

CHAPTER 4

The Privileging Process for Insanity Acquittees

I. Graduated release:

The acquittee management program in the DBHDS is based upon a graduated release approach. This approach is a “demonstration” model of clinical risk management, wherein each acquittee is afforded the opportunity to demonstrate their capability for functioning at increasing levels of community access. The following are guidelines for requesting (i) transfers to less restrictive settings, (ii) increases in levels of privileges, and (iii) release from hospitalization.

- A. Virginia Code § 19.2-182.4.A allows the Commissioner to: (a) make interfacility transfers and treatment and management decisions regarding acquittees in his custody without review by or approval of the court, (b) authorize a temporary pass from the hospital if the pass would be therapeutic for the acquittee, and would pose no substantial danger to others. Passes may not exceed 48 hours. Privileges may only be granted to insanity acquittees who have been committed to the custody of the Commissioner of the DBHDS.
- B. Requests for increased privileges or release from hospitalization for acquittees should be based upon the principle of graduated release; i.e., gradual increases in freedom based on successful completion of the previous, more restrictive level of privileges.
 - 1. In all instances, the acquittee’s current functional level is to be taken into account when less restrictive privileges are recommended.
 - 2. Graduated release prepares acquittees for conditional release by providing a careful, thoughtful progression in transitioning from the maximum security setting of the Forensic Unit to the freedom of community placement.
- C. Goals of the graduated release process
 - 1. Provide acquittees with privileges consistent with their level of functioning and need for security
 - 2. Ensure adequate risk assessment is conducted before granting increased freedom
 - 3. Provide opportunities for acquittees to demonstrate appropriate functioning at various levels of freedom

4. Provide treatment teams with information regarding an acquirtees' ability to handle additional freedom and to comply with risk management plans. This information is critical in considering the appropriateness of conditional release, and whether an acquirtee meets the statutory requirements for conditional release.
 5. Minimize risk to public safety
- D. Options in the graduated release process (see also Chart 4.1)
1. Transfer from Maximum Security Unit of Central State Hospital to a civil unit of a state-operated mental health facility
 2. Escorted grounds privileges, accompanied by facility staff
 3. Unescorted grounds privileges
 4. Community visits, escorted by facility staff
 5. Unescorted community visits, not overnight
 6. Unescorted community visits, overnight, but less than 48 hours
 - * 7. Trial visits for greater than 48 hours.
 - * 8. Conditional release
 - * 9. Release without conditions

*** (Asterisks indicate levels of privilege that require approval by the court of jurisdiction.)**

II. Risk assessment factors considered by the Forensic Review Panel (FRP) and the Internal Forensic Privileging Committees (IFPC): The FRP and the IFPCs base their evaluations of privilege and release requests explicitly on the following risk assessment criteria:

- A. Has the treatment team identified and articulated the factors that increase and/or decrease the probability that the acquirtee will engage in behaviors that present an undue risk to self or others?
- B. Has the treatment team developed a risk management plan that adequately manages the assessed risk?
- C. Is the requested privilege supported by the treatment team's assessment of risk and their plan for risk management?

III. Factors used to determine suitability for less restrictive settings and privileges include:

- A. A recommendation from the treatment team that such a transfer or less restrictive privilege is appropriate.

- B. A review of the offense for which the individual was acquitted by reason of insanity, with particular attention to
 - 1. The nature and seriousness of the offense;
 - 2. Evidence of similar offenses or behavior in the acquittee's past record; and
 - 3. Reports of what the acquittee has said in regard to such behavior, particularly in regard to
 - a. Remorsefulness,
 - b. Acceptance of responsibility for the behavior, and
 - c. Insight into wrongful nature and precipitants of the behavior.

- C. Evidence from the medical records and other sources that the acquittee has sufficient clinical stability to exercise the privilege, and
 - 1. The acquittee has conducted him or herself in an appropriate manner and has not engaged in any activity which could be interpreted as being dangerous to self or others during hospitalization, particularly during the past 90 days, and
 - 2. If granted increased privileges or access to less restrictive settings, the acquittee is not likely to present
 - a. A danger to the community or other clients,
 - b. Risk of escape, or
 - c. Danger to self.
 - d. Acquittees adjudicated NGRI for a sex offense, that would have required registration if convicted, must register with the Virginia State Police sex offender registry (see Virginia Code § 9.1-901, -902). Failure/refusal to register may be cause to deny privileges.

- D. Acquittee's current mental status, including
 - 1. Current thoughts about prior delusions, current delusions and/or hallucinations, NGRI offense, and risk to the general community, identified individuals, family, and/or friends; and
 - 2. Understanding of their mental illness and need for treatment.

- E. Acquittee's involvement in treatment.
1. Assessment of how effectively and completely the acquittee has used the programs recommended by the treating team. For example, if the acquittee has not participated in the treatment and activities programs available, transfer or increased privileges for the purpose of making additional programs available would be seriously questioned.
 2. Compliance with prescribed psychotropic medication treatment.
- F. Rationale for request, including specific treatment goals to be achieved through increased privileges: It is expected that less restrictive privileges will be integrated into the acquittee's treatment plan, and used to facilitate a graduated transition toward conditional release. In certain instances multiple privileges can be part of a single request. Examples of combining privileges include combining escorted community privileges with escorted grounds privileges or unescorted grounds privileges. In certain instances privileges may be skipped, examples include individuals suffering from developmental issues, dementias or other neurocognitive issues that preclude their ability to exercise unescorted community privileges where allowing the acquittee to independently access the community would expose either the acquittee or the public to undue risk.
- G. Risk management plan that addresses both general risk conditions and specific risk factors for the individual acquittee
1. Risk management plans must be individualized based on
 - a. Acquittee's unique risk factors;
 - b. Physical layout of the facility;
 - c. Management practices unique to the facility; and
 - d. Places to be avoided. Specific names and contact information for persons to be contacted if problems arise should be included.
 2. Phase-in periods are useful additions to risk management plans; they can introduce the acquittee to the new privilege in graduated steps. Once a privilege level is approved by the IFPC/FRP, the treatment team has discretion to phase-in the privilege.
 3. The acquittee must sign risk management plans for all levels of privileges.
 4. For community privileges wherein the acquittee will not be accompanied by facility staff, but will be accompanied by family or friends, that family member or friend should sign the risk management plan.
 5. Risk management plans for escorted and unescorted community visits should be coordinated with, and signed by, the appropriate CSB or BHA.

- H. In cases where the acquittee has been previously placed for treatment at a less restrictive unit or received less restrictive privileges, attention is given to the acquittee's behavior and general adjustment, particularly
 - 1. Previous aggressive behavior towards others;
 - 2. Performance with prior privileges (including any prior restrictions on privileges);
 - 3. Previous escape attempts; and
 - 4. Risk of aggression the acquittee might present if an escape did occur.

- I. In cases where the acquittee has had previous visits into the community, or has been conditionally released, attention is given to behavior during those times and compliance with established guidelines and conditions.

- J. Input from appropriate CSB/BHA: The treatment team shall work closely with the appropriate CSB or BHA as the acquittee progresses through the graduated release process.
 - 1. The CSB/BHA(s) may provide input to the treatment team, to the IFPC, and to the FRP during the entire process of graduated release.
 - 2. Collaboration with the CSB/BHA(s) is particularly important when planning and implementing transfer to a different facility, visits to the community, and conditional or unconditional release.

- K. Documentation of personal psychosocial strengths, skills, potentially ameliorating “protective factors”, and assets of the acquittee that may be relevant to consideration for increased privileges.

IV. Guidelines for specific steps in graduated release

A. Transfers from Maximum Security:

In cases where the acquittee is being transferred from Maximum Security at Central State Hospital to another facility, appropriate staff members in the receiving facility shall be involved in the decision-making process.

- 1. All instances of transfer from Maximum Security require the approval of the FRP.
- 2. The Forensic Coordinator from the referring or “sending” facility shall send a referral packet to the Forensic Coordinator of the potential

receiving facility 14 days in advance of the FRP meeting with a request for review and feedback from the potential receiving facility by the date of the Panel review.

3. The Administrative Coordinator for the Panel shall notify the designated receiving facility of the date of the scheduled review by the Panel.
4. The potential receiving facility shall review the referral packet, review other records as needed, and provide written recommendations to the Panel before the Panel review date.
5. If the designated receiving facility objects to the transfer of an acquttee to that facility, written notification of that objection should be forwarded by that facility to the Forensic Coordinator for the sending facility, to the FRP, and to the DBHDS Office of Forensic Services, prior to the Panel review date.
6. The FRP will review the referral packet and any objections from the receiving facility. The sending facility will be notified of the decision.

B. Grounds privileges

1. Requests for escorted grounds privileges, in conjunction with requests for civil transfer, revocation of conditional release, or following return from escape, must be reviewed and approved by the FRP. (The IFPC reviews all requests to the FRP prior to submission to the FRP.) All other requests for either escorted or unescorted grounds privileges must be reviewed by the IFPC and approved by the Committee and the Facility Director.
2. A clear rationale for the request must be included in the referral packet: it is expected that grounds privileges will be an integral part of the treatment plan and used to facilitate the transition to an eventual conditional release.

