

Wisconsin Community Forensic

Aftercare Manual



Wisconsin
Department of Health Services

Division of Mental Health and Substance Abuse Services
P-20512 (04/2014)

TABLE OF CONTENTS

- I. PROCEDURES FOR ADMISSIONS AND DISCHARGES FOR COMPETENCY EXAMINATIONS..... 1**
 - A. Statutory Authority 1
 - B. Purpose..... 1
 - C. Procedures for Competency Examinations 1
 - D. Treatment 3
 - E. Extension of Stay 4
 - F. Procedures for Discharge..... 4

- II. PROCEDURES FOR ADMISSIONS AND DISCHARGES FOR PERSONS UNABLE TO STAND TRIAL 4**
 - A. Statutory Authority 4
 - B. Purpose..... 4
 - C. Procedures for Admission..... 5
 - D. Treatment to Competency..... 5
 - E. Procedures for Discharge..... 6

- III. PROCEDURES FOR ADMISSIONS / CONDITIONAL RELEASE AND DISCHARGES FOR PERSONS COMMITTED UNDER WIS. STAT. § 971.17 7**
 - A. Statutory Authority 7
 - B. Purpose..... 7
 - C. Procedures for Commitment..... 7

- IV. PREDISPOSITION INVESTIGATION AND/OR SUPPLEMENTARY MENTAL EXAMINATION, WIS. STAT. § 971.17(2)(A) 9**
 - A. Supplemental Mental Exam (SME) 9
 - B. Predispositional Investigation (PDI)..... 10
 - C. Court orders both SME and PDI..... 10
 - D. The original SME or PDI report should be sent to the Court of Commitment and copies should be distributed to the following: 11

- V. PETITION FOR CONDITIONAL RELEASE, WIS. STAT. § 971.17(4)..... 11**
 - A. Petition for Re-examination (F-25392)..... 11
 - B. Petition for Conditional Release (F-25393)..... 11
 - C. Notification of Petition 11
 - D. High Profile Cases 12

E.	Process for Registration and Notification – Special Bulletin Notice (SBN)	12
VI.	COURT LETTER GUIDELINES, WIS. STAT. § 971.17(4)(C)	12
A.	Purpose.....	12
B.	Statutory Guidelines for Recommendations by MHI Staff.....	12
C.	Process for Submitting Court Letters.....	12
VII.	CONDITIONAL RELEASE HEARING, WIS. STAT. § 971.17(4)(D)	15
A.	Prehearing	15
B.	Hearing: Testimony	16
C.	Post Hearing: Obtain the Court Order	16
VIII.	THE CONDITIONAL RELEASE PLAN, WIS. STAT. § 971.17(4)(E)	16
A.	Process for Conditional Release Plan	17
B.	Final Plan Submitted to Court.....	19
IX.	MAXIMUM RELEASE FROM WIS. STAT. § 971.17 COMMITMENT	20
A.	Institution Cases.....	20
B.	Conditional Release Cases	21
X.	VICTIM NOTIFICATION.....	22
A.	Wis. Stat. § 971.17.....	22
XI.	PROCEDURES FOR RETURNING WIS. STAT. § 971.17 TO THE INSTITUTES PENDING REVOCATION OF A CONDITIONAL RELEASE	22
A.	Statutory Authority	22
B.	Purpose.....	23
C.	Procedures.....	23
XII.	PROCEDURE FOR CONVERSION OF WIS. STAT. § 971.17 COMMITMENTS TO CIVIL COMMITMENTS.....	27
A.	Purpose.....	27
B.	Procedure	27
XIII.	PROCEDURE FOR SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION, WIS. STAT. § 301.45.....	27
A.	Purpose.....	27
B.	Definitions.....	28
C.	Procedures for Sex Offender Registration	28
D.	Direct Court Release Cases Requiring Registration	30

E.	Discretionary Registration	30
F.	Procedures for SBNs.....	31
XIV.	PROCEDURE FOR AFTERCARE PLANNING FOR PATIENTS COMMITTED UNDER CHAPTER 51 OR CHAPTER 55 IN FORENSICS	32
A.	Purpose.....	32
B.	Procedure	32
XV.	CHAPTER 51 CIVIL COMMITMENT COURT PROCESS AS OUTLINED IN WISCONSIN STATUTES	33
A.	Physical Placement	33
B.	Inpatient Psychiatric Unit	33
C.	Probable Cause Hearing Options	33
D.	Probably Cause – Standard is Met.....	34
XVI.	PROCEDURES FOR ADMISSIONS AND DISCHARGES FOR PERSONS PLACED UNDER CHAPTER 55 PROTECTIVE PLACEMENT AND GUARDIANSHIP.....	34
A.	Chapter 55 Court Actions – Client Resides in Community or Supervised Setting	34
XVII.	CASE PREPARATION PROCEDURE FOR SPECIAL REVIEW BOARD (SRB) APPEARANCES, WIS. STAT. § 975.06.....	35
A.	Preparation of the Written Packet Materials.....	35
B.	Procedure Prior to Hearing	36
C.	Procedure for Hearing.....	37
D.	C-7 Parole Decisions.....	37
E.	Grant to Criminal Code Sentence	38
F.	Split Decisions	38
G.	Grant to Parole Recommended.....	39
H.	Sex Crimes Law Procedure: Schedule 1	40
I.	Sex Crimes Law Procedure: Schedule 2	40
XVIII.	DISCHARGE ORDER PROCEDURE FOR 975.06 PATIENTS	40
A.	Commitment is Expiring / Maximum Discharge Date is Approaching.....	40
B.	Commitment is Expiring / Person Transferred to DOC to Serve Criminal Code Sentence	41
C.	Distribution Once Either Order is Received	41
	APPENDIX I – SAMPLE MEMORANDUM TO REGIONAL AREA ADMINISTRATION.....	42
	APPENDIX II – SAMPLE MEMORANDUM TO REGIONAL LICENSING CHIEF	43

APPENDIX III – DMHSAS ADMINISTRATIVE DIRECTIVE 50-01.08 44

**APPENDIX IV – HISTORICAL ANALYSIS OF WIS. STAT. § 971.17, COMMITMENT OF
PERSONS FOUND NOT GUILTY BY REASON OF MENTAL DISEASE OR MENTAL
DEFECT 49**

I. PROCEDURES FOR ADMISSIONS AND DISCHARGES FOR COMPETENCY EXAMINATIONS

A. Statutory Authority

Wisconsin Statutes § [971.14\(2\)](#) and [971.14\(3\)](#): Orders from court for a competency examination and report requirements. Vanderbeke vs. Endicott, Wisconsin State Court of Appeals

B. Purpose

Wis. Stat. § [971.14\(2\)\(am\)](#) specifies if the Department of Health Services (DHS) is ordered by the court to conduct an examination under this section, the Department determines whether it will be conducted on an inpatient or outpatient basis.

C. Procedures for Competency Examinations

1. The court orders an examination conducted by the Department.
2. DHS assumes an outpatient examination is appropriate.
 - a. For outpatient competency examinations, list the examiner group contracted with the Department to conduct these examinations on the order ([CR-205](#)): Wisconsin Forensic Unit (WFU). DO NOT specify a particular examiner. WFU will assign an examiner.
 - b. The court sets a hearing date on the competency examination to occur 15 days after the examination is ordered. Place the date on the court order ([CR-205](#)). If the report is completed earlier, the Department requests that the hearing be moved up if at all possible.
 - c. Attach a copy of the criminal complaint and all pertinent mental health records to the court order ([CR-205](#)).

3. The clerk of circuit courts contacts:

Wisconsin Forensic Unit
Safety Building
821 W. State Street, Room 504
Milwaukee, WI 53233
414-278-4690
Fax: 414-223-1817

The clerk will fax the court order and criminal complaint to WFU, and also establish with WFU the location of the defendant (jail or elsewhere).

4. The WFU contract examiner will generate the report and fax the report to the court and to the district attorney and defense attorney. If requested, they will follow with a hard copy to the court and the appropriate contract provider. Generally, we have found faxed copies to be sufficient so that is standard practice.
5. Acute situations where the defendant cannot remain in jail:
 - a. If an acute mental health situation arises while the defendant is in the jail awaiting an outpatient competency examination, jail staff will contact local county mental health staff who works with the jail for consultation. County crisis staff will contact WFU, 414-278-4690, to determine when the examination is scheduled to occur. If the defendant can be managed until the examination date, the defendant will remain in jail. If WFU determines that the defendant cannot be managed in the jail safely, WFU will coordinate a transfer to Mendota Mental Health Institute (MMHI) or Winnebago Mental Health Institute (WMHI) on the Order for Competency Examination. (See below for contact telephone numbers at the mental health institutes).
 - b. Calls received in emergency situations where the jail staff and county mental health staff determined the individual cannot be managed safely in the jail will be handled as follows:

Monday-Friday 8:00 a.m. through 4:30 p.m.
MMHI: Contact admissions office 608-301-1352
WMHI: Contact admissions office 920-235-4910

After 4:30 p.m. / Weekends or Holidays
MMHI: Contact the nursing office supervisor at 608-301-1386 or 608-301-1060 and request the supervisor be paged.
WMHI: Contact the house supervisor at 920-235-4910 and request the supervisor be paged.
 - c. Calls received in a non-emergency situation where the court prefers an inpatient examination will be referred to:

Deb Collins, PhD, clinical coordinator for the Outpatient Competency Evaluation Program at 414-278-4690.
6. In the even an examiner is unable to render an opinion as to the individual's competency on an outpatient basis, the examiner shall notify the court that they are recommending an inpatient examination. The court order ([CR-205](#)) makes provisions for the sheriff to transport the defendant to the state mental health institute (MHI) for an inpatient examination. The examiner shall contact the designated forensic contact for admissions at both MHIs to notify them the person will need admission. The facility that will be admitting the defendant shall contact the appropriate sheriff's department to coordinate the admission.

7. Competency evaluations on civil patients placed at MMHI when an examination is ordered:
 - a. WFU will contact MMHI's designated contact person upon receipt of the order to determine whether the defendant is placed at MMHI on a civil status or a forensic legal status.
 - b. If the defendant is at MMHI on a forensic legal status, WFU will immediately fax the court order and criminal complaint to the designated contact at MMHI for follow-up and assignment of an examiner. The MMHI staff will conduct the examination and report to the court their findings.
 - c. If the defendant is at MMHI on a civil legal status, WFU staff will arrange to have an examiner come to MMHI to conduct the examination and report their findings to the court. This will be coordinated through the adult program director.
 - d. WMHI staff will conduct the examinations on patients at WMHI on a forensic legal status as well as those on a civil legal status (except emergency detentions that are 72 hours or less). In the event the volume becomes more than the in-house staff are able to accommodate, on a case-by-case basis they will make referrals to WFU for those at WMHI on a civil legal status.
8. The requirements for the court report are outlined in Wis. Stat. § [971.14\(3\)](#). It shall include the following:
 - a. A description of the nature of the examination and identification of the persons interviewed, the specific records reviewed, and any tests administered to the defendant.
 - b. The clinical findings of the examiner.
 - c. The examiner's opinion regarding the defendant's present mental capacity to understand the proceedings and assist in his or her defense.
 - d. If the examiner reports that the defendant lacks competency, the examiner's opinion regarding the likelihood that the defendant, if provided treatment, may be restored to competency.
9. In the case of a finding of **not** competent to proceed, if sufficient information is available to the examiner to reach an opinion regarding the need for medication or treatment, the examiner may include a petition for an order to treat with the letter to court.

D. **Treatment**

Treatment may be offered on a voluntary basis during the examination period. Involuntary treatment is given only in emergencies when imminent dangerousness is present.

E. Extension of Stay

Inpatient examinations shall be completed and the report filed within 15 days after arrival at the MHI. If, for good cause, the facility or examiner appointed by the court cannot complete the examination within this period, the examiner may request an extension by telephone contact with the judge's clerk. The court may allow one 15-day extension of the examination.

