

PSYCHIATRIC SECURITY REVIEW BOARD (PSRB)

Connecticut General Statute Sections 17a-581 – 17a-603

Rev. August 2006

PSRB

Independent state agency founded in 1985



PUBLIC SAFETY MANDATE

- Protection of society
- Persons committed for purposes of treatment



PSRB FUNCTION

- Statutorily mandated to protect the public through the oversight of persons found not guilty by reason of mental defect or disease (NGRI or Not Guilty by Reason of Insanity)
- Determines the level of supervision, treatment and placement of an acquittee required to protect the public

PSRB APPOINTMENTS

- Appointed by governor
- Confirmed by legislature
- Four year terms
- May be re-appointed
- Honorary per diem - \$75

PSRB MEMBERS

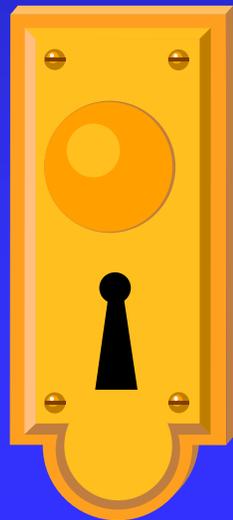
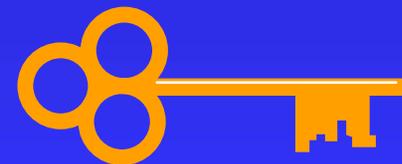
- Attorney - Robert Berger, Esq., Chair
- Psychiatrist - Vacant
- Psychologist - Vacant
- Probation/parole expert - John Ryan
- Lay person - Sylvia Cancela
- Victim services expert - Susan Blair

PSRB STAFF

- Ellen Weber, Executive Director
- Heidi Magro, Program Coordinator
- Nancy Brayman, Executive Secretary
- Adrienne Bonner, Secretary 2
- Phone: (860) 566-1441
- Fax: (860) 566-1425
- Beeper: 1-800-362-7243,
 - ◆ Acct. # “112233” or “PSRB”
 - ◆ Leave message with name of acquittee, problem and name and number for call back
- Website: www.ct.gov/psrb

POWERS OF PSRB

- Place with DMHAS or DMR
- Confine in maximum security (Whiting)
- Confine at Dutcher
- Grant, modify or terminate temporary leave
- Grant, modify or terminate conditional release
- Issue Subpoenas



CONNECTICUT'S NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT (NGRI) STANDARDS

- CGS section 53a-13
- Affirmative defense
 - ◆ Only defense can raise
 - ◆ Defendant has burden of proof to show lack of capacity due to mental disease or defect