C. Community visits

1. Requests for escorted visits to the community must be reviewed and approved by the IFPC or the FRP.
2. Requests for unescorted community visits (not overnight) require review and approval by the IFPC and the FRP.
3. Following the granting of unescorted, non-overnight community privileges by the FRP, the IFPC must review and approve any subsequent request for unescorted community visits, up to 48 hours.
4. As with grounds privileges, community visits should be part of a

thoughtful graduated release and an integral part of the treatment plan.

5. Emergency-visits (Visits that include staff escort into the community involving acquittees who have not yet been approved for such a privilege level by the Panel), such as to attend the funeral of an immediate family member, require the prior review and approval of the FRP.
 - a. Treatment teams should immediately contact their Forensic Coordinator, who will then contact the Chair of the FRP with their request and provide a written risk management plan that includes a current risk assessment, mental status interview, and any victim notification requirements.
 - b. Recommendation from the treatment team is required before the Panel will consider such requests.
 - c. The Panel may require appropriate security measures to include, but not be restricted to, the use of physical restraints, security personnel, etc.
6. Trial visits (visits to the community of more than 48 hours) shall be included only in an overall plan for conditional release and, therefore, must be approved by the court as part of conditional release, following review and approval by the IFPC and the FRP.

V. Notification to the Commonwealth's Attorney (§ 19.2-182.4.C) regarding community visits

- A. Virginia Code Section 19.2-182.4.C requires that the attorney for the Commonwealth for the committing jurisdiction be notified in writing of changes in an acquittee's course of treatment that will involve authorization for the acquittee to leave the grounds of the hospital in which he or she is confined.

Specifically, this includes

1. Community visits (escorted by facility staff or unescorted), and
 2. Trial visits (as part of a court approved overall conditional release plan).
 3. Transfers from one DBHDS facility to another, including transfer from the Maximum-Security unit to another unit at Central State Hospital.
- B. After approval from the IFPC, the FRP and the court, if necessary, and prior to implementation of the community visit or trial visit, the Forensic Coordinator shall provide written notification of the approval for the acquittee to leave the grounds of the hospital to the Commonwealth's Attorney for the committing jurisdiction. The Forensic Coordinator should provide a copy of this notification to the DBHDS Office of Forensic Services. See form for Notification

of Commonwealth's Attorney later in chapter.

- C. Implementation of grounds privileges only does not require notification to the Commonwealth's Attorney.

**VI. Roles and responsibilities of the Internal Forensic Privileging Committee (IFPC)
(See also Tables 4.3 & 4.4)**

- A. The role of the Internal Forensic Privileging Committee (IFPC, the “Committee”) includes the following:

- 1. To review and recommend, with Facility Director approval, the following privileges:
 - a. Escorted Grounds
 - b. Unescorted Grounds
 - c. Escorted Community
 - d. Unescorted (48 hour) Community, (subsequent to prior FRP approval of Unescorted (not overnight) Community)
- 2. To ensure the appropriateness of all requests for increases in privileges submitted to the FRP. Before any request is submitted to the FRP, the IFPC must ensure that the treatment team has successfully completed any revisions to the submission that had been recommended by the IFPC. The support of both the IFPC and the treatment team is required before any request for an increase in level of privileges is forwarded to the FRP. The only exceptions to this requirement for support of the request by both the treatment team and the IFPC are:
 - a. When the court has ordered the facility to prepare a conditional release plan or a discharge plan for unconditional release, and the treatment team and/or the IFPC do not believe that the lessening of restrictions is clinically appropriate; or
 - b. When a Commissioner-appointed evaluator (appointed pursuant to § 19.2-182.2, 19.2-182.5, or 19.2-182.6) has recommended that the acqittee is ready for conditional release or unconditional release and the treatment team and/or the IFPC do not believe that the lessening of restrictions is clinically appropriate.

- B. IFPC: Structure and Function

- 1. Each IFPC is composed of at least five (5) members, appointed by the facility director. The membership must include the following:
 - a. Facility director or designee administrator

- b. Medical director, psychiatrist, and Nurse Practitioner
 - c. Forensic coordinator
 - d. Licensed clinical psychologist (if Forensic Coordinator is not a clinical psychologist)
2. The facility director will also appoint an additional member (or members) from the following group: Psychology Director; Nursing Director; Social Work Director; additional psychiatrist or clinical psychologist. Staff from other disciplines may be appointed if approved in advance by the Office of Forensic Services.
3. The following qualifications are required of each IFPC member:
- a. Completion of DBHDS-mandated training in forensics, including Basic Adult Forensic Evaluation, NGRI Management, and Violence Risk Assessment.
 - b. Appropriate clinical experience (clinical staff only)
 - c. Completion of prescribed privilege-granting training activities with the FRP, or other DBHDS-approved entity.
4. The following additional parameters apply to each IFPC
- a. The Chair of the IFPC must be a psychiatrist or clinical psychologist.
 - b. The Patient Advocate assigned to the facility may attend scheduled meetings.
 - c. A quorum of the IFPC is necessary to make a determination regarding any privilege request. A quorum consists of at least three members. A psychiatrist and one licensed clinical psychologist must be present at an IFPC meeting for a quorum to exist.
 - d. An IFPC meeting must be scheduled at least once per week.
 - e. A meeting of the IFPC must be held within 14 calendar days of receipt of a request for review of privileges from a treatment team or from an acquittee. The decision of the IFPC shall be provided to the Treatment Team within 2 working days following the IFPC's review of a privilege request.
 - f. It is the IFPC's responsibility to review the privileges of every insanity acquittee every 90 days and to document its review findings in the acquittee's medical record. (The Office of Forensic Services is to be provided with a summary of each review, every 90 days.)
 - g. IFPCs will develop and maintain centralized files on acquitees. These files will include, at a minimum, the following:
 - (1) Copies of all of the court, hospital and evaluative documents that were provided to the FRP at the initial

request for privileges for an acquittee. This information should include the Temporary Custody evaluations, the Initial Analysis of Risk Report, and the initial FRP privilege request packet, if applicable.

- (2) Privileging documents supporting all subsequent requests to either the FRP or the IFPC, up to and including the current request.
5. A complete set of all privileging documents that are submitted directly to the IFPC for the granting of a privilege level for an acquittee will be provided to the Office of Forensic Services for review and quality assurance purposes, and for archiving for the FRP.
 6. Scheduled meetings
 - a. The Facility Director and the Chair of the IFPC shall establish times.
 - b. The IFPC Chair, or designee, shall disseminate the dates and times of deadlines for submission of requests to be considered at the meetings.
 - c. If the IFPC will not hold a regularly scheduled weekly meeting, the Facility Director and the DBHDS Office of Forensic Services (or designee) shall be notified in advance, by the Chair of the IFPC. If the IFPC fails to convene a meeting due to the inability to convene a quorum of its members, or due to a lack of packets to be reviewed, the Forensic Coordinator (or designee), on behalf of the Chair, will notify the Facility Director and the DBHDS Office of Forensic Services (or designee). When IFPC members are not able to attend a weekly IFPC meeting, they will inform the IFPC Chair of their absence, as soon as possible, either by telephone, in person, via email, or in other written form. If a quorum is not met at any regularly scheduled weekly meeting, a meeting of the IFPC will be convened on an alternate day of the same week.
 - d. If the IFPC does not meet during a given week, an all-day meeting or two partial-day meetings will be scheduled for the following week, as necessary to complete all reviews within the required time frames.
 - e. The Forensic Coordinator is responsible for keeping a calendar record for the Chair of all meetings that are rescheduled.

VII. Roles and responsibilities of the Forensic Review Panel in the privileging process

- A. The Forensic Review Panel (FRP, the “Panel”) is an administrative board established by the Commissioner pursuant to *Virginia Code* § 19.2-182.13 to ensure:

1. Release and privilege decisions for insanity acquittees appropriately reflect relevant clinical, safety, and security concerns
2. Standards for conditional release and release planning of insanity acquittees have been met; and
3. Expert consultation is provided to treatment teams working with insanity acquittees.

B. Authority

1. Virginia Code §19.2-182.13 provides the Commissioner of DBHDS with the authority to delegate any of the duties or powers imposed on or granted to him or her, by this chapter, to an administrative panel composed of persons with demonstrated expertise in such matters.
2. The Division of Forensic Services, Office of Forensic Services, shall assist the Panel in its administrative and technical duties.
3. Members of the Panel shall exercise their powers and duties without compensation, and shall be immune from personal liability while acting within the scope of their duties except for intentional misconduct.

C. Policy

1. Treatment team requests which fall within the categories outlined below in D and E shall be presented to, reviewed by, and approved by the FRP, as described herein, prior to implementation of status change.
2. The Panel shall consider the assessment of risk as a central issue in its decision-making.
 - a. The Panel's function is to assess whether the treatment team has adequately considered the issue of risk.
 - b. It is not the role of the Panel to provide an independent judgment on the issue of risk. Rather it is the role of the Panel to review risk assessments completed by treatment teams, and to recommend modifications to those risk assessments, if necessary.
3. The Panel shall review requests only regarding acquittees who are currently in the custody of the Commissioner (including outpatient temporary custody).
4. It is the policy of the DBHDS that acquittees with active court orders for conditional release who are awaiting placement shall remain under the

supervision of the Panel, with regard to their privileging status.
(Acquittes in this category will be accorded all community access necessary for implementation of the conditional release plan.)

5. Evaluations performed as a result of an appointment by the Commissioner ("Commissioner Appointed Evaluations") do not require review by the FRP prior to submission to the court.