F. Procedures for Discharge

1. When the examination has been completed by the MHI:
 - a. WMHI: the social worker assigned to the case notifies the transport officer of the county jail for pickup.
 - b. MMHI: the admissions office notifies the transport officer of the county jail for pickup.
2. The patient cannot be returned to the MHI unless another valid order is issued by the court.
3. The court liaison communicates regularly with representatives of the court to ensure that the objectives for the competency examination are being met and the hearing is held in a timely manner.

II. PROCEDURES FOR ADMISSIONS AND DISCHARGES FOR PERSONS UNABLE TO STAND TRIAL

A. Statutory Authority

Wis. Stat. § [971.14\(5\)](#), [971.14\(3\)](#), and [971.16\(3\)](#)

B. Purpose

Following a finding of Unable (or Not Competent) to Stand Trial, the court may order the defendant to be treated to gain competency to stand trial. The standards of competency require that the examiner:

1. Assess the defendant's awareness of his/her possible legal defenses and how consistent these are with the reality of his/her particular circumstances.
2. An assessment of the appropriateness of the current motor and verbal behavior of the defendant and the degree to which this behavior would disrupt the conduct of a trial. Inappropriate or disruptive behavior must arise from a substantial degree of mental illness or mental retardation.
3. Assess the interpersonal capacity of the defendant to relate to the average attorney. Involved are the ability to trust and to communicate relevantly.

4. Assessment of the degree to which the defendant can understand, participate, and cooperate with his/her counsel in planning a strategy for the defense which is consistent with the reality of his/her circumstances.
5. Assess that the defendant is able to identify the roles of the actors in court (defense counsel, prosecuting attorney, judge, jury, defendant, witnesses).

C. Procedures for Admission

1. The order is to the Department, and the Department shall determine placement at an appropriate treatment facility.
2. The county sheriff's department by order of the court is responsible for transport to the facility designated by the Department.
3. The transport officer must call ahead to confirm acceptance by the facility designated by the Department. That call is made to the admissions office so that an assessment of the medical status of the patient can be made by the admissions office personnel (in consultation with the forensic director) of the respective MHI to determine **when** the person may be transported. At times it may be necessary to order special supplies or to prepare an isolation area. The assessment of the security level (maximum security level admitted to MMHI), gender (women admitted to WMHI), bed availability, and proximity to the MHI will also serve to decide placement.
4. The facility is informed whether or not the court has granted an order to treat with medication. If no such order is present, the treating physician must petition the court at a later date if such an order is needed.

D. Treatment to Competency

1. The examiner must provide a written report on status as required by the court at 3 months, 6 months, and 9 months after commitment and 30 days prior to expiration of commitment, unless competency is reached earlier, at which time a letter should be written to the court immediately. The social worker shall notify the appropriate court liaison of the recommendation in the status reports. The court liaison will work with the court system for individuals reported as competent to proceed in order to schedule hearings in a very timely manner. By scheduling hearings closer to the date of the report, the days spent in jail as well as days spent at department facilities once reported as competent to proceed should be reduced.
2. The written report should include information on the status of competency, such as "the patient has become competent"; "the patient remains incompetent but may regain within the commitment period"; or "the attainment of competency is not likely during the period of commitment." Any report indicating such a lack of sufficient progress shall include the examiner's opinion regarding whether the defendant is mentally ill, alcoholic, drug dependent, developmentally disabled, or infirm because of aging or other like incapacities.

3. The social worker or MHI's designee should keep appropriate community agencies (Wis. Stat. § [51.42](#) representative, probation and parole, etc.) apprised of the status of the patient on an ongoing basis. The court liaison will work with the social worker to track on the individual's progress through the criminal justice system.

E. Procedures for Discharge

The MHI registrar will compute the maximum release date. The period of time for which a patient can remain hospitalized may not exceed 12 months, or the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less. Days spent in commitment under this paragraph are considered days spent in custody under Wis. Stat. § [973.155](#).

1. If the patient is determined by the court to be competent:
 - a. The patient may not be returned to the department facility under Wis. Stat. § [971.14\(5\)](#). Should readmission be necessary, it must be accomplished through the approval of the 51.42 Board under Wis. Stat. § [51.37\(5\)](#), transfer from jail.
 - b. If competency of the individual again becomes questioned relating to the same crime (same case number), admission for Wis. Stat. § [971.14\(5\)](#) treatment is allowed for a period not to exceed 18 months, less any days spent in previous Wis. Stat. § [971.14\(5\)](#) commitment, or 12 months, whichever is less.
2. If the patient is determined by the court to be not competent and not likely to regain:
 - a. Pursuant to Wis. Stat. § [971.14\(6\)](#), the treating physician and treatment team must make a determination whether a [Chapter 51](#) (civil commitment), a [Chapter 55](#) (protective placement), or other supportive measures are appropriate to pursue. If so, the MHIs will collaborate with the mental health representatives of the county of residence and the probation/parole agent when appropriate to plan for continuous care and treatment.
 - b. If the individual requires further hospitalization and the charges are vacated, a Chapter 51 commitment may be pursued, provided the county 51.42 Board designee authorizes pursuit of a civil commitment.
 - (i) In this case, the attending psychiatrist must request, in writing to the director of the MHI, a 72-hour detention under Chapter 51 (this is commonly known as a Director's Hold).
 - (ii) The Director's Hold request is made to the corporation counsel in the county which the person presently resides (Winnebago County or Dane County). The probable cause hearing pursuant to Chapter 51 is held within 72 hours, excluding Saturday, Sunday, and legal holidays.
 - (iii) At this point, in the civil commitment process, the 51.42 Board in the county of residence must proceed with placement options for 14-day detention and commitment. Specific details regarding the civil

commitment process pursuant to Chapter 51 are outlined in that section of the manual.

- c. Case law gives the district attorney's office discretion to raise the issue of competency and reopen the case should the patient later become competent.

III. PROCEDURES FOR ADMISSIONS / CONDITIONAL RELEASE AND DISCHARGES FOR PERSONS COMMITTED UNDER WIS. STAT. § [971.17](#)

A. Statutory Authority

Wis. Stat. [Chapter 971](#)

B. Purpose

Procedures related to a finding of Not Guilty by Reason of Mental Disease or Defect.

C. Procedures for Commitment

1. Criminal charges are filed.

2. Competency to Proceed

At any point in the legal proceeding, either the district attorney or defense counsel may raise the issue of the defendant's competency to proceed. Please refer to the competency section, Wis. Stat. § 971.14(2) and 971.14(5), of this manual for more information.

3. Defendant is found Competent to Proceed.

4. Entering a plea of Not Guilty by Reason of Mental Disease or Defect, commonly called not guilty by insanity (NGI).

- a. The defendant is examined by two independent examiners appointed by the court to determine the defendant's mental status at the time of the crime and whether the defendant shall be held criminally responsible for their behavior pursuant to Wis. Stat. § [971.16](#).

- b. If the defendant is found not criminally responsible, the court commits the defendant to the Department. If the offense was a **felony committed before July 30, 2002**, the commitment shall be for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed against an offender convicted of the same felony, including imprisonment authorized by any applicable penalty enhancement statutes, subject to the credit provisions of Wis. Stat. § [973.155](#). If the offense was a **felony committed on or after July 30, 2002**, the commitment shall be for a specified period not exceeding the maximum term of confinement in prison that could be imposed on an offender convicted of

the same felony, plus imprisonment authorized by any applicable penalty enhancement statutes, subject to the credit provisions of Wis. Stat. § [973.155](#). If the defendant was convicted of first-degree murder, the commitment period shall be Life. If the offense was a **misdemeanor**, the commitment shall be for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed against an offender convicted of the same misdemeanor, including imprisonment authorized by any applicable penalty enhancement statutes, subject to the credit provisions of Wis. Stat. § [973.155](#).

c. At this point the court completes the Order for Commitment ([CR-271](#)).

5. Conditional release or institutional care is determined.

Placement is at the court's discretion. If the court lacks sufficient information to determine placement, it may adjourn the hearing and order the Department to conduct a predispositional investigation (PDI), using the Order for Predisposition Investigation ([CR-272](#)) or a supplemental mental exam (SME), using the Order for Supplementary Mental Examination ([CR-273](#)), or both, to assist the court in reaching a decision regarding placement. Please refer to the PDI and SME section [Wis. Stat. § [971.17\(2\)\(a\)](#)] of this manual for information.

Procedures for admission to MMHI or WMHI:

- a. The court shall complete the Order for Placement ([CR-275](#)), which shall accompany the Order for Commitment ([CR-271](#)). The Department shall designate placement at either MHI.
- b. The clerk of courts or transport officer of the county jail shall contact the admissions office of either MHI to inform them that there is an Order for Commitment.
- c. Arrangements are made for transport to the appropriate MHI. Placement decisions are based on security level, gender, bed availability, and proximity to the MHI. All persons requiring maximum security are placed at MMHI, and all females are placed at WMHI.

6. Conditional Release is ordered.

When the defendant is ordered conditionally released, the court also orders the Department and the 51.42 Board of the county of residence to develop a plan to be submitted to the court for approval by completing the Order for Conditional Release Plan ([CR-274](#)), to be accompanied by the Order for Commitment ([CR-271](#)). If the person is conditionally released immediately following the initial commitment, the plan must be submitted within 21 days. If the person is conditionally released from one of the MHIs following inpatient care, the plan must be submitted within 60 days. Please refer to the conditional release plan [Wis. Stat. § [971.17\(4\)\(e\)](#)] of this manual for more information.

IV. PREDISPOSITION INVESTIGATION AND/OR SUPPLEMENTARY MENTAL EXAMINATION, WIS. STAT. § [971.17\(2\)\(a\)](#)

The initial court Order for Commitment ([CR-271](#)) to the Department leaves open the judicial determination of placement. Therefore, the Order for Commitment ([CR-271](#)) must be accompanied by either the Order for Predisposition Investigation ([CR-272](#)) or the Order for Supplementary Mental Examination ([CR-273](#)) if the court lacks sufficient information to make that decision. The court then may adjourn the hearing and order the Department to conduct a PDI and/or an SME.

A. Supplemental Mental Exam (SME)

1. SMEs are inpatient examinations and are conducted by staff at MMHI or WMHI or independent examiners appointed by the court. The SME shall be filed within **15 days** after it is ordered unless, for good cause, the examiner requests an extension. The court may allow one 15-day extension. These reports are to assist the court in reaching a decision and, therefore, must include a recommendation for institutional care or conditional release. The examiner shall personally observe and examine the person and have access to the person's treatment records, as defined in Wis. Stat. § [51.30\(1\)\(b\)](#) and health records as provided under Wis. Stat. § [146.82\(2\)\(c\)](#).
2. If the examiner finds that the person is appropriate for conditional release, the examiner shall report on the type of treatment and services that the person may need while in the community on conditional release. MHI staff who recommends conditional release must collaborate with the 51.42 Board of the county of residence, the Division of Community Corrections (DCC) and the contracted conditional release team to determine appropriateness of community placement and services.
3. The report should include the following information for the court to consider:
 - a. Review of present offense.
 - b. Criminal history, including arrests, convictions, and correctional and supervision experience.
 - c. Personality history, including information relevant to recommendation: AODA history, family history, relationships, sexual behavior, military experience, leisure activities, residential history, financial management, education, employment, community support, etc.
 - d. Psychiatric history, including hospitalizations, compliance with treatment, family history, and treatment services.
 - e. Current mental status.
 - f. Diagnosis.
 - g. Summary and conclusions.

- h. Recommendations for treatment and supervision.
- i. Sources of information.

