

STATE OF MAINE
SUPERIOR COURT
March 20, 2023

STANDING ORDER AUTHORIZING DISSEMINATION OF AND ACCESS TO
RECORDS IN THE CUSTODY OF THE STATE FORENSIC SERVICE

Records obtained or generated by and in the custody of the State Forensic Service for purposes of examinations and evaluations pursuant to 15 M.R.S. § 101-D are confidential pursuant to 15 M.R.S. § 101-C(3), 34-B M.R.S. § 1207 and/or SJC Administrative Order JB 05-20.

Records obtained or generated by and in the custody of the State Forensic Service for purposes of examinations and evaluations pursuant to 15 M.R.S. § 104-A are confidential pursuant to 34-B M.R.S. § 1207 and/or SJC Administrative Order JB 05-20.

Annual reports generated by the institution, forwarded to the Commissioner of the Dept. of Health and Human Services, and presented to the Court pursuant to 15 M.R.S. § 104-A(1) are confidential pursuant to 34-B M.R.S. § 1207 and/or SJC Administrative Order JB 05-20. Acting on behalf of the Commissioner, the State Forensic Service currently presents the annual reports for all persons in the Commissioner's care and custody to the Court at the same time, and the State Forensic Service maintains copies of these reports in its custody.

Upon order of the Court, these records may be released by the State Forensic Service pursuant to 15 M.R.S. § 101-C(3) and/or 34-B M.R.S. § 1207(1)(C), including in the context of a petition for release under 15 M.R.S. § 104-A.

Accordingly, and first, in the event that counsel for Petitioner, counsel for the State, or their authorized agents request State Forensic Service competency or criminal responsibility evaluations prepared pursuant to 15 M.R.S. § 101-D for purposes of a proceeding under 15 M.R.S. § 104-A related to the underlying criminal prosecution that resulted in the Petitioner's commitment to the custody of the Commissioner of the Dept. of Health and Human Services, the State Forensic Service is authorized to provide those evaluations in paper or electronic format. The State Forensic Service should also file previously completed competency and criminal responsibility evaluations with the Court at the time the State Forensic Service files its initial evaluation for purposes of a proceeding under 15 M.R.S. § 104-A.

Second, the State Forensic Service is authorized to provide evaluation reports authored for the purpose of proceedings under 15 M.R.S. § 104-A directly to counsel of record in paper or electronic format to facilitate timely access to those reports in advance of hearings on petitions.

Third, in the event that counsel for Petitioner, counsel for the State, or their authorized agents request annual reports generated by the institution

pursuant to 15 M.R.S. § 104-A(1) that have been previously filed with the Court, the State Forensic Service is authorized to provide the annual reports in paper or electronic format. Further, when the State Forensic Service files with the Court the annual reports for all persons under the Commissioner's care and custody, the State Forensic Service is authorized to provide copies to counsel as follows. The State Forensic Service is authorized to provide copies of all annual reports directly to counsel for the State at the time such reports are filed with the Court. The State Forensic Service is authorized to notify at the time it files the annual reports all known counsel who represent persons for whom a report was generated, and upon confirmation from counsel regarding their current representation of specific persons, to provide copies of the filed annual reports directly to confirmed counsel.

Every person to whom such records are disseminated under this Order shall:

- 1) Maintain the confidentiality of the records;
- 2) Use the records only for the purpose of preparing for and conducting the proceedings under 15 M.R.S. § 104-A and any related appeals or proceedings;
- 3) Not further disseminate the records, except to opposing counsel in or as necessary for proceedings under 15 M.R.S. § 104-A and any related appeals or proceedings, or as authorized by court order;
- 4) Notify the court, in the event of proposed admission into evidence, of the potential need to impound a confidential record; and
- 5) Destroy the records at the expiration of any applicable appeal period after discharge from custody of the Commissioner or after death of the committed individual in such a manner as to maintain the confidentiality of the records, and certify to the court that the records have been destroyed.

This Order may be modified at any time by any Justice of the Superior Court as necessary for a specific request or proceeding.

Dated:

____/s/_____
Honorable Robert Mullen
Chief Justice, Superior Court