

Ohio Department of Mental Health

Forensic Monitor Orientation Manual

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Ohio Department of Mental Health
Office of Forensic Services
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Forensic Monitor Orientation Manual

I. Introduction

This manual is intended to introduce new Forensic Monitors to the responsibilities involved in the forensic monitoring role but it should also serve as a helpful reference for experienced Monitors. Although the ODMH *Forensic Manual* (published in 2003) contains a great deal of information about Forensic Monitor responsibilities, this information is found in different parts of the manual, making it somewhat difficult to access. One of the purposes of this orientation manual is to present the information most frequently needed by Forensic Monitors in one easy-to-use document. This manual is not intended to replace the *Forensic Manual*. Forensic Monitors still need to be familiar with the information contained in the *Forensic Manual*.

The position of Forensic Monitor was established in 1996 by House Bill 152 and became further defined in Senate Bill 285, which became effective in 1997. Each Alcohol, Drug Addiction and Mental Health Services (ADAMHS) and Community Mental Health (CMH) Board is required to appoint a Forensic Monitor for their area. The Forensic Monitor may be employed by one Board or a consortium of Boards, by a community mental health agency, a Community Forensic Psychiatry Center, a Community Support Network (CSN), or any other entity designated by the Board.

The Forensic Monitor position was created to ensure that persons who have been found Not Guilty by Reason of Insanity (NGRI) or Incompetent to Stand Trial, Unrestorable, under Criminal Court Jurisdiction (IST-U-CJ) and released to the community on Conditional Release are receiving effective outpatient mental health treatment, regular risk assessments, and comprehensive risk management services. Thus, the Forensic Monitor plays an essential role in the forensic mental health system and must be well informed about how to perform this role.

The next section of this manual discusses issues commonly encountered by new Forensic Monitors, followed by a description of the specific duties of the Monitor. Then, an introduction to the criminal justice system is presented with an emphasis on the interface between mental health issues and the legal system. The following section deals with the mental health system, including the inpatient forensic system and the outpatient system as it relates to Conditional Release. Then, some of the recurring questions and difficult issues faced by Monitors are described. Finally, the Appendix contains various resources, relevant information reproduced from other sources, and sample forms.

II. Becoming Oriented to the Role of Forensic Monitor

You may have inherited this position with little or no orientation to this job and little experience in the forensic mental health field. This section is designed to provide some information that will help you learn your job more quickly and easily.

While some Forensic Monitors are mental health professionals, the role of Forensic Monitor is different than most roles of mental health professionals. It is *not a treatment role* and the Monitor has responsibilities to entities other than the consumer, primarily the Court that has

granted Conditional Release (CR). For example, the Monitor is responsible to inform the Court when the person being monitored has violated provisions of a Conditional Release Plan that has been approved by the Court. For some Forensic Monitors, this may be an uncomfortable position, especially if the Monitor is coming from a traditional mental health background, but it is nevertheless an essential part of the role. The Monitor needs to be assertive with both clients and community mental health providers and learn to use the leverage of the Court to ensure that the Conditional Release Plan is followed. In fact, the law requires the Monitor to inform the Court when certain events occur. [ORC 2945.402(C), See Appendix H for a copy of this statute.]

It is essential to understand that a Conditional Release is a commitment by the Court. The trial court may set conditions on the release that are respectful of the treatment and welfare of the consumer but that also *emphasize the protection of public safety*. (See ORC 2945.402.) It is the job of the Forensic Monitor to assist in coordinating the services that best meet those needs but he or she must always be conscious of public safety issues. Thus, Monitors need to adopt a different kind of philosophy, using the empathy of a therapist and the assertiveness of a probation officer to effectively fulfill their responsibilities.

The Forensic Monitor plays an important boundary-spanning role and must be knowledgeable about, and able to operate in, the various systems that make up the forensic mental health system. Although the Monitor must be conversant primarily with the criminal justice system and the mental health system, he or she must also be familiar with court proceedings, forensic statutes, the procedures of Behavioral Healthcare Organizations (BHO, formerly state hospitals), and the principles of risk assessment and risk management.

In addition to the Court, the Forensic Monitor is responsible to the ADAMHS or CMH Board. The Board needs to be informed about the Monitor's cases because, most often, the Court's commitment is to the Board when a person is placed on CR. In some locations the commitment is to the treatment provider.

Another responsibility is to the BHOs. This is especially true when developing a new Conditional Release plan for a person who has never been on CR before, when working with the hospital staff in order to prepare a person for return to CR after a revocation, and when a person on CR needs to be returned to the hospital for stabilization.

A new Forensic Monitor should arrange to meet with the Legal Assurance Administrator(s) (LAA) of the local BHO(s). A list of the LAAs is included in Appendix C of this Manual. The LAA serves as a liaison between the BHO and the courts, Forensic Monitors and community agencies. (See Appendix N in the *Forensic Manual* for more information about the role of the LAA.) Having a good working relationship with the LAA will assist Monitors in developing Conditional Release Plans as well as being informed about their hospitalized patients and other procedures involving the BHOs, such as Movement Levels. (See Appendix O in the *Forensic Manual* for the Movement Level policy.) Some Monitors meet with the LAA on a regular basis, usually monthly or quarterly, to remain informed about the status of their clients in the BHO.

A new Monitor should also arrange to meet with the director of the local Forensic Psychiatry Center. Examiners at the Forensic Center, among other evaluations, perform "second opinion" evaluations of persons in the BHOs who are being considered for "Nonsecured Status," including

Conditional Release (CR). The forensic center plays an important role in the process of a person being released on CR. A list of the Forensic Centers is found in Appendix D of this Manual.

As noted above, the Forensic Monitors' primary responsibility is to the Trial Court and therefore it is important that they have a contact person in each Court with which they work. In many courts, this person is the Bailiff, but some courts may have designated another person to handle the court's criminal docket. Court secretaries may be responsible for preparing journal entries. They may be grateful if the Monitor is able to provide a sample journal entry for the specific situation facing the court. This is especially true in courts where forensic mental health issues are infrequently encountered. Some sample entries are included in Appendix F of this Manual. Some courts need reminders about when a hearing is required for someone on CR. This process can be simplified if the Monitor knows who to contact in order to have the hearing scheduled. In areas where there are several judges, there may be several different contact people.

It is also helpful to know the Prosecuting Attorneys who handle the Monitor's cases. Through the Prosecutor, the Monitor may be able to obtain information that will assist in learning more about the client's prior mental health evaluations and criminal history that is relevant for the risk assessment/management process. Such a relationship would also help to provide education to the attorneys about the mental health issues involved.

It is strongly recommended that Forensic Monitors meet with the Judge(s) in their area. This can be arranged through the Court Administrator who schedules the regular judges meetings. The Court frequently calls upon the Forensic Monitor for advice regarding how to proceed with cases involving mental health issues. This can occur only if the Court is aware of the identity of the Monitor and the kinds of services that he or she can provide.

Some Monitors, especially those with several people on CR, have made arrangements with the local jail to send to the Monitor a list of people who are in jail each day. In this way, the Monitor can learn very quickly when one of their people being monitored has been arrested. Some jails have a mental health liaison or social worker on staff who can also assist in this process.

One of our experienced Forensic Monitors has made the following suggestions that have worked well in developing effective working relationships with court personnel:

- Introduce yourself to each court bailiff and leave a business card.
- Carry copies of the ODMH yellow booklet (*Ohio Competency and Sanity Laws: a Summary*, published in March 2003) and give them to defense attorneys and prosecutors who would like one. Many attorneys have found them to be very helpful. These booklets are accessible on-line at <http://www.mh.state.oh.us/forensic/general/forensic.publications.html>
It is reproduced in Appendix G. Copies may also be obtained from the Office of Forensic Services.
- Attend each court hearing regarding competency and sanity. The more often you are visible in court, the more the Court will rely on you for advice and assistance.
- Prepare sample journal entries and share with court secretaries and bailiffs.
- Encourage court staff to call you with questions.

Another way to learn about the Forensic Monitor's activities is to participate in the Mentoring Program. This involves spending some time with an experienced Monitor who is willing to have a new person spend time with him or her while performing some of the job responsibilities. This would be most efficient if the two Monitors were from neighboring counties. The mentoring activities could include attending court hearings, treatment team meetings, meeting with treatment providers, and discussing specific situations or questions. A list of Monitors who are willing to be a mentor is contained in Appendix E. The Manager of Community Forensic Programs is the coordinator of this program and may be reached at OFS for more information about how to participate.

Forensic Monitors also learn about their role by attending the statewide Forensic Monitor meetings that are held three times a year in Columbus. *All Monitors are expected and required to attend these meetings.* This is the best way to meet other Monitors, address current issues, and learn various "tricks of the trade." Presentations are made about changes in the law, trends in the monitoring data, and other relevant topics. Time is available for Monitors to ask questions and to discuss difficult situations that they face. Cases involving risk management issues are often discussed and can provide valuable information to Monitors.

The Annual Forensic Conference, sponsored by the Office of Forensic Services, is another valuable way to learn about relevant forensic mental health issues.

Managing the tasks of Forensic Monitor is made easier if the Monitor uses a data management system to keep track of their clients, reporting deadlines, court hearings, etc. Specific duties are listed later in this manual. In addition, some data management techniques and forms that have been developed by Monitors are included in Appendix I of this Manual.

The Office of Forensic Services (OFS) is able to assist Monitors with questions they have. Contact the Manager of Community Forensic Programs, 614-466-1099. You may also contact the Chief of the Office of Forensic Services or the Assistant Medical Director for OFS at the same number.

III. Specific Forensic Monitor Duties

The *Forensic Manual* specifies various responsibilities for Forensic Monitors (pp. 49-51). This section is reproduced in Appendix A of this Manual. Some of the more important duties or those requiring a more detailed explanation are described here.

A. Conditional Release Planning

If Released from BHO. Monitors should stay informed of the status of any of their NGRI/IST-U-CJ inpatients through regular interactions with the LAA. However, the actual conditional release planning process for persons found NGRI or IST-U-CJ typically begins at the ODMH Behavioral Healthcare Organization (BHO) when the hospital treatment team deems that an individual is an appropriate candidate for release to the community. The process begins with a pre-discharge meeting that involves the patient, members of the hospital treatment team, the Legal Assurance Administrator of the BHO, the Forensic Monitor, and the community mental health provider. The purpose of the pre-discharge meeting is to review the patient's progress, determine outpatient treatment needs, assess risk factors, and to develop strategies aimed at

minimizing and managing risk. It is during this meeting that the Conditional Release Plan is developed with input from the above listed parties and family members/support systems if deemed appropriate.