B. Predispositional Investigation (PDI)

PDI's are completed by Department-contracted case managers or their designee. An order for a PDI should be sent to the Division at PO Box 7851, Madison, WI 53707-7851 and may be faxed to 608-266-2579. PDI's must use the procedure in Wis. Stat. § [972.15](#). Please refer to the Investigation Worksheet (DOC-180) for this format.

PREDISPOSITIONAL INVESTIGATION REPORT

Date

Demographic Information:

Name: DOB: Birthplace: SS#:

Case#: Charges: Gender: Ethnicity: Address: Phone: Education: Religion: Family:

Marital Status: Defense Attorney: District Attorney: Probation Agent: Diagnosis: Medication:

Services:

**PRESENT OFFENSE
PRIOR RECORD
FAMILY BACKGROUND
PERSONAL HISTORY**

Academic/Vocational Skills: Military:

Marital Relationship:

Employment:

Financial Management: Emotional Health: Physical Health: Chemical Usage:

Mental Ability: Religion:

Leisure Time Activities: Residence History:

Other Agency Involvement:

SUMMARY AND CONCLUSIONS

Investigators Assessment and Conclusions:

Recommendation: Respectfully submitted:

SOURCES OF INFORMATION (should be a separate page)

C. Court orders both SME and PDI.

When the court orders both an SME and PDI, the examiners may contact the court to seek permission to collaborate on one report. The SME and PDI are both conducted by the Department, whether MHI staff or the Division staff, and therefore, should provide the court

with the same recommendation. Both reports address the same question: whether institutional care or conditional release is appropriate.

D. The original SME or PDI report should be sent to the Court of Commitment and copies should be distributed to the following:

- District Attorney
- Defendant's Attorney
- County 51.42 Board Representative
- Division of Community Corrections Agent
- Division Conditional Release Specialist
- Aftercare Coordinator (if applicable)
- Contracted Conditional Release Team (if applicable)

V. PETITION FOR CONDITIONAL RELEASE, WIS. STAT. § [971.17\(4\)](#)

Any person who is committed for institutional care may petition for conditional release if at least six months have elapsed since the initial commitment was entered, the most recent petition was denied, or the most recent order for conditional release was revoked. A person may not be prohibited from filing a petition within the time limits. A person may petition with the assistance of MHI staff, on their own, or with an attorney. The MHI social worker must assist any patient who requests to petition, regardless of the staff's opinion regarding appropriateness for conditional release.

A. Petition for Re-examination ([F-25392](#))

This petition is submitted to the court if the committing offense occurred prior to January 1, 1991. Persons committed under the "old law" may petition the court for conditional release every 120 days.

B. Petition for Conditional Release ([F-25393](#))

This petition is submitted to the court if the committing offense occurred after January 1, 1991. Persons committed under the current [Chapter 971](#) may petition the court for conditional release every six months.

C. Notification of Petition

The **original petition** must be submitted to the committing court with a copy for the district attorney and defense attorney. A cover letter should accompany the petition, including court case number, maximum release date, and the MHI contact person and their phone number. Persons who must be notified or copied that a petition has been submitted include:

- District Attorney
- Defendant's Attorney
- County 51.42 Board Representative

- Division of Community Corrections Agent
- Division Conditional Release Specialist
- Aftercare Coordinator (if applicable)
- Contracted Conditional Release Team
- Admissions Coordinator
- Court Liaison for the Appropriate Region

D. High Profile Cases

DMHSAS must be notified of persons petitioning who meet the guidelines under [Administrative Directive 50-01.08](#).

E. Process for Registration and Notification – Special Bulletin Notice (SBN)

For individuals who have been found not guilty by reason of mental disease or defect of sexually related crimes, the processes specified in [Administrative Directive 50-01.08](#) must be followed as applicable.

VI. COURT LETTER GUIDELINES, WIS. STAT. § [971.17\(4\)\(c\)](#)

A. Purpose

A court letter should be submitted from the MHI when a patient petitions for conditional release. The purpose of this letter is to provide the court with current information about the patient, to make a recommendation regarding conditional release, and to assist the court in making an informed decision.

B. Statutory Guidelines for Recommendations by MHI Staff

The team shall consider the standard that the court...”shall grant the petition unless it finds by clear and convincing evidence that the person would pose a significant risk of bodily harm to himself or herself or to others or of serious property damage if conditionally released. In making this determination, the court may consider, without limitation because of enumeration, the nature and circumstances of the crime, the person’s mental history and present mental conditions, where the person will live, how the person will support himself or herself, what arrangements are available to ensure that the person has access to and will take necessary medication, and what arrangements are possible for treatment beyond medication.” In other words, the team should discuss the standard in relation to its recommendation for or against conditional release.

C. Process for Submitting Court Letters

1. Team Meeting

The treatment team must meet to discuss its recommendation to the court regarding appropriateness for conditional release. The recommendations should consider the community resources available, matching patient needs and resources. The MHI social

worker and other institute team members shall include the conditional release case manager in the formulation of the treatment team's recommendation regarding conditional release. When the team makes a recommendation, the specific clinical reasoning should be clearly stated.

2. Writing the Letter

The court letter is to be a product of the treatment team and must be written by a clinical team member. It **shall not** replace the court-ordered examiner's report and should be stated so in the letter. Under **no** circumstances should more than one or conflicting letters be submitted from MHI staff, conditional release provider, or DCC agent to the court. In the event that there is disagreement among team members, effort should be made to resolve the conflict. The letter may reflect differing positions but should be explained to the court.

3. Application of Wis. Stat. [Chapter 980](#) and § [301.45](#)

The court letter must reference applicable sex offender laws and processes if the petitioner meets criteria to be considered under these statutes. Please refer to the Sexually Violent Person Commitments ([Chapter 980](#)) and Sex Offender Registration (Wis. Stat. § [301.45](#)) sections of this manual for more information.

4. Submitting the Letter

The court letter must be submitted within **30 days** of petitioning. If there are any significant events from the date of the letter until the hearing, an update should be submitted to the court. The **original** letter should be sent to the committing court and a copy of the court letter should be sent to the following:

- District Attorney
- Defendant's Attorney
- County 51.42 Board
- Division Conditional Release Specialist
- Contracted Conditional Release Team
- Admissions/Registrar
- Aftercare Coordinator (if applicable)
- Patient
- Medical Record

5. Format for the Court Letter

[Judge's name and address]

RE: [patient's name]

DOB:

Case No:

Commitment Date:

MR Date:

Dear Judge [Name]:

(Paragraph #1)

- Purpose of letter.
- 980 statement per Policy 207.04, Sexually Violent Person Commitments Law, Chapter 980 (if applicable). Consult with the Forensic Services Director.

(Paragraph #2)

Statement indicating the patient was staffed by the treatment team (specifying disciplines) and the conditional release providers (names, if possible), as well as any other sources of information, such as family members/guardian.

(Paragraph #3)

Statement about the nature and purpose of the unit on which the patient is currently residing.

(Paragraph #4)

Information the judge is to consider in ordering a conditional release per Wis. Stat. § [971.17\(4\)](#):

- Nature and circumstance of crime.
- Patient's psychiatric history.
- Patient's present mental condition, treatment progress, and security history, including transfers between units and privilege status (such as supervised activities, off-grounds, liberty status and the patient's adjustment to liberty, and any history of bodily harm to self or others while at WMHI or MMHI).
- Recommendation regarding conditional release: Recommendations for or against conditional release may be included in the court letter. **The letter may include a recommendation for an aftercare plan ONLY if the letter is recommending conditional release.** The court letter will be a collaborative effort between the social worker at the MHI, the conditional release case manager and treatment team. The author will include specifics of the aftercare plan that are reasonable and possible. The author will include this plan in the letter to court ONLY if recommending conditional release. The recommended conditions should be worded so that it is clear that the patient is to cooperate with specific treatment and security considerations, not that the treaters are ordered to provide treatment. Specific names of residences and therapists should not be stated in the letter; rather, recommended conditions should be worded describing the type of residence or therapy so as not to lock the department into a specific placement or treatment provider.
- Current aftercare plan (only if recommending conditional release):
 - Type of living arrangement (independent living/structured living/adult foster care, etc.)
 - How patient will support himself (financial payee, Supplemental Security Income, work, etc.)

- Arrangements that are available to ensure that the patient has access to and will take necessary medications (parole supervision/Community Support Program supervision/Wisconsin Community Services/legal guardian, etc.)
- Treatment arrangements available beyond medication (AODA/family therapy/individual therapy/day treatment, etc.)
- Recommended conditions of release specific to this patient (travel restrictions/ restrictions from certain areas or contact with certain individuals).
- Name of case manager consulted for plan development.

(Paragraph #5)

Include a statement as to the client’s applicability for sex offender registration if appropriate, and also include a statement as to the results of [Chapter 980](#) screening if appropriate.

(Paragraph #6)

Include a statement that this recommendation in no way negates the court’s responsibility to appoint independent (non-DHS employed) examiners to evaluate the individual and report their findings to the court.

(Paragraph #7)

If released, request return to the MHI for 60 days for a plan pursuant to Wis. Stat. § [971.17\(4\)](#)

cc: District Attorney
 Defense Attorney
 County 51.42 Board
 Division Conditional Release Specialist
 Contracted Conditional Release Team
 Patient
 Medical Record

VII. **CONDITIONAL RELEASE HEARING, WIS. STAT. § [971.17\(4\)\(d\)](#)**

The court, without a jury, shall hear the petition within 30 days after the court-appointed examiner has filed their report with the court, unless the petitioner waives this time limit. The court liaison for the appropriate region will track the petition through the court process to facilitate timeliness of the court process.

A. **Prehearing**

1. Court-appointed Exam

The court shall appoint one or more independent examiners within **20 days** after receipt of the petition. The examiner shall examine the person and furnish a written report within 30 days of appointment. If the examiner believes that the person is appropriate

for conditional release, they shall report on the type of treatment and services that the person may need while in the community on conditional release. Examiners shall not be employees of the Department.

2. Status

There may be several “status” hearings prior to the final conditional release hearing. These may include hearings to appoint the examiner, hear the examiner’s report, or schedule the actual hearing. It is important to know the purpose of any scheduled hearing. The court clerk or district attorney may be able to provide this information. Patients are not required to attend status hearings.

3. Transport

An Order to Produce or Order to Transport must be received by the MHI in order for the patient to be returned to court. Most often this order is submitted by the district attorney’s office, and the sheriff’s department provides the transportation.

B. Hearing: Testimony

Treatment team staff may be requested to testify. Staff are not required to do so without a subpoena. Testimony should be consistent with the court letter information. Staff must only testify within the standards of their professional discipline. The court may establish those that testify as expert witnesses; be prepared to discuss your credentials and experience. Staff may request to testify by phone. If the court letter recommends conditional release or includes a possible conditional release plan, the conditional release case manager will generally attend the hearing to be of assistance to the court.

C. Post Hearing: Obtain the Court Order

There may be a substantial delay in receiving a court order regarding the decision for conditional release. The MHI social worker or admissions coordinator should contact the case manager who will work with the court clerk or district attorney to obtain the disposition information and to request a copy of the court order. It is important to obtain the order in a timely manner, as the time to develop a plan is limited to 60 days.

VIII. THE CONDITIONAL RELEASE PLAN, WIS. STAT. § [971.17\(4\)\(e\)](#)

If the patient has been granted a conditional release, the court will prepare the Order for Conditional Release Plan ([CR-274](#)) and send it to the appropriate location. The plan must be presented to the court for its approval within **60 days**. The Department, including MMHI or WMHI, the DCC agent, and the contracted conditional release case manager (in coordination with the county of residence/placement 51.42 Board), shall prepare the plan. By statute, the plan must address the provisions for supervision, medication, community support services, residential services, vocational services, and AODA treatment.

A. **Process for Conditional Release Plan**

There are a number of steps involved in finalizing a conditional release plan.

