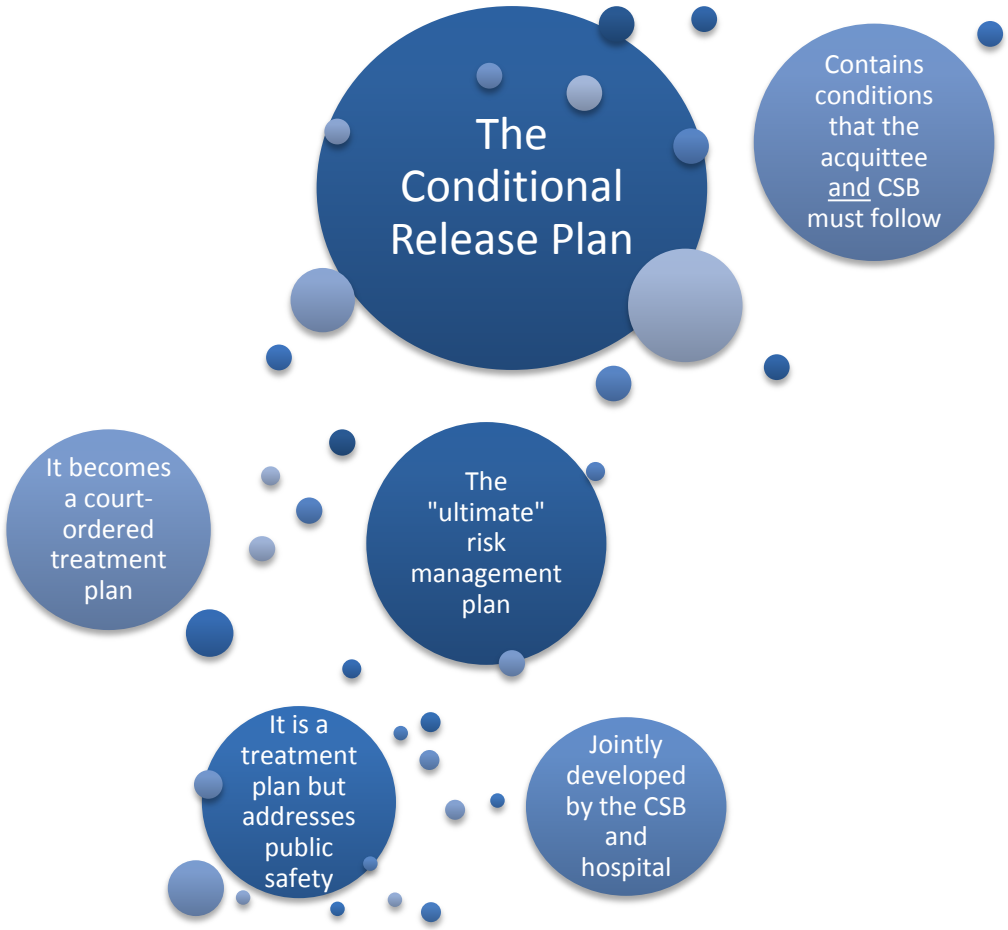
Section 4:
Planning for Conditional Release

- Developing a Conditional Release Plan_____Pg. 46
- Sections of a Conditional Release Plan_____Pg. 50
- Tips and Overcoming Barriers_____Pg. 56
- The Role of the CSB/BHA in Developing the CRP_____Pg. 58

Virginia Department of Behavioral Health & Developmental Services

Developing a Conditional Release Plan



Requests for release can be made by the Commissioner or the acquittee

- If the treatment team, IFPC, and FRP all concur that release is appropriate, the FRP will petition the court for the acquittee's release on behalf of the Commissioner.
- The acquittee has the right to petition the court for release only once in each year in which no annual review hearing is set. Evaluations will be ordered and based on recommendations, the FRP will make its own recommendations.

All requests for conditional release must be reviewed and approved by the FRP

- The FRP looks at successful progression through the graduated release process, acquittee compliance and collaborative involvement, stability of the acquittee, and successful management of risk factors.

All Conditional Release Plans are drafted jointly between the CSB and the facility

- §§ 19.2-182.2, 19.2-182.5(c), and 19.2-182.6(c)
- The Code explicitly states that the CRP is to be developed jointly between the hospital and the CSB where the acquittee will reside upon release.