NGRI STANDARDS

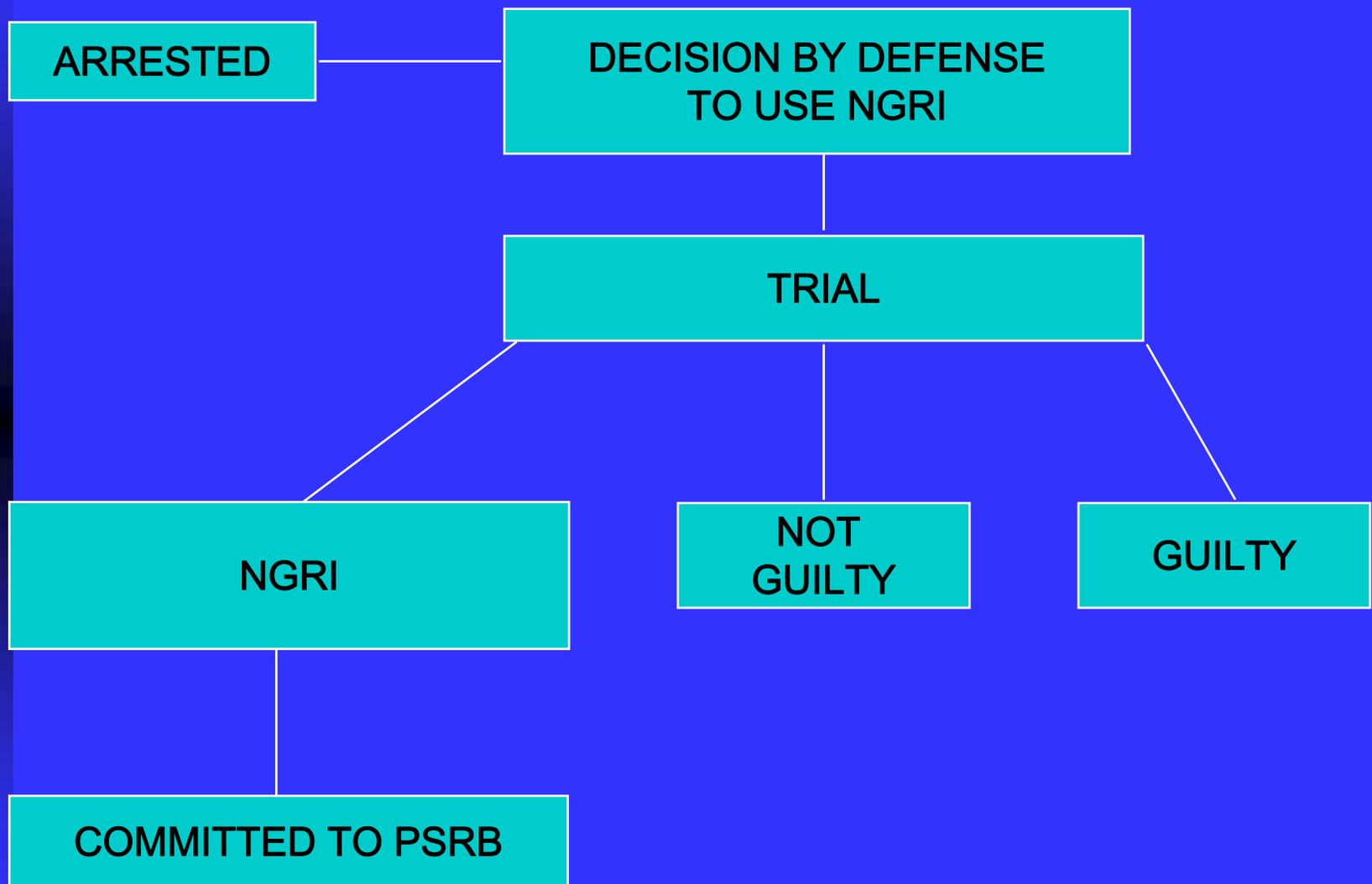
- Cognitive prong
 - ◆ To appreciate the wrongfulness of conduct
- Volitional prong
 - ◆ To conform to the requirements of the law

EXCLUSIONS FROM NGRI

- Repeated criminal or otherwise antisocial conduct
- Pathological or compulsive gambling
- Voluntary use of drugs/alcohol



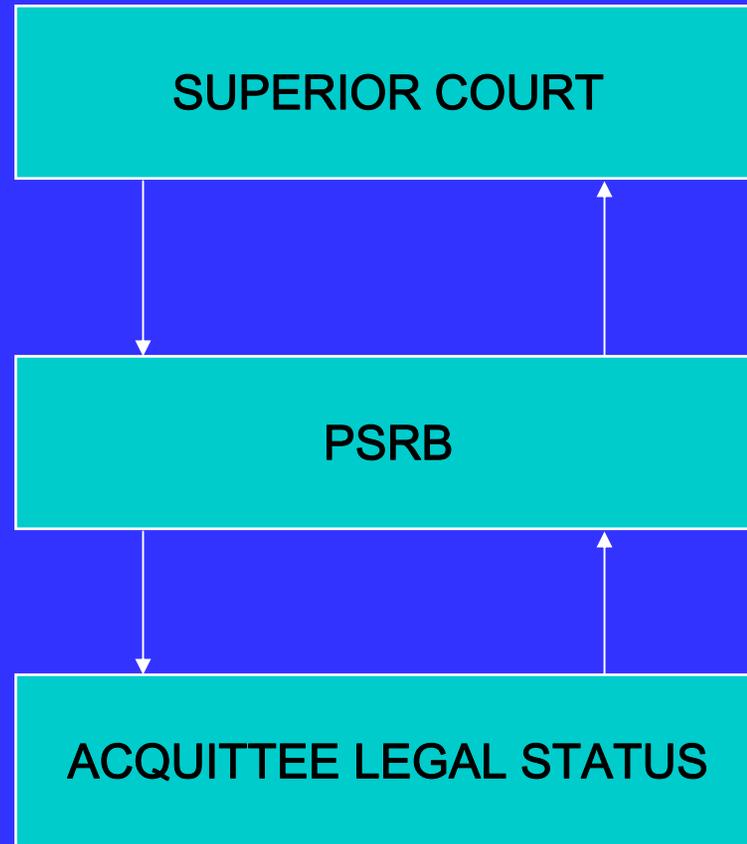
INSANITY DEFENSE



COMMITMENT TERM

- Set by Superior Court
 - ◆ Up to the maximum sentence if convicted
 - ◆ Potentially indefinite or life
 - ◆ Average is 29 years
 - ◆ Can be extended beyond the maximum by court if still dangerous
- PSRB recommends Continued Commitment or Discharge from the Board

