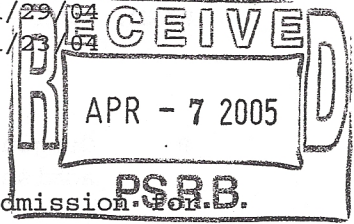


OREGON STATE HOSPITAL
REPORT OF ORS 161.370 EVALUATION

04-7199
SWM

NAME: GIFFEN, Todd Michael
OSH#: 70380
WARD: 50H - FETS

DATE OF REPORT: 11/29/04
DATE OF EVALUATION: 11/23/04



DOCKET NUMBER: 220411806

IDENTIFYING DATA: This is the first Oregon State Hospital admission for Mr. Todd Michael Giffen, a 19-year-old single white male who was born on March 13, 1985. He is charged with Menacing/Domestic Violence (a Class A misdemeanor) and Harassment/Domestic Violence (a Class C misdemeanor) under docket number 220411806 in Lane County Circuit Court. He was admitted on June 30, 2004, pursuant to Oregon Revised Statute (ORS) 161.370, after having been found unfit to proceed. The order was signed by the Honorable Cynthia D. Carlson on June 28, 2004.

INFORMATION RELIED UPON: The defendant was evaluated in a clinical interview which lasted approximately two hours and 20 minutes and occurred on November 23, 2004, at the Oregon State Hospital Forensic Evaluation Service. Present during 60 minutes of that evaluation was Patty Frasier, MS, psychological trainee, as an observer. The defendant was advised at the start of the interview of the limitations on confidentiality associated with this forensic evaluation and chose to proceed.

Mr. Giffen was able to explain that the right to remain silent meant that he did not have to talk to the evaluator. He understood his right to either speak with his attorney before the evaluation if he wanted to or to have him present at the evaluation as well as his right not to answer certain questions if he did not want to. He understood the nonconfidentiality of the current evaluation, due to its court-ordered nature.

Records reviewed for this report included:

1. Lane County court documents, including an Affidavit of Probable Cause dated June 18, 2004, and a charging document dated June 21, 2004
2. Springfield Police Department reports regarding the instant offense on June 18, 2004
3. Law Enforcement Data System (LEDS) criminal history sheets
4. Lane County Jail mental health records
5. A report by Rebecca S. McAlexander, MA, a mental health specialist with Lane County Corrections, dated June 23, 2004
6. Lane County Mental Health Center records from March 16, 2004, until September 13, 2004
7. Mercy Medical Center emergency room records from February 10, 1998, until February 11, 1998

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8. Oregon State Hospital record for the current inpatient psychiatric admission

BACKGROUND INFORMATION/REASON FOR ADMISSION

SUMMARY OF RECORDS/HISTORY OF PRESENT ILLNESS: The defendant, Mr. Todd Michael Giffen, was admitted to a maximum-security unit (Ward 48C) of the Oregon State Hospital on June 30, 2004, from the Lane County Jail, where he had been incarcerated since his arrest on June 18, 2004.

Available Springfield Police Department reports indicate that on June 18, 2004, the defendant reportedly was "upset" about the dinner his grandmother had made and became "very angry," throwing a fan box across the room. He also reportedly tipped over chairs and threw some pillows off of the sofa; then went to his bedroom and came back out with a 13-inch knife in his right hand. He allegedly held the knife over his right shoulder "with an overhand grip." He is alleged to have grabbed his grandmother's right wrist and to have pulled her closer to him and was quoted as stating it was "time for you to die ...". The grandmother reportedly was able to get away and call the police. Police reports indicate that the defendant had lived with his grandmother and grandfather for the past six years. The grandmother reported to police that he "has had many mental issues and was seeing a psychiatrist at White Bird by the name of Mary." She also reported that the defendant had been "hitting her and pushing her around the house for at least two months." She stated that she "does not want him back and he should be put away in a mental hospital forever." By the time police arrived the defendant had reportedly barricaded himself in his room, and officers had to kick down the door in order to arrest him. When taken into custody, Mr. Giffen reportedly would not talk to the officers or answer any questions at the time of arrest as well as during his booking at the jail.

The defendant's grandmother has reported to several evaluators that during the four days prior to his arrest, Mr. Giffen shut himself in his bedroom, laid on his bed, would not eat, and cried uncontrollably. She also described him as "fixated on knives."