The CRP is finalized and signed, sent to the FRP and then to the Court for final approval

- The NGRI court has final say in the approval of the CRP.
- Once approved by the court, it becomes a court-ordered treatment plan.

Legal Parameters of the Conditional Release Planning Process	§ 19.2-182.7	
	The Code of Virginia stipulates that at any time the court considers the acquittee's need for inpatient hospitalization, it shall place the acquittee on conditional release if:	The acquittee no longer needs inpatient hospitalization but needs outpatient treatment or monitoring to prevent deterioration of his condition to the point that inpatient hospitalization is necessary;
		Appropriate outpatient supervision and treatment are reasonably available;
		There is reason to believe the acquittee would comply with conditions; and
		Conditional release will not present undue risk to public safety.
	The court shall subject a conditionally released acquittee to such orders and conditions it deems will best meet their need for treatment and supervision and best serve the interests of justice and society.	
	Only the original NGRI court has the authority to conditionally release the acquitee.	

Components of Successful Conditional Release Planning	Close working relationships early in the process;
	Trusting in each other's judgment and perspectives;
	Fully considering community concerns, and
	Mutual work toward the goal of a timely, comprehensive, and safe release outcome for the acquittee.

CSB and Non-CSB Provider Involvement in Conditional Release Plans	The CSB is a member of the treatment team for the acquittee. It is important for the CSB staff to meet with the acquittee as often as possible, and to routinely participate in treatment planning meetings.
	Other providers may contribute to the plan, but the CSB must provide oversight and is held responsible for the overall implementation of the plan.
	Non-CSB providers may be asked by the CSB to contribute written confirmation of their willingness to provide specific components of the plan, regular updates to the CSB, and shared information. This is best done prior to submission of the CRP to the court.

Cross-Jurisdictional Conditional Release Placements	In some cases, acquittees may be conditionally released to CSB catchment areas that are different from the jurisdictions of the committing courts. This can occur when:	The acquittee committed the offense outside of his original CSB catchment area,
		The acquittee chooses to change residences,
		The family lives in a different area and is willing to accept the placement of the acquittee upon discharge, or
		Change of residence comports with clinical and legal recommendations.
	Acquittees may take up residence in any area of the state of their choosing. They are not required to return to the area where they were originally acquitted.	The CSB where the acquittee will be released is typically responsible for implementing the plan and coordinating services.
		The CSB from the original jurisdiction may provide consultation and collaboration, if appropriate.
		The CSB that implements the plan is responsible for supervision, monitoring, and reporting to the court.
	When CSBs change prior to conditional release, the original CSB must remain involved until the new CSB has accepted the transfer and the responsibilities for release planning/case management.	

When is a Conditional Release Plan Developed?	A CRP could be required early during the acquittee's temporary custody. During the temporary custody period, if either of the evaluators recommends conditional release, then a CRP must be written.
	A CRP could be required later after the acquittee progresses through the graduated release process and the treatment team recommends conditional release.
	A CRP could be required when an independent evaluation is ordered anytime during the acquittee's hospitalization (as in the case of an acquittee's petition for release) and the evaluator recommends conditional release.
Who Writes the CRP?	In most boards, the CSB is the originator of the written plan, and sends it to the hospital for input from the treatment team and the acquittee. It is the recommendation of DBHDS that the CSB take the lead role in drafting the CRP, as it bears the responsibility of following through with the outlined services upon release and because the hospital will have no involvement in the implementation of the plan once the acquittee is discharged.
	Regardless of who actually writes the first draft of the CRP, input from the CSB is crucial since the **CSB is the expert on what services are available in the community and how these services can best be offered.**
	The CSB, hospital, acquittee, family members, non-CSB providers can all have input into the plan and will all sign the final draft before sending the plan to the FRP for approval.

Sections of a Conditional Release Plan

Sections of a Conditional Release Plan

(See Appendix D for a CRP Template)

General Conditions - Generally included in all CRPs; rarely, if ever, are these modified.

- Examples:
  - Agreement to abide by all municipal, county, state, and federal laws
  - Agreement not to leave the Commonwealth of Virginia without obtaining written permission of the judge and CSB
  - Agreement not to use alcoholic beverages
  - Agreement not to possess any illegal drugs or medication not prescribed to the acquittee
  - Agreement not to possess or use weapons

Special Conditions - Modified based on the acquittee's specific risk factors and management of those risk factors; all services and supports, including residential and daytime activities, are outlined in detail.