COMMITMENT PROCESS



CONTINUED COMMITMENT

- Initiated by State's Attorney
 - ◆ Burden of proof on the state (clear and convincing evidence)
 - ◆ Acquittee has psychiatric disabilities or is mentally retarded to the extent that his discharge at the expiration of his maximum term of commitment would constitute a danger to himself or others
- PSRB and court hearings
- Superior court sets new commitment term

CONTINUED COMMITMENT 1985 – 8/2006

- Continued Commitments – 68
 - ◆ 1 continued commitment 24
 - ◆ 2 continued commitments 17
 - ◆ 3+ continued commitments 27
- 41 still under PSRB

DISCHARGE METHODS

- Petition for Discharge
 - ◆ PSRB hearing
 - ◆ Burden of proof on acquittee for early release to show they would not constitute a danger to themselves or others
 - ◆ Superior court grants discharge
- Max out
- If discharged, acquittee becomes a voluntary patient

DISCHARGE

1985 – 8/2006

■ Discharge – 146

◆ Death	27
◆ Early discharge	28
◆ Max out	88
◆ Commitment overturned	03

PSRB

REQUIRED HEARINGS

- Initial Commitment
- Review of Status (every 2 years)
- Transfer in or out of maximum security
- Temporary Leave applications
- Conditional Release applications
- Modification of Conditional Release
- Revocation of Conditional Release

HEARINGS AT DISCRETION OF PSRB

- Preparation of Report to Court on:
 - ◆ Petition for Discharge
 - ◆ Petition for Continued Commitment
- Out of State Travel for Conditionally Release acquittee
- Termination of Temporary Leave

HEARING RULES

- Moving party has burden of going forward and presenting evidence
- Victim Impact Statement
- All parties and PSRB entitled to independent evaluation
- Right to inspect, copy all relevant and material records- PSRB sends everything to acquittee's counsel and state's attorney
- Right to cross-examine
- Right to present evidence
- Acquittee allowed to make unsworn statement to PSRB

HEARING PROCEDURES

- For all hearings DMHAS, DMR or other witnesses give narrative testimony followed by examination by acquittee's counsel and state's attorney
 - ◆ exception concerning Discharge, Continued Commitment or Motions
- Hearings open to public - rules for cameras and recording devices
- Hearing transcripts available

BOARD DELIBERATIONS

- Held in executive session
- Quorum required for vote
 - ◆ Majority vote required for decision
- Final orders in writing-public document
 - ◆ Memorandum of Decision (MOD)
 - ◆ Report to Court
- Minutes - written recording of votes- public document

PSRB POPULATION

- Approximately 166 acquittees as of 8/2006
- Agency
 - ◆ DMHAS- 99% (165)
 - ◆ DMR – less than 1% (1)
- Current placement
 - ◆ CVH - 84%
 - Dutcher Unit - 58% – 42% TL
 - Whiting Unit - 26%
 - ◆ CR - 15% (25) {3 inpatient voluntarily at CVH}
 - ◆ DOC – less than 1% (1)
 - ◆ AWOL – less than 1% (1)

DEMOGRAPHICS

Male
89%

Female
11%

Caucasian
65%

African American
25%

Hispanic
6%

Other
4%

DEMOGRAPHICS

- Age range - 24 to 79
- Average age - 46
- High school graduate - 75%

CRIME INFORMATION

- Violent crimes - 97%
 - ◆ Homicide and Assault - 41%
 - ◆ Arson - 7%
 - ◆ Robbery - 6%
 - ◆ Sex offenses - 12%
 - ◆ Kidnapping – 10%
 - ◆ Other - 21%
- Non-violent crimes - 3%

