

**APPENDIX E**

**REPORTS TO THE COURT**

## Reports To The Court

This chapter covers treatment team submissions of annual reports to the court and requests for conditional release or unconditional release. These are not independent evaluations as are the Commissioner-appointed evaluations outlined in Appendix D. No report to the court shall include a recommendation for conditional release, release without conditions, or an opinion that the acquittee no longer needs hospitalization without prior review and approval from the Forensic Review Panel.

The attached outline includes a broad range of background and behavioral data covering treatment and adjustment issues that may be of interest to the court. The sections regarding identifying information and background data serve to review pertinent historical and background information, and should succinctly convey those circumstances that led to the NGRI adjudication. This section will necessarily be longer and more detailed for recent insanity acquittees, but can probably be abbreviated considerably for longer term patients with whom the court may be well acquainted. Do not assume, however, that the court is familiar with a particular individual's background and be sure to review that information of which the court should clearly be aware, such as a notably serious offense or extensive treatment history.

The recent adjustment section should specifically focus on the patient's progress and behavior since the last report to the court. Note strengths as well as problems, treatment compliance, and medication response.

A specific section should be devoted to an assessment of risk of future aggression and should be based on the Analysis of Aggressive Behavior (see [Appendix A](#)). The outline suggests several factors which should be described in the report, including identification of risk factors based on the NGRI offense and other aggressive incidents in the acquittee's history. Consideration of the offense for which the NGRI individual was acquitted is important because it has already been shown beyond a reasonable doubt that the individual committed at least one dangerous act (i.e., the criminal offense for which he or she was acquitted). It is also appropriate to discuss the limitations and imprecision of assessing risk of future aggression, such as the difficulty of generalizing from one environment (e.g., the hospital) to another environment (e.g., the community).

The mental status and diagnostic impression sections, along with the risk of future aggression section, should serve to describe the acquittee's present condition and prognosis.

Based upon background information, clinical, and risk of future aggression assessments and taking into consideration the factors outlined in Virginia Code ' 19.2-182.3, the report should include summary opinions regarding the NGRI individual's need for inpatient hospitalization. Provide clear rationales linking background information, assessment, and the ' 19.2-182.3 factors considered to your summary opinion. [Tables 2.2, 2.3, and 2.4](#) clearly outline the criteria and supporting information needed in order to provide opinions regarding an acquittee's need for inpatient hospitalization, eligibility for conditional release, or eligibility for release without conditions. Consult those tables carefully. Make specific references to the

criteria outlined in the law for the disposition you are recommending.

Opinions regarding mental retardation should be based upon DSM criteria which require deficits in both level of intellectual functioning and adaptive capacity. See also the definition of mental retardation specified in Virginia Code ' 37.1-1, as well as AAMR criteria.

Avoid using "maximum benefit of hospitalization" as a criterion for release from hospitalization. This factor is not included in the criteria for commitment or release outlined in Virginia Code ' ' 19.2-182.2 through 19.2-182.16.

Should inpatient hospitalization be recommended, an assessment of the appropriate level of security (maximum security of Central State Hospital---Forensic Unit vs. civil hospital placement) required during that hospitalization is useful.

Should conditional release be recommended, a complete conditional release plan (see **Chapter 5---Planning For Conditional Release**) should be attached with a description of the community services board's involvement in the development of the plan. Recommendations for either conditional release or release without conditions require prior review and approval by the Forensic Review Panel before submission to the committing court.

This outline is offered as a guide and includes those issues that clinicians should consider or discuss in order to meaningfully inform the court regarding commitment, conditional release, or release without conditions decisions. As noted above, clinicians will choose to emphasize different elements of this outline depending upon the case at hand. As in any forensic report, it is important to use language that is comprehensible to the lay reader and avoids excessive jargon.

See the required language for concluding paragraphs that summarize the recommendations for court disposition within the criteria set forth in Virginia Code.

See the relevant table within the Guidelines for the following reports and dispositions

### **Reports To The Court**

<a href="#">Table 4.2</a>	Annual Continuation of Confinement Report
<a href="#">Table 4.3</a>	Petition for Release by Commissioner

### **Criteria for Dispositions**

<a href="#">Table 2.2</a>	Commitment to Commissioner for Inpatient Hospitalization
<a href="#">Table 2.3</a>	Conditional Release
<a href="#">Table 2.4</a>	Release Without Conditions

## NGRI Report Outline

### I. Identifying Information

- A. Name
- B. Sex
- C. Age
- D. Date of birth
- E. Level of education completed
- F. Judge
- G. Court of jurisdiction
- H. NGRI court case number
- I. NGRI offense(s)
- J. Date of NGRI adjudication
- K. Date of admission
- L. Date of commitment to DMHMRSAS
- M. Date of last annual report to the court
- N. Time frame covered by this annual report
- O. Type of evaluation
  - 1. Annual continuation of confinement hearing report, pursuant to ' 19.2-182.5 (A), or
  - 2. Petition for release by the Commissioner report, pursuant to ' 19.2-182.6 (A)

### II. Background Data

- A. Pre-offense history (education, employment, marital/family status, living situation)
- B. Mental illness and treatment history
  - 1. Psychiatric (dates, medication, treatment, response)