The Conditional Release Plan is a comprehensive plan that contains several components:

1. Standard conditions that apply to all persons on Conditional Release (e.g. obeying all federal, state, and local laws, refraining from the use of illicit drugs and alcohol, etc.);
2. The specific conditions related to the individual's treatment plan, including the management of unique risk factors;
3. An agency "Agreement to Treat" form signed by the patient and a representative of the community provider agency;
4. A signed Release of Information permitting communication between the BHO, Forensic Monitor, community treatment agency, the Court, the ADAMHS/CMH Board, and any other entity involved in the treatment or monitoring of the individual;
5. A plan to monitor compliance with each of the conditions of release and the individuals who will be responsible for monitoring compliance with each condition;
6. A statement of the potential consequences if the patient fails to comply with the Conditional Release Plan or if the patient's mental status deteriorates;
7. A statement that the patient's commitment be transferred to the local mental health board or treatment provider upon discharge from the hospital;
8. The name and telephone number of the individual's assigned Case Manager;
9. A statement of understanding that the terms of the Conditional Release Plan terminate at the same time the individual's case is terminated from the court's docket; and
10. A statement that the trial judge is identified as the individual to resolve any conflicts that arise between an individual's rights as a client of a mental health agency and the obligation of the Forensic Monitor to perform his/her monitoring duties.

Once the Conditional Release Plan is developed, reviewed and agreed upon, the document should be signed by the patient, Forensic Monitor, Legal Assurance Administrator, the hospital's attending psychiatrist, social worker, nurse, and psychologist, as well as the case manager, and perhaps the program manager, of the community mental health agency where the individual will receive his or her outpatient treatment.

The Conditional Release Plan shall be reviewed and approved by the BHO designated Forensic Review Team (FRT). The FRT shall assess the thoroughness of the risk assessment and whether or not the Conditional Release Plan adequately addresses risk management issues in the community. The FRT shall focus on whether all of the required elements are included in the plan and whether all persons who should be involved in the process are involved.

A copy of the plan should then be submitted to the trial judge with a request that the terms of conditional release be journalized.

If Released from Court. Although the majority of individuals found NGRI or IST-U-CJ will be hospitalized following the finding, about 15% to 25% of these individuals will be placed on Conditional Release directly from Court. **It is very important that the Forensic Monitor be made aware of this situation by the Court as soon as possible.** Preferably, the Monitor would learn that the Court is planning this type of Conditional Release before the actual release occurs

so that appropriate, advance planning may occur. In some cases, however, the individual may be released to the community without the Forensic Monitor being notified. In these situations, when the Monitor does discover such an individual, weeks or months later, the development of a Conditional Release Plan, and ensuring compliance with the plan, can be quite difficult. **Thus, it is important that Forensic Monitors maintain excellent communication with the Court and with the director of the local Forensic Psychiatry Center. Monitors should establish a process with the Court's bailiff or other staff person to ensure that they are notified whenever a person is found NGRI or IST-U-CJ. They should also maintain communication with the director of the local Forensic Psychiatry Center about upcoming NGRI/IST-U-CJ recommendations and findings so that the Monitor can be involved in the conditional release planning process as early as possible.** The Monitors should request that the Forensic Center director inform them whenever an NGRI or IST-U-CJ opinion is being sent to the Court. The Monitor should then follow up with the Court to determine the Court's finding and disposition concerning the least restrictive commitment alternative [ORC 2945.40 (F)].

In the event that a person is released to CR directly from Court, the process for the development of the Conditional Release Plan is as follows:

1. The Forensic Monitor should gather and review (a) all reports from the Community Forensic Psychiatry Center, (b) other forensic mental health assessments, if available, (c) records from current and former mental health treatment agencies, and (d) copies of needed journal entries (for example, the finding of NGRI or IST-U-CJ);
2. The Forensic Monitor and a representative from the designated community mental health agency should meet with the individual to assess treatment needs, complete a community risk assessment, and develop the Conditional Release Plan (as outlined above);
3. Once the Conditional Release Plan is developed, reviewed, and signed by the patient, the Forensic Monitor, the program manager, and the community psychiatric treatment specialist/case manager of the community agency, a copy should be submitted to the trial court judge with a request that the terms of conditional release be journalized.

B. Conditional Release Follow-Up Report

Thirty days after a person is released from an ODMH BHO on Conditional Release, the Forensic Monitor should complete the "Conditional Release Follow-Up Report" (DMH-0216; DMH-FORS-013) and send it by mail or fax to the LAA of the BHO from which the person was discharged. This form can be found in Appendix L of this Manual. Before completing this form, it is important that the Monitor wait for 30 days after discharge in order to be able to accurately assess the person's adjustment to the community.

C. Risk Assessment and Risk Management in the Community

Most Forensic Monitors and some Courts require that the treatment agency provide monthly reports on each person being monitored. The treatment agency staff may need to be educated by the Monitor about the importance of these reports and the potential consequences if they do not report the individual's noncompliance with the CR Plan to the Monitor.

Clients also need to be educated about their responsibilities as outlined in the Conditional Release Plan and the specific conditions of the Court Order granting them Conditional Release.

The Monitor should review these responsibilities and conditions with the client and community service provider. The service provider should continue to reinforce compliance with the conditions of release.

Forensic Monitors should keep information about specific violence risk factors relevant to each client on Conditional Release. These should be developed using the information from the BHO, Forensic Center reports, and the community treatment staff. The treating agency is responsible for the completion of Risk Assessments according to the Guideline from ODMH. (see Appendix R, *Forensic Manual*). The completion of risk assessments should be part of the treatment planning process and should address specific static and dynamic risk factors.

The forms for Community Risk Assessment and Update are also included in Appendix R of the *Forensic Manual*. Electronic versions of these forms are also available in Word format from the Manager of Community Forensic Programs. The Community Risk Assessment and Update are signed by the treatment providers and by the Forensic Monitor. Copies of the assessments are maintained by the treatment provider. It is recommended that the Forensic Monitor also maintain a copy of the risk assessments.

Decisions regarding when to contact the Court regarding noncompliance with court orders are occasionally difficult. The Monitor first needs to be aware of, and understand individual Judge's requirements. Some Judges want to be notified of every infraction—no matter how minor. Other Judges have informed various Monitors that they do not want to be notified of minor infractions and expect the Monitor to use professional discretion.

However, the law states that, “a person, agency, or facility that is assigned to monitor a defendant or person on conditional release immediately shall notify the trial court on learning that the defendant or person being monitored has violated the terms of the conditional release. Upon learning of any violation of the terms of the conditional release, the trial court may issue a temporary order of detention or, if necessary, an arrest warrant for the defendant or person” [ORC 2945.402(C)]. Thus, it is important that the Monitor report any violation to the Court, as stated in the law. Modifications to this practice should be made only after specific direction from the Court.

Some behaviors, infractions, or situations that clearly indicate the need for immediate Court notification include, but are not limited to:

- Arrest on new charge(s)
- AWOL from approved housing
- Threatening and/or assaultive behavior which does not result in arrest, but does place others at risk
- Self-injurious behavior, suicidal gestures
- Noncompliance with medication that impacts the person's mental status, that leads to decompensation, or otherwise may lead to an increase in risk of harm to others or self
- Noncompliance with treatment, whereabouts unknown
- Admission to the psychiatric unit of a hospital

Other behaviors, infractions, or situations that some Judges have not acted upon in the past include the following:

- Positive drug screens, alcohol use
- Noncompliance with medications that have a brief or minimal impact upon the person
- Noncompliance with court ordered groups, counseling, vocational programming
- Admission to local hospital for medical reasons
- Evaluation/admission at local crisis center
- Any other requirements in the journal entry granting CR

If in doubt, report to the Court!

Initial reports of CR violations to the Court may be verbal; however a written report should follow.

D. Data Management and Reporting

Every Monitor should adopt a system to keep track of the cases for which they are responsible. Some samples that other Monitors have developed are included in Appendix I of this Manual.

One important duty for the Forensic Monitor is to keep track of when reports to the trial court and hearings are due. NGRI and IST-U-CJ clients on Conditional Release are required to have an initial court hearing six months after the finding, and every two years thereafter, until the Court terminates the commitment. (See ORC 2945.401 [C to J]). A report must be sent by the “hospital, facility or program” to which a person on CR has been committed. The report should indicate whether the person found NGRI or IST-U-CJ continues to be a mentally ill person subject to hospitalization by court order, or a mentally retarded person subject to institutionalization by court order. In the case of the person found IST-U-CJ, the report must also indicate whether the person remains incompetent to stand trial. The report submitted to the Court should contain sufficient detail so that the Court can make the appropriate finding about whether to continue the individual on conditional release, to place the person in a more restrictive treatment setting, or to terminate the commitment. These two-year court hearings must continue until the client’s time on Conditional Release expires or the Court determines the individual no longer meets commitment criteria.

Forensic Tracking and Monitoring System (FTMS). Each Forensic Monitor who has at least one person on Conditional Release for any length of time must comply with the quarterly reporting requirements of the FTMS. This information has been summarized in the FTMS Reporting Guidelines that appears in Appendix B of this Manual.

Reporting of data should be completed using the most recent data entry form (DMH-0335, DMH-FORS-011, currently the most recent revision is 5/06, noted at bottom of first page). The Monitor should use official Court, Jail, BHO, and mental health treatment agency records as the source of the data. Client self-report should not be the sole source of data for these reports.

The termination of CR cases must be properly documented and reported as a part of the FTMS reporting system. Ideally, the Court would hold a hearing and issue a journal entry noting the date and reason for the termination of the commitment. The commitment can be terminated for

several reasons as described in ORC 2945.401 (J) (1) and (2). Forensic Monitors are to send a copy of these journal entries to the Manager of Community Forensic Programs in the Office of Forensic Services, when they are available.

However, there are situations in which a Court may decide not to have a hearing or issue an entry. This kind of situation usually arises when a person on CR reaches the maximum time allowed by law for the commitment. Although the Forensic Tracking and Monitoring System (FTMS) form has a place for the maximum time to be entered (Item #29), this date does not necessarily reflect the maximum time as determined by the Court. Thus, Forensic Monitors should not assume that this date is correct, and also *should not assume that the Court will automatically terminate the commitment when this date is reached.*

When the maximum date, as calculated by the Forensic Monitor, is approaching, the Monitor should contact the prosecuting attorney requesting the maximum date according to their calculations. This should provide confirmation concerning the accuracy of the maximum date as calculated by the Monitor.

If the Court has not responded to the Monitor's request for either a hearing on the matter or an entry documenting the termination of the case, the prosecuting attorney may be able to provide assistance in obtaining this from the Court.

If these efforts are unsuccessful, the Forensic Monitor should then send a letter to the Court by certified mail, with return receipt requested. The letter should contain the following information: the defendant's name, DOB, Court Case Number, the name and severity of the most serious offense charged, the date of the finding of NGRI or IST-U-CJ, the maximum date and whether this date was calculated by the prosecuting attorney or the Forensic Monitor. The letter should also contain a statement that unless the Court communicates with the Monitor within 30 days, the case will be considered terminated and monitoring activities will cease.

If a journal entry is not available, a copy of the certified letter should be sent to the Manager of Community Forensic Programs, Office of Forensic Services, ODMH.