VICTIM INFORMATION

- Victim is primarily a family member or friend
- 68% of cases victim is known

TRADITIONAL MENTAL HEALTH TREATMENT

- Clinician / client relationship
- Confidentiality is a guiding principle
- Advance the interest of the client
- Ethical principles
 - ◆ do good
 - ◆ do no harm
- Advocacy for the client

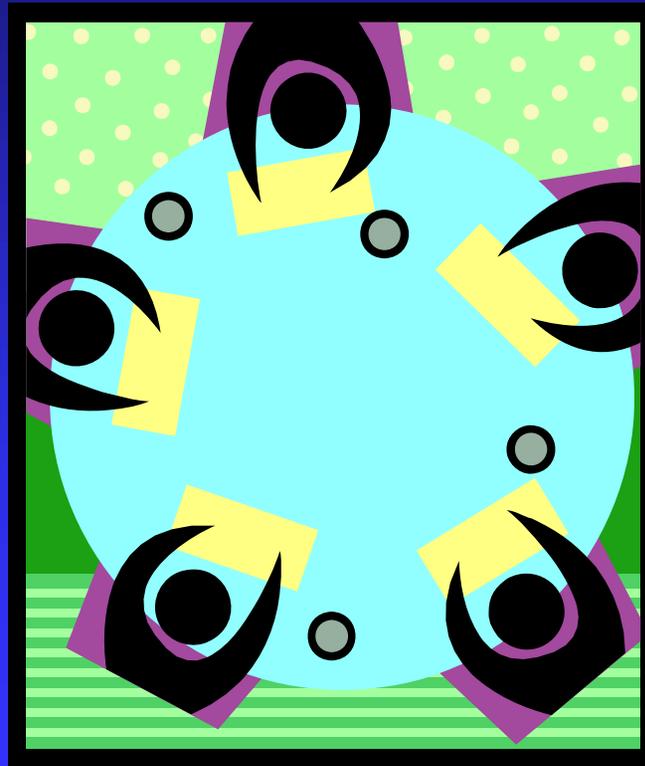
PSRB/FORENSIC CONTEXT OF MENTAL HEALTH SERVICE

- Different clinician/client relationship
- Different confidentiality
- Advance interest of justice
- Additional ethical principles
 - ◆ Truth telling
 - ◆ Respect for person
- Not an agent for the acquittee

CONFIDENTIALITY ISSUES

- Waive privilege when plead NGRI
- Psychiatric and medical information open to PSRB, acquittee, acquittee's counsel and State's Attorney
- Give confidentiality warning
- Records - confidential to public
- Testimony and MODs - open to public
- Agencies required to follow HIPAA procedures except for provision of information to PSRB

TEMPORARY LEAVE



READINESS FOR TEMPORARY LEAVE (TL)

- Clinically stable under TL conditions:
 - ◆ minimal risk to the public
 - ◆ demonstrates insight into nature of crime
 - ◆ insight and understanding of mental illness
 - ◆ recognizes onset of early warning signs of illness
 - ◆ acknowledges awareness of substance abuse issues
 - ◆ takes medication as prescribed
 - ◆ ability to understand mandatory nature of requirements

PSRB ACQUITTEE INFORMATION PACKET

All identified community providers receive packet prior to any TL or CR planning from CVH

- All arrest/police reports/applications for warrants
- Reports prepared by defense and prosecution experts at time of trial
- Whiting 45-day evaluation report
- Demographic data
- Diagnosis/Current Medications
- Summary of significant laboratory test findings
- Previous psychological testing results
- History of violence toward self/others

PSRB ACQUITTEE INFORMATION PACKET

- Summary of incidents involving AWOLS, positive drug/alcohol screens, loss of privileges
- All previous six-month reports to the PSRB
- All previous Memoranda of Decision from the PSRB
- Reports by outside experts prepared for PSRB hearings by any party
- Treatment summary with emphasis on risk factors to be considered in planning transfer
- Any other documents necessary to provide quality treatment and protect public safety

TEMPORARY LEAVE

- Development of TL plan in collaboration with community providers and/or family
- Authorization granted to CVH for:
 - ◆ Introduction of acquittee to community treatment and/or social activities
 - ◆ Achievement of a specific clinical outcome
 - ◆ Assessment of specific clinical needs
 - ◆ Assessment of specific risks to public safety