D. Review by the Panel is required for all court-ordered Conditional Release Plans.

1. Whenever a committing court orders that the acquittee's facility and the relevant CSB or BHA develop a conditional release plan for the acquittee, that plan shall be jointly developed by the acquittee's treatment team and CSB or BHA and submitted for review to the FRP.
2. The FRP shall make a recommendation, either approving or disapproving the conditional release plan. Following review by the Panel, the plan shall be submitted to the court of jurisdiction, regardless of whether or not the FRP has approved the plan.

E. Review and approval by the Panel are required for:

1. All requests from treatment teams for:
 - a. Conditional release status in the community, or
 - b. Release into the community without conditions or further court jurisdiction.
2. Certain requests from treatment teams to increase an acquittee's level of privilege and access to the community while in the custody of the Commissioner:
 - a. Transfers to less restrictive units and/or hospitals.
 - b. Additional privileges, in conjunction with transfer from maximum-security hospital placement. Acquittes whose temporary custody occurs at a civil facility must have a packet submitted to the FRP, upon their commitment to the custody of the Commissioner. The packet shall indicate whether or not the acquittee remains appropriate for continued placement in a civil facility and request an appropriate level of additional privilege(s)
 - c. Unescorted community visits, not overnight
3. The Commissioner has delegated the granting of the following privileges to the IFPCs at each DBHDS hospital:
 - a. Escorted Grounds Privileges
 - b. Unescorted Grounds Privileges
 - c. Escorted Community Privileges

- d. Unescorted Community Privileges, up to 48 hours (following prior approval by the FRP of Unescorted Community visits, not overnight.)
 - 4. Transfers between civil hospitals of acquittees (who have already been approved by the FRP for transfer from the maximum security forensic unit at Central State Hospital) for the purposes of proximity to family or access to appropriate treatment resources are not under the purview of the Panel, but are instead handled through the usual process for transfer between facilities, in consultation with the Office of Forensic Services. The Panel will be notified of such transfers.
 - 5. At any time an acquittee's level of privilege needs to be adjusted, treatment teams may either suspend a privilege, or may request either the IFPC or FRP, as appropriate, revoke a level of privilege. Privilege levels exclusively approved by the FRP require FRP review and approval in order to revoke the privilege.
- F. Structural and Operational Parameters of the Panel (See also Tables 4.3 & 4.4)
 - 1. Composition of the FRP
 - a. The Structure of the FRP
 - (1) The membership of the FRP shall include a minimum of at least seven (7) members.
 - (2) The membership of the Panel shall include at least two members from each of the following professional categories:
 - i. Psychiatrist
 - ii. Licensed Clinical Psychologist
 - iii. Other licensed mental health practitioners, including CSB representatives, if available
 - (3) All Panel members will have requisite forensic experience and training, as prescribed by the Commissioner of the DBHDS.
 - (4) All individuals appointed to serve as members of the Panel who are not employees of DBHDS are required to sign statements indicating their awareness of the need to maintain confidentiality of client records, and promising to maintain such confidentiality.
 - (5) Appointments shall be made and renewed at the discretion of the Commissioner. Each term is for three (3) years.
 - (6) Upon appointment by the Commissioner, Panel members shall receive an orientation to the privileging process. Panel members will also be provided with annual in-service

training.

b. Functional Parameters of the Panel

- (1) A quorum of the FRP consists of one half of the total number of FRP members plus one. The quorum must include a psychiatrist and a clinical psychologist. A quorum must exist for the FRP to take action on a request.
- (2) All decisions of the FRP regarding privileges, Conditional Release, or Unconditional Release require the agreement of a majority of the members at the meeting present and voting,
- (3) The opinions and concerns of Panel members who dissent from a majority decision shall be documented and reviewed by the Office of Forensic Services, as requested.

2. Scheduled meetings

- a. The Chair of the FRP shall establish regular weekly meeting times.
- b. The Chair shall disseminate the dates and times of regular meetings, along with deadlines for submission of cases to be considered at the meetings.
- c. If the FRP will not hold a regularly scheduled weekly meeting, the Operations Manager of the Office of Forensic Services shall be notified in advance by the Chair.
- d. When Panel members are not able to attend a weekly FRP meeting, they will inform the administrative coordinator to the Chair of their absence, as soon as possible, either by telephone, in person, or via email. If a quorum is not met at any regularly scheduled weekly meeting, a meeting of the Panel will be convened on an alternate day of the same week if necessary.
- e. If the Panel does not meet during a given week, an all-day meeting or two partial-day meetings will be scheduled for the following week, in order to complete all reviews.
- f. The administrative coordinator is responsible for keeping a calendar record for the Chair of all meetings that are rescheduled.
- g. If the Panel fails to convene a meeting due to the inability to convene a quorum of its members, the administrative coordinator, on behalf of the Chair, will notify the Operations Manager for the Office of Forensic Services. The Operations Manager for the Office of Forensic Services will notify their supervisor of the cancellation of the meeting.
- h. The Chair of the Panel will notify the Operations Manager for the Office of Forensic Services, or the administrative coordinator, of any cancellation of meetings as a result of a lack of packets for review. The Program Manager for the Office of Forensic Services

will notify their supervisor of the cancellation of the Panel meeting.

3. Chair of the Panel

- a. The Chair of the FRP is appointed by the Commissioner. Qualifications for appointment as Chair include: Licensed Clinical Psychologist (or equivalent) or Psychiatrist with forensic expertise, and qualifications and experience as an expert witness.
- b. The direct responsibilities of the Chair of the FRP include the following:
 - (1) Works with the Director and staff of the Office of Forensic Services in communicating with the courts, facilities and CSBs on NGRI acquittee matters.
 - (2) Represents the FRP and Commissioner in response to witness subpoenas for the Panel.

4. A full-time administrative coordinator will be assigned to the Panel to provide support services, including:

- a. Setting and circulating agendas
- b. Distributing review packets
- c. Taking minutes of meetings (including attendance),
- d. Polling the membership to ensure that a quorum will be present for each meeting
- e. Review of each referral packet, for completeness and readiness for review by the full Panel, in consultation with the Chair, prior to circulation to the Panel
- f. Notifying Panel members and the Program Manager for the Office of Forensic Services of any canceled meetings, and
- g. Providing other necessary services in support of the Panel's functions

VIII. Facility Forensic Coordinator

- A. Each DBHDS Facility Director shall designate an appropriately trained and credentialed clinical psychologist, clinical social worker, or psychiatrist to serve as the Forensic Coordinator for that facility. The Forensic Coordinator serves as the primary point of communication between the facility, the Office of Forensic Services, and the FRP, as well as between facility treatment teams and the IFPC, regarding insanity acquittees (See also Appendix G: Forensic Coordinator Responsibilities, for a full description)

- 1. The Forensic Coordinator must:

- a. Review all submissions from the treatment teams to the IFPC
 - b. Review all submissions from the facility to the FRP for completeness and compliance with the format required for review of privilege request documents.
 - c. Receive and deliver to the treatment team(s) all information received from the IFPC and/or the FRP.
- 2. The Forensic Coordinator must, in addition, provide appropriate information to the Office of Forensic Services, regarding IFPC privilege-granting and other acquittee privileging activities.
- B. The Forensic Coordinator responsibilities are critical to the successful management of the NGRI privileging process. The Forensic Coordinator and the Facility Director are responsible for ensuring that the facility manages all insanity acquittees in an appropriate fashion according to the policies of the Department, orders of the court, laws of the Commonwealth, and in coordination with the Department's Office of Forensic Services.

IX. Facility Director

- A. Each Facility Director is responsible for allocating the necessary resources to ensure that all responsibilities of the Forensic Coordinator and the IFPC are performed in an efficacious and expeditious manner. The accomplishment of these responsibilities is crucial to the successful management of forensic patients and is, therefore, a performance issue for the Facility Director, the IFPC, and the Forensic Coordinator, as well as for all personnel in the supervisory chain.
- B. The Facility Director will assure that there are policies and procedures to provide that all staff members who are responsible for the safety and security of NGRI acquittees:
 - 1. Are informed of, and have ready access to, information regarding the NGRI acquittee's current level of privileges, and
 - 2. Continually monitor each NGRI acquittee's level of functioning and only permit the acquittee to exercise privileges consistent with the acquittee's level of functioning, in accord with current risk assessments and court orders.
- C. The Facility Director also has final responsibility and signatory authority for approval of all privilege requests that are granted by the IFPC.

X. The Process for Privileges Granted by the Internal Forensic Privileging committee (IFPC)

(See Table 4.5 for a summary of the procedures required for the granting of privileges by the IFPC.)

A. Roles and responsibilities:

1. Insanity acquittee

The insanity acquittee may request an increase in privileges by completing the Acquittee Privilege Request Form. This is done with the assistance of the treatment team psychologist, or other designee responsible for NGRI privileging at the treatment team level if the acquittee requests assistance. This treatment team member will assist the acquittee in completing the request form, will obtain the acquittee's signature, and will sign and date the form. The form will then be presented at the next Treatment Team meeting. The Treatment Team must meet and review all requests for privileges at least once every seven (7) calendar days. The acquittee may only initiate a request for an increase in level of privileges once every 30 days.