E. Reporting According to the Concealed Carry Law (ORC 5122.311)

On April 8, 2004, the Concealed Carry of firearms law went into effect. Certain groups of individuals were excluded from the right to buy a concealed firearm. One excluded group was individuals who were committed by the Court due to mental illness. Those persons civilly committed by the probate court (under ORC 5122.141 and 5122.15) are not eligible to carry a concealed weapon.

Other individuals committed by the criminal court as incompetent to stand trial, but restorable (ORC 2945.38), as incompetent to stand trial, unrestorable under criminal court jurisdiction (ORC 2945.39), acquitted by reason of insanity (ORC 2945.40) or committed to the community on Conditional Release (ORC 2945.402) are also excluded from being able to carry a concealed weapon.

For civilly committed patients, either the probate court or the hospital to which they may be committed has an obligation to report information to the Bureau of Criminal Identification and

Investigation (BCII) on a designated form within seven days after the court finding. Similarly, the hospital (not the criminal court) to which the individual may be committed under criminal court statutes will do the reporting.

However, some of our consumers (those who are committed to an outpatient competency restoration program or those who are found NGRI or IST-U-CJ and directly committed to an outpatient program on Conditional Release) are the responsibility of the Forensic Monitor to report to BCII within seven days. The form may be obtained on the website of the Ohio Attorney General: www.ag.state.oh.us; click on Forms, then “BCI&I Forms.” It is listed under Miscellaneous Forms and is called “Notification Form for Record Checks.” It is also available in Appendix L of this Manual or from the Manager of Community Forensic Programs at the Office of Forensic Services. The address of BCII is P.O. Box 365, London, OH 43140. It is suggested that the form be sent to BCII by Certified Mail, return receipt requested and retained.

IV. The Criminal Justice System

The Forensic Monitor should have at least a basic understanding of how the criminal justice system operates, and especially of how the mental health system interfaces with it. The description that follows is a simplified, chronological depiction of the steps involved in the criminal justice system, with an emphasis on people who have mental illness. More detailed information is contained in the Forensic Manual about the criminal justice system, diversion alternatives, the Community Linkage Program, and the various legal statuses described below.

A. Diversion Alternatives

When a person is arrested after being suspected of committing a crime, he or she is usually processed at a local jail and then, depending on the severity of the crime and other factors, may be released on bond or detained in jail until further court proceedings. In some jurisdictions, when police make contact with a person who manifests signs of mental illness and is suspected of committing a crime (usually a nonviolent misdemeanor), the police may divert the person from the typical arrest path and instead take him or her to a mental health facility that has agreed to provide treatment for these individuals. This occurs more often in areas where police officers have undergone CIT (Crisis Intervention Team) training. CIT constitutes an effective way to divert people whose misdemeanor offenses may be the result of mental illness and who are better served in the mental health system than the criminal justice system. This type of “front-door” diversion is appropriate in limited circumstances, that is, when the offense is not a serious offense, and there is a mental health facility that will accept the person without delay and allow law enforcement officers to return to their job quickly.

Additional diversion efforts may occur while a person is in jail awaiting trial or after conviction as part of a program that involves a reduced sentence in exchange for an agreement to participate in outpatient mental health treatment. Mental Health Courts typically utilize this kind of procedure to divert people from spending additional time in jail. All of these diversion efforts are usually designed for people who have been charged with misdemeanor or low-level, nonviolent felonies. People with mental illnesses who have been charged with more serious crimes are typically not eligible for these kinds of diversion efforts.

For more information on Mental Health Diversion Alternatives contact the Manager of Diversion Alternatives at 614-466-1099. Additional information is available at the website of the Criminal Justice-Coordinating Center of Excellence (CJ-CCOE; www.neoucom.edu/CJCCOE/about.html).

B. Arraignment

By the time of arraignment, the defendant has usually had some contact with an attorney, who may begin to suspect that his or her client has some mental health problems that are either affecting the defendant's current ability to work with the attorney on the case or that may have played a role in the defendant's behavior leading to the offense.

At this point, or at a later time before trial, the attorney may ask the Court to order an evaluation of the defendant's competency to stand trial and/or mental condition at the time of the alleged offense (See ORC 2945.37 and 2945.371). These evaluations are typically conducted by an examiner (psychologist or psychiatrist) with one of Ohio's 11 certified Community Forensic Psychiatry Centers within 30 days of the Court Order. In a small minority of cases, in which the examination cannot be conducted on an outpatient basis, they are performed on an inpatient basis at an ODMH BHO.

C. Competency to Stand Trial

If the Court finds the defendant to be not competent to stand trial, then, in most cases the person is admitted to an ODMH BHO for treatment in order to restore the person to competency (see Flowchart #1; IST-R, Appendix G). In some cases, the person may be appropriate for competency restoration on an outpatient basis. There are only a handful of outpatient restoration programs in the state, and they are most appropriate for persons charged with misdemeanors or nonviolent felonies. Occasionally, the Court may find that even if treatment were to be provided, the person would not likely be restored to competency. In that situation, the charges would be dismissed and the person may be referred to Probate Court (Flowchart #2; IST-U, Appendix G).

The law allows up to one year for restoration to competency for the most serious offenses, six months for lower level felonies and 60 or 30 days for misdemeanors (ORC 2945.38). If the person is not restored to competency within the time allowed, the person may be referred to Probate Court and the charges dismissed, as noted above. If the person has been charged with a violent first or second degree felony or murder the Criminal Court may decide to retain jurisdiction over the person if certain criteria are met (See ORC 2945.39; Flowchart #3; IST-U-CJ, Appendix G). If the Court makes the findings as described in this part of the law, the person's legal status is designated IST-U-CJ (Incompetent to Stand Trial—Unrestorable—under Criminal Court Jurisdiction). Usually, persons found IST-U-CJ are committed to a BHO and may be granted Conditional Release (CR) when the hospital recommends it and the Court agrees that this is the most appropriate treatment setting. It is also possible for the Court to grant CR to someone immediately after being found IST-U-CJ. The length of time of hospital treatment can last from a few months up to many years. Some people who are admitted to a BHO with a legal status of IST-U-CJ remain there until the commitment is terminated. If the person is found to be competent to stand trial at any time during the commitment (either inpatient or on CR), the person may then return to court and face the charges.

D. Not Guilty by Reason of Insanity

If a person is competent to stand trial, then the defendant may decide to plead not guilty by reason of insanity (NGRI), asserting that, because of a severe mental disease or defect, the defendant did not know the wrongfulness of his or her acts [ORC 2945.371 (G)(4); See Flowchart #4; NGRI, Appendix G]. If the Court finds the defendant NGRI, in most cases the person is committed to an ODMH BHO for treatment until he or she is appropriate for, and granted, CR. The time in the hospital can last from a few months up to many years. Some people who are admitted as NGRI to a BHO remain there until the NGRI commitment is terminated and are not granted CR.

Approximately 15% to 25% of the time, the Court grants the defendant CR immediately at the time of the NGRI finding and does not commit the person to the BHO. The Forensic Monitor needs to be aware of this situation as soon as possible so that conditional release planning can take place. This situation is discussed in more detail above on pages 7 and 8.

If no evaluations of a defendant's mental health are ordered, or if the Court finds that the person is both competent to stand trial and "sane," then he or she would proceed through the criminal justice system. There are a number of possible outcomes including the dismissal of the charges, being found not guilty at trial, pleading guilty as part of a plea agreement, or conviction at trial. If pleading guilty to, or convicted of the offense, the defendant could be sentenced to jail or prison, or given probation/community control, among other possible dispositions.

E. Community Linkage Program

In the event that a person is sentenced to a state prison and receives treatment for a serious mental illness, this person will have the opportunity to receive the services of the Community Linkage Program, operated by the Office of Forensic Services. If the inmate is on the prison's mental health caseload and meets certain diagnostic criteria, then a Community Linkage Social Worker (CLSW) sets up a meeting with the inmate shortly before release. If the inmate consents to participate, the CLSW gathers mental health information, sets up an appointment at a mental health agency in the community where the inmate intends to reside, and forwards the mental health information to the community agency. In this way, the inmate is able to maintain continuity of treatment and reduce the likelihood of relapse and possible reoffense. For more information about the Community Linkage Program, contact the program managers at OFS, 614-466-1099.

V. The Mental Health System

A. Inpatient Forensic

As described above, most people with a forensic legal status (IST-R, IST-U, IST-U-CJ, NGRI) spend some time as an inpatient in an ODMH BHO. (Please refer to the *Forensic Manual* for more detailed information concerning the inpatient procedures that involve patients with a forensic legal status.)

Forensic Monitors need to know about any people from their monitoring area who have a forensic legal status (NGRI and IST-U-CJ) and are patients in an ODMH BHO. Monitors need

to be aware of the BHO procedures involving these patients because these are the people who are eligible for Conditional Release (CR) and who they will be responsible for monitoring when released from the hospital.

Patients with an NGRI or IST-U-CJ legal status are eligible for increasing levels of privileges or “movement” while in the hospital. All patients begin at Level 1 which means that the person must always be in a locked area unless being escorted one-to-one by staff to another locked area. The other Movement Levels are: Level 2: On Grounds, Supervised; Level 3: On Grounds, Unsupervised, Level 4: Off Grounds, Supervised, and Level 5: Off Grounds, Unsupervised, Trial Visit or Conditional Release. Level 5 Movement is also known as “Nonsecured Status.” The Trial Court must approve any movement at level 3 or above. This process is explained more fully in the Movement Policy, MF-04, Appendix O in the *Forensic Manual*.

When a Forensic Monitor is aware of someone from their monitoring area with a forensic legal status (NGRI and IST-U-CJ) who is a patient in an ODMH BHO, the Monitor should contact a member of the patient’s treatment team (most likely, the social worker) to monitor the progress of the patient in the hospital. When the patient progresses to Level 3, the Monitor should begin to attend Treatment Team meetings in order to become better acquainted with the patient and to provide assistance in planning for Conditional Release (CR). As the person approaches CR, the Monitor should be increasingly involved with both the BHO staff and the community agency treatment staff who will be assuming care for the person in the community. The activity should focus on identifying the most appropriate living arrangements, ensuring continuity of mental health treatment, updating risk assessments, and developing risk management plans. This and other information should be used in developing the CR plan that will be presented to the Court at the appropriate time. *This process is described in more detail above on page 5, under Conditional Release Planning.*

B. Conditional Release

When the Court determines that a person found NGRI or IST-U-CJ can be released to the community, the individual is placed on Conditional Release (CR, ORC 2945.402). It is a commitment status in which the criminal court retains jurisdiction, but finds that the least restrictive treatment setting for the person is to live in the community. Thus, it is a criminal commitment status although the criteria used for making the commitment are the same as the civil commitment criteria (ORC 5122.01). The Court has the option of placing someone on CR immediately following the NGRI finding. This is more likely to happen if the person has been released on bond prior to the finding of Not Guilty by Reason of Insanity. In most cases however, a person found NGRI or IST-U-CJ will be released to the community from the BHO.