COMMUNITY PROVIDER RESPONSIBILITIES

- Provide written and verbal monthly progress reports to CVH
- Immediately report to CVH:
 - ◆ any violation of the TL order
 - ◆ any treatment/medication noncompliance
 - ◆ any deterioration in mental status
 - ◆ any positive test for alcohol or drugs
 - ◆ any possession of weapons
 - ◆ any violation of the law
 - ◆ any association with known criminals
 - ◆ any change in level of intensity of agreed upon service intervention

PROHIBITIONS FOR ACQUITTEES ON TEMPORARY LEAVE

- ⌚ No alcohol
- ⌚ No drugs
 - ✉ Includes over the counter meds
- ⌚ No weapons - ever
 - ✉ Own
 - ✉ Buy
 - ✉ In presence
 - ✉ Guns (any type)
 - ✉ No hunting knives
 - ✉ No defensive weapons
- ⌚ No gambling
- ⌚ Restrictions on association
- ⌚ Restrictions on movement
- ⌚ Must abide by rules and regulations of community programs



CONDITIONAL RELEASE



CONDITIONAL RELEASE

- Development of CR plan in collaboration with community providers and/or family
- Authorization granted to the acquittee for:
 - ◆ Community living with mandated services to ensure public safety
 - ◆ Treatment to promote recovery

READINESS FOR CONDITIONAL RELEASE

Clinically stable under CR conditions:

- ◆ minimal risk to the public
- ◆ demonstrates insight into nature of crime
- ◆ insight and understanding of mental illness
 - ◆ recognizes onset of early warning signs of illness
- ◆ acknowledges awareness of substance abuse issues
- ◆ takes medication as prescribed
- ◆ ability to understand mandatory nature of requirements

COMMUNITY PROVIDER RESPONSIBILITIES

- Development of CR application in collaboration with CVH
 - ◆ specific input as to what services your agency will provide that meet the individual needs of the acqittee
 - ◆ Executive Director must sign Community Provider Approval Form
 - ◆ Provide the appropriate frequency and intensity of services
 - ◆ Understand and can comply with the legally required mandates



COMMUNITY PROVIDER RESPONSIBILITIES

- Understand shift of clinical/legal responsibility
- Provide testimony at PSRB hearings
- Monitoring of public safety risk
- Monitoring adherence to stipulations of MOD
- Medication monitoring if ordered
- Home visits/inspections



COMMUNITY PROVIDER RESPONSIBILITIES

- Immediately report to PSRB and CRSU:
 - ◆ any violation of the CR order
 - ◆ any treatment/medication noncompliance
 - ◆ any deterioration in mental status
 - ◆ any positive test for alcohol or drugs
 - ◆ any possession of weapons
 - ◆ any violation of the law
 - ◆ any association with known criminals
 - ◆ any change in level of intensity of agreed upon service intervention

DUTIES OF CR SUPERVISOR

- Supervision meetings and home visits with acquittee
- Contact community providers at least once per month
- Review requests to modify CR
- Provide verbal reports to the PSRB
- Review new MOD with acquittee and forward signed copy to PSRB
- Verify compliance with PSRB mandates
- Provide written progress reports to PSRB
 - ◆ Copy to CRSU and community providers



CR SUPERVISOR RESPONSIBILITIES

- Provide testimony at PSRB hearings
- Ensuring substance abuse screenings are conducted as per MOD
- Ensuring other providers understand PSRB rules, emergency reporting protocol and agency mandates
- Ensuring treatment compliance
- Integration of forensic issues into the community treatment plan
- Coordinate and chair ATT meetings

PROHIBITIONS FOR ACQUITTEES IN THE COMMUNITY ON CR

- ⌚ No alcohol
- ⌚ No drugs
 - ☒ Includes over the counter meds
- ⌚ No weapons - ever
 - ☒ Own
 - ☒ Buy
 - ☒ In presence
 - ☒ Guns (any type)
 - ☒ No hunting knives
 - ☒ No defensive weapons
- ⌚ No gambling
- ⌚ No out of state
- ⌚ Restrictions on association
- ⌚ Restrictions on movement
- ⌚ Must abide by rules and regulations of community programs

EMERGENCY PLAN

- Insurance information
- Notification list
- Up to date photo
- Treatment plan changes
- Respite/Crisis beds
- Special monitoring
- Voluntary hospitalization
- Revocation of conditional release



VOLUNTARY HOSPITALIZATION

- Can use community hospital psychiatric units
 - ◆ Disclose legal status
- Can use CVH
- When ready for discharge
 - ◆ Written report to PSRB
 - ◆ Verbal answer from Chair
 - ◆ If no, can go to CVH voluntarily

