



Psychiatry & Behavioral Science - 2017

I40 Glad Tidings About Not Guilty by Reason of Insanity (NGRI): The Benefits of Conditional Release

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After attending this presentation, attendees will be able to: (1) identify which factors are associated with failed or successful Conditional Release (CR); (2) understand procedural components of CR; (3) identify those factors that evaluators give greatest weight in determining readiness for CR; and, (4) identify systemic areas wherein CR procedures can be improved.

This presentation will impact the forensic science community by increasing understanding of procedural changes for conditional release as well as the implications for improved public policy concerning NGRI dispositions in order to optimize the balance of benefits and risks of extended hospitalization versus early release. Those who are involved in making CR decisions and managing NGRI acquittees should find potential areas to improve practices.

The insanity defense is said to be unpopular among defense and prosecuting attorneys alike as well as the general public. When John Hinckley, who attempted to assassinate President Reagan, was found not guilty because of insanity, the oft-repeated refrain was that he was allowed to go “scot-free.” There has long been wide-spread concern that an offender who is hospitalized following an NGRI verdict will be released prematurely and commit a horrific crime. Not well appreciated is the fact that improved treatment and management and, in particular, the use of CR has resulted in rates of recidivism for NGRI offenders that are lower than those for convicted criminals after their release from prison.¹ This presentation will explain why CR is effective in reducing the risk of recidivism. Attention will focus on how CR works, what methods are used, which factors are emphasized, and how practitioners define success and failure.²⁻⁵ Empirical data will be presented to illustrate which factors evaluators use in CR decision-making as well as which factors are most effective in managing the CR population.³ Finally, a brief history of the Psychiatric Security Review Board (PSRB) and CR in Oregon will be explained with data on numbers of individuals released conditionally over the years.⁶⁻⁸ The effects of recent changes in the law on CR will be discussed.

The idea behind CR is the return of insanity acquittees to their respective communities. To that end, risk assessment evaluations are often utilized to prognosticate the likelihood an insanity acquittee will be able to meet expectations of CR.¹ Yet, risk assessments with insanity acquittees have not undergone vigorous evaluation of their predictive power. This presentation focuses on both strengths and weaknesses of current risk assessment methodologies by evaluating two samples of forensic patients eligible for or on CR. Results from both samples indicate many items ostensibly associated with risk did not predict return from CR or any type of recidivism. The results from this current research call into question the necessity of relying on historical factors of risk assessment, and instead point the clinician to focus on dynamic factors of risk when evaluating insanity acquittees.^{2,4}

This presentation will include commentary on the rationale for creation of the PSRB in 1977 by the Oregon state legislature to manage and treat insanity acquittees both in and out of the hospital.⁶ Recent data regarding numbers of individuals on CR in Oregon will be reviewed with a particular focus on various living arrangements

and how people move between these various living arrangements and the hospital.^{7,8} Living arrangements range from highly structured facilities to independent living.⁸ The concept of trans-institutionalization in the context of inpatient psychiatry bed reduction strategies will be touched on briefly.⁷

A large number of individuals are acquitted of criminal charges after being found not guilty by reason of insanity; most of these individuals are hospitalized and later seek hospital discharge under the court-ordered provision called CR. Courts rely on opinions from forensic evaluators to determine acquitees' readiness for CR; however, how evaluators make these decisions are unknown.⁹⁻¹⁴ This study surveyed 89 CR-readiness evaluators from nine states to understand which factors evaluators prioritize and to understand evaluators' assessment methodologies and their beliefs about the CR process itself. Little uniformity was found among evaluators on any aspect of the decision-making process. Evaluators utilized a wide variety of methodologies when making their decisions on readiness for CR. Moreover, evaluators' conceptualizations of the CR process itself varied widely. The results highlight the difficulty and confusion evaluators face when conducting CR-readiness evaluations and demonstrate the need for enhanced training, statutory guidance, and standardized evaluation protocols for these evaluations.

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Conditional Release, Insanity Defense, Forensic Security Hospitals