Prior to any request for Nonsecured Status, including CR, the hospitalized forensic patient must be evaluated by the treatment team, the Forensic Review Team (FRT) at the hospital, and by the local Forensic Psychiatry Center for an independent, “second opinion” evaluation. During this process the designated Forensic Monitor and the outpatient treatment provider work closely with the patient and the BHO in developing a plan for CR. When all these parties agree that the patient is ready to return to the community, the hospital submits a detailed conditional release plan and recommendations to the Court. A conditional release hearing is held in which the Court considers the hospital’s recommendations for release against the backdrop of public safety. Once CR is granted, the Court sets down the conditions which the NGRI or IST-U-CJ person must

follow in a written journal entry. The patient cannot actually be released from the hospital until the journal entry is completed by the Court and received by the hospital.

The role of the Forensic Monitor becomes especially important once the NGRI or IST-U-CJ individual is released to the community, because the monitor must ensure that the client is actually following the conditions which the Court has ordered. In this regard, the monitor meets regularly with the treatment provider in order to assess the client's psychiatric stability, readjustment to the community, and compliance with the conditions of release. The Forensic Monitor serves as a consultant to the community treatment team in managing issues of risk, and in helping to determine what to do when conditions are violated and/or other problems arise.

The Forensic Monitor is responsible for reporting to the Court when the client has violated the terms of CR and/or become psychiatrically unstable. The monitor works with the treatment provider and the Court to ensure that the client is hospitalized or temporarily held in custody when necessary to maintain the safety of the client and the community. In many situations the monitor may be able to recommend additional treatment options rather than hospitalization, such as substance abuse treatment or a more supervised living arrangement. If necessary, the Forensic Monitor may recommend to the Court that the Conditional Release be revoked, and the client returned to the hospital.

VI. Additional Issues

Some questions recur with some regularity. This section is presented in order to help answer some of these questions.

A. Confidentiality

In order to properly perform his or her duties, the Forensic Monitor must have access to mental health information from Forensic Center reports, BHOs, ADAMHS/CMH Boards, community mental health agencies, the Court, and others involved in the treatment of a person on Conditional Release. The sharing of information among relevant parties is essential to ensure that appropriate continuity of care and effective risk management services are provided. Forensic Monitors must have a good understanding of when, and with whom, to share information and when such disclosure would be inappropriate.

However, some mental health providers have a tendency to "hide behind a wall of confidentiality" and may be reluctant to share information with others without a Release of Information (ROI) signed by the client. Part of this reluctance may be due to a misunderstanding of HIPAA regulations as they pertain to the interface between the criminal justice and mental health systems. HIPAA-covered entities do not include the courts, court personnel or law enforcement officials. (See article by John Petrila, *Dispelling the Myths about Information Sharing Between the Mental Health and Criminal Justice Systems*, Gains Center, February 2007; <http://gainscenter.samhsa.gov/html>). Although confidentiality is an integral part of the treatment relationship, generally the criminal justice system is not required to protect an individual's information. Information that is discussed during NGRI and IST-U-CJ court hearings is public record and may be shared with those entities who are involved with the people served by the Monitors.

In several locations, the Ohio Revised Code makes provision for the sharing of information involving persons found NGRI and IST-U-CJ. ORC section 2945.40 (G) describes the information that the prosecutor is required to share with those to whom an NGRI acquittee has been committed. ORC section 2945.402 states that the Monitor is required to notify the court when a violation of conditional release occurs. ORC section 5119.57 provides the statutory basis for the Forensic Tracking and Monitoring System (FTMS). Thus, the Forensic Monitor is required to share certain information with the Court and the Ohio Department of Mental Health. Usually, the court commitment is to the ADAMHS or CMH Board and thus, the Board should be included in the entities receiving information from the Monitor. For purposes of ensuring continuity of care and being informed about the client's status in the community, the community treatment agency must also be able to share with, and receive information from, the Monitor. When people are committed in one county's court but allowed to live in an area served by another Forensic Monitor and Board area, it is essential that information be shared between Boards and Monitors.

A Release of Information (ROI) should be sought from the patient in all instances, even though it may not be legally required in all situations involving the sharing of information. Obtaining consent may be a way of demonstrating respect for the individual's autonomy. If the consumer refuses to sign the ROI, it may be an indication that he or she is not ready for Conditional Release. On the journal entry, the Court could order the sharing of information among the entities carrying out the CR Plan. Signing the ROI may also be one of the specific conditions on the CR Plan.

There may be situations in which entities are not named in the CR plan, but who are nevertheless involved in the consumer's community tenure. Such entities could include housing providers, family members, community organizations, and other treatment providers. A specific ROI, signed by the consumer would be required by the Monitor in these situations.

In special situations, health care provider organizations are permitted to use and disclose information for treatment purposes in an emergency. In addition, a treatment provider is required to share information when there is threat of danger to a potential victim (see ORC 2305.51), when there is a court order, and when requested by the coroner to assist in an investigation.

By having the client sign a ROI at the time when CR is instituted, the Forensic Monitor can deal with most, if not all, concerns about the sharing of information with various parties. The *Forensic Manual* has a sample Release of Information form and a sample client statement of understanding and consent that could be used to cover the need for release to the criminal justice system and communication as required with the Court, Treatment Provider, Forensic Monitor and Board.

B. Expiration of Commitment Time

What should a Forensic Monitor do when it appears that a person's commitment time has expired, but the Court will not have a hearing and will not respond to your letters concerning termination?

As noted above under *Data Management and Reporting* (p. 10), the Forensic Monitor should not unilaterally decide that a person's time on commitment has expired, but should contact the prosecuting attorney to obtain confirmation of this date. If the Court will not respond to your correspondence, the Monitor should send a letter to the Court by certified mail, with return receipt requested. The letter should contain the following information: the defendant's name, DOB, Court Case Number, the name and severity of the most serious offense charged, the date of the finding of NGRI or IST-U-CJ, the maximum date and whether this date was calculated by the prosecuting attorney or the Forensic Monitor. The letter should also contain a statement that unless the Court communicates with the Monitor within 30 days, the case will be considered terminated and monitoring activities will cease. Please see a more complete explanation above on pages 10-11.

C. Record Keeping

Forensic Monitors should maintain accurate records concerning their work. For each person currently on Conditional Release (CR) and for each person found NGRI/IST-U-CJ in the BHO who may be released on CR at a future time, it is recommended that the following documents be kept:

1. All Journal Entries pertaining to the cases for which the person was committed;
2. Indictment regarding the initial charges filed against the individual;
3. Conditional Release Plan, if not completely contained in a Journal Entry;
4. Copies of quarterly FTMS reports previously submitted;
5. Monthly reports from Treatment Provider;
6. Community Risk Assessments (and Hospital Risk Assessments, if applicable);
7. Past Hearing Dates, along with the reason for the hearing and the decisions made by the Court at each hearing.

D. Record Retention and Storage Guidelines

Forensic Monitors should consult legal counsel at their agencies concerning how long to retain their records of people who have been on CR. As a guide, Medicaid requires records to be retained for seven (7) years after the case becomes inactive. Some Monitors have been advised to retain records for ten (10) years after a case becomes inactive.

E. Residency Issues

Questions concerning the county of residence of persons with a forensic legal status usually arise when determining financial responsibility for the provision of inpatient services. For persons committed pursuant to ORC Sections 2945.38, 2945.39, 2945.40, 2945.401 and 2945.402, the county of residence means the county where the criminal charges were filed (except for persons civilly committed after a finding under 2945.38[H][4]). This is referred to as the County of Committing Court. The full Residency Determination Guidelines are found in Appendix J of this Manual. The following is an excerpt from Appendix J dealing with financial responsibility for

various forensic statuses. *Note that the ADAMHS/CMH Board pays for evaluations in #1 and #2. ODMH pays for those in #3.*

Guidelines for Financial Responsibility of Inpatient Services

The following guidelines should be followed to assist in clarifying financial responsibility:

1. The County of Legal Residence is financially responsible for inpatient services for persons in the following forensic categories:

2945.38(H)(4) - Incompetent to Stand Trial-Unrestorable

2967.22 - Parolee/Probationer

Jail Transfers and Police Hold

2. The County of the Committing Court is financially responsible for inpatient services for persons in the following forensic categories:

2945.38A - Competent - Maintain Restoration

2945.371(G)(3) - Sanity Evaluation

2945.371(G)(4) - Competency Evaluation

3. ODMH has the financial responsibility for individuals in the following forensic legal statuses in an ODMH hospital:

2945.38 (B) - Incompetent to Stand Trial - Restoration Treatment Mandatory

2945.40 - Not Guilty by Reason of Insanity (NGRI)

2945.39 (A) - Incompetent to Stand Trial - Unrestorable - Criminal Court Jurisdiction

2945.402/402A1 - Conditional Release (IST-U-CJ or NGRI)

Persons listed in 3), above, remain under the jurisdiction of the Criminal Court in the county of the committing court (where the charges were filed).

Persons on Conditional Release commitment who are admitted/re-admitted to an ODMH hospital are the financial responsibility of **ODMH** while in the BHO.

In some cases, an individual may have more than one criminal charge from more than one county court. These cases are worked out between the courts that are involved. Generally, the most serious charge takes precedence, but the involved courts determine this. **The BHO Legal Assurance Administrator, in conjunction with the County of Committing Courts' Forensic Monitors, will resolve this issue prior to discharge from a BHO.**

After an individual is terminated from the Criminal Court's jurisdiction they become the financial responsibility of the **County of Legal Residence** for inpatient and outpatient services.

When a person on Conditional Release lives in a county other than the County of Committing Court, arrangements need to be made between the ADAMHS/CMH Boards of the County of Committing Court and the County of Service Provision (the county in which the person resides and receives services) for the provision of those services. Guidelines for making these arrangements are provided in Appendix K of this Manual.

VII. List of Abbreviations

ADAMHS	Alcohol, Drug Addiction and Mental Health Services (Board)
BHO	Behavioral Healthcare Organization, formerly known as state hospital
CLSW	Community Linkage Social Worker
CMH	Community Mental Health (Board)
CR	Conditional Release
CSN	Community Support Network
FRT	Forensic Review Team
FTMS	Forensic Tracking and Monitoring System
HIPAA	Health Insurance Portability and Accountability Act of 1996
IST-R	Incompetent to Stand Trial—Restorable
IST-U	Incompetent to Stand Trial—Unrestorable
IST-U-CJ	Incompetent to Stand Trial—Unrestorable—Under Criminal Court Jurisdiction
LAA	Legal Assurance Administrator
MR/DD	Mental Retardation/Developmental Disabilities
NGRI	Not Guilty by Reason of Insanity
ODMH	Ohio Department of Mental Health
ODMR/DD	Ohio Department of Mental Retardation and Developmental Disabilities
ODRC	Ohio Department of Rehabilitation and Correction
OFS	Office of Forensic Services
ORC	Ohio Revised Code
ROI	Release of Information

IX. APPENDICES

- A. Forensic Monitor Duties
- B. Forensic Tracking and Monitoring System (FTMS) Reporting Guidelines
- C. Legal Assurance Administrators (LAA)
- D. Community Forensic Psychiatry Centers
- E. Forensic Monitors Mentoring Program
- F. Sample Journal Entries
- G. *Ohio Competency and Sanity Laws: A Summary*; with Flow Charts
- H. Ohio Revised Code sections 2945.37 to 2945.402
- I. Data Management Tools
- J. Residency Determination Guidelines
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County of Legal Residence and Service Provision County
- L. Forms:
 - FTMS reporting form
 - Notification for Record Checks (pursuant to Conceal and Carry statute: 5122.311)
 - Conditional Release Follow Up Report
- M. Forensic Monitors: Names and Contact Information
- N. Office of Forensic Services Personnel

Appendix A

Forensic Monitor/Designee Duties

(From the Forensic Manual, p. 49-51)

1. The Forensic Monitor or designee shall participate with both BHO and community treatment providers in planning and coordinating services for persons found NGRI or IST-U-CJ.