2. The Treatment Team

Procedures to be used for privilege requests from the treatment team to the IFPC:

- a. The treatment team shall submit the completed IFPC privilege request packet to the IFPC via the facility Forensic Coordinator. The Forensic Coordinator shall review the packet for the IFPC, and provide feedback regarding needed changes and clarifications, within seven (7) working days, prior to formal review of the packet by the IFPC. The treatment team shall submit the revised privilege request packet to the IFPC via the Forensic Coordinator within 10 working days.
- b. Within one (1) working day of receipt of notification by the treatment team of a decision from the IFPC regarding a request for an increase in level of privileges, the designated member of the treatment team shall meet with the insanity acquittee and provide to him or her a copy of the written decision of the IFPC, explain the decision, and discuss expectations of the acquittee. This meeting will be documented in the acquittee's medical record.

3. The Forensic Coordinator.

The general responsibilities of the Forensic Coordinator regarding privileges granted by the IFPC include:

- a. Review all submissions from treatment teams to the IFPC prior to the IFPC's formal review.
- b. Receive and deliver to the treatment team(s) all information received from the IFPC.

Specific responsibilities of the Forensic Coordinator include the following:

- a. Coordinate the submission of requests for increases in privilege levels to the IFPC.
 - (1) Ensure that the packet of information is accurate and complete;
 - (2) Ensure that approval of the request is consistent with Departmental policy; and
 - (3) Verify that the treatment team has asserted that approval of the request will expose neither the NGRI acquittee, nor the community to substantial risk.
- b. Submit the privilege packet to the IFPC within three (3) working days after receipt of the revised and edited privilege request packet which had been previously reviewed by the coordinator and returned to the team, if the document had been returned for revision or editing.
- c. Whenever the Forensic Coordinator receives notification from the IFPC that a decision has been deferred, pending the provision of additional information by the Treatment Team, the Forensic Coordinator shall obtain the requested data and provide it to the IFPC within twenty-one (21) calendar days. If the coordinator has not received the requested information from the treatment team within 21 calendar days of the original request for information, the coordinator shall notify the Facility Director that the requested information has not been received.
- d. Upon receipt of a decision from the IFPC, the Forensic Coordinator will notify the Treatment Team of the decision within one (1) working day. The designated member of the Treatment Team will be instructed by the coordinator to inform the insanity acquittee of the Committee's decision within one (1) working day of receipt of such notification.

B. Specific Operational Activities for Privileges Granted Directly by the IFPC

- 1. As noted at the beginning of this chapter, the Commissioner has delegated the granting of the following privileges to the IFPCs at each DBHDS hospital:

- a. Escorted Grounds Privileges (if not already approved by the FRP)
 - b. Unescorted Grounds Privileges
 - c. Escorted Community Privileges
 - d. Unescorted Community Access, up to 48 hours (following prior approval by the FRP of Unescorted Community Access, not overnight.)
2. The IFPC shall open a forensic file for each new acquittee upon admission for temporary custody, or upon transfer of an acquittee to placement in that facility. The facility Forensic Coordinator shall have responsibility for the establishment and maintenance of these files. (The Office of Forensic Services will provide copies of all relevant background case information.) These files shall include, at the minimum:
- a. All relevant court orders
 - b. The Initial Analysis of Risk Report, and any previously completed Updates
 - c. All Competency and Sanity evaluations completed with the acquittee
 - d. Temporary Custody Evaluations and other Commissioner-Appointed Evaluations
 - e. Any Annual Continuation of Confinement Reports
 - f. Reports of criminal investigations and other background case material
 - g. Letters to judges and attorneys
 - h. Copies of Privilege Request Packets previously submitted to the FRP
 - i. All additional materials related to IFPC privileging activities at the facility. (The Forensic Coordinator will also provide these materials to the Office of Forensic Services, for inclusion in the acquittee's Central Office master file.)
 - j. Any previously completed consultative, specialized medical or psychological evaluations.
3. The Facility Director of each facility shall establish a process by which the Forensic Coordinator shall have the authority to coordinate the submission of requests from acquittees' Treatment Teams to the IFPC.
4. The following information (Review Packet) shall be submitted to the facility Forensic Coordinator for all requests for privilege levels granted by the IFPC:
- a. The facility forensic file of each acquittee to be reviewed at an IFPC meeting shall be available for review by the Committee, prior to and during its formal review of a privilege request.
 - b. An updated, concise Analysis of Risk Report completed by the treatment team within the 30 days immediately prior to the

submission of the review packet (See Appendix A).

- (1) Include risk management plan.
 - (2) An updated, Analysis of Risk Report (ARR) addressing all risk factors identified in the initial and subsequent ARR updates, and including and addressing all risk factors identified during the course of evaluation and treatment.
- c. Mental Status Evaluation (MSE) completed by the treatment team within the 30 days immediately prior to the submission of the review packet to the IFPC.
- d. Completed IFPC Submission Summary Sheet:
 - (1) All documentation required by the IFPC submission summary sheet must be included.
5. Each item of documentation should be dated and signed as indicated.
6. Requests for escorted community privileges, and unescorted community visits (48 hours maximum) require a statement of agreement signed by a representative of the treatment team and the receiving CSB.
7. All requests for grounds or community privileges must include a risk management plan signed by the acquittee and, for cases involving community privileges, signed by the CSB or BHA representative. When appropriate, relatives or other persons who have agreed to accept responsibility for the acquittee while he or she is in the community should also sign the risk management plan.
8. The facility Forensic Coordinator shall review each privilege request packet prior to circulation to the other IFPC members to ensure completeness. If the facility Forensic Coordinator determines that the packet is incomplete, the Coordinator will return the packet to the treatment team with recommendations for modifications or additions.
9. The facility Forensic Coordinator shall forward copies of the final version of the privilege request packet to members of the IFPC one week prior to the regularly scheduled meeting.
10. Members of petitioning treatment teams may attend the IFPC's meeting regarding their cases in order to receive consultation or to provide clarifying information. The Chair of the IFPC will document any information provided to the IFPC that assisted in the IFPC's decision making, but was not included in the original referral packet. This information will be documented in the written IFPC Decision Notification.

11. Acquittees and their designated family members or legal guardians, may attend IFPC meetings, upon request, for purposes of obtaining additional information regarding the Panel's process or decisions regarding that acquittee. (Participation of an acquittee's family shall require the written authorization of the acquittee as a prerequisite to the convening of any meeting of this type.) The IFPC shall provide sufficient time to discuss the relevant concerns of the acquittee at such meetings.

12. IFPC Decision-Making Process
 - a. The IFPC, in accordance with the parameters of the FRP, bases its decision-making explicitly on the following risk assessment criteria:
 - (1) Has the treatment team identified and articulated the factors that increase and/or decrease the probability that the acquittee will engage in behavior that presents a risk to others?
 - (2) Has the treatment team developed a risk management plan that adequately manages the assessed risk?
 - (3) Is the increased freedom requested justified by the treatment team's assessment of risk and their plan for risk management?

 - b. Quorum
 - (1) A quorum must be present before a final decision can be made.
 - (2) A quorum consists of three IFPC members, with a minimum of one (1) psychiatrist and one clinical psychologist required for a quorum vote.

 - c. Majority Decision required for recommendations to the Facility Director regarding privilege requests
 - (1) As noted above, all decisions of the IFPC regarding privileges require the agreement of a majority of the quorum.
 - (2) The opinions and concerns of IFPC members who dissent from a majority decision on a privilege shall be documented at each meeting, and reviewed by the Office of Forensic Services for quality assurance purposes, and as requested by IFPC members.
 - (3) When a majority of the IFPC, as defined herein, has rendered a decision, the IFPC's decision is referred to the Facility Director, by the Committee Chair, within one (1)

working day, for review and approval or disapproval.

d. Possible Decisions

- (1) Approve the team's privilege request, no revisions required.
- (2) Approve with revisions (related to improving the risk assessment and management process) to be reviewed by the IFPC Chair and the Facility Director. The IFPC returns the case to the treatment team for revision with specific recommendations for additions or deletions. All revisions by the treatment team must be reviewed and approved by the head of that treatment team, prior to resubmission.
- (3) Defer approval, pending revisions and further review by the IFPC. The IFPC returns the case to the treatment team for revision, with the requirement that the case be again reviewed, by the IFPC and the Facility Director, after the changes have been made. All revisions by the treatment team must be reviewed and approved by the head of that treatment team prior to resubmission.
- (4) Disapprove the request and return the case to the treatment team with an explanation of the reasons for the disapproval, and a statement regarding the type and degree of improvement in the acquittee's functioning that would need to be manifested before the IFPC could grant approval of a privilege request for that acquittee.

e. Final Decision of IFPC

- (1) The IFPC Chair, or designee, fills out the IFPC Decision Notification. That document includes:
 - i. The request to the IFPC;
 - ii. The IFPC's assessment of the treatment team's assessment of risk, the risk management plan, and the justification for increased freedom;
 - iii. The decision of the IFPC, signed by the Facility Director; and
 - iv. The IFPC's comments to the treatment team, as appropriate.
- (2) Notification of all IFPC decisions is provided to the Chair of the FRP within one (1) working day of the endorsement by the Facility Director of a privilege decision by the IFPC. The Facility Director, through the facility Forensic Coordinator, has direct responsibility for notification of the

- Chair of the FRP of all IFPC privilege decisions.
- (3) The IFPC Decision Notification and Decision Signature Page are filed in the acquittee's IFPC record. Copies are sent to:
 - i. The Chair of the FRP
 - ii. The Office of Forensic Services, for inclusion in the acquittee's FRP record
 - iii. The CSB's NGRI Coordinator
 - iv. The head of the acquittee's treatment team, for inclusion in the acquittee's medical record
 - (4) The IFPC, through the Forensic Coordinator, will notify the treatment team of its decision within two weeks of the IFPC's receipt of the complete request.
 - (5) The treatment team informs the acquittee of the results of the IFPC review, within one working day of receipt of the Facility Director-endorsed decision by the treatment team. In the event that the IFPC has disapproved a request from the acquittee for an increase in privileges, the treatment team representative informs the acquittee of the reasons for the disapproval, and provides information regarding the decision review process, as appropriate.

f. Facility Director Endorsement of IFPC Decision Recommendations

All approvals of privileges granted directly by the IFPC require the written approval of the Facility Director, before they are official and valid.

