included in the Screening Memo:

- 1) a summary of the procedural history of the case, including each charge and sentence;
- 2) a factual summary of the case against the client;
- 3) possible defense theories; were viable defenses/motions communicated to the client?
- 4) pretrial investigation conducted by trial counsel;
- 5) pretrial motions litigated and the outcome of those motions;
- 6) an analysis of the plea colloquy and hearing (e.g., was there a factual basis for the plea? Were the elements of the crime, the consequences of the plea and rights the client was waiving communicated to the client? Was client competent?)
- 7) a summary of the client's personal history (age at conviction, mental and physical health, immigration etc.);
- 8) a list of documents that you have reviewed in conducting your screening (including the green sheet);
- 9) an outline of the steps you took in preparing your recommendation, including speaking with the client, the client's family or supporters, prior counsel, investigators, experts and any witnesses;
- 10) a brief description of the issues that the client has asked you to look into and your legal analysis of these claims;
- 11) a brief description of each claim that you have evaluated and your legal analysis on each claim; and
- 12) your final recommendation.

## Documents Checklist

### Trial Court Materials:

The following materials are commonly found in the trial file. If these materials are not located in the trial file, or in materials obtained in your screening, you must either locate them using alternative means or confirm that they never existed.

- Pre-trial discovery materials:**
  - Police reports, interrogation and interviews notes, identification procedures
  - Complaint/indictment
  - Video or audio recordings (911 calls, bodycam, surveillance, interrogations)
  - Telephone information (such as Cellbrite reports)
  - Search warrant applications and returns
  - Crime lab reports and crime lab file
  - Witness statements
  - Discovery notices
- Defense Investigation and work product materials:**
  - Defense investigator reports
  - Expert resumes and reports
  - Defendant's mental health and/or medical records
  - Internal memos
  - Defense counsel's running sheet
- Trial court materials:**
  - All material pleadings including motions for funds and motions to suppress
  - Rule 17 Motions and materials (they may be under a protective order)
  - Complete trial court docket
  - Grand jury minutes
  - Transcripts of arraignment, dangerousness hearing, competency hearing, motion to suppress/dismiss, prior new trial motion hearing, Daubert-Lanigan hearings
  - Competency evaluations
  - Co-defendant's case file

If client had prior new trial motions, please review all material related to the new trial motion, including post-conviction counsel's file

Please indicate here the reason any of the boxes above are unchecked:

## **Information from Individuals**

Please indicate below from whom you obtained case information. If you did not consult with the individuals listed below please indicate why

- The client  
Trial counsel  
Name (s):  
post-conviction counsel  
Name (s)  
co-counsel  
Name (s):  
witnesses  
Name (s):  
investigators  
Name (s):  
experts  
Name (s):

Please indicate here the reason any of the boxes above are unchecked:

## **The Case Running Log**

Please document your work. A case running log should record the progress of the case. It should include the dates and substance of all communications with the client and other relevant individuals, including trial counsel, prior attorneys, client's family members and friends, witnesses, investigators, experts, and the prosecutor. It should record specifically each and every document provided to the client, the means by which they were provided and the date on which they were provided.

The case running log should keep track of court dates and court outcomes, and notes on all documents reviewed. A more detailed research log or case organizing tool may be maintained separately but the running log should make reference to the organizing tool and to all legal issues considered.