Available Lane County Jail mental health records describe the defendant as "hostile" and "aggressive" in the jail with "unpredictable anger," such that he was on a two-officer escort when he needed to be moved. He was also noted to have been "despondent" since his arrest, reportedly standing in one place for six hours, being very slow to answer questions, staring at the floor without blinking, avoiding eye contact when approached, and appearing to respond to internal stimuli. Additionally, the defendant had not eaten since his arrest on June 16, 2004. Although he denied an intent to commit suicide, he reported possible suicide plans, including "not drinking water, throwing myself off something to break my neck ... but they'd all be ineffective."

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A letter to defense counsel by Rebecca McAlexander, dated June 23, 2004, indicates that the defendant was seen by that examiner at the Lane County Jail on June 19, 2004, at which time he presented with increased latency of verbal responses, behavioral evidence of attention to internal stimuli, and pressured speech. Ms. McAlexander noted collateral reports of 'recent bizarre, disorganized, violent, and assaultive behavior. She offered diagnostic impressions of "psychosis, schizophrenia, and personality disorder." She also noted that the defendant had reportedly been "catatonic and nonresponsive" in court and stated that it was unclear whether he was "despondent and catatonic or merely uncooperative." Ms. McAlexander opined that the defendant was unfit to proceed in court and recommended hospitalization for further evaluation and treatment.

CRIMINAL HISTORY: This is the first adult arrest for this 19-year-old. A history of involvement with the juvenile legal system is suggested at some time in his past of unclear extent and duration.

PAST PSYCHIATRIC HISTORY: The defendant reports problems with depression dating back to the age of 11 or 12, for which he participated in counseling for a year or two with Happy Shaw Trapp and notes that he was prescribed Zoloft and Prozac in the past. He also reported a diagnosis of an anxiety disorder at Sacred Heart Hospital in Eugene and notes counseling with Lane County Mental Health Center and White Bird Clinic in Eugene, where he was treated with antidepressant medication (Prozac). He noted that under the Oregon Health Plan he was originally prescribed 20 mg of Prozac in November 2003 and that this medication had been increased to 30 mg by the Lane County Mental Health Center in approximately March 2004. The defendant reported that posttraumatic stress disorder (PTSD) was what his "counselor on the outside" thought his problem was. He stated, "I think I was abused pretty bad." He also reported a family history of ADHD in his brother and sister on his mother's side as well as a history of "probable bipolar" disorder in his mother. The defendant also reported a history of a diagnosis of attention deficit hyperactivity disorder (ADHD) with treatment with Ritalin in the 4th and 5th grade. He noted that "other people said" that he did better when taking the Ritalin.

Available Lane County Mental Health Center records indicate that the defendant had been seen in counseling at the White Bird Clinic since February 2004, seeing Merrie Sennett, MA, for individual counseling. It was reported that approximately one year prior to beginning outpatient counseling at White Bird Clinic that the defendant used to be outgoing. He was also noted to have been previously diagnosed with ADHD, to have mood swings, and to have been abused by several people, including his father and former stepmother. It was noted that he was not employed, had no income, and might lose his Oregon Health Plan Plus benefits on April 4, 2004.

Mr. Giffen was seen at the Lane County Mental Health Center on March 16, 2004, and March 31, 2004, following a referral for psychiatric

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medications on March 9, 2004, by the White Bird Clinic. He was seen by a nurse practitioner who increased the Prozac, prescribed by the defendant's primary care provider, from 20 mg in the morning to 30 mg in the morning. When Mr. Giffen first presented to Lane County Mental Health Center on March 16, 2004, he was described as very quiet, making little eye contact, looking at the floor, and being "consistently reticent to speak." It was also noted that he sometimes did not answer a question or, more often, took a long time to answer. His voice was described as soft, with a low volume and sometimes difficulty to hear, but coherent and rational. He was described as "withdrawn and anxious with minimal social skills." At that time he denied feeling depression but reported anxiety. He did, however, acknowledge suicidal thoughts and the fact that he kept a knife in his room. He was evasive regarding current suicidal ideation but acknowledged not making a no self-harm contract with his counselor at the White Bird Clinic, and he also did not respond to requests to make one at the Lane County Mental Health Center. He acknowledged having made a contract at White Bird Clinic to not harm others, describing homicidal ideation and being "very angry" at his father, who lived in Arizona.

