THE INSANITY DEFENSE AND THE CONNECTICUT MODEL

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AFFIRMATIVE DEFENSE
C.G.S. Sec 53a-13

- A finding of NGRI is an affirmative defense, not imposed on a defendant.
- The defendant must be competent to stand trial to mount an insanity defense.
- A finding of NGRI predates the establishment of the PSRB.
PSYCHIATRIC SECURITY REVIEW BOARD
Created by the legislature in 1985
C.G.S. Sec. 17a-581-603
CT HISTORY

- 1982 – John Hinckley verdict
- Commission findings revealed inadequate oversight of acquittees and recommended the establishment of a new system to assure greater accountability
- Law Review Commission and committee members compose the substance of the PSRB statutes, following the Oregon Model
- 1985 – The PSRB was drafted into law and established pursuant to Connecticut General Statutes, Sections 17a-581-603
- The new process distributed authority for insanity acquittees between the court, mental health facilities and an independent administrative board, the PSRB
ARREST

DEcision to use insanity defense

Court/trial

NGRI finding

Not guilty

Guilty

Committed to PSRB

Confinement to DMHAS or DDS
COMMITMENT TERM

Following a finding of NGRI, the court will set a commitment length, commit the individual to the jurisdiction of the Board, but maintain ultimate authority.

- Average commitment length is 31 years
- Unlike a criminal sentence, the commitment length can be extended or shortened
BOARD APPOINTMENTS

- The Board is composed of six members, appointed by the Governor to serve a four year term
- Confirmed by legislature
- May be re-appointed
- Board members provide a public service and receive $75 honorary per diem
- Appointment, per statute, is by area of expertise
PSRB MEMBERS

- Chair, Attorney Member - Sheila Hennessey, Esq.
- Psychiatrist - Hassan Minhas, M.D.
- Psychologist - Mark Kirschner, Ph.D
- Probation/parole expert - Cheryl Abrams, MS
- Lay person from the public - Sylvia Cancela, MBA
- Victim services experience - Susan Blair, MS, LPC
The Board confines individuals to the Department of Mental Health and Addiction Services or to the Department of Developmental Services.

The Board determines the level of placement for an acquittee and the level of supervision in the community.

By statute, the Board’s primary concern is the “protection of society”.
BOARD AUTHORITY

- Board orders placement in maximum-security or transfer to a less restrictive secured hospital setting
- Board grants Temporary Leave or Conditional Release to the community
- Board may revoke an acquittee’s community placement due to psychiatric decompensation or violation of conditions
- May order supervision through the Office of Adult Probation
LIMITS OF AUTHORITY

- The Board’s authority is limited when acquittedees are residing in the hospital.
- Board does not have authority over hospital privilege levels for patients to be unescorted on hospital grounds or spend time in the community with hospital staff.
- By statute, the weight of the Board’s authority is more significant for acquittedees in the community.
HEARINGS

- The Board’s decision making process is achieved through administrative contested hearings held every two weeks and open to the public.
- Hearings are posted on the agency website.
- At hearings, acquittees are represented by a defense attorney and the state is represented by a state’s attorney.
- Testimony is provided by hospital staff for inpatient acquittees and community providers for acquittees on Conditional Release.
HEARINGS

- By statute, each acquittedee must have a hearing every two years to review their status.
- Hearings are held more frequently for a change in status, such as applications to transfer out of maximum-security, transition to the community on Temporary Leave or Conditional Release.
- Board decisions are issued in a Memorandum of Decision and may be appealable to Superior Court.
PSRB POPULATION

- 148 acquittees as of April 23, 2019
- Agency
  - DMHAS - 146
  - DDS – 2
- Current placement
  - WFH – 117
    - Dutcher Enhanced Security Unit – 88
    - Whiting Maximum Security Unit – 29
  - Conditional Release – 28
  - Incarcerated - 2
  - AWOL - 1
COMMUNITY TRANSITION

TEMPORARY LEAVE

- Authority to transition to the community resides with the Board and begins with Temporary Leave.
- Temporary Leave is the first step in the transition from inpatient to the community and applications are the responsibility of the hospital.
- Temporary Leave can be for a few hours or to reside overnights in the community.
- Acquittee remains the responsibility of WFH until conditionally released.
CONDITIONAL RELEASE

- Conditional Release is a discharge from the hospital to the community
- Any party, including the acquitted, can apply for Conditional Release
- The Board sets conditions recommended by the hospital or the community providers and may order its own
- Over time, modifications to decrease stipulations result in less supervision and increased independence
CONDITIONAL RELEASE

- Conditional Release can be revoked due to decompensation or violation of conditions, such as drug use.
- Revocation results in readmission to hospital with average revocations of 1-2 per year.
- Conditional Release usually precedes an application for discharge to the court.
BOARD VOTING RECORD 2007-2017

TRANSFER FROM MAXIMUM-SECURITY

Approval rate: 93%

- Grant
- Deny
APPLICATIONS FOR TEMPORARY LEAVE

Approval rate: 93%

Diagram: Pie chart showing 18 grants and 253 denials.
APPLICATIONS FOR CONDITIONAL RELEASE

Approval rate: 95%

- Grant: 81
- Deny: 4
EARLY DISCHARGE

- Early discharge is a discharge from the Board commitment granted by the court.
- An acquittee may apply for discharge from the Board at any point during their commitment.
- By statute, the Board provides a recommendation to the court on the application.
- Since July 1985, the courts have granted early discharge to 72 acquittees.
- Once discharged, the Board’s jurisdiction ends and cannot be reinstated.
Continued commitment is an extension of an acquittee’s commitment beyond the original term set by the court.

By statute, only the state’s attorney can petition the court to extend a commitment if the state believes an acquittee remains dangerous as a result of a mental illness.

The Board provides a recommendation to the court on the state’s petition.

Since July 1985, the courts have extended the commitment of 100 acquittees.
REGISTRATION

- Acquittees who have committed sex offenses must register with the Sex Offender Registry
- Acquittees must register a DNA sample with the state police
- A criminal background check will show an acquittee’s NGRI finding on the index offense
PSRB

CONTACT INFORMATION

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