- Examples:
  - Substance abuse counseling and testing
  - AA/NA Groups
  - Anger and aggression control groups
  - Group or individual therapy
  - Vocational programming
  - Residential placement and support services
  - Frequency of case management and psychiatric visits
  - List of medications and bloodwork required

Consequences of Non-Compliance - Language in the CRP that describes the consequences of noncompliance and the Code sections that address noncompliance. This is included in all plans and does not require modification.

CSB Information and Requirements - Case Manager name and contact information and outline of specific court-ordered requirements for the CSB.

Signatures - All parties involved in the development of the CRP, all parties who will be responsible for the provision of services, as well as the acquittee and family members (if appropriate) will sign the final plan.

CSB Comments - The CSB can provide written comment on the plan; opportunity to comment on risk factors and readiness for release; also an opportunity to express concerns, if any.

Introductory Paragraph

The first page of the Conditional Release Plan template contains two sections that require completion - the page header and the first paragraph.

The acquittee's name should be listed at the top of the plan in the page header section - this will result in the name automatically appearing at the top of each subsequent page.

The first paragraph then contains a statement about the NGRI finding and that the undersigned parties have read and agree to follow all conditions outlined within the plan.

In the blanks provided the CSB should list the acquittee's full name, list all of the charges for which the acquittee was found NGRI, and the court of jurisdiction over the case.

Sample Language:

COURT-ORDERED CONDITIONAL RELEASE PLAN FOR John Doe

The signatures at the end of this conditional release plan indicate that I understand that I have been found not guilty by reason of insanity for Malicious Wounding and Petit Larceny, pursuant to Virginia Code Section 19.2-182.2, and I am under the continuing jurisdiction of the Alexandria Circuit Court as a result of that finding. Pursuant to Virginia Code Section 19.2-182.7, the Alexandria Community Services Board will be responsible for the implementation and monitoring of my conditional release plan. The undersigned parties and I have reviewed this conditional release plan and agree to follow the terms and conditions.

General Conditions

The first section of the plan, Section A, is the General Conditions section. This section, as the name implies, includes conditions that are general and apply to all acquittees.

There is little to no modification of this section, apart from completing the blanks with the name of the supervising CSB, where indicated, or indicating the amount and type of income the acquittee expects to receive.

There are eleven General Conditions. The CSB and facility should not add any conditions to this section beyond what is included in the template.

The following is a list of the General Conditions:

1. Abide by all municipal, county, state, and federal laws.
2. Agreement not to leave the Commonwealth without the judge's and CSB's permission.
3. Agreement not to use alcoholic beverages.
4. Agreement not to use or possess any illegal drugs or non-prescribed medications.
5. Agreement to follow the directives of the judge and CSB and be available for supervision at all times.
6. Agreement to follow all conditions and conduct themselves in a manner that will maintain their mental health.
7. Understands that they may be returned to the hospital if their mental health deteriorates.
8. Agreement to pay for mental health and substance abuse services.
9. Agreement not to own, possess, or have access to firearms or associate with those who do.
10. Agreement to release all information and records.
11. Agree to participate in 30-40 hours of activities per week.

Special Conditions

The next section of the plan, Section B, is the Special Conditions section. This section, as the name implies, includes conditions that have been developed specific to the acquittee.

The plan should be well thought out and developed in collaboration with the facility treatment team, non-CSB providers who are listed in the plan, and the acquittee and his/her family if applicable.

The plan should directly address all specific risk factors that have been identified for the acquittee.

All providers, including case managers, residential providers, support services staff, day program staff, vocational training staff, etc. should have an opportunity to review the plan and be made aware of the components before it is submitted to the FRP.

There is a lot of variability from acquittee to acquittee on the types of special conditions listed in this section of the CRP. Generally, however, the plan should include information on the following: list of psychiatric/case managment/therapeutic services and frequency; substance abuse services and drug testing if necessary, list of medications/conditions and stipulations about taking them as prescribed.

1. The place of residence, description of type of residential placement (group home, independent apartment, etc.), and supports available at the residential placement.
2. Name and location of case manager, frequency of case management visits, any stipulations about decreasing/modifying this condition in the future.
3. List of all daytime activities, including work, day program, volunteer work, etc. based on the specific plan for the acquittee. Description of any vocational training or assistance if appropriate.
4. Name and location of any individual therapist and/or type and frequency of group therapy (i.e., anger management).
5. Name and location of psychiatrist and frequency of visits.
6. List of medical and psychiatric diagnoses and all medications. Stipulations about modifying medications can be included.
7. Substance abuse assessment and treatment services if necessary. Includes AA/NA, group sessions, and drug testing.
8. Transportation plans, if necessary.
9. Any other special conditions identified based on the acquittee's specific risk factors.