Required duties:

- a. Interacting with the BHO Legal Assurance Administrator (LAA) regarding case status.
- b. Serving as liaison between the Criminal Justice System, the LAA and other BHO staff, and community treatment providers.
- c. Meeting with community provider treatment teams and/or case managers to develop and implement the person's conditions of release.
- d. Monitoring treatment provided to the person by the service provider in accordance with the conditional release plan and the orders of the court.
- e. Involvement in the development of the conditional release plan, to include participation with the BHO treatment staff in the development of the conditional release plan prior to discharge.
- f. Following a person's discharge from a BHO on conditional release, the Forensic Monitor shall complete a "Conditional Release Follow-Up Report" (DMH-FORS-013) at 30 days after discharge and mail it to the LAA of the BHO.
- g. Monitoring reports of the person's criminal activity.

Optional duties (include but are not limited to):

- h. Maintaining regular direct contact with the person while in a community setting. (This direct contact should occur only after any conflict of interest issues have been addressed.)
 - i. Interacting with the BHO Forensic Review Team regarding conditional release readiness.
 - j. Making recommendations for treatment to assist in the development of conditional release plans.
2. The Forensic Monitor or designee shall interact with the Criminal Court.

Required duties:

- a. Attending hearings following a conditional release commitment.

- b. Reporting compliance with conditional release plans as required by the court.
- c. Immediately reporting to the court any violations of the terms of conditional release or deterioration in the individual's mental status.
- d. Initiating or participating in legal and/or administrative procedures if necessary to facilitate hospitalization or incarceration of the person who is NGRI or IST-U-CJ on conditional release.
- e. Ensuring that required reports for persons in the community are submitted to the court.
- f. Reporting information regarding court hearing outcomes to treatment providers and, when appropriate, notifying the BHO LAA.
- g. For those persons found NGRI or IST-U-CJ and released directly to the community from the court, developing a mechanism to identify these persons, and working with the court and treatment providers to develop and implement a conditional release plan.

Optional duties:

- h. Provide advice and consultation to the court about required hearings and other time lines as requested by the court. (NOTE: Each court may have different expectations for this duty, so it is recommended that the monitor work with the judge and/or the court administrator to work this out.)
3. The Forensic Monitor or designee shall work with the Mental Health Boards, which are responsible for developing community services for persons found NGRI or IST-U-CJ.

Required duties:

- a. Notifying the Board of major unusual incidents and violations of the conditional release terms as determined by the Board.
- b. Preparing statistical or narrative reports as required by the Board.
- c. In conjunction with Board staff, assisting in out-of-county service planning, including monitoring responsibility for those services.
- d. Providing training to Board members and staff on forensic issues.
- e. Consulting with the Board on forensic policy and procedure development and implementation.
- f. Working with the Board to develop and implement effective community risk management policies and procedures for persons on conditional release.

4. The Forensic Monitor or designee shall cooperate with the Ohio Department of Mental Health.

Required duties:

- a. Assisting in the ongoing implementation of the Forensic Tracking and Monitoring System (FTMS).
- b. Sending required quarterly FTMS reports to ODMH.
- c. Attending statewide Community Forensic Monitor meetings.
- d. Participating on subgroups to further the development of the statewide Forensic Monitor Program, including making recommendations on policy, procedure and guidelines as necessary.

Appendix B
OHIO DEPARTMENT OF MENTAL HEALTH
OFFICE OF FORENSIC SERVICES
FORENSIC TRACKING AND MONITORING SYSTEM

Instructions for Forensic Monitors

I. INTRODUCTION

Senate Bill 285, which went into effect on July 1, 1997, called for the establishment of a “coordinated system for tracking and monitoring persons” who have been found either Not Guilty by Reason of Insanity (NGRI) or Incompetent to Stand Trial, Unrestorable, held under Criminal Court Jurisdiction (IST-U-CJ) and who have been granted a Conditional Release (CR) by the Court. Section 5119.57 of the Ohio Revised Code describes the requirements of the system.

The system became effective on July 1, 1997 and was the result of a collaborative effort between the ODMH Office of Forensic Services and several Forensic Monitors, representing ADAMHS Boards, Community Mental Health Boards, and community mental health treatment agencies.

The new law called for this system to accomplish three objectives:

- (a) “Centralize responsibility for the tracking of those persons;”
- (b) “Develop uniformity in monitoring those persons;”
- (c) “Develop a mechanism to allow prompt rehospitalization, reinstitutionalization, or detention when a violation of the conditional release or decompensation occurs.”

The Forensic Tracking and Monitoring System (FTMS) was designed to specifically address the first of these three objectives, although it has significantly assisted in the accomplishment of the second objective as well. The third objective is best accomplished locally through the coordinated efforts of the Forensic Monitor, the Court, ODMH Behavioral Healthcare Organizations (BHO), and law enforcement.

The purpose of this Manual is to describe the data elements contained in the FTMS and to provide instructions for the Forensic Monitors who provide the vast majority of the data that is entered into the system. A copy of the reporting form and coding sheets are attached.

Obviously, the usefulness of the FTMS depends upon the accuracy of the data that is contained within it. Thus, it is essential that Forensic Monitors ensure that the data submitted is complete and accurate. This Manual will assist Monitors in being able to submit complete and accurate data regarding the people whose treatment they oversee.

II. REPORTING PROCEDURES

Data is to be submitted to the Office of Forensic Services no later than *45 days* after the end of the quarterly reporting periods (e.g. May 15th for the quarter ending March 30th). Please do not submit data before the end of the quarter, unless a person's commitment has been terminated.

Data is to be reported for all individuals whose *legal status is Conditional Release* (ORC 2945.402) irrespective of the person's actual location. Some individuals are granted CR by the Court while they are still in the BHO but they may not be discharged from the hospital until some time later. The data concerning such persons should begin to be reported in the quarter when CR is granted by the Court, not when the hospital discharge occurs. Also, some persons who are in the community on CR are admitted to a BHO for short-term stabilization but their legal status remains CR (2945.402) during this period. The data for these persons should be reported during the time of such hospitalizations. If a person's CR is revoked by the Court, the data reporting should cease until the time that CR is granted again.

If there are *no changes* in a person's data during the reporting period, a complete form does not need to be submitted. In such cases, please submit a list of the names of people being monitored with an indication that there are "no changes" for those persons. When changes do occur please submit another form. At a minimum, the form should include the person's name and the data elements that have changed since the last report. It is not necessary to report data elements that have not changed.

III. DESCRIPTION OF DATA ELEMENTS

A copy of the most recent FTMS reporting form is attached. This form was revised in September, 2002. All questions or items are described below in the order in which they appear on the form.

Reporting Period. Note that this system uses a Calendar Year quarterly system and not a Fiscal Year system. The year and the three-month period to which the data applies should be filled in accordingly.

1. *Full Name.* Print the patient's full name, including middle name or initial if applicable.
2. *Submission Date.* This refers to the date that you are submitting the data for this particular person to the Office of Forensic Services.
3. to 6. *Gender, Date of Birth, Race and Ethnicity.* These items should be self-explanatory.
7. *MACSIS Universal Client Identifier.* This refers to the number assigned to all patients who are entered into MACSIS.
8. *Docket No./Court Case No.* This refers to the number assigned by the Court to the criminal case brought against a defendant. The number should be listed on court journal entries that deal with the person's case. A person may be found NGRI or IST-U-CJ on charges contained in more than one docket number. In this case, a SEPARATE FORM should be completed for each docket number.

9. *Legal/Committing County.* Enter the two-digit numerical code for the county in which the criminal charges were filed. This county is the one whose court retains jurisdiction over the person until the commitment is terminated. The list of county codes is attached.
10. *County of Current Address.* Enter the two-digit numerical code for the county in which the person is actually residing. The list of county codes is attached.
11. *Criminal Charges.* This item contains several pieces of information related to the criminal charges brought against the person and for which he/she was found NGRI or IST-U-CJ. You may enter up to three charges for each docket number. If the person has more than three charges against him or her, provide information on the three most serious charges. If the charge was an Attempted offense (such as Attempted Murder), check the box at the left. Then fill in the complete name of the charge in the space provided. Complete the statute numbers for each charge and the number of counts of each charge. Sen. Bill 2 refers to the sentencing bill that went into effect on 7/1/96 and governs the maximum length of time of the NGRI or IST-U-CJ commitment. If the *offense* took place on or after 7/1/96, enter "1." If the offense took place prior to 7/1/96, enter "2." The severity of the charge should be coded in the last column. The appropriate code can be found on the "Table of Maximum Penalties" that is attached. The code depends upon both the severity of the offense (e.g., First Degree Felony, Misdemeanor) and the time of the offense, that is, before or after 7/1/96.
12. *Patient Location at End of Reporting Period.* Enter the appropriate code for the person's location on the last day of the reporting period. If you enter "08" please specify the location in the space indicated.
13. *All Locations During Quarter.* Enter a check mark for each location where the person was located during the reporting period. This item should include the location indicated in Item 12 plus any other locations in which the person resided for any length of time. Be sure to specify, if you choose "Other."
14. *Date of Court Finding.* Enter the date that the Court found the person to be either NGRI or IST-U-CJ.
15. *Legal Status/Type of Finding.* Indicate the type of finding made by the Court. If the finding was NGRI, enter "1," and if the finding was IST-U-CJ, enter "2."
16. *Basis of Finding.* If the basis of the Court's finding was mental illness, enter "1." If the basis of the finding was mental retardation, enter "2." If both mental illness and mental retardation were involved in the finding, enter "3."
17. *Name of Primary Treating Agency or Private Practitioner.* Enter the name of the agency or practitioner that is primarily responsible for the person's outpatient treatment.
18. *NPI—National Provider Identifier.* This unique identifier was introduced by HIPAA (Health Insurance Portability and Accountability Act) and will be required by virtually all health care providers. The Forensic Monitor should request this number from the agency

or individual provider who is identified in Item 17. The law regarding the NPI allows the agency/provider to disclose their NPI to an agency of state government in order to fulfill the state's oversight functions.