REVOCAATION PROCEDURES

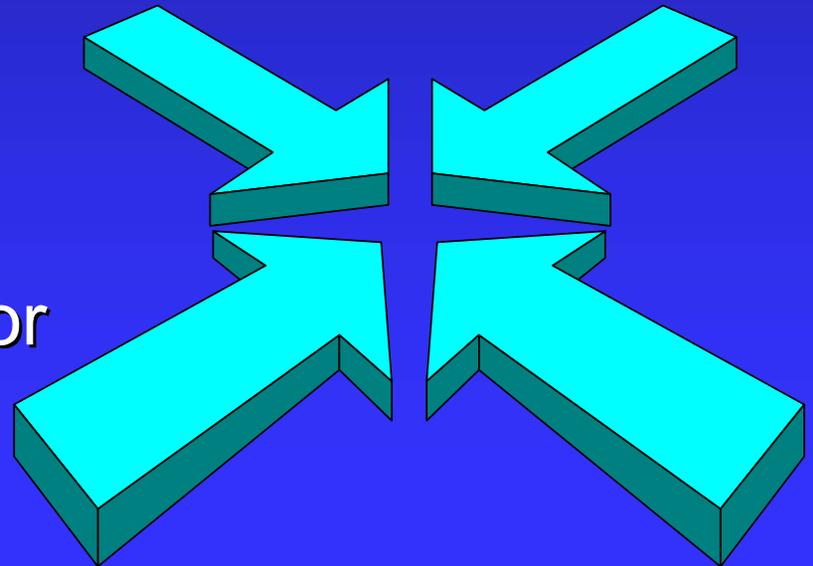
- Chair issues order for revocation based on probable cause
- Acquittee taken into custody by law enforcement
- Confined involuntarily at CVH for inpatient evaluation on issue of termination of CR
- Hearing conducted to determine future status
 - ◆ Remain on CR
 - ◆ Modification of CR
 - ◆ Ordered confined

Conditional Release Revocation 1985 to 8/2006

- Reasons for Revocation:
 - ◆ Psychiatric decompensation 17
 - ◆ Supervision non-compliance 9
 - ◆ Treatment non-compliance 8
 - ◆ Alcohol/Drugs 9
 - ◆ Two or more reasons 10
 - ◆ Other 14
- Hearing Result:
 - ◆ No change to conditional release 8
 - ◆ Termination of conditional release 50
 - ◆ Modification of conditional release 9

COMMUNITY TREATMENT ISSUES

- Budgeting
- Family Issues
- Substance abuse treatment/Monitoring
- Disclosure
- Vocational issues
- Relationship issues
- Problem sexual behavior
- Leisure activities



DMHAS-Conditional Release Service Unit (CRSU)

Providing consultation and oversight for Local
Mental Health Authorities and community
agencies providing services to acquittees

DMHAS-CRSU

Division of Forensic Services

PO Box 351, Russell Hall, 2nd floor

Middletown, CT 06457

DMHAS-Conditional Release Service Unit Contact

Erin Leavitt-Smith, LPC

Office: 860-262-5879

Fax: 860-262-5841

Beeper: 800-946-4645

PIN# 860-820-8534

24 hr availability for notification
and consultation

DMHAS-Conditional Release Service Unit (CRSU)

- Consultation regarding:
 - ◆ PSRB regulations
 - ◆ DMHAS policies regarding management of acquttees
 - ◆ Risk management issues
 - ◆ Temporary Leave and Conditional Release planning
 - ◆ Modifications of Conditional Release
 - ◆ Review of treatment plan
 - ◆ Reports and testimony to the PSRB
 - ◆ Out-of-state travel

DMHAS-Conditional Release Service Unit (CRSU)

- Monitoring the delivery of services to acquttees to ensure compliance and appropriate level of care by:
 - ◆ Review of Progress Reports
 - ◆ Ongoing contact with PSRB, CVH, Conditional Release/Temporary Leave supervisors and other community providers
 - ◆ Participation in All Treaters Meetings
 - ◆ Receipt of verbal and written emergency reports to the PSRB

SIX MONTH REPORTS

- Statutorily mandated forensic evaluations conducted by DMHAS, DMR or CR provider reporting on:
 - ◆ The mental condition, mental status and course of treatment of an acquittee
 - ◆ Compliance with MOD and adjustment to the community
 - ◆ Risks of dangerousness to self and others under the CR plan
 - ◆ Input from all community providers

