

# PUBLIC SAFETY REVIEW PANEL BYLAWS

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## 1. Purpose

- 1.1. The purpose of these guidelines is to communicate the processes and procedures to be followed at meetings of the Public Safety Review Panel (PSRP). They are intended to provide consistency, predictability, fairness and efficiency to the meeting process.
- 1.2. If certain case types are not addressed within these guidelines, the PSRP will determine the processes and procedures to be followed on a case-by-case basis by a majority vote.

## 2. Definitions

- **Change in Commitment Status:** The transfer of a person through court, or internal hospital processes, from a secure residential placement to a less secure residential placement, including conditional or unconditional release into the community.
- **Community Program:** A DSHS operated-conditional release facility located on the grounds of the Western State Hospital (WSH) campus.
- **Conditional Release:** Court-ordered release, or partial release, from a secure residential setting on hospital grounds subject to a specified set of conditions that allow the NGRI patient to be released conditionally to a specific residential placement without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.
- **Hospital:** Eastern State Hospital (ESH), Western State Hospital (WSH), or Maple Lane or any designated DSHS facility.
- **Less Restrictive Alternative (LRA):** A less restrictive alternative is outpatient treatment provided to an individual who meets criteria for commitment but is not residing in a facility providing inpatient treatment. If the court finds that the individual meets the criteria for commitment, the court can either authorize commitment of the individual for inpatient treatment or for a less restrictive alternative treatment. Release, under a less restrictive alternative, is subject to conditions set by the court.
- **Member:** A member of the Public Safety Review Panel.
- **Office of Forensic Mental Health Services (OFMHS):** The Office of Forensic Mental Health Services is a division of the Department of Social and Health Services' Behavioral Health Administration. OFMHS oversees the state's adult forensic mental health system.
- **Not Guilty by Reason of Insanity (NGRI):** A defendant is found Not Guilty by Reason of Insanity (NGRI) when the court determines the person was not able to tell right from wrong due to their mental state at the time of the offense. Persons found NGRI typically experienced severe symptoms of mental illness at the time of the offense, which gravely impaired their capacity to perceive reality or think clearly.
- **Patient:** A patient who has been found Not Guilty by Reason of insanity (NGRI) or Special Finding of Violent Felony (SFVF) who is currently under the civil commitment jurisdiction of a Washington Superior Court or persons committed under the involuntary treatment act where the court has made a special finding under RCW 71.05.280 (3) (b).
- **Panel or PSRP:** The Public Safety Review Panel established by RCW 10.77.139.
- **Risk Assessment:** A comprehensive evaluation signed by a licensed mental health professional with appropriate training that addresses the NGRI/SFVF Patient's danger to other persons and likelihood of committing criminal acts following the proposed change in commitment status, that: (1) utilizes accepted actuarial and clinical risk

considerations, including static and dynamic risk factors, (2) identifies risk considerations under the relevant statutory risk criteria, and (3) evaluates risk in the context of the specific release conditions and residential placement location that would manage the NGRI Patient's actions if the proposed change in commitment status is made effective. A risk assessment shall address the NGRI Patient's criminal history, treatment history, current progress in treatment, current DSM diagnoses, current medications, and treatment plan following the proposed change in commitment status.

- **RPP:** Relapse Prevention Plan details static and dynamic risk factors particular to the NGRI Patient and contains a written plan of interventions for the purpose of reducing the risk of offending.
- **Secretary:** The Secretary of Department of Social and Health Services (DSHS).
- **Secretary's Designee:** The person in DSHS who has been authorized by the Secretary of DSHS to act on his or her behalf to recommend changes in commitment status and other matters related to particular NGRI/SFVF patients.
- **Special Finding of Violent Felony (SFVF):** These patients make up a small number of civil conversion patients who have been civilly committed following a finding of incompetence to stand trial for a felony classified as violent under RCW 9.94A.030. People who have been determined to have committed a violent felony offense may be civilly committed under additional grounds pursuant to RCW 71.05.280. Historically, SFVF patients may be referred to as 1114 patients, referencing the bill that enacted that portion of the statute.
- **Unconditional Release:** Court-ordered discharge from civil commitment under RCW 10.77 when an NGRI patient no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.
- **Program Manager:** The PSRP Program Manager employed by the Secretary of the Department of Social and Health Services (DSHS) to assist the Panel with its statutory duties.

### 3. Meetings And Scheduling

#### 3.1. Members and Voting

3.1.1. A quorum shall consist of fifty percent (50%) of actively appointed Panel members. A quorum must be present for the Panel to render a recommendation.