Diagnoses offered by Lane County Mental Health Center included a generalized anxiety disorder, rule out PTSD, rule out major depressive disorder, rule out dysthymia, rule out delusional disorder, and rule out schizophrenia. The defendant kept appointments on March 16, 2004, and March 31, 2004, but following this did not keep his two-week followup appointment and made no further contact with Lane County Mental Health Center. His case was closed on September 13, 2004.

Mercy Medical Center emergency room records reveal an overnight admission on February 10, 1998, for a "potentially unstable" 12-year-old who had run away from home following an altercation with a relative and reported to police officers that he was thinking of killing himself. He was diagnosed with a conduct disorder and suicidal ideation. He was noted to use foul language when talking to the emergency room physician, with no evidence of delusions or hallucinations and no appearance of intoxication. He presented with some refusal to answer questions, a refusal to shower, and a depressed mood. By the day following his admission (February 11, 1998) Mr. Giffen denied suicidal ideation. When his grandmother was contacted, she stated, "I think you guys just jump to conclusions, he would not hurt himself." He was offered treatment with diphenhydramine (Benadryl) and released to the custody of his father for followup outpatient mental health treatment.

SUBSTANCE ABUSE HISTORY: The defendant denies any history of alcohol or drug usage. There are no records to indicate that this is a problem for the defendant.

SOCIAL/DEVELOPMENTAL HISTORY: The defendant, Mr. Todd Giffen, reported that he was born on March 13, 1985, in Cottage Grove, Oregon, and raised

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predominantly by his grandparents and his father and the father's girlfriend and second wife in Springfield and Eugene, Oregon, as his parents divorced when he was an infant. Mr. Giffen reported that he only saw his mother once when he was 11, at which time he lived with her for a few months. He also lived in Arizona with his father until the middle of his 6th grade year. The defendant is the oldest and only natural child of his natural mother and father. He reports having a half brother and a half sister on both his mother's and father's side. He grew up with one younger sister and his stepmother, who is reportedly "manic depressive." He reported a history of "severe abuse," including physical and emotional abuse and neglect by his father, stepmother, and the father's girlfriend; and sexual abuse when he was 4 or 5 by his father's girlfriend's niece. Mr. Giffen reported a family history of alcohol and drug abuse in his mother, a history of "probably bipolar" problems in his mother, and depression and anxiety in his paternal grandmother (the grandmother who raised him).

The defendant reported that his brother and sister on his mother's side were "very close to the same as me." He noted that his sister had been hospitalized psychiatrically, was "very wild," "cuts on herself," and has tried to kill herself and others, including his brother. He also noted that this brother had tried to kill himself by hanging in the past. He reports that both of these siblings have ADHD, and he thought that his sister had schizophrenia. He stated, "All of us have been abused." He further reported that when living with his grandparents, his father would come by and "try to force me to do stuff." He reported one instance where his father "tried to force his way into my room." He told this evaluator that he hated his family when he first came into the Oregon State Hospital and indicated that he was "so upset that they didn't do anything to get me help when I was younger."

The defendant is single, has never been married, and has fathered no children. He reports never having had a girlfriend, and indications are that he was isolative during much of his adolescence, without forming significant friendships.

EDUCATION/EMPLOYMENT HISTORY: The defendant reported completing school only through the 6th grade and indicated that his grades started to go down when he was in the 6th grade. He commented that in the 4th grade he was in a "4/5 split" class and participated in advanced math. He stated that he likes math and science. He also reported being prescribed Ritalin in the 4th and 5th grades for ADHD. It appears, however, that his family was so chaotic and so abusive that this may have been the primary difficulty he was experiencing in school. He further reported that he would go to the library and study for his GED with a teacher from his school in junior high years. He also noted that he saw a counselor "a lot" while he was in school.

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HOSPITAL COURSE: The defendant, Mr. Todd Giffen, was admitted to Ward 48C, a maximum-security unit at the Oregon State Hospital, on June 30, 2004, from the Lane County Jail, where he had been incarcerated since June 18, 2004. Upon admission his chief complaint was "anxiety problems" which he had reportedly had for "a long time." When interviewed by the admitting psychiatrist, Donald Dravis, MD, the defendant presented as disheveled, anxious, and guarded. Throughout the interview Dr. Dravis reported that Mr. Giffen "made no eye contact with this examiner and actively kept his eyes averted or covered (with his hands) for most of the interview." Dr. Dravis further noted that there was no evidence of attention to internal stimuli, hallucinations, delusional thought content, or any other symptoms of a thought disorder. Although suicidal ideation was denied during his admission interview, the defendant does have a history of self-harm ideation and behavior. In summary, Dr. Dravis reported that "his current presentation is quite unusual, marked by significant anxiety, and suggestive of underlying paranoia." Diagnoses at the time of admission were:

Axis I Rule out psychotic disorder, not otherwise specified
Rule out anxiety disorder, not otherwise specified
Axis II Deferred
Axis III Tachycardia
Complaints of chest discomfort
Recent poor oral intake

No medications were prescribed upon admission. Paroxetine (Paxil), an antidepressant, was the first psychotropic medication prescribed on July 9, 2004. Medication was changed to olanzapine (Zyprexa), an antipsychotic and mood-stabilizing medication, following a three-physician review on September 29, 2004. This was maintained as his primary medication throughout this hospitalization with the addition of citalopram (Celexa), an antidepressant medication, on October 11, 2004, to replace the Paxil. Celexa was later replaced with Paxil on November 17, 2004.

The defendant presented at a 72-hour Interdisciplinary Treatment Team (IDT) meeting on July 1, 2004. He agreed to attend the meeting but did not say much, often just shaking his head or making no response when questioned (e.g., "When asked if he sees himself as having any mental problems, he responded by shaking his head from side to side.").

Mr. Giffen was placed on 1:1 precautions from admission until October 21, 2004, because of his self-harm behaviors. After his transfer to a less restrictive unit (Ward 50H) on November 8, 2004, Mr. Giffen began to exhibit suicidal ideation and was therefore put back on 1:1 precautions, which lasted until November 18, 2004. Throughout his time at the hospital he has had to be put in seclusion and restraint on seven different days for self-harm behaviors (such as jumping off the toilet, banging his head against a wall, etc.) and agitation (attacking staff). It is noteworthy

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that at one point Mr. Giffen asked to be put in restraints. When the psychiatrist attempted to discuss less restrictive alternatives, "he responded to this by standing on the commode in his room and proceeding to lean forward (as if to fall)" and was therefore put into restraints.

During his most recent IDT meeting on November 16, 2004, the defendant presented as "labile when talking about his treatment." He stated that he wanted to return to his old ward because "he knew people over there." On the topic of legal matters, Mr. Giffen reported that he "wanted to move forward to take care of his court case." He received individual tutoring on his legal skills materials on a number of occasions. On November 19, 2004, it was noted that he "understands all questions asked of him." Within the last week, ward notes indicate that Mr. Giffen has been attending some groups and also has performed a ward job (setting up for lunch). Although overall these notes indicate a great deal of improvement, the defendant continues to make statements of a suicidal nature. For example, on October 21, 2004, during bingo he stated, "I'll just hang myself," in reaction to being anxious around "strange patients" and not knowing where to sit. Current diagnoses include posttraumatic stress disorder, chronic and delayed; major depression, recurrent with psychotic features; and some question about possible personality disorders ("profound disorder of attachment").

When asked regarding his current hospitalization, the defendant told this evaluator that when he first came in he was doing "not so well." He acknowledged, "This place has been somewhat therapeutic for me" because he can talk more about his abuse and he "can be around people better." He stated that medication has been "a little" helpful for him.

CURRENT MENTAL STATUS EXAMINATION: The defendant, Mr. Todd Giffen, presented upon interview as a tall, thin, young-appearing, 19-year-old, Caucasian male with short brown hair, hazel eyes, and the beginning of beard growth on his face. His dress was casual, and hygiene was adequate. The defendant remained alert, cooperative, and highly motivated for the current evaluation, with intact thinking, an upbeat mood, and stable and congruent affect. Some restlessness and anxiety was noted, with particular discomfort in discussing his history of abuse and mental health symptoms. Mr. Giffen tended to sit straight and back somewhat in his chair with his arms folded, although at times he did relax and lean forward during conversation. He maintained a good focus of attention during the mental status examination and when discussing his legal situation. His speech was clear and audible, although he was somewhat soft-spoken, and normal with respect to rate, rhythm, and flow. Eye contact was appropriate.

The defendant was fully oriented to person, place, time, and purpose. He reported the reason for the current evaluation as, "I'm here to be evaluated ... my 370 evaluation ... to determine if I'm fit to proceed in court." He reported the reason for his admission as, "They thought I had a

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mental illness ... psychosis and depression, not otherwise specified." He correctly stated the current day, date, month, year, day of the week, season of the year, and time of the day as well as the location in which the evaluation was occurring.