19. *County of Treating Agency.* Use the attached list of county codes to indicate the county in which the treating agency (Item 17) is located.
20. *Originally Placed on Conditional Release From.* After the Court finds a person to be either NGRI or IST-U-CJ, a decision is made as to the last restrictive treatment alternative. Usually, this involves either placement in an ODMH BHO or an immediate granting of Conditional Release by the Court. If the person was admitted to the hospital first and later granted CR, enter "2." If the Court granted CR either at, or shortly after, the finding, enter "1."
21. *If Hospital, Which One?* If the response to Item 20 is "2" provide the three digit code for the appropriate hospital. The numbers are as follows:

Appalachian BH, Athens	452	Appalachian BH, Cambridge	453
Twin Valley BH, Columbus	455	Twin Valley BH, Dayton	456
Northcoast BH, Northfield	457	Northcoast BH, Cleveland	472
Northcoast BH, Toledo	463	Summit BH	459
Heartland BH	460		

22. *Total Number of Times CR Granted.* This refers to the total number of times that the Court has granted CR. It does not include those times when a person is hospitalized, but not revoked, and then discharged again. Every person for whom data is submitted has at least one CR granted. An additional CR can be granted only after the CR is revoked by the Court and then re-granted at a later date.
- 23a. *Date that CR was First Granted by Court.* This refers to the date that the Court granted CR for the FIRST time to this person. This date should never change for this person on CR for this particular docket number.
- 23b. *Date of Additional CR Granted by Court.* If a person has been revoked and is granted CR again DURING THIS REPORTING PERIOD, then enter this date here. This date is not necessarily the same date as the hospital discharge date and usually is at least a few days earlier.
- 23c. *List Dates of All Previous CR (optional).* This item was included so that Forensic Monitors could, if they wish, list the dates of all previous CRs granted by the Court. It is not required for FTMS.
24. If any of the events indicated in 24A through 24F occurred during the REPORTING PERIOD, complete the items accordingly.
- 24A. *Revocation of CR.* If the person's CR was revoked by the Court during this reporting period, enter the DATE OF THE COURT DECISION here. If a revocation occurred, be certain to enter the reason(s) for the revocation in Item 25.

- 24B. *ODMH Hospital.* If the person was admitted to and/or discharged from an ODMH BHO during this quarter, check the appropriate box(es) and enter the date(s). On occasion, a person has more than one admission or discharge during the quarter. If you are submitting a paper document, enter the additional dates on the page next to the boxes. If you are using an electronic form, enter the additional dates in the Comments section.
- 24C. *Private Psychiatric Hospital.* If the person was admitted to and/or discharged from a private psychiatric hospital during this quarter, check the appropriate box(es) and enter the date(s). If there is more than one admission/discharge in the quarter, use the procedure noted in 24B.
- 24D. *Detention in Jail.* If the person was detained in jail and NOT arrested for an offense, check this box and enter the date of detention.
- 24E. *Arrest for Offense.* If the person was arrested for an offense, indicate the type of offense (misdemeanor or felony), the date of arrest, and write in the name of the charge(s) brought against the person.
- 24F. *Conviction for Offense.* If the person was convicted of an offense, indicate the type of offense (misdemeanor or felony), the date of conviction, and the name of the charge(s) on which the person was convicted. Under *Court Disposition* note the Court's sentence or other disposition on this conviction. If the person is sentenced to state prison and the person's commitment has NOT been terminated by the Court, then the Monitor should request that the Prosecutor issue a detainer so that prior to the person's release from prison the Department of Rehabilitation and Correction can notify the Court and the Forensic Monitor of the impending release. At that time, the Court should decide whether to continue the commitment and if so, to order an evaluation to determine the appropriate level of care for the person (i.e., Conditional Release or hospitalization). Indicate whether the Prosecutor issued the detainer in the box provided.
- 24G. *Violent Behavior/Prominent Risk Issues.* Check the box if the person engaged in any violent behavior during the reporting period or manifested other behavior that raised concerns about the risk of violence. Describe the behavior in the space provided.
25. *Reasons for Revocation of CR.* If the person's CR was revoked by the Court during this quarter, check all the reasons that were responsible for the revocation. If you choose "Other" or "Violation of CR Plan" be sure to specify the exact reason in the space provided.
26. *Compliant with Treatment.* This item applies to overall compliance with mental health treatment as well as conditions of the CR Plan.
27. *Date CR Terminated by Court.* If the NGRI/IST-U-CJ commitment has been terminated by the Court during this quarter, indicate the date that the Court made this decision. This item does NOT apply to a revocation of CR, only the final termination of the commitment. (See Note 3 below, under Other Issues)

28. *Reason CR Terminated.* If the commitment has been terminated, indicate the reason for the termination. Only ONE option may be selected. If options 4 or 5 are selected, provide the specific information that is requested.
29. *Expiration Date of Commitment.* This date refers to the maximum time for the commitment allowed by statute. It is calculated by adding the time of the maximum sentence that could be imposed for the most serious offense to the date of the NGRI/IST-U-CJ finding (Item 14). (See the Table of Maximum Penalties for more information.) If you have questions about this date, you may check with the Prosecuting Attorney or the Court. Note: At this time, the Ohio Eleventh District Court of Appeals (Lake, Geauga, Portage, Ashtabula, and Trumbull Counties) has found that the time spent incarcerated following the arrest for an offense must be included in this maximum time. This case is currently under appeal to the Ohio Supreme Court and the final decision will be disseminated later.
30. *Name of Forensic Monitor.* Enter the name of the Forensic Monitor for the person's legal or committing county (the county entered in Item 9). This is the Monitor who is responsible for submitting the FTMS data to the Office of Forensic Services.
31. *Name of Forensic Monitor for County of Current Address.* If the person resides in a county that is not covered by the Monitor for the legal county, enter the other Monitor's name here (referred to as Second Monitor). The Second Monitor is responsible to send information concerning the person's progress (including FTMS data) to the Monitor for the legal county. Specific information sharing arrangements should be made by the two Monitors involved.

IV. OTHER ISSUES

1. Write legibly.
2. Make sure all of the data appears on photocopied forms and that margins are not cut off. If you fax the forms, also ensure that sufficient margins are used so that information is not cut off.
3. The termination of CR cases must be properly documented and reported as a part of the FTMS reporting system. Ideally, the Court would hold a hearing and issue a journal entry noting the date and reason for the termination of the commitment. The commitment can be terminated for several reasons as described in ORC 2945.401 (J) (1) and (2). Forensic Monitors are to send a copy of these journal entries to Bob Baker in the Office of Forensic Services, when they are available.

However, there are situations in which a Court may decide not to have a hearing or issue an entry. This kind of situation usually arises when a person on CR reaches the maximum time allowed by law for the commitment. Although the Forensic Tracking and Monitoring System (FTMS) form has a place for the maximum time to be entered (Item #29), this date does not necessarily reflect the maximum time as determined by the Court. Thus, Forensic Monitors should not assume that this date is correct, and also *should not assume that the Court will automatically terminate the commitment when this date is reached.*

When the maximum date, as calculated by the Forensic Monitor, is approaching, the Monitor should contact the prosecuting attorney requesting the maximum date according to their calculations. This should provide confirmation concerning the accuracy of the maximum date as calculated by the Monitor.

If the Court has not responded to your request for either a hearing on the matter or an entry documenting the termination of the case, the prosecuting attorney may be able to assist you in obtaining this from the Court.

If these efforts are unsuccessful, the Forensic Monitor should then send a letter to the Court by certified mail, with return receipt requested. The letter should contain the following information: the defendant's name, DOB, Court Case Number, the name and severity of the most serious offense charged, the date of the finding of NGRI or IST-U-CJ, the maximum date and whether this date was calculated by the prosecuting attorney or the Forensic Monitor. The letter should also contain a statement that unless the Court communicates with the Monitor within 30 days, the case will be considered terminated and monitoring activities will cease.

If a journal entry is not available, a copy of the certified letter should be sent to the Manager of Community Forensic Programs, Office of Forensic Services.

(Revised 4/30/07)

FORENSIC TRACKING AND MONITORING SYSTEM

Table of Maximum Penalties

(according to the provisions of SB 285)

If the Offense was Committed

Prior to 7/1/96 (enter “2” under Question 11, Senate Bill 2)

<u>Severity of Offense</u>	<u>Code Q11 “Severity of Charge”</u>	<u>Maximum Period of Commitment</u>	<u>To Complete Q29 “Expiration Date of CR”</u>
Agg Murder/Murder	0	Life	enter “01/01/1900”
AgF1	1	25 years	add to date of finding NGRI/IST-U-CJ (Q 14)
F1	2	25 years	add to date of finding NGRI/IST-U-CJ
AgF2	3	15 years	add to date of finding NGRI/IST-U-CJ
F2	4	15 years	add to date of finding NGRI/IST-U-CJ
*AgF3	5	up to 10 yrs	add to date of finding NGRI/IST-U-CJ
*F3	6	up to 10 yrs	add to date of finding NGRI/IST-U-CJ
*F4	7	up to 5 yrs	add to date of finding NGRI/IST-U-CJ
Misdemeanor	9	6 months	add to date of finding NGRI/IST-U-CJ

* Maximum period of commitment depends upon various specifications and conditions; check with Prosecuting Attorney for the exact maximum time.

If the Offense was Committed

On or After 7/1/96 (enter “1” under Question 11, Senate Bill 2)

<u>Severity of Offense</u>	<u>Code Q11 “Severity of Charge”</u>	<u>Maximum Period of Commitment</u>	<u>To Complete Q29 “Expiration Date of CR”</u>
Agg murder/Murder	0	Life	enter “01/01/1900”
F1	2	10 years	add to date of finding NGRI/IST-U-CJ (Q 14)
F2	4	8 years	add to date of finding NGRI/IST-U-CJ
F3	6	5 years	add to date of finding NGRI/IST-U-CJ
F4	7	18 months	add to date of finding NGRI/IST-U-CJ
F5	8	12 months	add to date of finding NGRI/IST-U-CJ
Misdemeanor	9	6 months	add to date of finding NGRI/IST-U-CJ

(Revised 12/17/99)

Forensic Tracking and Monitoring System

Numbers for Ohio Counties

Adams	01	Allen	02	Ashland	03
Ashtabula	04	Athens	05	Auglaize	06
Belmont	07	Brown	08	Butler	09
Carroll	10	Champaign	11	Clark	12
Clermont	13	Clinton	14	Columbiana	15
Coshocton	16	Crawford	17	Cuyahoga	18
Darke	19	Defiance	20	Delaware	21
Erie	22	Fairfield	23	Fayette	24
Franklin	25	Fulton	26	Gallia	27
Geauga	28	Greene	29	Guernsey	30
Hamilton	31	Hancock	32	Hardin	33
Harrison	34	Henry	35	Highland	36
Hocking	37	Holmes	38	Huron	39
Jackson	40	Jefferson	41	Knox	42
Lake	43	Lawrence	44	Licking	45
Logan	46	Lorain	47	Lucas	48
Madison	49	Mahoning	50	Marion	51
Medina	52	Meigs	53	Mercer	54
Miami	55	Monroe	56	Montgomery	57
Morgan	58	Morrow	59	Muskingum	60
Noble	61	Ottawa	62	Paulding	63
Perry	64	Pickaway	65	Pike	66
Portage	67	Preble	68	Putnam	69
Richland	70	Ross	71	Sandusky	72
Scioto	73	Seneca	74	Shelby	75
Stark	76	Summit	77	Trumbull	78
Tuscarawas	79	Union	80	Van Wert	81
Vinton	82	Warren	83	Washington	84
Wayne	85	Williams	86	Wood	87
Wyandot	88	Unknown	89	Out-of-State	90

Recommended Format for FTMS Quarterly Data Report

Name of Agency/Letterhead Stationery

Date of Letter/Report

RE: Reporting Period; e.g. "First Quarter 2007" or "January to March 2007"

Address to: Manager, Community Forensic Programs
ODMH Office of Forensic Services
30 East Broad St., Suite 2435
Columbus, OH 43215-3430

The following individuals on Conditional Release Status have had no reportable changes during this Reporting Period:

List names in alphabetical order by last name.

