

# PUBLIC SAFETY REVIEW PANEL BYLAWS

## 1.0 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.

## 2.0 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.

**Executive Director:** The PSRP Executive Director employed by the Secretary of the Department of Social and Health Services (DSHS) to assist the Panel with its statutory duties.

**Hospital:** Eastern State Hospital (ESH) or Western State Hospital (WSH).

**Member:** A member of PSRP.

**Patient:** A patient who has been found Not Guilty by Reason of Irsanity (NGRI) 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 10.77.270.

**Risk Assessment:** A comprehensive evaluation signed by a licensed mental health professional with appropriate training that addresses the NGRI 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 qualitative 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 control 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 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 NRGi patients.

**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.

### **3.0 Meetings And Scheduling**

#### **3.1 Quorum and Voting**

3.1.1 A quorum of four (4) members of the Panel must be in attendance in order for the Panel to review cases and make recommendations.

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

3.1.4 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 Each meeting will include a Panel Business Session open to the public and an Executive Session to discuss case recommendations.

### **3.3 Agenda**

The Chair shall set an agenda which will be distributed by the Executive Director with packet materials at least one business day prior to the meeting.

### **3.4 Executive Director**

3.4.1 The Executive Director shall report to the Panel Chair.

3.4.2 Prior to each meeting, the Executive Director 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 Executive Director in its Executive Sessions where he or she shall maintain minutes.

3.4.4 The Executive Director, 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 Executive Director shall maintain statistics and other data helpful to the Panel in preparing its 2014 report to the Washington Legislature.

## **4.0 PSRP Jurisdiction and Recommendations**

### **4.1 Jurisdiction**

4.1.1 Under RCW 10.77.270(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:

4.1.2.1 For a change in commitment status;

4.1.2.2 To allow furloughs or temporary leaves accompanied by staff;

4.1.2.3 Not to seek further commitment terms under RCW 71.05.320 or

4.1.2.4 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 10.77.270 (3), *at least* thirty days prior to issuing any recommendation for conditional release under RCW 10.77.150 or forty-five days prior to issuing a recommendation for unconditional release under RCW 10.77.200, 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 10.77.270 (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 Patient's commitment status is being actively adjudicated by the court.

### **4.3 Review Materials**

4.3.1 The Executive Director shall review the entire file of the Patient and provide a case summary to the Panel.

4.3.2 The Hospital shall make the following materials available for the Panel's review by delivering them to the Executive Director: (1) A draft letter stating the Hospital's recommendation that addresses the relevant statutory criteria and discloses the proposed conditions of release, including the specific release address; (2) A current Risk Assessment (and Risk Assessment update if applicable); (3) An NCIC and Washington State criminal history report; (4) All prior psychological evaluations, including the initial NGRI evaluations; (5) The Patient's entire Hospital file; (6) All prior Hospital court letters; and (7) Any other materials deemed relevant by the Hospital.

4.3.3 The time limits under RCW 10.77.270(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 At least three business days prior to the next scheduled Panel meeting, for all items on the Executive Session agenda, the Executive Director shall prepare a review packet consisting 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 Executive Director 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 Executive Director 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**

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

4.5.2 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 10.77.270(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, or

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

## **5.0 Conflicts 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 evaluative 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.

## **6.0 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 Executive Director will keep a copy of the materials considered by the Panel with regard to a Patient in a confidential locked file cabinet.

**6.4** Nothing in this section shall preclude the Panel from advising the Legislature under RCW 10.77.270(6), or providing necessary information to the Secretary and the courts when making written recommendations under RCW 10.77.270.

**6.5** It is recognized that certain Panel members have access to information on Patients through their normal 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.

**7.0 Public and Media Comment**

- 7.1** The Chair shall act as the official spokesperson for the Panel.
- 7.2** The Executive Director 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.