Immediate memory, attention, and concentration were intact upon evaluation. Immediately upon presentation, Mr. Giffen was able to recall three words, four digits forward, and up to four digits backward. He additionally spelled the word "world" both forward and backward as an additional test of concentration and cognitive flexibility. He accurately completed a serial seven subtraction task (subtracting 7 from 100 in a series) with no mistakes in five subtractions. He correctly answered four simple arithmetic problems.

Recent and remote memory also appeared intact upon evaluation. The defendant was able to recall two of the three words previously presented after a delay of several minutes without prompting. The third word he recalled with a simple verbal prompt. He also recalled recent meals, activities, and events in the news with a fair degree of detail. He was able to identify the recent and upcoming holidays, the current President, three prior Presidents, the number of weeks in a year, and the states bordering Oregon to the north, south, and east.

Mr. Giffen's reasoning appeared intact for both simple problem-solving and abstract reasoning, although he did appear to be a somewhat concrete thinker. He was able to give categories of similarities in three of four pairs of dissimilar items presented; however, he had "no clue" what the similarity between a poem and a statue might be. He gave an abstract response to one proverb but was unable to give any response to a second proverb. Judgment was mildly impaired when asked about simple social scenarios, reflecting some lack of social awareness. For example, he was able to report that if he found an envelope on the street that was sealed, addressed, and had a new stamp on it, he would "put it in the mailbox." When asked what he would do if he was the first person in a movie theater to notice smoke and fire, he stated that he would "stand up and yell fire to alert the other people," apparently unaware that this might cause a panic.

There were no indications of a current mood disorder but strong indications of a prior depressive disorder. When asked to rate his mood on a scale from 1-10, where 1 equals very depressed and 10 equals very happy, Mr. Giffen estimated that his current mood was a "9, 'cause I'm gonna pass this thing and get out of here." He stated that usually his mood was a "6 or 7" and told this evaluator that he liked it better on Ward 48C than his current Ward 50H. Current problems with sleep and appetite were denied, but previous problems were endorsed. In particular, the defendant reported that he had lost 50 pounds over the course of a year prior to his arrest and noted that he had gained 43 pounds since admission. He stated

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that sometimes he did not "feel like eating" and, in fact, had not eaten for 11 days following his arrest and prior to his admission to Oregon State Hospital. He also noted problems sleeping prior to his admission to the hospital, such that he would stay up for several days. He endorsed early morning awakening and sometimes waking up due to nightmares. This may be a reflection of PTSD, but he would not clearly endorse symptoms related to PTSD.

Apparent withdrawal and anhedonia were noted over a year or more prior to his most recent arrest. Mr. Giffen spent a great deal of time in his room and noted that in 2002 he even stopped talking to people online. Suicidal thoughts were noted to "come up a couple of times a day," usually prompted by social situations where he does not know people (that is social anxiety). He reported that he had gotten off suicide precautions the day before the evaluation and was able to contract for safety. He did not report a current suicidal plan. He noted that he had told the police that he was suicidal when he was 11 or 12 but that this problem was not enough to require hospitalization. Regarding homicidal ideation, the defendant reported that he had been thinking about hurting people in his family ("mainly my dad"), apparently a result of significant anger related to his history of abuse and neglect. He denied current thoughts of harming his grandmother.

DIAGNOSTIC IMPRESSIONS/DISCUSSION: The defendant, Mr. Todd Giffen, presents with a severe history of physical, emotional, sexual abuse, and neglect, consistent with a diagnosis of PTSD. He has presented with social avoidance and withdrawal, restricted affect, sleep disturbance, anger outbursts, and difficulty concentrating since childhood. He even received a diagnosis of ADHD as a child, which may have been more reflective of his traumatic history than an attentional disorder.

Over the past year, the defendant has become increasingly depressed, withdrawn, suicidal, and homicidal, with indications of paranoia. He was diagnosed upon admission to the Oregon State Hospital with a psychotic disorder, not otherwise specified, and an anxiety disorder, not otherwise specified but is currently diagnosed with PTSD and major depression with psychotic features.