The following individuals have had reportable changes as noted in the attached FTMS forms:

List names in alphabetical order by last name.

If you are monitoring people from another Monitor's area, you may list their names here, but this is not necessary. If you choose to list them, please list them separately from the people in your catchment area.

Signed,
Forensic Monitor

Appendix C

LEGAL ASSURANCE ADMINISTRATORS

Note that this information is periodically updated. Please check with the ODMH website for the most current LAA information:

www.mh.state.oh.us/forensic/general/forensic.legal.assurance.admins.html

Appalachian Behavioral Healthcare, Athens Campus
100 Hospital Drive
Athens, OH 45701

Andy Degenhart
degena@mh.state.oh.us
740-594-5000 ext 4135

Appalachian Behavioral Healthcare, Cambridge Campus
66737 Old 21 Rd
Cambridge, OH 43725

Andy Degenhart
degena@mh.state.oh.us
740-439-1371 ext 4290

Heartland Behavioral Healthcare
3000 Erie St.
Massillon, OH 44646

Nancy Swagart
swagartn@mh.state.oh.us
330-833-3135 ext 1383

Northcoast Behavioral Healthcare, Cleveland Campus
1708 Southpoint Drive
Cleveland, Oh 44109

Tammy Ristau
ristaut@mh.state.oh.us
216-787-0500 ext 2537

Northcoast Behavioral Healthcare, Northfield Campus
P.O. Box 305
Northfield, OH 44067

Jan Filipski
filipskj@mh.state.oh.us
330-467-7131 ext 1108

Northcoast Behavioral Healthcare, Toledo Campus
930 South Detroit Ave.
Toledo, OH 43614-2701

Beth Downey
downeyb@mh.state.oh.us
419-381-1881 ext 4418

Summit Behavioral Healthcare
1101 Summit Rd.
Cincinnati, OH 45237

Pat Wamsley
wamsleyp@mh.state.oh.us
513-948-3600, 948-3971

Twin Valley Behavioral Healthcare, Columbus Campus
2200 West Broad St.
Columbus, OH 43223

David Forman
formand@mh.state.oh.us
614-752-0333 ext 5216

Twin Valley Behavioral Healthcare, Dayton Campus
2611 Wayne Ave.
Dayton, OH 45420

Craig Ross
rossc@mh.state.oh.us
937-258-0440 ext 6495

Appendix D

COMMUNITY FORENSIC PSYCHIATRY CENTERS

Please check the ODMH website for the most current information:

www.mh.state.oh.us/forensic/general/forensic.psychiatry.centers.html

Netcare Forensic Psychiatry Center
3081 Sullivant Ave.
Columbus, OH 43204
Terry Kukor, PhD, ABPP, Director
tkukor@msn.com

Counties Served

Delaware, Fairfield, Fayette, Franklin
Licking, Madison, Pickaway, Union
614-278-0200
614-278-0152
Fax: 614-274-0937

Court Clinic Forensic Services
909 Sycamore St., 4th Floor
Cincinnati, OH 45202
Sherry Baker, PhD
Clinical Director
cc130@ucmail.uc.edu

Clermont, Hamilton
513-352-1342
Fax 513-352-1345
513-618-4211
Dorothy O'Neill, Office Mgr
513-618-4201

Walter S. Smitson, PhD, CEO
Central Clinic
3259 Elland Avenue
Cincinnati, OH 45267

513-558-9015

Forensic and Mental Health Services, Inc.
851 Walnut Street
Hamilton, OH 45011
Julia King, PsyD, Director
jking@forpsych.org

Butler, Clinton, Preble, Warren
513-867-5866
Fax 513-867-5875

Forensic Psychiatry Center for Western Ohio
12 West Wenger Rd.
Englewood, OH 45322
Miller S. Makey, Director
mmakey@eastway.org

Allen, Auglaize, Champaign, Clark, Darke
Greene, Logan, Mercer, Miami,
Montgomery, Shelby
937-832-4160
Fax 937-832-4159

Shawnee Forensic Center
P.O. Box 1322 (mailing)
901 Washington St. (location)
Portsmouth, OH 45662
Wayne Price, BSW, MA, LSW, Director
w.price@shawneemhc.org

Adams, Athens, Brown, Gallia, Highland,
Hocking, Jackson, Lawrence, Meigs, Pike,
Ross, Scioto, Vinton
740-354-6006
Fax 740-353-6206

Forensic Diagnostic Center of District Nine
P.O. Box 126
Byesville, OH 43723
Hugh Ryan, MS, Director
fdcd9@verizon.net

Belmont, Carroll, Coshocton, Guernsey,
Harrison, Jefferson, Monroe, Morgan,
Muskingum, Noble, Perry, Tuscarawas,
Washington
740-439-4136; 439-9949
Fax 740-432-6562

Psycho-Diagnostic Clinic
Summit County Courthouse
209 S. High St.
Akron, OH 44308
Kathleen P. Stafford, PhD, ABPP, Director
kstafford@cpccourt.summitoh.net

Geauga, Medina, Portage, Stark,
Summit
330-643-2333
Fax 330-643-8571

Forensic Psychiatric Center of Northeast Ohio
5212 Mahoning Ave., Suite 317
Youngstown, OH 44515-1857
Gerald L. Heinbaugh, MS, MBA, Director
gheinbaugh@aol.com

Ashtabula, Columbiana, Mahoning,
Trumbull, Lake
330-792-1918
Fax 330-792-7712

Forensic Diagnostic Center
228 Park Avenue West
Mansfield, OH 44902
Luanne LaRue, MSW, LISW, Team Leader
luanne@cifs.cifscenter.org

Ashland, Crawford, Hardin, Holmes, Huron,
Knox, Lorain, Marion, Morrow, Richland,
Seneca, Wayne, Wyandot
419-774-5970
Fax 419-524-1852

Court Diagnostic and Treatment Center
1 Stranahan Square, Suite 353
Toledo, OH 43604
Judy Forgac, MRC, LPCC, Director
jforgac@butter.toast.net

Defiance, Erie, Fulton, Hancock, Henry,
Lucas, Ottawa, Paulding, Putnam, Sandusky
Van Wert, Williams, Wood
419-244-8624
Fax 419-244-9213

Court Psychiatric Clinic
Courts Tower
1200 Ontario St., 6th Floor
Cleveland, OH 44113
Phillip J. Resnick, MD, Director
George Schmedlen, PhD, JD, Assoc. Director

Cuyahoga
216-443-7330
Fax 216-443-7332
phil@resnick.com
cpgws@cuyahogacounty.us

Appendix E

FORENSIC MONITORS MENTORING PROGRAM

New Forensic Monitors may benefit from consulting and spending time with an experienced monitor. The following Monitors have indicated their willingness to assist people new to this position:

Linda Blum
Turning Point Counseling
611 Belmont Ave.
Youngstown, OH 44502
(330) 744-2991 ext 163
lblum@turningpointcs.com

Becky Brittain
ADM Board of Summit County
100 West Cedar St., Suite 300
Akron, OH 44307
330 762-3500
brittainb@admboard.org

Laura Brooks
Neighborhood Counseling Center
1702 West 28th St.
Cleveland, OH 44113
(216) 781-9222
lbrooks@recres.org

Gloria Sanders
Stark County Mental Health Board
800 Market Ave. North, Suite 1150
Canton, OH 44702
330-455-6644
glorias@starkmhb.org

Appendix F

SAMPLE JOURNAL ENTRIES

These entries have been provided by several Forensic Monitors as a guide.

They will need to be adapted and modified for use in your jurisdiction. Your local court personnel can assist you with some of the details concerning their practice.

The sample entries below do not comprise an exhaustive list, but represent the legal issues most often encountered by Forensic Monitors.

The Heading at the top left corner of each sample entry, in small italics is not to be included in the Journal Entry. This is for identification purposes only.

Order for Competency Evaluation

This matter came for hearing this _____ day of _____ A.D. 200__, the Defendant, _____ (name) being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The question of the Defendant's competence to stand trial having come to the attention of the Court, it is ORDERED that:

1. The _____ (name of forensic center), a certified forensic center designated by the Ohio Department of Mental Health, will examine the Defendant to determine whether the Defendant is capable of understanding the nature and objective of the proceedings against **him/her** and of assisting in **his/her** defense. The person conducting the examination will be an examiner as defined in Section 2945.37 R.C.
2. The examination will be conducted at the _____ (name of forensic center) if the Defendant is released on bail or recognizance, or at the Defendant's place of detention.
3. The examiner shall complete the examination within thirty (30) days after the date of this order, and shall prepare and provide to the Court a written report of the examination.
4. The examiner's report shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to whether the Defendant is capable of understanding the nature and objective of the proceedings against **him/her** and of assisting in **his/her** defense.
5. If the examiner's opinion is that the Defendant is incapable of understanding the nature and objective of the proceedings against **him/her** or of assisting in **his/her** defense, the report shall also include the examiner's opinion as to whether the Defendant is presently mentally ill or mentally retarded.

If the examiner's opinion is that the Defendant is presently mentally retarded, the report shall include the examiner's opinion as to whether the Defendant appears to be a mentally retarded person subject to institutionalization.

If the examiner's opinion is that the Defendant is presently mentally ill or mentally retarded, the report shall include the examiner's recommendation as to the least restrictive treatment alternative consistent with the Defendant's treatment needs for restoration to competency and with the safety of the community.

Defendant was (*released on bond OR remanded to xxxxx County Jail*).

Hearing in this matter is set for _____ (date).