Consequences of Non-Compliance

This section outlines the consequences of non-compliance with court-ordered Conditional Release Plan and the relevant Code sections that address non-compliance.

This section is not modified, and remains the same for every acquittee.

From the Plan:

*** I have read or have had read to me and understand and accept the conditions under which the Court will release me from the hospital. I fully understand that failure to conform to the conditions may result in one or more of the following:*

- *Notification to the court of jurisdiction;*
- *Notification of the proper legal authorities;*
- *Modification of the conditional release plan pursuant to § 19.2-182.11;*
- *Revocation of conditional release and hospitalization pursuant to § 19.2-182.8;*
- *Emergency custody and hospitalization pursuant to § 19.2-182.9;*
- *Charged with contempt of court pursuant to § 19.2-182.7; or*
- *Arrest and prosecution*

*** I understand that my conditional release plan is part of a court document and could potentially be accessed by the public.*

CSB Information and Requirements

This section lists the court-ordered requirements for the designated Community Services Board. Not only is the CRP a court-ordered treatment plan for the acquittee to follow, but the CSB is also court ordered to monitor, coordinate services, and report to the court and DBHDS.

List Case Manager name and contact information in the blanks provided.

This section further stipulates the monthly and six-month written reporting requirements that the CSB must follow and to whom the reports should be sent.

This section indicates that the CSB can not make changes to the court-ordered CRP without permission from the court.

Finally, it requires that any and all updates (including copies of court orders) regarding the acquittee's status should be reported to the Office of Forensic Services at DBHDS.

Signatures	All CSB and non-CSB service providers listed in the plan, including the CSB NGRI Coordinator, CSB Case Manager, providers of residential services, therapeutic services, psychiatric services, etc. may be asked to sign the plan.
	The hospital treatment team, such as the social worker, psychologist, and psychiatrist will sign the plan.
	The acquittee's family members, if mentioned in the plan as having a role in the conditions of release (such as residential, transportation, etc.) should sign the plan.
	The acquittee must sign the plan.
	Once reviewed and approved by the IFPC and FRP, the FRP will send the plan to the court and the court will determine if the plan is acceptable and whether the acquittee shall be released. If approved, the plan becomes a part of the court record and the acquittee and CSB are ordered to comply with the conditions therein.
CSB Comments	This is an opportunity for the supervising Community Services Board staff to provide recommendations and comments to the Forensic Review Panel. The CSB is advised to always include comments in every CRP, as this is one of few opportunities to communicate directly with the FRP about the CSB's support for or against conditional release and an explanation for the CSB's position.
	The CSB is encouraged to use this section to include any information that it feels the FRP and court should be aware of that is not apparent in the written plan up to that point.
	If the acquittee has done well and the CSB feels the plan will adequately address their risk and needs, it should be indicated here.
	If there have been challenges and the CSB suspects the FRP or court may be uncertain about release, the CSB can address the reasons for supporting the acquittees release under this plan.
	If the CSB has concerns that the acquittee may not be ready or that the supports in the community may not be sufficient to manage risk, this is the place where the CSB will list those concerns.

Tips and Overcoming Barriers to Conditional Release

Tips for Preparing a Conditional Release Plan

BE SPECIFIC

Always include detailed descriptions of services, frequency, duration, location. List names of providers, detailed descriptions of special therapeutic interventions, and location and type of daytime activities required for the acquittee. Being specific will limit any confusion on the part of the acquittee and providers at a later date.

ANTICIPATE CHANGES IN SERVICE NEEDS

The CRP is a court order and neither the CSB nor the acquittee can change the type, frequency or duration of services listed unless it is specified in the CRP. Otherwise, the CSB can only make adjustments with court authorization. The CSB may want to anticipate changes when writing certain conditions so that they may be reduced in stages, when appropriate, when approved by the NGRI Coordinator. However, be sure to specify the minimum requirement that will be required for the duration of release. An example is: "Acquittee will see the psychiatrist monthly for the first six months following release. After that time the frequency may be adjusted to every 3 months, if agreed upon by the psychiatrist and NGRI Coordinator. The acquittee will see the psychiatrist no less than every three months for the duration of release."

