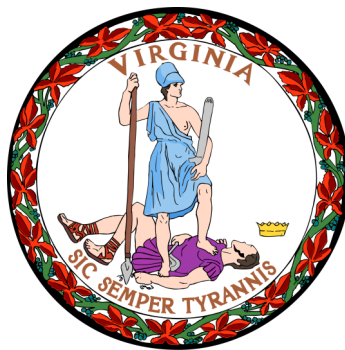


Not Guilty by Reason of Insanity: Reference Manual for Community Services Boards & Behavioral Health Authorities



Developed by Virginia's Department of Behavioral Health and Developmental Services

Office of Forensic Services

January 2016

Introduction

Individuals that have been found Not Guilty by Reason of Insanity (NGRI) are also referred to as insanity acquittees or acquittees because they have been *acquitted* of their charges. NGRI(s), acquittees, and insanity acquittees all mean the same thing. This group of people poses a unique challenge to Virginia's mental health service system because they require attention for clinical and legal needs as a result of their connection to both the mental health and criminal justice systems.

Since the revisions to the Virginia Code for individuals found Not Guilty by Reason of Insanity on July 1, 1992, the Community Services Boards (CSBs)/Behavioral Health Authorities (BHAs) have been required to participate in conditional release planning and, once discharged, to implement the court's conditional release orders. After a period of hospitalization in a Department of Behavioral Health and Developmental Services (DBHDS) facility, Virginia Courts have placed well over a thousand acquittees into the care and supervision of the CSBs/BHAs since that time.

This reference manual is provided to the CSB/BHA staff as a tool for working with acquittees while they are in a DBHDS facility, and while they are on conditional release. This manual is not intended to be a substitute for the policy manual from the DBHDS, entitled *Guidelines for the Management of Individuals Found Not Guilty by Reason of Insanity, 2003 Edition*. We encourage you to take advantage of the forensic expertise available at the DBHDS Forensic Services Office and in each of our DBHDS facilities. A list of these individuals is provided in this reference manual.

The Office of Forensic Services will be offering NGRI Training for CSB/BHA staff in conjunction with the dissemination of this manual. Please contact Sarah Shrum (804-786-9084 or sarah.shrum@dbhds.virginia.gov) at the DBHDS Forensic Services Office if you are interested in training or a copy of this reference manual.

Table of Contents

Section 1: The Insanity Defense & the NGRI Finding

- ❖ The Definition of Insanity_____ Pg. 1
- ❖ The Virginia Insanity Test_____ Pg. 4
- ❖ Sanity vs. Competency_____ Pg. 7
- ❖ The Insanity Defense_____ Pg. 8
- ❖ Outcomes for NGRI Acquittees_____ Pg. 11
- ❖ Virginia NGRI Data_____ Pg. 13

Section 2: The Temporary Custody Period & Outcomes

- ❖ Temporary Custody Evaluations_____ Pg. 19
- ❖ Risk Assessment during Temporary Custody: The AAB_____ Pg. 22
- ❖ The Temporary Custody Hearing and Disposition_____ Pg. 25
- ❖ Criteria for Commitment_____ Pg. 28
- ❖ The Role of the CSB/BHA during Temporary Custody_____ Pg. 29

Section 3: Commitment & the Graduated Release Process

- ❖ Ongoing Court Hearings & Reporting to the Court _____ Pg. 32
- ❖ Graduated Release Process _____ Pg. 37
- ❖ The Risk Management Plan_____ Pg. 42
- ❖ Misdemeanant vs. Felony Acquittees_____ Pg. 44
- ❖ The Role of the CSB/BHA during the Commitment Period_____ Pg. 45

Section 4: Planning for Conditional Release

- ❖ Developing a Conditional Release Plan_____ Pg. 46
- ❖ Sections of a Conditional Release Plan_____ Pg. 50
- ❖ Tips and Overcoming Barriers _____ Pg. 56
- ❖ The Role of the CSB/BHA in Developing the CRP_____ Pg. 58

Section 5: Conditional Release

- ❖ First Steps in Implementing the CRP_____ Pg. 59
- ❖ The Role of the CSB NGRI Coordinator_____ Pg. 61
- ❖ The Role of the CSB Case Manager _____ Pg. 63
- ❖ Required Reports_____ Pg. 65
- ❖ Modifying the CRP_____ Pg. 69
- ❖ Ensuring Acquittee Success on Conditional Release_____ Pg. 73
- ❖ Communicating with the Court_____ Pg. 74

Table of Contents

Section 6: Non-Compliance with Conditional Release

- ❖ Assessing Non-Compliance_____Pg. 77
- ❖ Legal Interventions for Non-Compliance_____Pg. 79
 - Modifications of the CRP_____Pg. 80
 - Revocations (non-emergency and emergency)_____Pg. 81
 - Contempt of Court_____Pg. 84
- ❖ The Role of the CSB/BHA in Managing Non-Compliance_____Pg. 85

Section 7: Unconditional Release

- ❖ Criteria for Removal of Conditions_____Pg. 87
- ❖ Assessing Readiness for Unconditional Release_____Pg. 88
- ❖ The Unconditional Release Process_____Pg. 90
- ❖ Communicating the CSB’s Rationale for UCR_____Pg. 91
- ❖ Requirements for Closing the NGRI Case_____Pg. 92

Section 8: Case Studies

- ❖ Case Study #1: “Mr. K”_____Pg. 93
- ❖ Case Study #2: “Mr. O”_____Pg. 95
- ❖ Case Study #3: “Mr. N”_____Pg. 97
- ❖ Case Study #4: “Mr. J”_____Pg. 99
- ❖ Case Study #5: “Mr. Q”_____Pg. 101

Section 9: Appendices

- ❖ Appendix A: NGRI Process Flow Chart_____Pg. 103
- ❖ Appendix B: Sample AAB & Description of AAB Update Format_____Pg. 106
- ❖ Appendix C: Sample Risk Management Plans_____Pg. 117
- ❖ Appendix D: Conditional Release Plan Template & Samples_____Pg. 123
- ❖ Appendix E: Sample Letters to the Court_____Pg. 151
- ❖ Appendix F: Monthly Report Instructions & Template_____Pg. 159
- ❖ Appendix G: Six-Month Review Instructions & Template_____Pg. 164
- ❖ Appendix H: Sample Unconditional Release Plan_____Pg. 170
- ❖ Appendix I: Model Court Orders_____Pg. 173
- ❖ Appendix J: Relevant Code Sections_____Pg. 186
- ❖ Appendix K: Forensic Coordinator & DBHDS Staff Contact List_____Pg. 197