1. Notification

MHI staff shall notify the contracted conditional release case manager of the conditional release status. The MHI shall submit the Admission to Caseload – Mental Health ([F-25213](#)) to have a DCC agent assigned per protocol. The contracted conditional release case manager must be notified immediately, and the established process for developing a conditional release plan with those agencies should be followed.

2. Collaboration

If no recommendations were made prior to the client's hearing, institute social worker/staff and contract provider should convene a meeting with the DCC agent to identify appropriate referral agencies and plan development. Although the process is established to be a collaborative effort, the final plan presented to the court must be submitted by the contracted conditional release case manager.

3. Referral

MHI staff shall remain in contact with the contracted conditional release case manager to obtain information about available services and possible referral sources. Staff should explain supervision and contracting to the possible referral sources, obtain signed releases from the patient, submit referral information to the agencies, and establish a response time, explaining the time limit for confirming services. It is good practice to have the referral agency representative for residence and case management, if that is a Community Support Program case manager rather than a conditional release case manager, meet with the patient at the MHI or at the community agency prior to acceptance.

4. Confirmation and Approval

The contracted conditional release case manager **must** confirm and approve all aspects of the plan. The Department has established a contract with DOC to provide supervision for conditional released clients and has ultimate responsibility for supervision, therefore, the agent of record must be aware of and have had input into all aspects of the plan.

5. County of Residence

Referrals for out-of-county placement or services **must not** be made unless all county of residence services have been exhausted and approval has been obtained from the Forensic Services specialists in the Division Administrative Office. In the event of an out-of-county placement, the agent **must** transfer supervision and the new agent's supervisor must accept the case. If the person is being placed in a county other than the

county of residence, the following language must be in the letter sent to the court with copies to both the sending and receiving county departments:

As (client name) is a (county) resident, it is acknowledged that (county) will be responsible for coordinating any medical services that may be required by (client name), unless (client name) is able to pay for services. It is also to be noted that as (client name) progresses to a less restrictive environment, the transition will be made back to (county), as that is her/his county of residence

6. Community-based Residential Facility Notification

When placing a client in a licensed community-based residential facility (CBRF), the regional office of the Division of Community Services of the county of placement must be notified. Specifically, the licensing chief and area administrator of that region are to be notified (see Appendix).

7. Funding

Funding for conditional release services for indigent conditional release clients is provided by the Department conditional release program, through contracts with established contract providers. Funding for the services established in a conditional release plan **must** be approved by those agencies representing the Department. Services required as court-ordered conditions of release and established by statute are typically covered. Case management services may be billed. Services outside this caveat are not covered, including necessary medical services (i.e., blood pressure and diabetes medications, dental services) unless they are specifically related to conditional release services (i.e., blood draws for Clozaril and lithium). Clients must contribute to their cost of services according to their ability to pay. Therefore, income from work or entitlements will be used to offset costs. Applications for entitlements (i.e., Supplemental Security Income, Social Security Disability Insurance, VA benefits) **must** be submitted **90 days** prior to release. Often, it takes 30-90 days for processing the applications.

8. Extension

If an extension is necessary in order to establish a conditional release plan, a request must be submitted to the court **7-14 days** prior to the 60-day deadline. Extension requests must include the following:

- Reason for the extension, explaining the delay (i.e., unable to confirm acceptance from CBRF, difficulty in placing due to history of arson).
- The established plan to date, including referrals and rejections.
- Inform the court of the plans that will be carried out during the extension period (i.e., referral to other CBRFs).
- How long the extension will be needed (30-60 days).
- Indicate that the MHI, patient, and 51.42 Board representative are in agreement.

B. Final Plan Submitted to Court

1. Confirmation

The final plan should be submitted to the court only after all aspects of the plan have been confirmed, including the following:

- All providers have agreed to provide services and have established an admission date.
- The budget for services has been approved.
- Sex offender registration and Special Bulletin Notification (SBN) has been completed, if applicable.
- If the patient has not agreed to cooperate with the plan and rules of supervision, note this in the plan letter and proceed with revocation.

2. Submitting the Plan – Contracted Provider

The plan submitted to the court should be specific about services and conditions. Include the following when outlining the plan:

- Placement name, address, phone number, and contact person.
- Date of discharge from MHI, admission to community residence.
- Case manager, agency, name and phone number.
- Medications: who will monitor them and how, psychiatrist's name and affiliation, how they will be dispensed (i.e., pharmacy, mail, CBRF).
- Agencies and services' location and contact person for Community Support Program, day programs, vocational services, AODA treatment, etc.
- Division of Community Corrections agent, including phone number, plan for supervision (i.e., high risk, Electronic Monitoring Program device), and standard and special rules to be signed.

3. Distribution

The original plan should be submitted to the court. Copies of the plan should be sent to the following:

- District Attorney
- Defense Attorney
- 51.42 Board Representative
- Division of Community Corrections Agent
- Division Conditional Release Specialists
- Aftercare Coordinator (if applicable)
- Patient
- Medical Record (MHI)
- Service Providers

4. Discharge Order

The discharge date is specified in the Order for Commitment ([CR-271](#)). An Order for Placement ([CR-275](#)) specifying placement on conditional release is necessary prior to placement. You may attach the standard form ([CR-275](#)) to the proposed plan and request the court to return a signed copy. This is the most expedient way to obtain an Order for Placement and approval of the plan.

5. Community Placement

The following arrangements should be made at or prior to placement:

- a. Establish initial appointments for services (i.e., psychiatrist, AODA intake).
- b. Notify the agent of the discharge/admission plan and make arrangements for the patient to meet with the agent to review and sign all rules prior to discharge or at the time of placement.
- c. Arrange transportation from the MHI to community placement. Policy on transport is as follows:

For a conditional release, the primary responsibility falls on the releasing MHI. For an Alternative to Revocation (ATR) return, the primary responsibility falls on the provider. Exceptions can be arranged based on case specific issues.

- d. Property arrangements must be made prior to discharge. If there is too much property, it must be shipped. The cost and payment will be agreed upon between the MHI staff and the conditional release program staff.
- e. The DCC agent shall arrange registration with local law enforcement.

IX. MAXIMUM RELEASE FROM WIS. STAT. § [971.17](#) COMMITMENT

A. Institution Cases

1. Obtaining a Discharge Order

When a patient is within six months of their maximum release date, the treatment team should meet to discuss the patient's specific needs upon discharge. The team should consider whether the patient needs services under Chapter 51 or Chapter 55. If the patient is assessed to be unable to care for him/herself or is dangerous to self or others, the process for civil commitment should be initiated by contacting the 51.42 Board of the county of residence. A court letter must be sent a **minimum of 60 days** prior to the expiration of the commitment to the committing court. This letter is to provide information to the court and to request a signed Order of Discharge Upon Expiration of Commitment ([F-25180](#)).

2. The court letter should include the following:
 - a. Court case number.
 - b. Brief legal history, including date of original commitment, offense(s), and maximum release date.
 - c. Outline of the recommendations in regard to pursuing a commitment under Chapter 51 or Chapter 55. Include any reasons for pursuing or not pursuing such a commitment.
 - d. Outline of the patient's aftercare plans, including any arrangements or referrals made for residence, community treatment, appointments, transportation, and persons or agencies providing support or services.
 - e. Statement regarding an attached Order of Discharge Upon Expiration of Commitment ([F-25180](#)) and instructions for signing. This may be filled out for the court's convenience.
 - f. Distribute the **original** to the court and send copies to the following:
 - District Attorney
 - Corporation Counsel (if Chapter 51/55 is being pursued)
 - County 51.42 Board Representative
 - Division of Community Corrections Agent
 - Aftercare Coordinator (if applicable)
 - Admissions Coordinator
 - Division Conditional Release Specialists
 - Conditional Release Case Manager
3. It is the opinion of the Office of Legal Counsel that persons committed under the "new" law may **not** be discharged from the MHI **without** a signed discharge order. Exceptions may be made only with the approval of the Office of Legal Counsel. In the event that a judge refuses to sign a discharge order, please contact the Division Administrative Office to request assistance from the Office of Legal Counsel.

B. Conditional Release Cases

1. Obtain a Discharge Order
 - a. Sixty days prior to the maximum release date, the supervising DCC agent must submit the Order of Discharge Upon Expiration of Commitment ([F-25180](#)) to the court for a signature. The agent sends copies to the following:
 - Contracted Conditional Release Team
 - Division Conditional Release Specialists (DHS will close their file)
 - DOC Central Records (a termination number is issued)

- b. The agent must send the closed file to MMHI for storage. MMHI staff will verify the receipt of an Order of Discharge Upon Expiration of Commitment ([F-25180](#)) and send a copy to the Division conditional release specialists. MMHI staff will obtain a “T” number from DOC, if the file does not already have one, and coordinate the record destruction date with DOC.

X. VICTIM NOTIFICATION

A. Wis. Stat. § [971.17](#)

Once the judge has determined that the individual is committed as Not Guilty by Reason of Mental Disease or Defect and completes an Order for Commitment ([CR-271](#)), the district attorney’s office shall make Victim Notification Card available to all victims. The Victim Notification Cards are sent to the Division Community Forensic Services supervisor in the administrative office in order to be entered into the Victim Notification Database. There are three instances in which the victim receives notification.

1. Leave from MHI

No less than 14 calendar days prior to a leave longer than 24 hours from the MHI, the Division Community Forensic Services supervisor in the administrative office must be notified. Written notification is sent to the victim/next of kin at least 7 calendar days prior to the leave. (See appendix for sample letter.)

2. Conditional Release

Notification of conditional release is the responsibility of the district attorney.

3. Termination or Expiration of Commitment

Individuals are released from the MHI if their commitment is terminated by the court or if they have completed their court-ordered maximum commitment and are granted release by the court. The Division Community Forensic Services supervisor in the administrative office notifies the victim by letter at least 7 calendar days prior to the release. A copy of the signed discharge order must be submitted to the Division Community Forensic Services supervisor in the administrative office no less than 14 calendar days prior to release.

XI. PROCEDURES FOR RETURNING WIS. STAT. § [971.17](#) TO THE INSTITUTES PENDING REVOCATION OF A CONDITIONAL RELEASE

A. Statutory Authority

Wis. Stat. § [971.17\(3\)\(e\)](#), [51.15\(2\)](#), and [51.37\(3\)](#)

B. Purpose

A person committed to the Department under Wis. Stat. § [971.17\(3\)](#) and having been released to community supervision by the court may be placed in custody in a jail, hospital, center, or facility specified by Wis. Stat. § [51.15\(2\)](#) for up to 30 days pending revocation of the conditional release or pending development of alternatives to revocation if the supervisee has:

- Violated the conditions of release.
- Violated the rules of supervision.
- Shown that his/her safety or the safety of others requires such action.