- (1) Within one (1) working day of the rendering of a majority decision by the IFPC, regarding a privilege request, the Chair of the IFPC will forward all relevant documentation regarding the request and the IFPC's decision regarding that request to the Facility Director.
- (2) The Facility Director will review and approve or disapprove the decision of the IFPC, within two (2) working days of receipt of the IFPC's decision materials.
- (3) The Facility Director must give final approval of all IFPC decisions, in order for such decisions to be valid and final.

13. Review process for Privilege Requests Disapproved by the IFPC to the FRP.

In the event that the IFPC does not approve the referring treatment team's request additional privileges for an acquittee:

- a. At the request of the acquittee, the treatment team shall document in the patient's record, the team's or the acquittee's request for review of an IFPC privilege request denial. The request shall be forwarded to the Forensic Coordinator (and copied to the IFPC) on behalf of the acquittee (or the team), within three (3) working days of the acquittee's initial request.
- b. The Forensic Coordinator will work with the treatment team in developing a formal review request of an IFPC decision. The coordinator will obtain written documentation from the acquittee's treatment team, addressing and requesting review and revision of the IFPC's decision, within ten (10) working days of receiving notification of the review request from the treatment team.
- c. The FRP shall be provided with all additional documentation required for a thorough review, by the Forensic Coordinator. The provision of this documentation shall be coordinated with the administrative coordinator for the FRP.
- d. The FRP will review the documentation. Following that review, the FRP will render one of the following decisions on the matter:
 - (1) A finding upholding the IFPC's original decision on the matter.
 - (2) A directive to the IFPC, to reconsider the original privilege request of the acquittee.
 - (3) A directive rescinding the original decision of the IFPC, and granting the privilege request of the acquittee.
- e. The administrative coordinator will notify both the Chair of the IFPC and the Forensic Coordinator of the review decision within two (2) working days of receipt of the decision from the Chair of the FRP.
- f. The Forensic Coordinator will notify the treatment team of the review decision within one (1) working day of receiving notification of that decision. The treatment team will notify the acquittee of the decision of the FRP within one (1) working day of notification of that decision, by the Forensic Coordinator.
- g. If the IFPC is directed to reconsider the request by the FRP, the Forensic Coordinator will notify the acquittee's treatment team of that decision within two (2) working days. A treatment team member will inform the acquittee of the Committee's decision regarding a review, within one (1) working day of notification by the Forensic Coordinator.

XI. The Process for Privileges Granted by the Forensic Review Panel (FRP)

(See Table 4.6 for a summary of the procedures required for the granting of privileges by the FRP.)

- A. The FRP must review all requests for the following privilege levels for all acquttees committed to the Custody of the Commissioner:
 - 1. Transfer from Maximum Security to a Civil facility (with or without additional privileges)
 - 2. Initial Unescorted Community Access (8 hour passes)
 - 3. Conditional Release (all cases, including Temporary Custody)
 - 4. Unconditional Release (all cases, including Temporary Custody)

- B. The NGRI privileging process at the FRP level also involves the active participation of the acquttee, the Treatment Team, the IFPC, the Forensic Coordinator, the Facility Director, the Office of Forensic Services, and the CSB. The roles and responsibilities of each of these entities remains as described in Section VII of this manual, in most respects, for FRP privileges. Additional or alternative actions required by each of the aforementioned entities, for the granting of privileges at the FRP level include the following:

- C. The Treatment Team:
 - 1. The treatment team prepares the privilege request packet for review by the FRP within 30 calendar days of the decision to request a privilege increase for an acquttee. The completed privilege packet must be reviewed and approved by the IFPC prior to submission to the FRP.
 - 2. At least once every 365 days, the Treatment Team shall submit to the IFPC for review and forwarding to the FRP, an annual report for each insanity acquttee who has been committed to the custody of the Commissioner who has not had a privilege increase during the preceding 365 days. This report shall be submitted even if the treatment team is not requesting an increase in privilege level for the acquttee. The Annual Review Report shall be the same as the report submitted to the committing court, as described in Appendix D, and shall include all components contained therein, as well as a separate statement summarizing the reasons for the team's decision not to request an increase in privileges for the acquttee, if an increase has not been requested.

- D. IFPC procedures for privilege requests from the treatment team to the FRP:
 - 1. The IFPC shall review all requests for endorsement of privilege increase

requests from treatment teams to the FRP within seven calendar days. The IFPC will make its final decision within that same seven calendar days, unless it must request additional information or clarification prior to making a final decision. The IFPC shall provide written feedback to the Treatment Team within 72 hours of its decision.

2. All approvals of requests from treatment teams for endorsement of requests for changes in privilege levels of the FRP require the approval of a majority of the quorum of the IFPC membership, including one psychiatrist and one clinical psychologist. If there is not a majority approval, the change will be considered disapproved.
 3. The IFPC shall approve all modifications that the treatment team has made to the privilege request packet before submission to the FRP.
 4. The Chair of the IFPC shall sign and date the FRP Submission Summary Sheet for each submission to the FRP.
- E. The Forensic Coordinator, in addition to the responsibilities summarized above, has the following responsibilities with the FRP privileging process:
1. The Coordinator will submit the privilege packet to the FRP within 3 working days after he or she has received the completed privilege request packet that has been prepared by the Treatment Team, and approved by the IFPC.
 2. The Coordinator ensures that the IFPC has approved all modifications made by the treatment team to the request, before verifying that the request is ready for submission to the FRP.
 3. On or before January 10, April 10, July 10, and October 10 of each calendar year, the Forensic Coordinator will provide to the Facility Director, the Chair of the FRP, and the DBHDS Office of Forensic Services a summary for the previous quarter. This summary shall include the decisions the IFPC has made during its quarterly reviews of the level of privileges of each insanity acquittee.
 4. In those instances when the privilege request involves transfer of an NGRI acquittee to a less restrictive facility, the sending Forensic Coordinator shall send a referral packet that must be received by the Forensic Coordinator of the potential receiving facility 14 days in advance of the FRP's review of that request.
 5. When there is a request to transfer an NGRI acquittee to a less restrictive treatment facility, the receiving Forensic Coordinator should have in place a process for:

- a. Documentation of the date he or she received a copy of the submission packet to the FRP, and request for transfer and its completeness.
 - b. Reviewing the request for transfer,
 - c. Providing feedback to the Forensic Coordinator of the sending facility, and
 - d. Providing a written response to the FRP, prior to the date the FRP is scheduled to review the case.
6. In instances wherein the IFPC approves a request for Conditional or Unconditional Release, or should the court of jurisdiction pursuant to Virginia Code Section 19.2-182.5, order that a Conditional Release or discharge plan be prepared, a complete packet must be forwarded to the FRP by the Forensic Coordinator. In cases where the request is for conditional or unconditional release:
- a. As allowed by the court, an extension of up to thirty (30) days beyond the thirty-day period previously provided to prepare a packet may be granted to the Treatment Team by the IFPC in order to complete a viable conditional release or discharge plan in collaboration with the CSB.
 - b. In cases where there is a court order requiring the submission to the court of a conditional release or discharge plan by a certain date, the facility may have less than 30 days to complete the entire process, including review by the FRP. The FRP must be notified by the Forensic Coordinator of the due date set by the court.

F. Specific Operational Activities for Privileges Granted Directly by the FRP

- 1. The FRP shall open a file for each new acquittee upon admission for temporary custody. All such files are kept in the DBHDS Office of Forensic Services.
- 2. The following information (Review Packet) shall be submitted to the administrative coordinator of the FRP, for all privileging requests:
 - a. FRP report (template, use narrative report for requesting release)
 - b. Recent Annual Report to the court (See Appendix D)
 - c. An Initial Analysis of Risk Report. (Required for all newly committed patients, and with court-ordered conditional release plans.) (See Appendix A).
 - d. Updated Analysis of Risk Report completed within 30 days of receipt by the Forensic Coordinator for submission to the FRP (See Appendix A). The updated Analysis of Risk Report (ARR) will include and address all risk factors identified in the initial and

- subsequent ARR updates, and will include and address all risk factors identified during the course of evaluation and treatment.
- e. Include current risk management plan.
 - f. Mental Status Evaluation (MSE) completed within 30 days of receipt by the Forensic Coordinator for submission to the FRP.
 - f. Completed FRP Submission Summary Sheet
 - (1) All documentation required by the submission summary sheet must be included.
 - g. An assessment of the acquittee's current risk for escape.
 - h. Any other items specified in the Submission Summary Sheet
 - i. Each item of documentation should be dated and signed.
 - j. Requests for Unescorted community visits (not overnight) require a statement of agreement signed by the acquittee, the treatment team and the receiving CSB.
 - k. All requests for grounds or community privileges must include a Risk Management Plan signed by the acquittee and, for cases involving community privileges, signed by the CSB representative. When appropriate, relatives or other persons who have agreed to accept responsibility for the acquittee while he or she is in the community should also sign the risk management plan.
 - l. Requests for conditional or unconditional release shall include the following additional information (See Chapter 5 and Appendix F).
 - (1) Conditional release or discharge plan with components specified on the template
 - (2) Completed CSB agreement and recommendations/comments regarding the proposed conditional or unconditional release
 - (3) Completed acquittee review and agreement to terms of proposed conditional release or unconditional release
 - (4) Letters of support and consent from others involved in proposed conditional release plan. May include
 - i. Family,
 - ii. Providers other than CSB, and
 - iii. Friends.
3. The Chair of the FRP, or designee, in conjunction with the Office of Forensic Services, shall review referral packets prior to circulation to the other FRP members to ensure completeness. If the Chair finds that the packet is not complete, the Chair, through the administrative coordinator, may return the packet to the facility Forensic Coordinator, with

recommendations for modifications or additions.