BE CREATIVE AND IDENTIFY ALTERNATIVES

Sometimes the CSB may not be certain of the need for a particular service, or the CSB may not be able to provide a particular service that the FRP thinks would be beneficial. In anticipation of this, the CSB should provide a rationale for their recommendation and provide specific, detailed alternatives that will accomplish the same goal. An example is individual therapy - the FRP may feel individual therapy is necesssary upon release, whereas the CSB may not be certain. The substitute might read: "The client has not been a candidate for individual therapy while receiving inpatient treatment. The client will meet with his case manager to discuss his re-integration and adjustment into the community. These sessions will last at least 20 minutes and will occur twice weekly for the first 3 months and then at least weekly for the next six months."

Potential Challenges and Overcoming Barriers

LIMITED RESOURCES IN THE COMMUNITY

If funding is the primary barrier, the CSB staff should familiarize themselves with their regional DAP funds and process for requesting those funds. Reach out to the Regional Manager to inquire about DAP options and find out how to make a DAP request.

If there are no residential or support options in the CSB's catchment area, consider the option of looking outside of the area. This will require that the acquittee and the NGRI Coordinator of the CSB in the other region be willing to consider this option. Conversations and collaboration are the key.

If the individual needs intensive residential supports but there are no group home or ALF placements available, consider the availability of PACT team as an alternative.

Think creatively, don't give up, and ask for help – particularly from the treatment team, and other NGRI Coordinators in your region!

FRP REQUIREMENTS THAT ARE NOT INDICATED OR REALISTIC

First, the CSB should always consult with the treatment team, as well as the facility's Forensic Coordinator. If the CSB and the team agree that the requested services are not necessary to manage risk, then a response to the FRP's requested changes can be drafted together or by the Forensic Coordinator. For example, the FRP requires CSBs to include urinalysis testing for most acquittees. If the CSB disagrees with the need to do UA testing, and the hospital agrees that it is not indicated given the individuals history and risk factors, the team can request that condition be removed. An alternative would be to indicate that regular SA assessments will be completed by the case manager, and any suspicion of substance use by the CSB would result in mandatory UA testing, or something along those lines.

If the services requested by the FRP are not available, suggesting alternative methods for managing risk is one option. As said above, think and act creatively. The hospital treatment teams and nearby CSB NGRI Coordinators might be of assistance in helping you think outside of the box.

DIFFICULT TRANSITION FROM HOSPITAL TO COMMUNITY

The initial discharge to the community from the hospital can be a very scary and exciting time for the acquittee. Often they have been waiting a long time for this. They have developed relationships with other patients and hospital staff. They have come to know their discharge planner and/or NGRI Coordinator. However, when they leave they are often meeting with new treatment providers for the first time. Suddenly they have an intake with a case manager they've never met, seeing a new psychiatrist who knows little about their history. It is strongly recommended that the CSB make every effort to bring community providers to the hospital, or arrange meetings between providers and the acquittee at the CSB while on pass, so that they can put a face to a name, ask questions, and ease their anxiety. We all know that switching providers suddenly without any transition can result in challenges. Relationships are key to making sure that the transition goes smoothly.

Role of the CSB/BHA in Developing the CRP

- The CSB should take the lead in the drafting of the Conditional Release Plan. Once the initial draft is complete, all other members of the treatment team, providers, and the acquittee should give feedback.
- The CSB should take "ownership" of the plan, as it is not only a court order for the acquittee, but for the CSB as well.
- The CSB is the expert in the services and supports available in the community. If the plan does not accurately reflect the services that are available, it will only set the acquittee and CSB up for failure.
- Participate regularly in treatment planning meetings and meetings with the acquittee to understand all of the relevant risk factors and techniques for managing them in the community.
- Communicate regularly with the treatment team at the facility about the AAB and Risk Management Plan, obtain a copy (if they have not already provided one) or both AAB and RMP, and ensure that the plan addresses all risk factors.
- Consult with the facility's Forensic Coordinator or the Office of Forensic Services staff if there are concerns or disagreements with the team or FRP about necessary components of the plan.
- Complete the plan in a timely manner as soon as notice is received that the facility is preparing a packet. Once finalized, obtain all CSB provider signatures as needed and return the signed plan quickly so as not to hold up the process.
- Communicate and ask questions, everyone is working together on this!