C. Procedures

1. The supervising agent determines that a violation of court-ordered conditions or the rules of supervision has occurred, or the supervising agent is significantly concerned for the safety of the supervisee and/or the safety of others such that he/she must be removed from the community.
2. After consultation with his/her supervisor, the supervising agent issues an apprehension request (DOC-58) if necessary, (check for LOCAL DISTRIBUTION) followed by a Petition for Capias ([F-25206](#))/Order Granting Capias ([F-25207](#)), signed by the committing court. Once the Capias is entered in the warrant system, the agent should immediately cancel the apprehension request (DOC-58). When the supervisee is detained in the local county jail, the agent can authorize the detention using the Order to Detain (DOC-212). If the local jail refused to accept the hold order for the NGI case, the Order Granting Capias ([F-25207](#)) would provide the necessary authorization to hold the supervisee.
3. Within 72 hours of detention (excluding weekends and holidays), the following must occur:
 - a. The supervising agent shall prepare a violation report and obtain corroborative information, such as police reports and criminal complaints, to support the alleged violations.
 - b. The supervising agent shall prepare and submit a Statement of Probable Cause for Detention and Petition for Revocation of Conditional Release ([F-25177](#)) within 72 hours of detention to the:
 - Committing court
 - Division Forensics Services specialists
 - Public Defender Regional Office
 - Committing County District Attorney's Office
 - Contracted Conditional Release Provider

- c. The supervising agent shall request that the court schedule a final revocation hearing date within 30 days of detention. The agent should be prepared to testify at the final revocation hearing.
 - d. The supervising agent shall document in the chronology the date and time that notice was provided to the court.
 - e. The supervising agent and/or unit supervisor shall contact the Division Forensic Services specialists and the contracted conditional release provider to advise of the intent to return a supervisee to one of the MHIs pending revocation of conditional or supervised release, or while additional community treatment options are investigated. The agent or supervisor should be prepared to discuss:
 - The specific alleged violations
 - The specific intent of the return to the institute (i.e., revocation, medication adjustment, modification of conditions, development of alternate living arrangements, evaluation of dangerousness)
 - The supervisee's current mental status and behavior (i.e., psychotic, decompensating, stable, delusional, combative, resistant, hostile, cooperative)
4. The Division Forensic Services specialists or the contracted conditional release provider shall immediately contact the registrar or admissions office personnel of the MHIs as follows:
- a. The MHI from which the supervisee was most recently discharged.
 - b. MMHI if maximum security is required.
 - c. WMHI if female.
 - d. Whichever MHI has a bed available, particularly in the case of direct court releases.

They shall provide the following information: supervising agent or supervisor's name, area number, and telephone number.

5. The registrar or admissions office personnel of the MHI to which the supervisee is returning shall immediately advise the MHI contact person of the name of the returning supervisee, the agent and/or agent's supervisor's name and phone number, and the unit to which the returnee will be admitted.
6. The institute contact person shall contact the supervising agent or supervisor to:
 - a. Confirm the purpose for returning the supervisee to the institute.
 - b. Advise of the assigned social worker's name, phone number, and address.

- c. Request that copies of a violation report, police reports, criminal complaint, relevant chronological notes, and other pertinent documents be forwarded as soon as possible to the assigned social worker.
 - d. Respond to any questions the agent or supervisor may have about those procedures.
 - e. Be informed of the final revocation hearing court date.
7. The MHI contact person shall advise the assigned MHI social worker of the supervising agent's name and phone number, the name of the returning supervisee, the intent of the admission, and the final revocation hearing court date.
8. The supervising agent shall arrange with the local sheriff's department and the MHI registrar or admissions personnel for transfer of the supervisee to the identified MHI as soon as possible so that MHI treatment staff have sufficient time to assess, evaluate, and treat the returnee prior to the final revocation hearing. In order to admit the returnee to the MHI, a copy of the Statement of Probable Cause and Detention and Petition for Revocation ([F-25177](#)) and an Order to Transport ([F-25205](#)) signed by the judge, along with a copy of the original Order for Commitment ([CR-271](#)), must accompany the returnee.
9. The MHI admission unit manager and/or social worker are advised of the return date by the MHI registrar or admission personnel.
10. Within 30 days of detention, the following must occur:
 - a. The assigned MHI social worker shall contact the supervising agent and the contracted conditional release team to discuss the nature of the violation, the impressions of the returnee's community problems and treatment needs, and the possible alternatives to revocation.
 - b. If, after discussion among the assigned MHI social worker, Forensic Services specialist, contracted conditional release provider, and the agent, there is a decision to recommend revocation of conditional or supervised release; the following will occur:
 - The MHI treatment team treats the returnee as they would any other admission to their program.
 - The supervising agent appears in court for the final revocation hearing and presents the Department's case for revocation.
 - If consensus cannot be reach, the supervising agent has the authority to make the final decision in the matter. Opinions should be shared freely among all parties, but only one recommended plan should be presented to the court.
 - c. Any waiver of revocation must be filed through the supervisee's attorney.

If revocation is not being pursued or the judge refuses to revoke, continue with the steps indicated below.

- d. The assigned social worker, supervising agent, Forensic Services specialist, contracted conditional release provider, county department representative, and the supervisee shall collaborate in developing an alternate community treatment plan to be presented to the court. The alternative plan will be written by the contracted conditional release provider agency representative.
- e. The collaborative team above (iv.) shall evaluate the returnee for:
- The appropriateness for continued community release status.
 - Current community needs and risk.
 - Alternative community treatment plan recommendations that address the circumstances surrounding the reason for return.
 - The returnee's willingness and current ability to cooperate with continued community treatment.
 - Any other pertinent information requested by the agent or the contracted conditional release team.
- f. A letter addressed to the agent shall be prepared by the assigned social worker or the designated treatment staff and shall minimally contain the following information:
- Purpose of the letter.
 - Adjustment since return to the MHI (i.e., level of cooperation, behavior on the unit).
 - Current diagnosis and mental status.
 - Factors raised in iv. above as well as recommendations and rationale for those recommendations.

Note: This letter does NOT go to the court – only to the supervising agent.

- g. The supervising agent, MHI staff, county department representatives, and the contracted conditional release provider should attempt to reach a consensus on the alternative treatment plan being recommended to the court. The supervising agent shall make the final recommendation to the court based on the team's consensus, and the corresponding alternative community treatment plan written by the contracted service provider should be prepared to appear in court at the final revocation hearing.
- h. If the alternative community treatment plan is approved by the court but the plan cannot be immediately implemented, the supervisee should be returned to the MHI until all conditions of the modified conditional or supervised release order are able to be implemented (i.e., waiting list at the residential facility). This should be part of the recommendation presented by the supervising agent.
- i. If a disagreement arises among the parties involved whether or not to revoke someone on conditional or supervised release, the supervising agent has the authority on behalf of the Department to make the final decision and will provide the court with his/her recommendation.

XII. PROCEDURE FOR CONVERSION OF WIS. STAT. § [971.17](#) COMMITMENTS TO CIVIL COMMITMENTS

A. Purpose

The MHIs need to involve 51.42 Boards in all planning for petitions for civil commitments. When patients under Wis. Stat. § [971.17](#) reach their maximum discharge date and are converted to [Chapter 51](#), their county of residence is designated as responsible for providing appropriate treatment, including the cost for said treatment. As our customers, they should be included in the process at the time we begin thinking about this as an option.

B. Procedure

1. At least three months prior to the anticipated maximum release date (one year for Milwaukee County), the unit social worker will notify the 51.42 Board contact by phone and/or mail of the recommendation for a civil commitment. The social worker will invite all relevant parties from the community to a staffing to discuss the issue further. If a staffing is not possible due to distance, the plan should be for a conference call to start discussions with the county. During the staffing or conference call, it will be decided who will initiate the petition, aftercare ideas will be discussed, and a plan will be established for how to proceed.
2. The MHI social worker and the county contact will remain in communication throughout the process to assure timely completion of necessary paperwork, filing of papers with the court, and plans for provision of testimony.
3. As the hearing approaches, planning should include discussion of where the patient will reside after the final commitment hearing. A decision must be made as to whether more time is required at the MHI or whether the patient will go directly to a placement in the community.
4. A contingency plan for aftercare arrangements that meets the needs of the patient must be developed in the event a commitment is not secured. While the 51.42 Board is not legally responsible in the event a commitment under [Chapter 51](#) is not secured, they need to be asked for assistance in the pursuit of appropriate resources for the patient. The best that can be hoped for in this situation is the cooperation of the patient, since planning under these circumstances is strictly voluntary on his/her part.

XIII. PROCEDURE FOR SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION, WIS. STAT. § [301.45](#)

A. Purpose

Effective June 1, 1997, the Department became responsible for coordinating efforts with the Department of Corrections (DOC) to comply with the requirements of Wis. Stat. § [301.45](#), Sex Offender Registration.

MMHI- and WMHI-designated staff will identify upon admission those persons who meet sex offender registration criteria and those persons requiring Special Bulleting Notification and will provide notice and instruction to those patients of their requirements and responsibilities under Wis. Stat. § [301.45](#). All patients identified as sex offenders will be registered with the Sex Offender Registration Program upon discharge from inpatient care. All patients meeting criteria for Special Bulleting Notification will have a Special Bulleting Notification generated and disseminated prior to MHI discharge.

B. Definitions

1. **Sex Offender Registration Program (SORP):** Wis. Stat. § [301.45](#) establishes a sex offender registration program within the DOC. The Department has worked collaboratively with DOC to set up a system of sex offender registration for all persons committed to the Department. SORP maintains a registration database and follows all registrants until they are no longer required to register.
2. **Special Bulletin Notification (SBN):** This is a notification process whereby law enforcement officials in the county and area of the patient’s residence, employment, or school enrollment will receive detailed information from DOC or the Department prior to that patient’s MHI release. An SBN is generated from registration forms parts 1 and 2. It is **mandatory** for all individuals committed under [Chapter 980](#) (Sexually Violent Person Commitments) who are to be placed in the community and for all cases where the patient has been committed or convicted of a sex offense, as defined by crimes requiring registration, on two or more separate occasions (**2-strike cases**). **It is Department policy to also prepare an SBN on all persons referred to the [Chapter 980](#) process. Offenses that do not constitute a strike include:**
 - Juvenile adjudications
 - Read-ins
 - Convictions that have been reversed, set aside, vacated, or pardoned
 - Federal convictions
3. **Discretionary Registration:** The court may require a person to register with the DOC SORP if the court determines that the underlying conduct was sexually motivated and that it would be in the best interest of public protection for any violation under Chapters [940](#), [944](#), and [948](#) or Wis. Stat. § [971.17](#), [943.01](#), and [943.15](#) (certain crimes against property).

C. Procedures for Sex Offender Registration

1. Institution Cases Requiring Registration
 - a. Release with no supervision.
 - (i) Patients whose commitment will expire while in an MHI are required to register with DOC SORP within 10 calendar days prior to their maximum release date (end of commitment).
 - (ii) Registering the patient will be a part of the MHI release process.

- (iii) Inform the patient of his/her requirements to register with the DOC SORP by completing the Sex Offender Registration Form (DOC-1759), titled, “Notice of Requirements to Register.”
- (iv) Registration forms received at the DOC SORP must have the following data items on Part 1 of the Sex Offender Registration Form (DOC-1759), or they will be returned to the MHI for completion.
 - Full name, including complete middle name
 - Date of birth
 - DOC #, if referred from DOC
 - Social Security number
 - Residence information
- (v) Instruct the patient to read the “Notice of Requirements to Register.” The patient should verify the information on the form and sign the form. It is recommended that the person registering the patient read the notice directly to the patient.

Note: The law requires the patient/offender to sign the form, indicating that he/she has been informed of his/her requirements to register. If the individual refuses to sign, note “refuses to sign” and date and initial on the signature block of the form.

- (vi) Distribute the completed Sex Offender Registration Form (DOC-1759) to:
 - DOC SORP
 - Patient file
 - Patient
- (vii) Inform the patients that they are required to update any changes of residence, employment, school enrollment, and use of vehicle by calling the registration toll free number.
- (viii) Complete the Sex Offender Registration: Part 2 (DOC-1759A) and forward the original to the DOC SORP. Indicate on the form the case type (incarceration/confinement) and the type of registration (expiration commitment).
- (ix) Make a copy of the Sex Offender Registration: Part 2 (DOC-1759A) for the file. The patient **does NOT** receive a copy of this form.
- (x) The DOC community-based sex offender registry specialist will be immediately notified by SORP staff of the patient’s release to the community.