Finally, the defendant's instability in affect, self-image, and interpersonal relationships is consistent with a diagnosis of borderline personality disorder. Intense anger, suicidal gestures, and transient, paranoid ideation or dissociation may be a part of this diagnosis as well. He also demonstrates a pervasive pattern of social and interpersonal deficits marked by acute social anxiety associated with paranoid fears, a reduced capacity for close relationships, and odd thinking and behavior at times, consistent with a schizotypal personality disorder. He is seen as having "a severe attachment disorder," and his history is consistent with social isolation and a lack of social relatedness. Reported symptoms of

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depression and anxiety are consistent with this diagnosis as are brief transient psychotic episodes, particularly in response to stress. Psychological testing is consistent with the presence of a personality disorder, suggestive of borderline and/or schizotypal features.

In terms of DSM-IV-TR/ICD-9-CM my diagnostic impressions are as follows:

- Axis I Posttraumatic stress disorder
 Major depression with psychotic features
 Attention deficit hyperactivity disorder, by history
- Axis II Personality disorder, not otherwise specified, with schizotypal
 and borderline features
- Axis III None contributory
- Axis IV Psychosocial and Environmental Problems
 - Involvement with the criminal justice system
 - Unemployment
 - Educational deficits (6th grade education)
 - Disrupted family support system
- Axis V Global Assessment of Functioning (GAF)
 - Current: 60

COMPETENCY TO STAND TRIAL: Regarding competency to stand trial, ORS 161.360 states, "A defendant may be found incapacitated if, as a result of mental disease or defect, the defendant is unable:

- (a) To understand the nature of the proceedings against the defendant; or
- (b) To assist and cooperate with the counsel of the defendant; or
- (c) To participate in the defense of the defendant."

In addition to the above clinical assessment the defendant was also evaluated using a fairly structured interview to more closely look at his ability to aid and assist. The results of this interview are as follows:

UNDERSTANDING THE NATURE OF THE CHARGES AND PROCEEDINGS AGAINST THE DEFENDANT: The defendant has a clear understanding of the misdemeanor charges of Menacing and Harassment against him, including the recognition that misdemeanors are less serious than felonies and understanding that Menacing is a Class A misdemeanor and Harassment is a Class B misdemeanor, with differential potential sentences if convicted. He also clearly understands the possible sentences if convicted, including "jail time, fine, probation, time served," and recognizes that he could serve a maximum time of 18 months. He reported that getting "time served" for these charges (as he has already spent five months incarcerated) is "very

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likely," as "that's what my attorney told me." He gives a reasonable definition of the meaning and conditions of probation, including understanding mental health and medication conditions which would be likely in his case. He stated that he planned on taking medications "unless the doctor says otherwise."

Mr. Giffen also understands the possible pleas and defense strategies he could enter in a court of law, including guilty, not guilty, and guilty except for insanity, as well as the consequences for a defendant so adjudicated. While he felt that the guilty except for insanity plea might apply in his case, due to his PTSD and depression, he indicated that he did not want to use that plea because he did not want to come back and spend more time in the hospital. He reported that he preferred a release agreement with mental health conditions so he could potentially rebuild his life and heal from his significant trauma. At the time of this evaluation the evaluator was not aware that there was a motion filed by the defendant's attorney to use a guilty except for insanity plea; however, Mr. Giffen appeared clearly able to make the choice of whether or not to use this affirmative defense. His reasoning was logical and rational, not influenced by depression or psychotic thinking.

Finally, the defendant understands the role and function of the various participants in a courtroom trial, including himself as the defendant; the adversarial nature of the legal system; and the role of the jury or judge in adjudicating his case. He also recognizes the distinction between a bench trial and a jury trial and his right as a defendant to have a jury trial. It is also noted that the defendant clearly understood his legal rights during the current evaluation as well.

ABILITY TO ASSIST AND COOPERATE WITH COUNSEL: The defendant reported that his attorney's name was David J. Phillips and gave the evaluator his correct phone number, including his extension. He reports that he gets along "fine" with his attorney and has no problems with anything that he has done to date. He believes his attorney is doing a good job for him, feels able to talk to his attorney, and believes that his attorney listens to him. He reported an understanding of his rights if he disagreed with his attorney, indicating that he would first try to talk to his attorney about the disagreement and only if that did not work he "might consider getting a different attorney." Mr. Giffen understands the meaning and importance of confidentiality between himself and his attorney. He also believes that jail personnel raised the issue of his trial competency but recognizes that his attorney filed a motion that led to his admission at Oregon State Hospital. He believes that this was a good thing for him and felt that he currently "understands everything better now." He also remembers most of what happened at the time of his arrest and does not expect any problem in telling his attorney everything he knows and remembers. He was certainly able to cooperate with this evaluator and

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discuss a variety of the events around the time of the instant offense with no difficulty.