3.1.2. The Panel may issue a recommendation only when a majority of the panel members present at the meeting agree.

3.1.3. The recommendation will be based on the majority position of the quorum. Individual votes shall not be recorded.

3.1.4. The Panel shall elect a Chair and Vice-Chair by majority vote, at the beginning of each calendar year, or as necessary due to resignations.

3.1.5. Attendance at meetings may be in person or by electronic means, including telephone, videoconference, or the internet when authorized by the Chair.

#### 3.2. Meetings

3.2.1. The Panel will meet at least once per month on a schedule established by the Chair. The Chair may convene special meetings when necessary.

3.2.2. The meeting will be conducted by the Panel Chair, or in the absence of the Chair, the Panel's Vice Chair.

3.2.3. The Panel will be conducted by an Acting Chair, voted on by the present Panel members in the absence of both the Chair and Vice Chair.

3.2.4. In rare circumstances Panel votes can be conducted via email when approved by the Chair.

3.2.5. Each meeting will include a Panel Business Session and an Executive Session to discuss case recommendations.

### **3.3. Agenda**

- 3.3.1. The Program Manager shall set an agenda with input from the Panel. The Program Manager will distribute complete packet materials at least three business days prior to the meeting. If materials are received late, the Panel may decline to review them or move the review to the next scheduled meeting.
- 3.3.2. The agenda shall always include: 1) Panel business session, 2) executive session, and 3) old business.

### **3.4. Program Manager**

- 3.4.1. The Program Manager shall report to the Panel Chair.
- 3.4.2. Prior to each meeting, the Program Manager shall complete a case summary outlining a person's criminal history, index offense, mental health diagnosis, treatment progress, and other matters useful to assist the Panel in reviewing a case.
- 3.4.3. The Panel may include the Program Manager in the Executive Sessions where he or she shall maintain minutes.
- 3.4.4. The Program Manager, under the direction of the Panel Chair, shall compose a preliminary results letter and Final Panel Recommendation Letter to memorialize the Panel's recommendations.
- 3.4.5. The Program Manager shall maintain statistics and other data helpful to the Panel.
- 3.4.6. The Program Manager shall serve as the primary point of contact for the Panel and shall act in a liaison capacity between the Panel, the OFMHS/BHHA, and other relevant stakeholders.

## **4. PSRP Jurisdiction and Recommendations**

### **4.1. Jurisdiction**

- 4.1.1. Under RCW 10.77.139 (1), the PSRP is established for the statutory purpose of advising the Secretary and the courts with respect to persons who have been found not guilty by reason of insanity or persons committed under the involuntary treatment act where the court has made a special finding under RCW 71.05.280(3)(b).
- 4.1.2. The Panel shall provide advice regarding all recommendations:
- 4.1.3. For a change in commitment status;
- 4.1.4. To allow furloughs or temporary leaves accompanied by staff;
- 4.1.5. Not to seek further commitment terms under RCW 71.05.320; or
- 4.1.6. To permit movement about the grounds of the treatment facility, with or without the accompaniment of staff.

### **4.2. Initiating a Panel Recommendation**

- 4.2.1. Pursuant to RCW 10.77.139 (3), at least thirty days prior to issuing any recommendation for conditional release under RCW 10.77.555 or forty-five days prior to issuing a recommendation for unconditional release under RCW 10.77.595, the Secretary or her designee shall submit the matter to the Panel for a recommendation. The Panel shall consider the case and issue a recommendation.
- 4.2.2. Pursuant to RCW 10.77.139 (1) the Panel may consider a case and issue a recommendation when requested by the court, the prosecutor, or defense counsel, and where a change in the NGRI/SFVF Patient's commitment status is being actively adjudicated by the court.

### **4.3. Review Materials**

- 4.3.1. The Program Manager shall review the entire file of the Patient and provide a case summary to the Panel.
- 4.3.2. The Hospital shall make relevant materials available to the Panel for review by delivering a packet to the Program Manager. The packet shall include all applicable materials : (1) PSRP Cover Sheet; (2) Letter from the Hospital; (3) Letters to Court; (4) Forensic Risk Assessment; (5) Other Assessments; (6) Current

Medication List; (7) Psychiatric Evaluation; (8) Psychological Assessment; (9) Treatment Plan; (10) Recent Progress Notes; (11) Discharge Plan; (12) Court Order for current status; (13) Court Petitions; (14) Conditions; (15) WATCH Report /JIS; (16) Any other materials deemed relevant by the Hospital or the Panel.