4. The FRP's administrative coordinator shall forward copies of the entire referral packet to members of the FRP at least one week prior to the regularly scheduled meeting, during which the request will be considered.
5. The FRP may, at the discretion of the Chair,
 - a. Invite or require attendance by the acquittee's Forensic Coordinator or members of the acquittee's treatment team
 - b. Require submission of medical and/or legal records for review.
6. Members of petitioning treatment teams may attend the FRP's meeting regarding their cases in order to receive consultation or to provide clarifying information. The Chair of the FRP will document any information provided to the FRP that assisted in the FRP's decision making, but was not included in the original referral packet. This information will be documented in the written Decision Notification.
7. Acquittees and their designated family members or legal guardians, may attend FRP meetings, upon request, for purposes of obtaining additional information regarding the FRP's process or decisions regarding that acquittee. (Participation of an acquittee's family shall require the written authorization of the acquittee as a prerequisite to the convening of any meeting of this type.) The FRP shall provide sufficient time to discuss the relevant concerns of the acquittee at such meetings.
8. FRP Decision-Making
 - a. The FRP bases its decision-making explicitly on the following risk assessment criteria:
 - (1) Has the treatment team identified and articulated the factors that increase and/or decrease the probability that the acquittee will engage in behavior that presents a risk to others?
 - (2) Has the treatment team developed a risk management plan that adequately manages the assessed risk?
 - (3) Is the increased freedom requested justified by the treatment team's assessment of risk and their plan for risk management?
 - b. Quorum
 - (1) A quorum of the FRP membership must be present before a final decision can be made.
 - (2) A quorum consists of one half of the total number of FRP

members plus one. The quorum must include a psychiatrist and a clinical psychologist in order for the FRP to approve an increase in level of privileges.

c. Majority Decision

- (1) The Chair of the FRP shall take a vote for each decision and record the number and names of FRP members voting to approve or disapprove each privilege request in the minutes of the meeting. All decisions of the FRP regarding privileges and/or Conditional Release require the agreement of a majority of the quorum. The members of the FRP will sign all FRP decisions, indicating their participation in the decision making process).
- (2) The opinions and concerns of FRP members who dissent from a majority decision on a privilege shall be documented at each meeting, and routinely reviewed by the Office of Forensic Services for quality assurance purposes, and as requested by FRP members.

d. Possible Decisions

- (1) Approve the team's privilege or release request, no revisions required.
- (2) Approve with revisions (related to improving the risk assessment and management process) to be reviewed by the Chair and/or FRP members. The FRP returns the case to the treatment team for revision with specific recommendations for additions or deletions. All revisions by the treatment team must be reviewed and approved by the Head of that treatment team, prior to submission to the FRP.
- (3) Defer for revisions and further review required. The FRP returns the case to the treatment team for revision with specific recommendations for additions or deletions, or with the requirement that the case be again reviewed, after the changes have been made, by the full FRP. All revisions by the treatment team must be reviewed and approved by the Head of that treatment team, prior to submission to the FRP.
- (4) Disapprove the request and return the case to the treatment team with an explanation of the reasons for the disapproval, and a statement regarding the type and degree of improvement in the acquittee's functioning that would need to be manifested before the FRP could grant approval of a privilege request for that acquittee.

- (5) Endorsement of the team's conclusions, or recommendations to the treatment team, when reviewing annual review packets.

e. Final Decision

- (1) FRP Chair fills out the FRP Decision Notification which includes:
 - i. The request to the FRP;
 - ii. The FRP's assessment of the treatment team's assessment of risk, risk management plan, and justification of increased freedom;
 - iii. The decision of the FRP; and
 - iv. The FRP's comments to the treatment team, when appropriate.
- (2) The FRP Decision Notification is filed in the acquittee's medical record and FRP file. Copies are sent to:
 - i. The acquittee's Forensic Coordinator,
 - ii. The CSB's NGRI Coordinator, and
 - iii. The Office of Forensic Services.
- (3) The acquittee's Forensic Coordinator provides a copy of the FRP's Decision Notification to the treatment team.
- (4) The treatment team informs the acquittee of the results of the FRP's review, within one working day.
 - (5) In the case of Conditional or Unconditional Release submissions, the FRP provides a cover letter to the court petitioning conditional release or release without conditions and includes a model order for the court's convenience. Release requests initiated by the treatment team shall include the conditional release or discharge plan, report of clinical findings (see Virginia Code §19.2-182.6) and other supporting information deemed relevant by the FRP. If the FRP disapproves a court ordered conditional release or discharge plan that must be submitted to the court, pursuant to the Code of Virginia, the FRP includes its reasons for disapproving the plan in the cover letter to the court, along with the Conditional Release or Discharge Plan.
- (6) The treatment team can expect a decision from the FRP within three weeks of the FRP's receipt of the request.

- (7) FRP members are given a minimum of one week to review submissions before meeting as a group to reach a decision.
- (8) When a request is for transfer to a less secure setting, the hospital designated to receive the acquittee is permitted a maximum of ten days to review the submission and provide feedback, before the FRP's review of the request.
- (9) The FRP Chair, via the administrative coordinator, will ensure that FRP Decision Notifications are distributed to the requesting Forensic Coordinator within 48 hours of the decision.
- (10) The FRP Decision Signature Page is filed in the acquittee's medical record and in the FRP file.

f. Review process

In the event that the FRP does not approve the referring treatment team's request for transfer, increased privilege level, conditional release, or release without conditions for an acquittee, the following procedure applies:

- (1) At the request of the acquittee, the treatment team shall document in the patient's record, his or her request for review of a FRP privilege decision. The request shall be forwarded to the Forensic Coordinator (and copied to the IFPC) on behalf of the acquittee, within three (3) working days of the acquittee's initial request.
- (2) The Forensic Coordinator will work with the treatment team in developing a request for formal review of a FRP decision. The coordinator will forward the written request for review, within ten (10) working days of the treatment team's initiation of the review request.
- (3) The Forensic Coordinator will forward all documentation supporting the review request to the administrative coordinator for the FRP. Copies of all documents will be provided to both the Deputy Director of Forensic Services, and to the Chair of the FRP, within one (1) working day of their receipt from the facility.
- (4) The Deputy Director of Forensic Services shall be provided with all additional documentation required for a thorough review of the FRP's decision, by the administrative coordinator of the FRP.
- (5) The Deputy Director of Forensic Services will review and respond to the acquittee's review request within seven (7) working days from receipt of the review request documentation. Following that review, the Deputy Director of Forensic Services will render one of the

following decisions on the matter:

- i. A finding that agrees with the original decision of the FRP on the matter.
 - ii. A directive to the FRP to reconsider the original privilege request of the acquittee. In its reconsideration the FRP may request that the treatment team provide additional information for the FRP's consideration.
 - iii. A directive rescinding the original decision of the FRP, and granting the privilege request of the acquittee.
- (6) The administrative coordinator will notify both the Chair of the FRP and the Forensic Coordinator of the review decision within two (2) working days of receipt of the decision from the Deputy Director of Forensic Services.
 - (7) The Forensic Coordinator will notify the treatment team of the review decision within one (1) working day of receiving notification of that decision. The treatment team will notify the acquittee of the decision of the Deputy Director of Forensic Services within one (1) working day of notification of that decision by the Forensic Coordinator.
 - (8) If the Deputy Director of Forensic Services directs the FRP to reconsider the request and changes its earlier decision to approval, the administrative coordinator for the FRP will notify the Forensic Coordinator of the revised decision within two (2) working days. The Forensic Coordinator shall inform the treatment team of all decisions of this type within one (1) working day. A treatment team member will inform the acquittee of the FRP's decision regarding an appeal, within one (1) working day of notification by the coordinator.