- b. Release to Supervision
 - (i) Upon admission, cases requiring registration will be noted, and an MHI face sheet will be sent to SORP. If the patient also requires an SBN (two-strike and [Chapter 980](#) cases), this should be noted on the face sheet. The face sheet will serve to set up a file with the registry.
 - (ii) Though registration is mandated to take place within 10 days post MHI release, MHIs will register patients as a part of the discharge process to provide an additional safety net.
 - (iii) Follow the same procedures outlined above, for patients being released without supervision, with the additional step of sending the assigned parole agent a copy of the registration forms.
- c. Registering Patients who are in the [Chapter 980](#) Process
 - (i) Persons who are in the [Chapter 980](#) process should be registered **upon admission** rather than at MHI discharge.
 - (ii) Follow the registration procedures outlined above. Send a registration form to the assigned agent.
 - (iii) Upon discharge from the MHI to the community, notify SORP of any changes/updates.

D. **Direct Court Release Cases Requiring Registration**

1. All direct court release cases will be registered by the assigned parole agent.
2. DHS staff or representatives doing PDI should indicate in the PDI whether or not the person is required to register. If the investigator feels that a discretionary registration is necessary, include that recommendation to the court.
3. DHS staff or representatives doing SMEs follow the same instructions as PDI.

E. **Discretionary Registration**

1. Institution Cases: If person committed under Wis. Stat. § [971.17](#) does not meet the statutory requirements to register but has exhibited behavior that leads the clinicians to believe that the patient's crime(s) and current behavior are sexually motivated, a discretionary registration can be requested of the court. This can be done by court letter.
2. Direct Court Cases: If determined during the PDI process, the investigator will make the recommendation to the court. If the determination is made while on conditional release, the Forensic Services specialist will work with the parole agent to recommend registration to the court.

F. Procedures for SBNs

1. Identification of Patients Requiring SBNs

- a. Any person referred to the [Chapter 980](#) process.
- b. All persons committed under [Chapter 980](#).
- c. All persons who have been convicted or found NGI of two or more registerable offenses.
- d. A discretionary SBN may be required for patients with a conviction/commitment for one sex offense for which registrations is required and who the treatment team has concluded an SBN is advisable for community safety.

2. SBN / SBN Supplemental Production

- a. The Sex Offender Special Bulletin Notice ([F-25723](#)) contains all of the necessary information for local law enforcement. The Special Bulletin Notification Supplement ([F-25724](#)) is completed by facility staff to assist local law enforcement with their determination of the level of notification. **Do not** complete the *Decided Level of Notification* section; this is completed by local law enforcement.
- b. Sand Ridge Secure Treatment Center (SRSTC) is the central Division site for coordination, production, and dissemination of the Department SBNs.
- c. Each Division MHI will identify patients requiring SBNs and will gather information necessary for SBN production.

Contact SRSTC to find out whether or not an SBN already exists. Since April 1998, DOC has been producing an SBN for all persons referred from DOC. These are sent to SRSTC, where they are stored and updated prior to dissemination.

- d. Information will be sent to SRSTC, where an SBN/SBN Supplement will be updated/produced and stored electronically until the release date is known.

3. SBN Dissemination

- a. Whenever possible, send the SBN/SBN Supplement 30 days in advance of the patient's MHI release.
- b. There will be some cases where a patient is dismissed from the [Chapter 980](#) proceeding. Given that an SBN is prepared in advance, quickly review the information contained in the SBN/SBN Supplement, update as necessary, and disseminate immediately. All attempts should be made to have the SBN/SBN Supplement disseminated prior to the individual's actual release. Send a copy to the following:

- DOC Administrator
- DOC Regional Chief
- DOC Public Information Officer
- DOC Legal Counsel
- DOC Secretary's Office
- DOC Legislative Liaison
- DOC Victim Advocate
- Department of Justice Victim Advocate
- SORP
- Department/Division Deputy Administrator
- MHI Director
- MHI Registrar
- Supervising Agent

4. SBN/SBN Supplement Follow-up

- a. The facility releasing the individual who is the subject of an SBN may be asked to participate in meetings or discussions with local law enforcement and designated groups responsible for making notification level determinations.
- b. The facility releasing the individual who is the subject of an SBN may be asked to attend community notification meetings to provide general process and system information about commitment, evaluation, and treatment process.

XIV. PROCEDURE FOR AFTERCARE PLANNING FOR PATIENTS COMMITTED UNDER [CHAPTER 51](#) OR [CHAPTER 55](#) IN FORENSICS

A. Purpose

Planning for the care of patients admitted under [Chapter 51](#) and [Chapter 55](#) includes a different process than is customary practice for patients admitted under forensic statutes. All civil patients by statute have to be authorized for inpatient admission by a county human services board (Wis. Stat. § [51.42](#)). The board is responsible for the cost of care and overseeing the type of treatment provided. As gatekeeper, the board representative(s) has a vested interest in minimizing the length of the inpatient stay. Therefore, early and regular communication with the designated board contact is critical and should be initiated by the relevant MHI/unit social worker responsible for the case.

B. Procedure

At the time of admission, the social worker responsible for the case will determine the county contact for the patient and call that individual to establish a communication link. Factors that need to be discussed include the following:

- What is the desired community outcome of the inpatient stay for the patient?
- How does the board contact wish to be involved (frequently, staffing, reports, phone calls etc.)?
- What information do they have to share with us that will assist with treatment?
- What are the aftercare plans and any other relevant information?

At a minimum of once per month, written documentation should be sent to the 51.42 Board, including treatment progress notes and a request for continued funding for the inpatient stay. Frequent contact should continue with the designated board representative, discussing progress to determine when the patient has reached a level of stability where the county feels they can work with the patient in the community. Aftercare planning is a mutual responsibility, with our role including making recommendations for necessary support systems in the community and the county setting it up. When the county has the plan in place, the patient is released. Infrequently, disputes occur regarding readiness for release. At that time, a staffing may be necessary to resolve the dispute. However, ultimately if the board says to discharge the patient and there is no security reason prohibiting it, the patient should be released. If we have strong security concerns and cannot resolve the issue, a Director's Hold can be initiated.

XV. **CHAPTER 51 CIVIL COMMITMENT COURT PROCESS AS OUTLINED IN WISCONSIN STATUTES**

A. **Physical Placement**

Petitioners (family members, friends, mental health professionals, police officers) file a three-party petition for an emergency detention based on an individual's behavior determined to be dangerous to self or others. The individual subject to the petition is transported to the inpatient psychiatric unit.

B. **Inpatient Psychiatric Unit**

The county Corporation Counsel schedules a Chapter 51 Probable Cause Hearing to take place within 72 hours of the detention. During this 72-hour period, a preliminary assessment is completed by the inpatient unit.

C. **Probable Cause Hearing Options**

1. Dismiss.
2. Convert to [Chapter 55](#).
3. Order of Detention (may have Order to Treat or no Order to Treat).
4. Stipulate.

D. Probably Cause – Standard is Met

1. Commitment hearing is set to take place within 14 days of initial detention (can detain for only 14 days).
2. Evaluation by two court-appointed examiners.
3. Options:
 - a. Settlement agreement.
 - b. Dismiss.
 - c. Convert to [Chapter 55](#).
 - d. Commitment up to one year under Fifth Standard; no longer than 45 days in a 365-day period.

XVI. PROCEDURES FOR ADMISSIONS AND DISCHARGES FOR PERSONS PLACED UNDER [CHAPTER 55](#) PROTECTIVE PLACEMENT AND GUARDIANSHIP

A. [Chapter 55](#) Court Actions – Client Resides in Community or Supervised Setting

1. Physician or psychologist evaluates individual and completes report to court, including Statement of Incompetency.
 - a. Evaluation indicating person is in need of guardian and protective services or placement and voluntary services has been tried or are not feasible.
 - b. Assumes individual and family are agreeable to and cooperative in participating with evaluation.
 - c. Assumes there is a doctor willing to do evaluation and incompetency statements and testify in court if necessary.
2. Private attorney or county Corporation Counsel files petition, along with physician statement, with probate court.
 - a. Assumes family member is willing to act as petitioner and hire an attorney or if indigent county staff is available to do so.
 - b. Assumes there is someone willing to serve as guardian.
3. Hearing date set and guardian ad litem appointed by court. Guardian ad litem interviews individual.

4. Alleged incompetent; given official notification. Assumes situation is not an emergency and someone or some facility is willing/able to provide care pending final court hearing.
5. Designated county agency does multidisciplinary evaluation and report to the court with recommendation for “least restrictive” placement. Notified verbally and in writing of content of petition, hearing date, and right to contest the petition.
6. Court hearing, findings, and order: Protective Placement. Assumes long-term care services/placement, and funding can be found that will serve/accept individual.

XVII. CASE PREPARATION PROCEDURE FOR SPECIAL REVIEW BOARD (SRB) APPEARANCES, WIS. STAT. § [975.06](#)

A. Preparation of the Written Packet Materials

1. Follow Schedules 1 and 2 during preparation for SRB appearance.
2. Determine the date the applicants’ packets must be distributed to them by counting 15 calendar days from the date of the next scheduled SRB hearing.
3. Distribute the Parole Planning Information (DOC-11), along with a cover letter no later than 10 weeks prior to the distribution of the applicants’ SRB packets.
4. The admissions staff completes the top portion of the Parole Planning Information form (to the space labeled “Pre-parole Required”). From that space to the end, the social worker will complete by interviewing the applicant. The box titled “Notice of Parole Hearing” will always be checked “Yes.” To the right of this entry is a section entitled “Pre-parole Required,” which contains two boxes titled “Yes” and “No.” This should always be checked “Yes,” and the box “Reason for Pre-Parole” should be completed with “To determine parole plan.”
5. These forms are to be returned to the admissions office within 11 calendar days. When the forms have been returned, that information will be transferred to the DOC-11, Parole Planning Information. Five copies are needed. The distribution of is as follows:
 - a. The original is placed in the MHI’s master file.
 - b. One blue copy, along with a cover letter , is sent to the DOC Central Records Unit.
 - c. One blue copy, along with a cover letter is sent to DOC. **When pre-parole is requested, the blue copy, along with a cover letter, is sent to the agent’s supervisor.**
 - d. The five copies are placed in the applicant’s SRB packet file.

6. MMHI Admission office staff will attach to the Parole Planning Information form a note to the social workers the Institution Summaries due date, as well as the packet distribution date. **Social Service Institution Summaries:**
 - a. Include a detailed description of committing offense, date of offense, and details of time spent since commitment, on supervision, revoked, etc.
 - b. Include a detailed summary of involvement while at MHI, including assessment of treatment needs, treatment involvement, and progress in treatment.
 - c. Include issues of security, transfers between units, reasons for transfers, and adjustment at MHI.
 - d. Address issues that led to revocation and how those issues have been addressed in treatment at the MHI.
 - e. Address issue of commitment under [Chapter 980](#), ensure that a [Chapter 980](#) evaluation has been done, and include either the recommendation or the actual report as part of the SRB packet.
7. When the Social Service Institution Summaries are returned, seven copies need to be made and distributed as follows:
 - a. The original is placed in the MHI's master file.
 - b. One copy is sent to the DOC Central Records Unit.
 - c. One copy is sent to the DOC Parole Commissioner.
 - d. Five copies are placed in the applicant's SRB packet file.
8. Packets should be hand delivered to the board members in Madison or sent by certified mail. Each board member's set of packets must be accompanied by a letter of receipt to be signed and dated by the person accepting the packets for the board member. The receipt should then be returned to the admissions office by the transportation department for the hand-carried deliveries or by mail for those sent by certified mail. For a list of current board members, contact the director at MMHI.