4.3.3. The time limits under RCW 10.77.139(3) and Section 4.2 shall not begin to run until the Hospital has made a complete submission under Section 4.3.2. If the materials in Section 4.3.2 are submitted at least two weeks prior to the Panel's next scheduled meeting, the Patient's case shall be placed on the agenda for that meeting.

#### **4.4. Panel Review Packet**

4.4.1. All items on the Executive Session agenda shall be prepared by the Program Manager in a review packet at least three business days prior to the next scheduled Panel meeting. The review packet shall consist of the case summary, the Hospital's draft recommendation letter, a current risk assessment, all prior Hospital court letters, all prior psychological evaluations, and any other materials that the Program Manager deems appropriate in consultation with the Panel Chair.

4.4.2. The complete Hospital file, including all current progress reports, etc., shall be available to the Panel during its Executive Session.

#### **4.5. Additional Submissions**

At least one week prior to the Panel's meeting, the Program Manager shall solicit written input and additional information from the prosecutor and defense attorney with responsibility for the Patient's case. Copies of any written materials shall be made available to Panel members.

#### **4.6. Independent Assessment**

4.6.1. The PSRP shall provide its assessment and recommendation in writing to the Secretary, who shall provide a copy to the court, prosecutor and defense attorney who are responsible for the Patient's case in accordance with RCW 10.77.139. The Panel's written recommendation shall be signed by the Chair or Vice-Chair on behalf of the Panel.

4.6.2. Where the Panel deems it necessary and where funds are appropriated for this purpose, the Panel may request an additional evaluation of the Patient by an evaluator chosen by the Panel.

#### **4.7. In accord with RCW 10.77.139 (4), the Hospital shall inform the Panel on the following regarding a patient:**

4.7.1. The disposition entered by the court in all cases where the Panel has issued a recommendation to the court and the Secretary.

4.7.2. When an NGRI Patient is discharged from commitment under RCW 10.77 due to death or expiration of the maximum term of commitment.

4.7.3. When an NGRI Patient is returned to the Hospital and the reasons for the person's return.

4.7.4. When an NGRI Patient is arrested for committing a new criminal act.

4.7.5. When an NGRI Patient escapes from the Hospital grounds or absconds from conditional release.

4.7.6. All other critical incidents such as the filing of a new criminal charge or legal proceeding; re-hospitalization or transfer of care; serious rule violations or incidents that present a safety concern; any event determined to have an impact on public safety or the patient's treatment progress.

4.7.7. The Program Manager shall maintain all updates in the confidential patient file and distribute such information to the Panel via secure email upon receipt.

## **5. Conflict of Interest**

- 5.1. Members of the Panel shall not participate in deciding a case where their participation presents an actual conflict of interest. Examples of actual conflicts may include, but are not limited to, the following:
  - 5.1.1. Being related to the patient.
  - 5.1.2. Actively representing or prosecuting the patient.
  - 5.1.3. Being currently retained by the patient or the State for evaluation or other services related to the particular patient being considered by the Panel.
- 5.2. Panel members shall disclose any potential conflicts of interest to other members of the Panel prior to consideration of a case for further consideration.
- 5.3. Any Panel member who has a conflict of interest shall recuse themselves from the patient review process and from all related deliberations and decision-making.

## **6. Confidentiality**

- 6.1. Consistent with state and federal patient confidentiality laws applicable to Patients, the Panel will protect the confidentiality of all patient information that is outside the public record.
- 6.2. All packets will be forwarded to Panel members using encrypted emails. When communicating about a Patient by email, Panel Members will use encrypted email or other secure communications adopted by the Panel.
- 6.3. The Program Manager will maintain confidential records of materials considered by the Panel in accordance with federal patient confidentiality laws.
- 6.4. Nothing in this section shall preclude the Panel from advising the Legislature under RCW 10.77.139(6) or providing necessary information to the Secretary and the courts when making written recommendations under RCW 10.77.139.
- 6.5. It is recognized that certain Panel members have access to information on patients through their employment and subject to the rules of that employment. Nothing in this section is intended to create confidentiality obligations for information that is available to Panel members through other means or otherwise available in the public record.

## **7. Public and Media Comment**

- 7.1. The Chair shall act as the official spokesperson for the Panel.
- 7.2. The Program Manager shall forward all requests for public or media comment directly to the Chair.
- 7.3. Panel members should alert the Chair to any issue or situation that may attract media attention.
- 7.4. The Chair or the Program Manager (at the request of the Chair), shall respond to any subpoena addressed to the Panel. The Program Manager will consult with the Department's Attorney General for all legal matters affecting the Panel.