Chart 4.1 Graduated Release Flow Chart

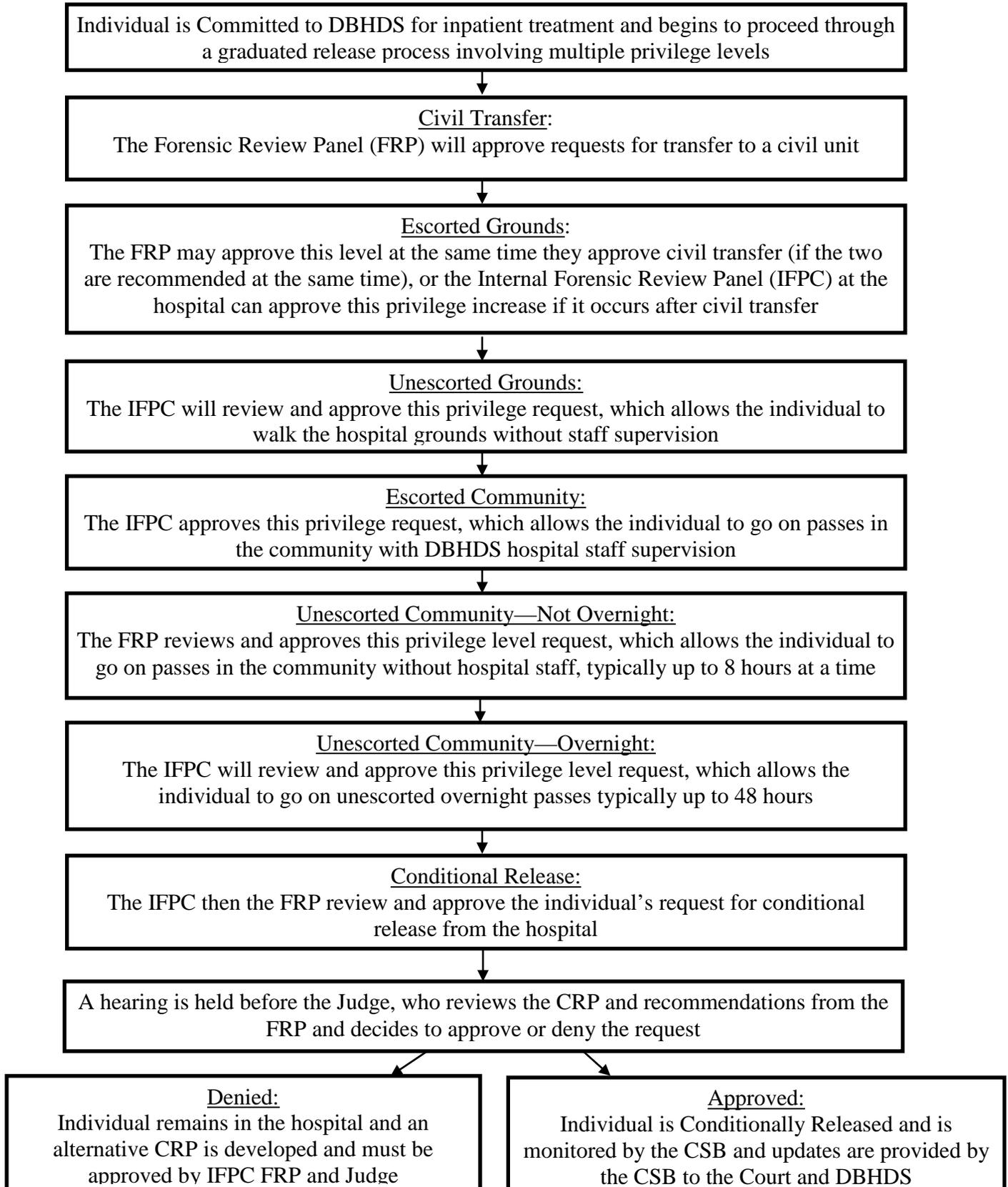


TABLE 4.2
Changes in Status:
Whose Permission Is Required Before Granting a Change in Status?

	IFPC	FORENSIC REVIEW PANEL	COMMITTING COURT	COMMONWEALTH'S ATTORNEY (NOTIFICATION ONLY)**
CIVIL TRANSFER	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>No</i>
GROUND PRIVILEGES	<i>Yes</i>	<i>Yes</i> <i>(with transfer)</i>	<i>No</i>	<i>No</i>
COMMUNITY VISITS (ESCORTED BY FACILITY STAFF)	<i>Yes</i>	<i>No</i>	<i>No</i>	<i>Yes</i>
UNESCORTED COMMUNITY VISITS; NOT OVERNIGHT)	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>
OVERNIGHT COMMUNITY VISITS (UP TO 48 HOURS)	<i>Yes</i>	<i>No</i>	<i>No</i>	<i>Yes</i>
CONDITIONAL RELEASE	<i>Yes</i>	<i>Yes*</i>	<i>Yes</i>	<i>Yes</i>
RELEASE WITHOUT CONDITIONS	<i>Yes</i>	<i>Yes*</i>	<i>Yes</i>	<i>Yes</i>
Civil Commitment (Misdemeanant NGRIs only)	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>Yes***</i>

* Review by and approval from the Forensic Review Panel is required before making a recommendation/request to the court for release from hospitalization, Conditional Release, or Release Without Conditions.

** Notification to the Commonwealth's Attorney is mandated by § 19.2-182.4

*** Notification to the Commonwealth's Attorney is mandated by § 19.2-182.5 (D)

Table 4.3
Forensic Review Panel and Internal Forensic Privileging Committee
Responsibilities

Entity	Authority	Membership	Meetings	Decision Making
Forensic Review Panel (FRP)	Appointed By Commissioner, pursuant to §19.2-182.13 of the Code	At least 7 members, including: 2 psychiatrists 2 clinical psychologists 1 member from CSB (if possible) Other MH professionals	Weekly Quorum: One more than half total full-time membership. One psychiatrist & one psychologist must be present at each meeting.	Grants privileges at the following levels for all acquttees: <ul style="list-style-type: none"> ○ Civil transfer from Maximum Security (with/without Escorted Grounds Privileges) ○ Unescorted (not overnight) Community (with/without 48 hour overnight Community) ○ Conditional Release Formal review of all Conditional Release Plans ordered by the courts. Voting: Approval/Disapproval Requires concurrence of majority of members
Internal Forensic Privileging Committee (IFPC)	Delegated to the facilities by the DBHDS Commissioner, pursuant to § 19.2-182.13 of the Code	A total of 5 members, including: Facility Director or designee Medical Director or designee Psychiatrist; Forensic Coordinator; Clinical Psychologist; Other Professionals	Weekly Quorum: Three members, with a minimum of one psychiatrist & one psychologist required for a quorum vote	Grants privileges at the following levels: <ul style="list-style-type: none"> ○ Escorted Grounds ○ Unescorted Grounds (with/without Escorted Community) ○ Escorted Community ○ 48 Hour Unescorted Community (after FRP approval of 8 hour unescorted Community) Voting: Approval/Disapproval Requires concurrence of 3/5 of the membership. Provides leadership/direction re: management of forensic patients at each facility. Review and quality control of all privilege requests from treatment teams to the FRP.

Table 4.4
Roles of the IFPC and the FRP in the Acquittee Management Process

Entity	Temporary Custody	Initial Commitment	Privilege Levels	Conditional Release
Internal Forensic Privileging Committee	Reviews/Approves for submission to the FRP, court ordered Conditional Release Plans	CSH Maximum only: Reviews/Approves Treatment Team request for civil transfer All hospitals: Reviews/Approves Treatment Team requests for increased privilege levels from FRP	IFPC reviews request from Treatment Teams for approval of all privilege levels including: <ul style="list-style-type: none"> • Escorted Grounds • Unescorted Grounds • Escorted Community • 48 hours community (after FRP grants 8 hours) 	Review/ Approve all Conditional Release Plans developed by Treatment Team for submission to FRP.
Forensic Review Panel	Reviews all court ordered Conditional Release Plans Submits Conditional Release Plans to court with recommendations	Determines initial placement.	FRP Review required for all: <ul style="list-style-type: none"> • Transfer from Maximum to Civil (with/without Escorted Grounds) • Initial 8 hour Unescorted Community • Conditional Release 	Review for approval or disapproval of all Conditional Release Plans Sends CR plan to the court with recommendations.

Table 4.5**Internal Forensic Privileging Committee Privileging Process: Summary of Roles and Procedures**

Stage	Entity	Privilege Request Development	Timeline	Documentation Required
One	Acquittee	Submit formal request for increase in privilege to treatment team	Once per 30 calendar days	Privilege increase request form
Two	Treatment Team	Receives and reviews request for Increased privileges from acquittee.	Review within 7 calendar days of request	Documentation of team review in acquittee's medical record.
Three	Treatment Team	Development of Privilege Request Packet for IFPC; submission of packet to the IFPC for review	30 days to prepare for IFPC review	Complete IFPC Privilege Request Submission Packet
Four	IFPC	Reviews packet received from treatment team.	IFPC reviews within 7 working days of receipt of complete document.	IFPC, via Forensic Coordinator provides team with initial written feedback and requests for clarification.
Five	Treatment team	Reviews and edits privilege request packet, following receipt of reviews by IFPC.	Completes any requested changes or additions, within 10 working days, prior to scheduled IFPC review.	Submits revised packet.
Six	IFPC	Completes formal review of request for privileges, after receipt of completed packet with any requested edits or additions by the treatment team.	Facility Director notified of IFPC decision within 1 working days.	IFPC Decision Notification forwarded to Facility Director for formal approval.
Seven	Facility Director	Receives Decision Notification from the IFPC Chair for review, approval/disapproval, and signature.	Reviews, approves or disapproves IFPC recommended decision within (2) working days. Submits documentation to Chair of FRP within (1) working day.	IFPC Decision Notification, including Facility Director's signed approval, sent to treatment team. Copy of the Decision Notification and complete privilege request document packet forwarded to the Chair of the FRP, for inclusion in FRP record.
Eight	Treatment team	Team informs acquittee of results of IFPC review. When privilege request has been disapproved, acquittee informed of appeal process	Acquittee informed within 1 working day	Acquittee provided with copy of IFPC Decision Notification. Copy placed in patient's medical record.
Nine	Acquittee	Acquittee exercises additional privileges, if granted by IFPC	Privilege implemented as determined by clinical status	Treatment team documents privilege implementation in acquittee's medical record

