

Background information regarding PSRB and insanity acquittees

(derived from materials developed by Monte Radler, JD)

What does it mean to be "not guilty by reason of insanity" [NGRI] in Connecticut and to be "under the jurisdiction of the Psychiatric Security Review Board"?

Under Connecticut law, a defendant who is found not guilty by reason of insanity (NGRI) does not face any criminal penalties for the crime. NGRI is an affirmative defense. This means that the state still has the burden of proving beyond a reasonable doubt that the defendant committed the act. But the defendant has the burden of proving, by a preponderance of the evidence (a lower standard), that at the time of committing the proscribed act or acts, the defendant lacked substantial capacity, as result of mental disease or defect, either to appreciate the wrongfulness of the conduct or to control the conduct within the requirements of the law. [see [CGS 53a-13](#)]

A defendant who is found not guilty by reason of insanity is not sentenced to prison or jail; instead, the defendant (now called an "acquittee") is committed to the custody of either the Department of Mental Health and Addiction Services (DMHAS) or the Department of Developmental Services (DDS), based on the acquittee's primary service need [see [CGS 17a-582\(a\)](#)], for a 60-day evaluation to determine whether the acquittee should be discharged, or confined or conditionally released [17a-582(b-f)].

Unless the Superior Court discharges the acquittee (which is very unlikely) the acquittee is placed under the jurisdiction of the Psychiatric Security Review Board (PSRB) by an order of the Superior Court for a period of time not to exceed the maximum sentence that could have been imposed had the defendant been found guilty.

The PSRB is a state agency and an administrative body appointed by the Governor, consisting of a psychiatrist and a psychologist experienced with the criminal justice system, a person experienced in the process of probation, a member of the general public, an attorney, and a member of the general public with experience in victim advocacy. [see [CGS 17a-581](#)]. The Board was established in 1985. The PSRB has the responsibility to review the status of acquittees through an administrative hearing process and to order the level of supervision and treatment for the acquittee it deems necessary for the "protection of society and the safety and wellbeing of the acquittee." [[CGS 17a-584](#)] The first hearing is held within 90 days of the Superior Court order placing the acquittee under the Board's jurisdiction.

The PSRB decides which hospital an acquittee is to be confined in, and the PSRB also decides when and under what circumstances an acquittee can be released into the community. The PSRB reviews six-month reports on the acquittee and also conducts hearings every two years (at a minimum). The PSRB will also conduct a hearing if and when DMHAS, DDS, the conditional release supervisor, the provider of treatment or the acquittee applies to the Board for a change in status.

Most acquittees begin their term of commitment as patients in the maximum security Whiting facility following their initial hearing before the Board. Since October 1, 2022, the hospital has the authority by statute to transfer acquittees to the enhanced (less than maximum) security Dutcher Hall part of the hospital. Prior to 10/1/22, the hospital had to request transfer from the PSRB, which held an adversary hearing on the matter, and then rendered a decision about the transfer.

From Dutcher Hall, acquittees begin a process of community re-integration, beginning with advances through a level system (from unit restriction up to unsupervised passes on the campus grounds). Once acquittees have achieved the highest level of privilege, they are considered for temporary leave from the hospital to begin engagement with a community provider. A temporary leave plan must be submitted to the PSRB, which holds a hearing, and then renders a decision. TL plans are coordinated between the hospital, and the community providers. Temporary leaves (TLs) generally start with brief visits to participate in group activities at the community facility and progress to overnight stays (starting with one night at a time and working up to several nights per week). Once that process has been successfully completed, the hospital applies for Conditional Release (CR). A CR plan is submitted to the PSRB, a hearing held, and then a decision rendered. If the PSRB approves a CR, the patient is discharged from the hospital, and the monitoring and reporting to the PSRB continue from the community providers. The PSRB may revoke CR based on deterioration of mental condition or violation of conditions of release. [see [CGS 17a-594](#)]

Different classes of patients at Whiting Forensic Hospital

The civil commitment treatment paradigm is based on and directed towards stepping down a patient from an inpatient setting to an outpatient setting as expeditiously as a patient's clinical condition permits. Each significant part of the step down process is subject to clinical judgment, not adversary proceedings.

Discharge of a civil patient from WFH occurs when a patient's clinical condition indicates that 'a hospital level of care' is no longer required as determined by the psychiatrist, treatment team, and, in some cases, the hospital's review committee case manager. The discharge may also occur by order of the Probate Court, releasing a patient from civil commitment. The Probate statutory scheme provides for mandatory at least every two years, but the patient may request hearings every six months. The Middletown Probate Court has a practice of reviewing all commitments at least once per year, and may order reviews more frequently.

For patients under the jurisdiction of the PSRB or the court, however, approval for discharge is required from those legal entities, notwithstanding a determination by the psychiatrist, treatment team, or hospital that a hospital level of care is not clinically indicated [as described below. The most common form of "forensic" admission is by

superior court order for inpatient restoration of competence to stand trial. Their discharge is determined by the superior court's finding related to restoration of competence.