- a. Hospitalizations
    - b. Community treatment
  - 2. Medical (disorders, treatment)
  - 3. Substance abuse (types, frequency, duration, periods of abstinence)
  - C. Criminal history (juvenile history, arrests, sentences, probation, parole, etc.)
  - D. Date and description of NGRI offense
    - 1. From criminal records
    - 2. From pre-trial evaluations of criminal responsibility
    - 3. From acquittee's self-report
    - 4. From any other collaborating sources
  - E. Information used in preparing evaluation
  - F. Information sought, but not obtained (note specific attempts with dates)
  - G. Other (COTREI, psychometric testing, etc.)
- III. Recent Adjustment
- A. Participation in treatment: Include acquittee's perception of mental condition, need for treatment, nature of treatment, and value of treatment
  - B. Medication regimen
    - 1. Response
    - 2. Compliance
  - C. Behavioral strengths
  - D. Behavioral problems/deficits
  - E. Seclusions/special precautions
  - F. Escapes/escape attempts

- IV. Mental Status Examination
  - A. Description of present symptomatology
  - B. Note level of patient cooperativeness, defensiveness, and insight into condition
  - C. Diagnostic Impression
    - 1. Summary of past diagnoses and current diagnoses
    - 2. Describe conditions and comment on discrepancies
  - D. Clearly and specifically describe acquittees current thoughts about any prior delusions, as well as content of any current delusions.
- V. Risk of Future Aggression Assessment
  - A. Summary of aggressive episodes and brief description of each, including recent hospital aggression
  - B. Identification and exploration of any relevant risk factors
  - C. Description of associated treatment and management for each risk factor
  - D. Identification and exploration of supports and strengths related to future adjustment
  - E. Conclusion regarding current risk of future aggression
- VI. Summary Opinions/Recommendations
  - A. Assess mental illness and mental retardation and need for inpatient hospitalization, based on factors described in ' 19.2-182.3. NOTE: A 1992 U.S. Supreme court decision, Foucha v. Louisiana 504, U.S. 71 (1992), ruled that there must be a legal finding of mental illness or mental retardation in order to commit an acquittee to inpatient hospitalization.
    - 1. If inpatient hospitalization is needed, suggest level of security required.
    - 2. If inpatient hospitalization is not needed and acquittee meets criteria for conditional release, suggest conditions needed for an appropriate conditional release plan.
    - 3. If inpatient hospitalization is not needed and acquittee does not meet criteria for conditional release, suggest components needed for an appropriate discharge plan.

- B. Recommendation to court for disposition
1. Commitment (recommitment) to inpatient hospitalization,
  2. Conditional release, or
  3. Release without conditions.

One of the following three summary conclusions shall be used for developing the concluding paragraphs summarizing your final recommendations about court disposition

**CONCLUSION A  
ACQUITTEE MENTALLY ILL OR MENTALLY RETARDED  
AND IN NEED OF INPATIENT HOSPITALIZATION**

Based on my evaluation of Mr./Ms. \_\_\_\_\_, as discussed in this report, it is my opinion that Mr./Ms. \_\_\_\_\_ is mentally ill/mentally retarded and requires inpatient hospitalization at the present time. Taking into account Mr./Ms. \_\_\_\_\_'s current mental condition, psychiatric history, risk of aggressive behavior, amenability to outpatient supervision and treatment, and other relevant information, I believe that if Mr./Mrs. \_\_\_\_\_ is not hospitalized, there would be a significant risk of bodily harm to other persons/himself/herself in the foreseeable future. I do not believe that Mr./Ms. \_\_\_\_\_ can be adequately controlled with supervision and treatment on an outpatient basis at this time. (Although the symptoms of Mr./Ms. \_\_\_\_\_'s mental illness are in/partially in remission, I do not believe outpatient treatment or monitoring would prevent his/her condition from deteriorating to a degree that he/she would need inpatient hospitalization.)

**CONCLUSION B  
ACQUITTEE NOT IN NEED OF INPATIENT HOSPITALIZATION  
BUT A SUITABLE CANDIDATE FOR CONDITIONAL RELEASE**

Based on my evaluation of Mr./Ms. \_\_\_\_\_, as discussed in this report, it is my opinion that Mr./Ms. \_\_\_\_\_ is not in need of inpatient hospitalization at the present time but needs outpatient treatment and monitoring to prevent his/her condition from deteriorating to a degree that he or she would need inpatient hospitalization. Appropriate outpatient supervision and treatment are reasonably available, as discussed in this report. There is significant reason to believe that Mr./Ms. \_\_\_\_\_, if conditionally released, would comply with a reasonable set of conditions. Based on my assessment of Mr./Ms. \_\_\_\_\_'s risk of future aggressive behavior, I do not believe conditional release would present an undue risk to public safety.

**CONCLUSION C  
ACQUITTEE NOT IN NEED OF INPATIENT HOSPITALIZATION  
NOR IN NEED OF CONDITIONAL RELEASE**

Based on my evaluation of Mr./Ms. \_\_\_\_\_, as discussed in this report, it is my opinion that Mr./Ms. \_\_\_\_\_ is not in need of inpatient hospitalization at the present time nor does he or she need outpatient treatment and monitoring to prevent his/her condition from deteriorating to a degree that he/she would need inpatient hospitalization.