ABILITY TO PARTICIPATE IN THE DEFENSE OF THE DEFENDANT: The defendant understands the nature of a plea bargain ("When your lawyer talks to the DA (district attorney) for a lesser sentence in exchange for a guilty sentence ... or sometimes no contest, or sometimes guilty except for insanity"). He also understands the rights he would give up if he entered into a plea bargain and is open to a potential plea bargain which would allow him to be released with "time served" and obtain mental health services in the community. He did indicate that he had "not yet" decided what plea to enter in his case, as he wanted to discuss this matter with his attorney. Mr. Giffen understands the nature of evidence and was able to state potential evidence in his case. He also understands expected courtroom behavior and contempt of court. There are no indications that he would be unable to behave appropriately in the courtroom at the current time. He recognizes his Fifth Amendment right regarding testifying in his own trial. He told the evaluator that he hoped his case would be resolved by getting out of the hospital "real soon" and being able "to get on with my life." The defendant was able to participate in a relevant discussion of strategies and potential outcomes regarding his legal situation without difficulty. He also demonstrated resilience in handling his anxiety for over two hours of interview.

SUMMARY AND PSYCHOLOGICAL LEGAL OPINION: The defendant currently knows and understands his charges, the legal proceedings, potential pleas and outcomes, and the roles of various courtroom participants, including himself. He was able to handle the anxiety that he had regarding his legal matters and social interactions in an interview which lasted more than two hours and during which he participated in a goal-directed and rational discussion of the various options available to him, including the guilty except for insanity plea. He did report his preference not to use that affirmative defense for his misdemeanor charges, for which he felt he might be able to obtain some type of release agreement with probation and mental health conditions. This certainly appeared to be a reasonable strategy in his case. At the current time Mr. Giffen's symptoms of depression appear to be in remission, although he still has some symptoms of PTSD and a personality disorder (personality disorder, not otherwise specified, with schizotypal and borderline features) as well. However, none of these mental diseases interfered with his ability to cooperate during the current evaluation and participate in an extended discussion of legal matters and his particular case. He reports a good relationship with his attorney and a willingness to discuss his case with his attorney and hopefully resolve it in the near future.

In summary, at the time of the current evaluation it appeared that the defendant, Mr. Todd Michael Giffen, understood the nature of the charges and legal proceedings against him and appeared able to assist counsel and

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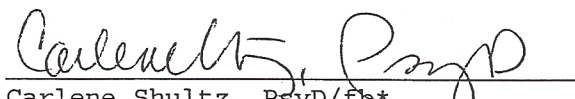
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participate rationally in his own defense. He also demonstrated that he has the capacity to deal with the legal process and the ability to maintain the psychological resiliency needed to endure the distress of a trial.

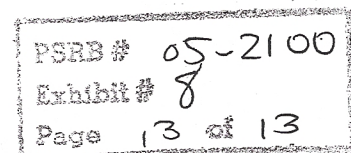
Should the court determine that the defendant is fit to proceed with the legal matters pending against him, the following recommendations may assist him in remaining competent and able to participate meaningfully:

1. Mr. Giffen's symptoms of depression, anxiety (secondary to PTSD), and mood instability appear to be reasonably controlled with his current medications. Therefore, he should continue to receive these medications throughout his legal proceedings. The defendant is currently taking his medications voluntarily and expresses his desire to continue with these medications whenever discharged to the community.
2. It is recommended that a hearing date be expedited in order to maintain the gains that Mr. Giffen has made during his hospitalization at the Oregon State Hospital.
3. It is recommended that any release agreement for this defendant should include ongoing psychotherapy to deal with abuse and trauma issues, regular evaluation of suicidality and thoughts of harming others, and psychotropic medication. He needs intensive long-term outpatient psychotherapy to deal with the significant mental health issues that have resulted from his abusive and unstable family history. Additionally, a structured living situation should be considered, if available, to assist him in separating from family dysfunction and reducing potential risk of the exacerbation of symptoms of PTSD, which may occur in the presence of family members who have some association with his abuse. If he is able to live with his grandparents again, family counseling would also be indicated.


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Licensed Clinical Psychologist
Forensic Evaluation Service
Oregon State Hospital

D. 11/30/04
R. 11/30/04
T. 12/1/04
Rev. 12/2/04

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