Department of State Hospitals – Napa

Re: [LAST, First Middle]

Court Number:

CII:

Maximum Commitment Date:

This report is pursuant to Penal Code Section 2970 and 2972.

# OPINION

*Individuals must meet all three statutory criteria for PC 2972 renewal.* ***Criterion One****: The patient has a severe mental disorder;* ***Criterion Four****: The patient’s severe mental disorder is not in remission (4A) or cannot be kept in remission without treatment (4B);* ***Criterion Six****: By reason of the severe mental disorder the individual represents a substantial danger of physical harm to others.*

### Pursuant to section 2972 of the Penal Code, it is my opinion to a reasonable degree of medical/psychological certainty, that Mr./Ms. XX should be considered for a renewal of commitment as the data below support that the patient has a qualifying severe mental disorder, which is not in remission or cannot be kept in remission, and that the patient represents a substantial danger of physical harm to others by reason of his/her severe mental disorder. Evidence supporting this opinion includes the following:

*Or*

It is my opinion that Mr./Ms. XX does not meet criteria for renewal of commitment pursuant to section 2972 of the Penal Code. Therefore, it is our recommendation that the District Attorney not petition the court for continued involuntary treatment. Evidence supporting our opinion includes the following:

# IDENTIFICATION DATA

Mr./Ms. \_\_\_\_\_\_\_\_\_\_\_\_\_ is a \_\_\_\_year-old (D.O.B.) male/female who was committed to the California Department of State Hospitals by \_\_\_\_\_\_\_County on [commitment date]. S/he was admitted to Napa State Hospital (NSH) on [admission date] pursuant to PC 2972. His/her controlling offense was*…(include date of offense).*

*Establishment of Original PC 2962 Commitment: [Provide a summary of the PC 2962 alienist reports, diagnostic opinions, rationale for symptoms of qualifying mental disorder as a causal or aggravating factor in the commitment offense, and conclusory recommendations. If multiple evaluators reached differing diagnostic opinions, identified different symptoms, and/or offered differing violence risk formulations and conclusory opinions, then be explicit in describing these differing opinions.]*

*OR*

*I was unable to locate the original*

**SOURCES OF INFORMATION**

In preparation for this report, I reviewed charging documents, police reports, court-ordered evaluations, the nursing and physician’s notes in Mr./Ms. \_\_\_\_\_\_\_\_\_\_ medical, other records as available, and consulted with the members of his/her treatment team. The sources of information upon which I relied to inform my opinion are cited within this report. Should additional information become available for review, I reserve the right to adjust my findings accordingly.

**NOTIFICATION OF PURPOSE/LIMITS OF CONFIDENTIALITY**

To prepare this report, I interviewed Mr./Ms. \_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_ spanning a total of \_\_\_\_\_ minutes. I advised him/her of the non-confidential nature of the evaluation and the purpose of my interview. I informed him/her that I would be evaluating him/her for renewal of PC 2972 commitment and that information from our interview may be used in a report to the Court. I also advised him/her that he/she did not have to speak with me, but I would be reporting my findings to the Court stating my opinion regardless of his/her participation in the interview with me. He/She expressed an understanding of the purpose and non-confidential nature of the evaluation and agreed to participate.

OR

Mr./Ms. \_\_\_\_\_\_\_\_ declined to participate in interview for this evaluation despite my reasonable efforts to educate and solicit his/her participation on \_\_\_\_\_\_\_. Therefore, information, conclusions, and opinions drawn throughout this report are limited to review of the available records and consultation with the patient’s treatment team. I considered the available information, including the limitations of this information due to Mr./Ms. \_\_\_\_\_\_ declination of participation, and determined that there was sufficient evidence upon which to base an opinion of renewal pursuant to PC 2972 at this time ( American Psychological Association, Ethical Principles of Psychologists and Code of Conduct, Section 9.01[a], 9.01[b], 9.01[c]).

# DSM-5-TR Diagnosis

*List Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5) diagnoses*

# Current Major Physical Problems

*List any physical or medical condition that is likely to affect the individual’s behavior, functioning, mental disorder or risk of dangerousness.*

*Please address the status of the medical condition (stable/controlled) and on what medications.*

**Current Medications**

*List all routine (psychotropic) medications with appropriate dosages.*

# FORENSIC QUESTION

Please note that, of the six statutory criteria necessary for an initial PC 2962 commitment, only three are relevant for renewal of a PC 2972 commitment. Only these pertinent three criteria, retaining the original numbering laid out in the statute, will be addressed within this report.