B. Procedure Prior to Hearing

Send memorandums of the hearing date and location to the applicants, units, forensic clinical director, forensic nursing director, Goodland Hall security director, Center Security, Goodland Hall West secretary, and the board members, telling them which applicants will appear before the board and which applicants will be reviewed in absentia. **Be sure to inform security of the board members who will require security clearance the day of the hearing.**

C. Procedure for Hearing

1. Arrive in Goodland Hall Lawyers Room approximately 30 minutes prior to hearing. Set up room for hearing. Check to be sure there is a conference phone and that videoconference equipment is set up and ready by time of hearing.
2. The highlights of the interview will be recorded by a board member and will not be returned because they become a part of the CRU file where the Department uses them for court cases, in replying to interested persons, etc.
3. Provide a legal pad and pencil for each board member to take notes during the interview.
4. Gather the board members, written decisions, and packets following the meeting. The applicants' packets remain in their possession.
5. Make sure that a C-7 Parole Decision is signed by each board member for every applicant, whether they appeared before the board or had their case reviewed in absentia.
6. Transfer the written decisions to the pre-signed C-7 Parole Decisions.
7. Send memorandums to the applicants, social workers, and forensic clinical director, informing them of the SRB decisions.
8. Send per diem memo to the business office to ensure payment to the board members.

D. C-7 Parole Decisions

The Parole Decisions come in triplicate packs, plus a small blue sheet, which contains just the top portion of the Parole Decision. The small blue sheet is not used for the SRB appearances, so it can be destroyed. See the example on how to type the Parole Decisions.

1. **Defers:** If the applicant received any kind of deferment (Defer, Defer – 3 months, Defer – 6 months), distribute as follows.
 - a. The original is placed in the MHI's master file.
 - b. One blue copy is for the DOC Central Records Unit.
 - c. One blue copy is for the DOC Parole Commissioner.
 - d. Five copies are placed in the applicant's SRB packet file.
2. **Grants:** If the applicant received a Grant, distribute as follows:
 - a. The original goes to the Division. Attach a cover letter requesting return of the Parole Decision, along with the Order for Discretionary Parole ([F-25410](#)). Also attach the original commitment order, the computation sheet, previous revocation information, and the SRB Summary.

- b. One blue copy is for the DOC Parole Commissioner.
 - c. One blue copy is for the DOC Central Records Unit/parole agents.
 - d. One copy is placed in the MHI's master file.
 - e. One copy is placed in the applicant's SRB packet file.
 - f. One copy is given to the applicant.
3. The MHI will receive the Order for Discretionary Parole ([F-25410](#)) signed by the DHS Secretary and cover memo from the DMHSAS Administrator, recommending signature.

E. Grant to Criminal Code Sentence

1. Distribute per the following:
 - a. Attach the original commitment order, computation sheets for commitment, judgment of conviction, computation sheets for sentence, previous revocation summary, and SRB Summary.
 - b. One blue copy is for the DOC Parole Commissioner.
 - c. One blue copy is for the DOC Central Records Unit/parole agents.
 - d. One copy is placed in the MHI's master file.
 - e. One copy is placed in the applicant's SRB packet file.
 - f. One copy is given to the applicant.
2. The MHI will receive the Order for Discretionary Parole and Transfer signed by the DHS Secretary and memo from the DMHSAS Administrator, recommending signature.

F. Split Decisions

1. If two board members give the applicant a Defer and one member gives a Grant, list the official action as Defer and distribute the same as any other kind of defer. However, when typing each board member's statement, list the decision that each member made, i.e., Defer or Grant.
2. If two board members give the applicant a Grant and one member gives a Defer, leave the official action section blank, but type each board member's statement as explained above. Do not tear the carbons out of this set. Make two copies. One copy is placed in the MHI's master file, and one copy is given to the applicant. Send the triplicate pack (with carbons intact) to the community forensic services supervisor, and note in the cover letter that there was a split decision. After the final decision is made by the Department, the community forensic services supervisor will return the original copy of

the Parole Decision to MMHI and ask them to send one blue carbon copy on to the applicant's agent.

3. The copies of the Parole Decisions are separated into two sets, labeled "CRU" and "Agents," and sent with a cover letter to the DOC Parole Commissioner.
4. When the original grant decisions are returned, they can be placed in the MHI's master file, and the copy, which was previously placed in the master file, may be destroyed.
5. When the action the board has taken on a case becomes known, place this information in the computer file.
6. At subsequent meetings, no matter what the length of Defer is, the packets will only be updated, but the same procedure is followed, i.e., Parole Planning Information Sheet and Institution Summary.
7. Another function the board must perform is the interviewing of a parole or mandatory release violator following his return to the MHI. **A violator's appearance** cannot be scheduled until the Parole Revocation Order, DOC-88, and warrant have been received. This, again, is an updating process for the packets, except that no parole plan request is made, and unless there is a several month delay between the date of admission as a violator and his/her board appearance, no Institution Summary is requested. Essentially, the packet will consist of the following, with one copy going into the applicant's packet and one copy for each board member's packet:
 - a. Parole Violator Review.
 - b. Parole Revocation Order and Warrant.
 - c. Recommendation for Administrative Action, DOC-44A.
 - d. Violation Report.
 - e. Revocation Summary.
 - f. Parole Decision from last interview.

G. Grant to Parole Recommended

See previous Grant instructions. These are the file copies, but an additional copy of the Order for Parole will be needed. This additional copy will be sent to the agent, along with a cover letter. When the agent receives this information, a Request for Release and Distribution of Funds, DOC-15, will be issued. When the request is received, the MHI is authorized to officially release this person to parole status on the date specified on the form. On the date of parole, a Release Data, DOC-12, must be completed and sent to the DOC Central Records Unit.

H. Sex Crimes Law Procedure: Schedule 1

The following is the schedule for preparing the packets and SRB material for Wis. Stat. § [975.06](#) commitments appearing before the board. The admissions office will:

1. Determine the date the packet must be given to the patient by counting 15 calendar days from the date of the SRB meeting. The packets must be distributed to the applicants on or before the date indicated.
2. Distribute Parole Planning Information form (DOC-11) to the unit social workers, along with a cover memo no later than 10 weeks prior to the date of packet distribution. These are to be returned from the social workers in 11 calendar days.
3. Five weeks prior to the upcoming SRB meeting, send memorandums to the board members, advising them which applicants they will be reviewing and when their packets will arrive. Send similar memorandums to the DOC Central Records Unit and the DOC Parole Commissioner regarding which applicants will be reviewed.
4. Social Services Summaries (completed by unit social workers) are due 12 days prior to packet distribution date.
5. Packets are sent to the SRB members at the beginning of the week prior to the meeting so that they arrive at their destination on or before the Friday of that week.

I. Sex Crimes Law Procedure: Schedule 2

1. Parole Planning Information forms (DOC-11) are to be distributed to the MHI social workers on or before [*insert date*]. Have material returned by [*insert date*].
2. Send letters on [*insert date*] to the DOC Parole Commissioner, DOC Central Records Unit, and the board members, advising them of the cases who will be reviewed at the SRB meeting.
3. Social Service Summaries are to be turned in no later than [*insert date*].
4. Packets must be prepared so they can be given to the applicants at the MHI on or before [*insert date*].
5. Send packets to the SRB members no later than the week of [*insert date*] to arrive at the appropriate destination on or before Friday of that week.

XVIII. DISCHARGE ORDER PROCEDURE FOR [975.06](#) PATIENTS

A. Commitment is Expiring / Maximum Discharge Date is Approaching

1. Send a memo to the community forensic services supervisor at least 90 days before the discharge date, requesting an Order for Discharge Due to Expiration of Commitment, [F-25412](#).

2. Attachments:
 - a. Original Commitment Order.
 - b. Computation Sheets.
 - c. Revocation History.
 - d. Most recent SRB Summary.
 - e. Summary Progress Report from unit, outlining most recent mental status, dangerousness, and current discharge plan.

B. Commitment is Expiring / Person Transferred to DOC to Serve Criminal Code Sentence

1. Send a memo to the community forensic services supervisor at least 90 days before the discharge date, requesting an Order for Discharge and Transfer, [F-25411](#).
2. Attachments:
 - a. Original Commitment Order.
 - b. Computation Sheets.
 - c. Revocation History.
 - d. Most recent SRB Summary.
 - e. Any reasons why discharge and transfer should **not** occur.

C. Distribution Once Either Order is Received

1. Original placed in MHI's master file.
2. Copy sent to DOC Central Records Unit.
3. Copy sent to DOC Division of Probation and Parole agent.
4. Copy sent to SRB file.
5. Copy given to the patient.
6. Copy sent to medical record file.

APPENDIX I – SAMPLE MEMORANDUM TO REGIONAL AREA ADMINISTRATION

MEMORANDUM

Department of Health Services
Division of Mental Health and Substance Abuse Services

To: [Regional AA]
From: [MMHI/WMHI social worker]
Date:
Re: Conditional Release Planning for [patient name], [MMHI/WMHI] patient

[patient name], a patient at [MMHI/WMHI], has been granted a conditional release on [date] pursuant to Wis. Stat. § [cite appropriate section of [971.17](#)].

By law, [MMHI/WMHI] and [name of county] are required to present a conditional release plan within 60 days from the date of the release decision.

Please contact me at [appropriate MHI phone number] if you have any questions.

cc: Forensic Services Specialist
Division Administrator's Office
Contracted Conditional Release Team

APPENDIX II – SAMPLE MEMORANDUM TO REGIONAL LICENSING CHIEF

MEMORANDUM

Department of Health Services
Division of Mental Health and Substance Abuse Services

To: *[Department of Safety and Professional Services Regional Licensing Chief]*

From: *[MMHI/WMHI social worker]*

Date:

Re: Conditional Release Planning for *[patient name]*, *[MMHI/WMHI]* patient

[patient name], a patient at *[MMHI/WMHI]*, has been granted a conditional release on *[date]* pursuant to Wis. Stat. § *[cite appropriate section of [971.17](#)]*.

By law, *[MMHI/WMHI]* and *[name of county]* are required to present a conditional release plan within 60 days from the date of the release decision.

We are presently in contact with the following community-based residential facilities about the possibility of placement:

1. *[Name and address of facility]*
2. *[Name and address of facility]*
3. *[Name and address of facility]*

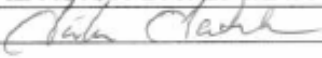
Please contact me at *[appropriate MHI phone number]* if you have any questions.

cc: Forensic Services Specialist
Division Administrator's Office
Contracted Conditional Release Team

APPENDIX III – DMHSAS ADMINISTRATIVE DIRECTIVE [50-01.08](#)

**DEPARTMENT OF HEALTH AND FAMILY SERVICES
DIVISION OF DISABILITY AND ELDER SERVICES
DIVISION DIRECTIVE**

TITLE: HIGH-PROFILE INCIDENT AND CASE REPORTING

TOPIC AREA: Legal Status/Commitments	DDES 50-01.08	PAGES: 5
CONTACT: Rita Prigioni, 608-266-8472	REPLACES: DDES 50-01.07	
ORIGINAL EFFECTIVE DATE: 10/3/01	REVISION DATE: 3/21/07	
ADMINISTRATOR'S SIGNATURE:		
AUTHORITY: Not applicable		

I. PURPOSE.

To provide guidelines to be followed for reporting high-profile situations, activities, and occurrences for those services operated by the Division of Disability and Elder Services (DDES).

II. APPLICABILITY.

This directive applies to staff in the institutions/centers and key central office administrative staff of DDES, Department of Health and Family Services (DHFS).

III. DEFINITIONS.

- A. "Chapter 980 patient" refers to an individual who is in the custody of the Department of Health and Family Services under Ch. 980, Wisconsin Statutes.
- B. "Forensic patient" refers to an individual who is committed to the Department of Health and Family Services under Ch. 971 or 975, Wisconsin Statutes.
- C. "High-Profile" is defined for these purposes to include situations where there may be the following:

Applies to general situations:

- 1. Extremely serious threat(s) made by an individual (verbal, written, gestured, etc.) to a public figure, victim, staff, etc. that are unusual in nature.
- 2. An escape of an individual with serious charges, or the potential to seriously harm others,
- 3. A serious accident, injury or death to a patient/inmate/individual who lives at a center/institution.
- 4. A patient/inmate suicide, violent death or suspicious death of a patient/inmate.
- 5. A significant staff injury on the job.