ALL TREATERS TEAM MEETINGS

Collaborative meeting of involved community providers for purposes of:

- Ongoing assessment of risk management
- Review of treatment and forensic issues
- Monitoring of compliance with service delivery as stipulated by the MOD and DMHAS regulations
- Facilitating reporting requirements

GUN CONTROL LAW

FEDERAL AND STATE

- Lifetime prohibition against buying, owning and possessing weapons including guns, hunting and fishing knives, crossbows, bows and arrows and other instruments designed as weapons.
- Acquittees on Gun Control Registry.
- Persons allowing access to weapons face criminal prosecution and penalties.

MEGAN'S LAW

- Acquittes who have committed sex offenses must register upon Conditional Release or Discharge.
 - ◆ Blood sample or saliva swab (as of October 1, 2004) is registered with DNA registry, fingerprints and photograph
 - ◆ Registration monitored on a quarterly basis by State police for at least 10 years
 - ◆ Change of address notification required of acquittee
 - ◆ On Internet

DNA REGISTRY

- State statute effective October 1, 2003
 - ◆ All individuals convicted of a felony and all individuals found NGRI for a felony must register DNA sample with state police
 - ◆ Failure to do so could result in fine and additional charges

ONE MORE THING...

- Reporting is not an option
- MODs can be enforced by Superior Court order
- Failure to report necessary information or follow MOD may expose provider agency to liability issues

US SUPREME COURT CASES

- Jones v. United States -1) ruled that a finding of mental illness and dangerousness from the trial is sufficient to commit an insanity acquittee without independent finding required in civil commitment-- established presumption of dangerousness--- shoplifting case;2)validate indefinite commitment as long as mentally ill and dangerous and due process afforded

US SUPREME COURT CASES

- Foucha v Louisiana - must be mentally ill and dangerous for confinement - dangerousness alone is not sufficient for insanity acquittee - CT not a Foucha state
- US v Knights - Searches by state i.e., probation is legal w/o specific court order, part of supervisory functions

US SUPREME COURT CASES

- 12 Step Programs and Religious Freedom
 - ◆ O'Conner v St of Calif
 - ◆ Warner v Orange County Department of Health - 2nd Circuit
 - ◆ Can not require participation in 12 step programs due to spiritual basis

US SUPREME COURT CASES

■ Civil Commitment

- ◆ Addington v. Texas - clear and convincing evidence standard is required
- ◆ O'Connor v. Donaldson- right to treatment
- ◆ Youngberg v. Romeo- discrete right to adequate training and treatment

CT SUPREME COURT CASES

- St of CT v Scott Reed-192Conn520;473 A.2d 775 (1984)- acquittees can not be billed for confinement,protection of community
- St of Ct v Geraldine E Putnoki - 200 Conn 208 (1986)
 -
 - ◆ only PSRB can set order and set criteria for conditional release
 - ◆ criteria for dangerousness
 - ◆ weight of experts to fact-finder- not binding
 - ◆ determination of mental illness and dangerousness is legal issue
 - ◆ goals of treatment conflict with cjs

CT SUPREME COURT CASES

- St of Ct v Thomas Metz -
230 Conn 400 ,420 (1994)
 - ◆ maximum exposure=maximum sentence exposure, not commitment term if less
 - ◆ state has burden of proof
 - ◆ clear and convincing evidence standard
 - ◆ untimeliness of State's petition not prejudicial -only directory not mandatory
 - ◆ after maximum exposure continuing presumption of dangerousness no longer exists

CT SUPREME COURT CASES

- St of CT v Andrew Wilson
 - ◆ requires definition of wrongfulness in NGRI standard to include “moral wrongfulness”
- St of CT v Emanuel Smith
 - ◆ State can require sex offender treatment for persons not required to register under Megan’s Law
- St of CT v Calvin Long
 - ◆ Continued commitment is constitutional

Superior Court Orders- Administrative Appeals or Writs of Habeas Corpus

- Confinement in maximum security not appealable
- Board may use own expertise
- Board not bound to expert testimony
- Board, State's Attorney and acquittee may have independent evaluation
- Appellant must be aggrieved to appeal
- Canvas for defense is required (on appeal)
- Not given option for a jury trial by counsel

ANY QUESTIONS????

**DON'T FORGET
EVALUATIONS**