**Criterion One: The patient has a severe mental disorder (Yes/No)**

*Please review whether or not the patient meets criteria for a severe mental disorder as defined by Penal Code section 2972 “An illness or disease or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgement; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely.”*

*For the purpose of PC 2972 criteria, psychotic spectrum disorders, mood disorders and pedophilia count as a severe mental disorder but the following do not: personality disorders, adjustment disorder, epilepsy, intellectual disability, additional, substance induced disorders and abuse or intoxication of substances.*

*The qualifying disorder must be the same diagnosis which established the original PC 2962 commitment. However, diagnoses which are functionally similar may qualify. For example, if the patient was committed under a diagnosis of Schizoaffective Disorder but you render a diagnosis of Schizophrenia, you should highlight the symptomatic similarities such that you are relying upon the same symptoms which established the original PC 2962 commitment. The patient cannot be renewed under a disorder which was not the basis of the original PC 2962 commitment (People v Torfason, 2019). If the multiple PC 2962 evaluators reached differing conclusions such that it is unclear which diagnosis was the basis of the original commitment, then just identify which disorder you opine is present and defer to the trier of fact to whether it meets the statutory criteria.*

**Criterion Four:** **(A) The patient’s severe mental disorder is not in remission (Yes/No)**

**-- OR --**

**(B) The patient’s severe mental disorder cannot be kept in remission without treatment (Yes/No)**

*(4A) The patient’s severe mental disorder is not in remission: Address the current status of psychiatric symptoms. Specifically indicate if they are in remission or not.*

* *“Remission” is statutorily defined as, “Overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support.” (PC 2962 Section (3)).*
* *Focus on evidence (direct observations, self-report and/or documentation) of active symptoms that were one of the causes of, or an aggravating factor in, the commission of the crime for which they were incarcerated.*
* *Residual symptoms, negative symptoms or symptoms unrelated to the cause/aggravating factor may still be present when a patient is “in remission.”*

*(4B) The patient’s severe mental disorder cannot be kept in remission without treatment: “Cannot be kept in remission” is statutorily defined as being met if any of the followed occurring within the previous year:*

1. Was physically violent (except in self-defense);
2. Made a serious threat of substantial physical harm upon another so as to cause the target of the threat to reasonably fear for his/her safety or the safety of his/her immediate family;
3. Intentionally caused property damage;
4. Did not voluntarily follow his/her treatment plan as a reasonable person would.

* “A reasonable person, whose mental disorder can be kept in remission with treatment, must, at a minimum, acknowledge if possible the seriousness of his mental illness and cooperate in all the mandatory components of his treatment plan.” (People v. Beeson)
* Patient should (if possible) acknowledge the possible seriousness of his/her mental illness (illustrated in FRPP, self-report and/or other documentation such as group participation).
* Patient must comply with all mandatory components of treatment plan. Focus on treatment directly relevant to the control of the overt signs and symptoms of the severe mental disorder defined in Criterion 1.
* Compliance with core treatment groups. Based on the individualized conceptualization of each patient’s current treatment needs; focus on groups/treatment directly relevant to the treatment of factors that served as a cause/aggravation of the commission of the crime. Address the individual’s compliance with (or, adherence to): psychotropic medications, core treatment groups, and/or individual therapy.
* This section may include review of mandatory treatment groups, IMO status, monitoring requirements.

**Criterion Six: By reason of the severe mental disorder the individual represents**

**substantial danger of physical harm to others Yes/No**

*You must incorporate the use of a structured violence risk assessment procedure (i.e., HCR-20v3 or commensurate; People v. Jenkins, 2023) to inform your violence risk formulation. It is possible that your violence risk assessment procedure may identify the patient is dangerous due to factors other than the qualifying mental disorder identified in Criterion A. If this occurs, be explicit in identifying the factors driving violence risk and differentiate these from the statutory requirements.* ***The statute requires that the patient be a substantial danger of physical harm to others due to the qualifying mental disorder identified in Criterion 1 of the original PC 2962 evaluations****. Violence risk formulations should include detailed explanation on the link between the qualifying severe mental disorder, continued signs and symptoms of the qualifying severe mental disorder, including any similarities to those which were causal or aggravating to the commitment offense, or link between likely resurgence of symptoms if the qualifying severe mental disorder cannot be kept in remission without treatment, and future dangerousness if released unconditionally.*

# RECOMMENDATIONS

It is the opinion of the undersigned that Mr./Ms. XX should be considered for a renewal of commitment pursuant to PC 2972.

Assessment of Mr./Ms. XX’s readiness for discharge and the degree to which he/she can be safely and effectively treated on an outpatient basis is ongoing and will be reviewed in a separate report when appropriate.

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| [Title] |

**The following personnel, who are not currently treating this individual, administratively reviewed this report:**

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| Raja Dutta, M.D., or her Designee |
| Medical Director |

cc: Health Information Management Department, Unit Chart, Program File, CONREP