6. A significant or newsworthy court or legal action, including a dramatic court action on a high-profile case, such as the court ordering the discharge of a patient because of the inability of the Department to place the patient.
7. A major disruption/disturbance at a facility.
8. A physical facility emergency or evacuation.
9. An alleged staff or contract provider misconduct (abuse, neglect, misappropriation of property) that results in an actual or potentially-serious harm to a patient, inmate or individual who lives at a center/institution.
10. Press contact on an issue that appears likely to attract significant public attention.
11. A significant/controversial contact with a public figure (e.g., elected local officials, etc.).

Applies to forensic and Chapter 980 patients only:

12. A patient/inmate or individual who has petitioned the court for release, and a) is likely to be granted the release; and/or b) has been granted the release, in cases where there has been extreme public controversy or previous media exposure.
13. New charges filed against patients under conditional or supervised release that may be newsworthy.
14. A change in case plans or activities that could meet with public or legal controversy.
15. The unauthorized absence of any forensic or Chapter 980 patient.

IV. POLICY.

The intent of these guidelines is to provide parameters and expectations for communications between institutions/centers and central office, and other entities within DHFS regarding high-profile situations in facilities that DDES operates.

It is the responsibility of the DDES entity to immediately notify the Division Administrator and other key staff, along with key staff from the Secretary's Office. The Secretary's Office will in turn notify the Governor's Office, if warranted.

Immediate notification via the telephone is expected for certain high-profile cases/events. While it is not possible to describe every circumstance in which immediate notification should occur, in general, events involving significant injury or death, an escape of an individual with serious charges or the potential to seriously harm others, dramatic court actions on high-profile cases, extreme media or public attention, facility emergencies or major disruptions/disturbances, significant/controversial contacts with public figures, or other high-profile incidents should be reported within reason, using sound judgement based on the incident.

All high-profile cases/events should then be documented in writing using the procedures outlined in section V of this Division Directive.

V. PROCEDURES.

- A. WRITTEN FORMAT FOR FORENSIC, SEXUALLY VIOLENT PERSONS, AND MENTAL HEALTH INSTITUTE CIVIL PATIENT CASE REPORTING:** For a consistent written format, staff from Mendota Mental Health Institute, Winnebago Mental Health Institute, Sand Ridge Secure Treatment Center and the Wisconsin Resource Center are to use the High Profile Case Report (DDE-5978) <http://dhfsweb/forms1/DDEforms/dde5978.doc> in documenting the following information, and submit it via electronic mail:

1. Name of patient
2. County of residence
3. County of commitment
4. Legal status
5. Offense/offense behavior (include dates)
6. Reason for high-profile identification
 - a. What causes this individual to warrant such media attention? (Crime? Current behavior?)
 - b. Why has the case surfaced at this time? (New crime? Petition for a conditional release and the release is likely to be granted or has been granted?)
 - c. Has this client been the focus of previous media attention?
7. What is the DHFS involvement at this point? (Court letter? Recommendations?)

- B. WRITTEN FORMAT FOR ALL OTHER HIGH-PROFILE REPORTING:** Staff from the Developmental Disability Centers should document high-profile situations using electronic mail that contains the following information:

1. Name
2. County of commitment
3. Reason for high-profile identification
 - a. What causes this individual to warrant such media attention? (Current behavior?)
 - b. Has this client been the focus of previous media attention?
4. What is the DHFS involvement at this point? (Recommendations?)

- C. **REPORTING CONTACT AND CHAIN:** Central office key staff should be informed as quickly as possible upon recognition of the situation. The first person listed is the primary contact. When reporting by electronic mail, address it to all the contacts listed from DDES and the Secretary's Office.

Sinikka Santala, Administrator

(608) 266-0554 (w)
(608) 238-3145 (h)
(608) 212-1741 (cell phone)
e-mail: santass@dhfs.state.wi.us

John Easterday, Associate Administrator – Mental Health and Substance Abuse Services

(608) 267-9391 (w)
(262) 377-9916 (h)
(608) 220-2408 (cell phone)
e-mail: eastejt@dhfs.state.wi.us

Rita Prigioni, Director, Office of Operations

(608) 266-8472 (w)
(608) 255-4168 (h)
(608) 376-8472 (pager)
e-mail: prigire@dhfs.state.wi.us

Ted Bunck – Bureau of Center Operations

(608) 301-9240 (w)
(608) 848-5560 (h)
(608) 576-8771 (cell phone)
(608) 376-1112 (pager)
e-mail: buncktj@dhfs.state.wi.us

Rod Miller, Administrator's Office

(608) 266-2715 (w)
(608) 278-9062 (h)
(608) 345-9062 (cell phone)
e-mail: millerk@dhfs.state.wi.us

Rebecca Murray, Communications Specialist, Office of Operations

(608) 267-9628 (w)
(608) 226-9270 (h)
e-mail: murrark@dhfs.state.wi.us

Office of the Secretary

Reggie Bicha, Deputy Secretary

(608) 266-9622 (w)
e-mail: bicharl@dhfs.state.wi.us

Karen Timberlake, Executive Assistant

(608) 266-9622 (w)
e-mail: timbeke@dhfs.state.wi.us

Stephanie Marquis, DHFS Communications Director
(608) 266-1683 (w)
e-mail: marqus@dhfs.state.wi.us

Katie Plona, Legislative Liasion
(608) 266-3262
email: plonakp@dhfs.state.wi.us

Diane Welsh, Chief Legal Counsel
(608) 266-1404
e-mail: welshdm@dhfs.state.wi.us

APPENDIX IV – HISTORICAL ANALYSIS OF WIS. STAT. § [971.17](#), COMMITMENT OF PERSONS FOUND NOT GUILTY BY REASON OF MENTAL DISEASE OR MENTAL DEFECT

Statute Number	Title of Statute	Pertinent Statutory Language or Changes	Impact of Language
957.11 (1967)	Plea of Insanity as a Defense	If found not guilty because insane or not guilty because feeble- minded, the defendant shall be committed to the Central State Hospital or institution designated by the state department of public welfare, there to be detained until discharged in accordance with the law.	Everyone was committed for life unless they were discharged by the court. The court had to find the person sane and mentally responsible, also that he is not likely to have a recurrence of insanity or mental irresponsibility as will result in acts which but for insanity or mental irresponsibility would be crimes.
971.17 (7/1/70)	Commitment of Persons Found Not Guilty by Reason of Mental Disease or Defect	Establishes specified commitment periods based on the offense in phase 1 of the commitment process; Establishes a five year period of supervision for conditional release by the court; Establishes discharge criterion by the court or administrative transfer; No provision for good time credit; No provision for Pre- Commitment Credit.	Required examinations prior to commitment. Persons committed had the right to petition for court for conditional release. Provision for discharge after a specific period of commitment: no longer life for everything.
53.11 (May 17, 1978)	Statutory Good Time Credit	Persons committed under s. 971.17 on or after the effective date of the law (May 17, 1978) now eligible to receive Statutory Good Time.	Provided a mechanism to compute discharge dates based on good behavior. Previously, it was maximum commitment for offense charged.
973.155 (May 17, 1978)	Pre-commitment Credit	Persons now eligible to petition committing court for day-for-day credit for time served in custody awaiting commitment under Wis. Stat. § 971.17. Retroactive; therefore, persons committed prior to May 17, 1978 may petition for pre-commitment credit.	Provided the avenue to make Wis. Stat. § 971.17 more “criminal” in nature in terms of commitment period. Eligible for credit for days spent in custody whether that be in jail, mental health facility under observation or treatment to competency to proceed, or as mental health transfer from the jail.
Wis. Act 528 (June 1, 1984) Amending Wis. Stat. § 53.11	New Good Time Law	Offenses occurring on or after June 1, 1984, receive one-third sentence reduction credit based on maximum sentence which could have been imposed for the offense.	Computations were figured on a different table than previously; eliminated the concept of “extra good time” awards.
Attorney General’s Opinion (July 23, 1984) 73 OAG 76	Clarification of Authority to Supervise Persons on Conditional Release; Period of	Official interpretation of the statutory language.	Four questions were asked: 1. Department authority to supervise? Yes, we have authority. 2. Is the period of supervision 5 years no matter what? Is it 5 years or until maximum discharge,

Statute Number	Title of Statute	Pertinent Statutory Language or Changes	Impact of Language
	Supervision; Length of Commitment		<p>whichever comes first? It is 5 years or until maximum discharge.</p> <p>3. Could someone be supervised by the Department once they have reached their maximum discharge date? No.</p> <p>4. Where the defendant has committed more than one offense, should the maximum period of imprisonment be calculated as if the offenses were consecutive or concurrent? Everything should be computed as consecutive to one another unless a court orders to the contrary.</p>
1987 Wis. Act 394 (May 3, 1988)	Change Period of Supervision for persons on Conditional Release		<p>Eliminated the 5-year conditional release. Persons will now be supervised from the date of their conditional release until their maximum discharge date. The court must also issue an order of discharge. Effective with all conditional releases granted on or after the effective date of the Act, May 3, 1988.</p>
1989 Wis. Act 334 amends Ch. 971.17	Commitment of Persons Found Not Guilty by Reason of Mental Disease or Defect	Judicial Council Insanity Defense Committee prepared a bill setting forth substantial revisions in the current Wis. Stat. § 971.17.	<p>Highlights of changes:</p> <ul style="list-style-type: none"> • After finding of NGI, court no longer must place individual in an institution; may order person placed on conditional release in the community. • Allows the court to order a pre-dispositional investigation or supplemental mental examination or both to advise the court on appropriate treatment placement. • Court specifies the maximum period of commitment. It may not exceed 2/3 of the maximum sentence had the individual been convicted of the offense and sentenced. • Court finds individual appropriate for conditional release, a treatment plan must be developed between the DHFS and county department within specified time period. • Period of time served in institution before eligible to petition for conditional release extended from 120 days to 6 months. • Revocation procedures outlined by statute.

Statute Number	Title of Statute	Pertinent Statutory Language or Changes	Impact of Language
			<ul style="list-style-type: none"> • Supervision of persons on conditional release by DHS, but DHS may contract with DOC to provide supervision. • DHS must establish Rules of Supervision. • Competency to refuse medication included in language of Wis. Stat. § 971.17.
<p>Rolo Decision (April 14, 1993) 174 Wis.2d 709</p>	<p>Conditional Release Services Funded by DHS</p>	<p>Supreme Court decision which clarifies the issue of funding of mental health services to persons on conditional release.</p>	<p>Issue had been raised repeatedly between the county departments and the DHS: who has responsibility for funding of services to those placed on conditional release by the courts? Resolved by Supreme Court Decision: DHS. Conditional Release Program developed.</p>
<p>2001 Wis. Act 109</p>	<p>Maximum Period of Commitment for NGI clients who have committed felonies extended</p>	<p>Wis. Stat. § 971.17(1)(b), felonies committed on or after the effective date of this paragraph.</p>	<p>When a defendant is found not guilty by reason of mental disease or mental defect of a felony committed on or after the effective date of this paragraph(July 30, 2002), the court shall commitment the person to the department of health and family services for a specified period not exceeding the maximum term of confinement in prison that could be imposed on an offender convicted of the same felony, plus imprisonment authorized by any applicable penalty enhancement statutes, subject to the credit provisions of s. 973.155(pre- commitment credit). Individuals convicted of misdemeanor offenses shall be committed for a specified period not exceeding two- thirds of the maximum term of imprisonment that could be imposed against an offender convicted of the same misdemeanor, including imprisonment authorized by any applicable penalty enhancement statutes, subject to the credit provision of Wis. Stat. § 973.155.</p>

(08/2004)