Table 4.6

Forensic Review Panel Privileging Process: Summary of Roles and Procedures

Stage	Entity	Privilege Request Development	Timeline	Documentation Required
One	Acquittee	Submit formal request for increase in privilege to treatment team	Once per 30 calendar days	Privilege increase request form
Two	Treatment Team	Receives and reviews request for Increased privileges from acquittee (Treatment team also submits Annual Review packet for each acquittee not eligible for privilege increase.)	Review within 7 calendar days of request	
Three	Treatment Team	Informs IFPC of decision to request privileges for acquittee	Reports results of review in 3 working days.	Written report of review to IFPC
Four	IFPC	Approves/Disapproves team request to develop privilege request to submit to Panel	Reviews initial request in 7 working days; Notifies team of decision in 3 working days	Written Approval or Disapproval of initial request to develop privilege packet.
Five	Treatment Team and IFPC	Notifies acquittee of IFPC approval/disapproval of acquittee's request Development of Privilege Request Packet for Forensic Review Panel; submit to Panel through the IFPC	Team member informs acquittee Within 1 working working day 30 days to prepare after IFPC approval	Complete FRP Privilege Request Submission Packet
Six	Forensic Review Panel (FRP)	Receives packet from IFPC; provides initial qualitative feedback to team	Panel reviews request within 3 weeks of receipt of complete document.	Panel staff provides team with initial written feedback and requests for clarification.

Seven	Treatment team	Modifies privilege request packet, in response to FRP review, if necessary.	Resubmits edited packet prior to scheduled FRP review.	Revisions, additions to privilege request packet provided to the FRP.
Eight	Forensic Review Panel	Formal review of request for privileges, after receipt of completed packet with any requested edits or additions.	Forensic Coordinator notified of FRP decision in 2 working	Written FRP Decision Notification to Forensic Coordinator
Nine	Forensic Coordinator	Informs treatment team of FRP privilege decision	Team notified within 1 working day.	Provides copies of FRP Decision Notification to team.
Ten	Treatment Team	Notifies acquittee of FRP approval/disapproval of privilege request. If privilege request not approved, acquittee informed of review process.	Team informs acquittee within 1 working day	Acquittee provided with copy of decision notification
Eleven	Acquittee	Acquittee exercises additional privileges, if granted by FRP	Privilege implemented as determined by overall clinical status	Treatment team documents privilege implementation in acquittee's medical record

FORENSIC REVIEW PANEL PRIVILEGE REQUEST AND DECISION NOTICE

FACILITY: _____

Last Name: _____ First Name: _____ Reg. No: _____

Date Request Received: _____

Date Reviewed: _____

PRIVILEGE REQUESTED: (check all that apply)

Transfer to Civil Facility: _____

Unconditional Release Type: _____

Escorted Grounds _____

REVOKE Conditional Release _____

Unescorted Grounds _____

RESUME Conditional Release _____

Escorted Community _____

Annual Review _____

Unescorted Community (not overnight) _____

Consultation _____

Unescorted Community (up to 48 hrs) _____

REVOKE Approved Privileges _____

Conditional Release Type: _____

RESTRICTED Privilege _____

PRIVILEGE HISTORY: (Date Approved)

Transfer to Civil: _____

Unescorted Community (up to 48 hrs): _____

Escorted Grounds: _____

Conditional Release: _____

Unescorted Grounds: _____

Unconditional Release: _____

Escorted Community: _____

Annual Review: _____

Unescorted Community (not overnight): _____

Other: _____

PACKET CONTENTS: *(Check all that apply)*

- | | |
|--|---|
| <input type="checkbox"/> FRP Report | <input type="checkbox"/> UPDATED Analysis of Risk (ARR) |
| <input type="checkbox"/> Initial Analysis of Risk (IARR) | <input type="checkbox"/> Temporary Custody Evaluation(s) |
| <input type="checkbox"/> Risk Management Plan(s) | <input type="checkbox"/> Annual Report |
| <input type="checkbox"/> Conditional Release Plan | <input type="checkbox"/> Discharge Plan (Unconditional Release) |
| <input type="checkbox"/> Other | |

DECISION:
(check)

- | | | | | |
|-----|--------------------------|----|--------------------------|---|
| Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | HAS THE TREATMENT TEAM IDENTIFIED AND ARTICULATED THE FACTORS THAT INCREASE AND/OR DECREASE THE PROBABILITY THAT THE NGRI WILL ENGAGE IN BEHAVIORS THAT PRESENT A RISK TO OTHERS? |
| Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | HAS THE TREATMENT TEAM DEVELOPED A RISK MANAGEMENT PLAN THAT ADEQUATELY MANAGES THE ASSESSED RISK? |
| Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | IS THE INCREASED FREEDOM REQUESTED JUSTIFIED BY THE TREATMENT TEAM'S ASSESSMENT OF RISK AND PLAN FOR RISK MANAGEMENT? |

- APPROVED
 APPROVED PENDING REVISION, FURTHER REVIEW REQUIRED BY: COMMITTEE CHAIR
 DEFERRED FOR REVISION OR MORE INFORMATION; ANOTHER REVIEW REQUIRED BY: COMMITTEE CHAIR
 DISAPPROVED
 REMARKS *(See Comments on page 2)*

_____ CHAIR, Forensic Review Panel	_____ Date
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INTERNAL FORENSIC PRIVILEGING COMMITTEE DECISION NOTICE

FACILITY: _____

Last Name: _____ First Name: _____ Reg. No: _____

Date Request Received: _____ Date Reviewed: _____

- Privilege Requested:
- Transfer to Civil (Facility: _____)
- Escorted Grounds
- Unescorted Grounds
- **Escorted Community:
- **Unescorted Community (not overnight):
- Restricted Privilege:
- ** Unescorted Community (up to 48 hrs)
- **Conditional Release:
- **Unconditional Release:
- Annual Review:
- Consultation:

**Privileges allowing access to the community require notification to Commonwealth Attorney (VA Code §19.2-182.4c)

- Yes No HAS THE TREATMENT TEAM IDENTIFIED AND ARTICULATED THE FACTORS THAT INCREASE AND/OR DECREASE THE PROBABILITY THAT THE NGRI WILL ENGAGE IN BEHAVIORS THAT PRESENT A RISK TO OTHERS?
- Yes No HAS THE TREATMENT TEAM DEVELOPED A RISK MANAGEMENT PLAN THAT ADEQUATELY MANAGES THE ASSESSED RISK?
- Yes No IS THE INCREASED FREEDOM REQUESTED JUSTIFIED BY THE TREATMENT TEAM'S ASSESSMENT OF RISK AND PLAN FOR RISK MANAGEMENT?

DECISION:

- APPROVED
- APPROVED PENDING REVISION, FURTHER REVIEW REQUIRED BY: COMMITTEE / CHAIR
- DEFERRED FOR REVISION OR MORE INFORMATION; ANOTHER REVIEW REQUIRED BY: COMMITTEE / CHAIR
- DISAPPROVED
- REMARKS (SEE COMMENTS ON PAGE 2)

PRIVILEGING COMMITTEE MEMBER SIGNATURES:

FACILITY DIRECTOR (or Designee)

CHAIR, Internal Forensic Privileging Committee

Date

Facility

ANY PRIVILEGES GRANTED ARE TO BE VIEWED ONLY AS A CEILING LEVEL; THE TREATMENT TEAM HAS THE AUTHORITY AND RESPONSIBILITY FOR MONITORING THE NGRI'S CONDITION AND TO REDUCE THE LEVEL OF PRIVILEGES APPROPRIATE TO THE NGRI'S FUNCTIONING. SEE THE NGRI MANUAL FOR A DESCRIPTION OF THE REVIEW PROCESS IN CASES WHERE A REQUEST FOR A PRIVILEGE INCREASE HAS BEEN DISAPPROVED.

Notification to Commonwealth's Attorney

Date: _____

Commonwealth's Attorney
Address

Dear _____:

Under the provisions of Virginia Code § 19.2-182.4, this facility is required to notify you in writing when an individual who has been found Not Guilty by Reason of Insanity and placed in the custody of the Commissioner of the Department of Behavioral Health and Developmental Services has been authorized to leave the grounds of the hospital in which he or she is confined. The individual noted below has been so authorized:

- Acquittee:
- Case No.:
- Court of Jurisdiction:
- Register No.:
- Date of Birth:
- Date of NGRI Finding:

This individual has been approved for community visits by the Forensic Review Panel. During community visits, the individual will:

- _____ be accompanied by hospital staff.
- _____ not be accompanied by hospital staff.

The length of the community visits will be:

- _____ no longer than eight hours.
- _____ no longer than 48 hours.
- _____ as described in the court approved conditional release plan.

If you have any questions regarding the above, please contact me at _____.

Forensic Coordinator

xc: Office of Forensic Services, DBHDS
Acquittee's Attorney
Judge
CSB NGRI Coordinator