Date: _____

Judge: _____

cc: Prosecutor
Defense counsel
Name of Forensic Center
Forensic Monitor

Order for Sanity Evaluation

This matter came for hearing this _____ day of _____, A.D. 200__, the Defendant, _____ (name) being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The Defendant having entered a plea of Not Guilty by Reason of Insanity in this matter, it is ORDERED that:

1. The _____ (name of forensic center), a certified forensic center designated by the Ohio Department of Mental Health, will examine the Defendant to determine the Defendant's mental condition at the time of the commission of the offense with which he is charged, pursuant to Section 2945.371 O.R.C.
2. The examination will be conducted at the _____ (name of forensic center) if the Defendant is released on bail or recognizance, or at the Defendant's place of detention.
3. The examiner shall complete the examination within thirty (30) days after the date of this order, and shall prepare and provide to the Court a written report of the examination.
4. The examiner's report shall contain the examiner's findings as to whether the Defendant, at the time of the offense(s) charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the acts with which **he/she** is charged.
5. The Defendant stands charged in this matter with having committed the offense(s) of _____ (name of charge) on or about _____ (date).

IT IS FURTHER ORDERED that the Defendant be (*released on bond OR remanded to xxxxxx County Jail*) to await further hearing set for _____ (date).

Date: _____

Judge: _____

cc: Prosecutor
Defense counsel
Name of Forensic Center
Forensic Monitor

Incompetent to Stand Trial- Unrestorable/Municipal Court

This matter came for hearing this ____ day of ____, A.D., 200__, the defendant, _____ (name) being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The Prosecution and the Defense stipulate to the report from _____ (name of ODMH BHO or forensic center) dated _____. The Court finds that the Defendant remains incompetent to stand trial and is a mentally ill person subject to hospitalization.

The Court further finds that pursuant to ORC 2945.38 (C) (2), the Defendant has completed the maximum period of hospitalization for the offenses for which he has been found incompetent to stand trial.

It is therefore ORDERED:

1. _____ (Name of ODMH BHO) shall file an affidavit at Probate Court alleging that the Defendant is a mentally ill individual subject to hospitalization by Court Order, as defined in Sections 5122.01 and 5123.68, R.C.
2. The Defendant shall be detained in _____ (Name of ODMH BHO or xxxxx County Jail) for not more than ten (10) court days pending the probable cause hearing in Probate Court pursuant to Sections 5122.11 or 5123.71 R.C.
3. The charge(s) shall be dismissed upon filing of the appropriate affidavit.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
ADAMHS/CMH Board
BHO or Forensic Center
xxxxxx Co. Probate Court
xxxxxx County Jail

Incompetent to Stand Trial- Restorable (inpatient restoration)

This matter came for hearing this ____ day of _____, A.D., 200__, the Defendant, _____(name) being present before the Court and represented by counsel, _____(name) , and the State being represented by the Prosecuting Attorney _____(name).

The issue of the Defendant's competency to stand trial having previously been raised, the Defendant was referred to the _____ (name of forensic center) for examination pursuant to Section 2945.371, R.C. The written report of the examination has been filed with the Court and copies provided to the Prosecuting Attorney and defense counsel. All parties stipulate to the _____ (name of forensic center) report dated _____.

On consideration of the report and other evidence before the Court, the Court finds that:

1. The Defendant is not capable of understanding the nature and objective of the proceedings against **him/her** and is not capable of presently assisting in **his/her** defense.
2. The Defendant is mentally ill (or mentally retarded)
3. There is a substantial probability that the Defendant will become capable of understanding the nature and objective of the proceedings against him or capable of assisting in his defense within one (1) year if he is provided with a course of treatment.

It is therefore ORDERED:

1. The Defendant shall undergo treatment at _____ (name of BHO) pursuant to Section 2945.38D R.C. which is the least restrictive alternative available that is consistent with public safety and treatment goals, and further orders the person who supervises the treatment to file written reports with the Court pursuant to Section 2945.38(F) of the Ohio Revised Code.
2. The Defendant shall not be released or discharged from _____ (name of BHO) except as authorized by this order or future order of this court.
3. This order shall remain in effect for _____ (twelve months for murder, F1 or F2; 6 months for F3,4,5; 60 days for M1, M2 and 30 days for all other misdemeanors).

IT IS THE FURTHER ORDER OF THIS COURT that xxxxxx County Sheriff's Office transport the defendant to _____ (name of BHO) as soon as a bed is available.

xxxxxx County Sheriff's Office shall transport the defendant back to xxxxxx County Jail as soon as the Forensic Examiner at _____ (name of BHO) opines that the defendant is capable of adequate Court participation or is determined to be unrestorable and has provided the Court with a competency to stand trial report reflecting either determination.

cc: Prosecutor
Defense Attorney
Forensic Center
Forensic Monitor
BHO

Incompetent to Stand Trial – Restorable (outpatient restoration)

This matter came for hearing this _____ day of _____, A.D., 200__, the Defendant, _____(name) being present before the Court and represented by counsel, _____(name) , and the State being represented by the Prosecuting Attorney _____(name).

The issue of the Defendant's competency to stand trial having previously been raised, the Defendant was referred to the _____ (name of forensic center) for examination pursuant to Section 2945.371, R.C. The written report of the examination has been filed with the Court and copies provided to the Prosecuting Attorney and defense counsel. All parties stipulate to the _____ (name of forensic center) report dated _____.

On consideration of the report and other evidence before the Court, the Court finds that:

1. The Defendant is not capable of understanding the nature and objective of the proceedings against **him/her** and is not capable of presently assisting in **his/her** defense.
2. The Defendant is mentally ill (or mentally retarded)
3. There is a substantial probability that the Defendant will become capable of understanding the nature and objective of the proceedings against him or capable of assisting in his defense within one (1) year if he is provided with a course of treatment.

It is therefore ORDERED:

1. The Defendant shall undergo treatment at _____ (name of community agency) pursuant to Section 2945.38D R.C. which is the least restrictive alternative available that is consistent with public safety and treatment goals, and further orders the person who supervises the treatment to file written reports with the Court pursuant to Section 2945.38(F) of the Ohio Revised Code.
2. The Defendant shall not be discharged from _____ (name of community agency) except as authorized by this order or future order of this court.
3. This order shall remain in effect for _____ (twelve months for F1 or F2; 6 months for F3,4,5; 60 days for M1, M2 and 30 days for all other misdemeanors).

THE COURT FURTHER ORDERS that _____ (name of forensic center) shall release a copy of their report to _____ (name of community agency) in order to facilitate the restoration process.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Center
Forensic Monitor
Community Agency

Incompetent to Stand Trial- Unrestorable (no hospitalization)

This matter came for hearing this _____ day of _____, A.D., 200__, the defendant, _____ (name) being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The Prosecution and the Defense stipulate to the report from _____ (forensic center) dated _____ .

The Court finds that the Defendant is incompetent to stand trial and is unlikely to be restored to competency within the time allowed by law.

It is therefore ORDERED: The charge(s) shall be dismissed.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
ADAMHS/CMH Board
xxxxxxx County Jail

Finding of Incompetent to Stand Trial-Unrestorable-Criminal Court Jurisdiction

STATE OF OHIO

CASE NO:

PLAINTIFF

JUDGE

VS.

DEFENDANT

JUDGMENT ENTRY

This matter came on for hearing on Defendants Competency to Stand Trial pursuant to ORC 2945.38 & 2945.39 this _____ day of _____. Present were the Defendant, _____ his/her counsel, _____ and representing the State of Ohio Assistant Prosecutor _____.

Counsel for the State and for the Defendant stipulated to the report of _____ (doctor) with _____ (hospital), dated _____. The report was received into evidence.

This Court finds the Defendant remains Incompetent to Stand Trial, and that the Defendant does not understand the nature and objectives of the proceedings against (him/her) and is not capable of assisting in (his/her) defense, despite a year of treatment for (his/her) major mental illness. The Court further finds the Defendant could not be restored to Competency within the time set by statute.

This matter then came on for hearing on the motion of the Prosecutor pursuant to ORC 2945.39(A)(2) as to the Court retaining jurisdiction over the Defendant. The Court received testimony from _____. Additionally, the Court received evidence from the State by way of several exhibits. The Defense also presented testimony from _____.

The Court considered all relevant evidence, including, but not limited to the relevant psychiatric, psychological and medical reports, the acts constituting the offense charged, and the history of the Defendant that is relevant to (his/her) ability to conform to the law.

This Court finds pursuant to ORC 2945.39(A)(2)(a)&(b) that the State has proved by clear and convincing evidence that the Defendant committed the offense with which (he/she) is charged and the Defendant is a mentally ill person subject to Court ordered hospitalization.

Therefore, the Court finds the Defendant is Incompetent to Stand Trial Unrestorable and shall remain under the Criminal Court's jurisdiction (IST-U-CJ). This Court further finds that the least restrictive commitment alternative available consistent with public safety and the welfare and treatment needs of the Defendant is _____ (hospital). The length of time of the Defendant's commitment is based on the maximum time of the most serious felony charge, to wit: _____ (charge), a felony of the _____ degree.

As required by ORC 2945.40(C) a report from the treating facility shall be made to this Court after the initial six (6) months of treatment and every two (2) years after the initial report is made, up to and including the end of the _____ year period or until the Defendant is found to be restored to competency.

The _____ (county name) County Sheriff's Department is ordered to transport the Defendant to _____ (hospital) pursuant to this order as soon as a bed becomes available.

Date: _____

Judge _____

Cc: Prosecutor, Name
Defense Atty., Name
LAA of BHO, Name
Forensic Monitor, Name

Incompetent to Stand Trial-Unrestorable-Criminal Court Jurisdiction (Inpatient)

This matter came for hearing this _____ day of _____, A.D., 200__, the defendant, _____ (name) being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The issue of the Defendant's competency to stand trial having previously been raised, the Defendant was referred to the _____ (name of forensic center) for examination pursuant to Section 2945.371, R.C. The written report of the examination has been filed with the Court and copies provided to the Prosecuting Attorney and defense counsel. All parties stipulate to the _____ (name of forensic center) report dated _____.

Thereupon, pursuant to 2945.39(A) (2), and 2945.401(J) (1) & (2) R.C., this Court will maintain jurisdiction until such time as the maximum time has been served in this matter.

On consideration of the report and other evidence before the Court, the Court finds that:

1. The Defendant is not capable of understanding the nature and objective of the proceedings against **him/her** and is not capable of presently assisting in **his/her** defense.
2. The Defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded individual subject to institutionalization by court order.
3. There is clear and convincing evidence that the Defendant committed the offense(s) with which the Defendant is charged.
4. There is a not substantial probability that the Defendant will become capable of understanding the nature and objective of the proceedings against **him/her** or capable of assisting in **his/her** defense within one (1) year if provided with a course of treatment.

It is therefore ORDERED:

1. The Defendant shall undergo treatment at _____ (name of BHO) pursuant to Section 2945.39 (D)(1) R.C. which is the least restrictive alternative available that is consistent with public safety and treatment goals, and further orders the person who supervises the treatment to file written reports with the Court pursuant to Section 2945.38(F) of the Ohio Revised Code.
2. The Defendant shall not be released or discharged from _____ (name of BHO) except as authorized by this order or future order of this court.
3. This order shall remain in effect for six (6) months unless superseded by further order of this court.

IT IS THE FURTHER ORDER OF THIS COURT that xxxxxx County Sheriff's Office transport the defendant to _____ (name of BHO) as soon as a bed is available.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Center
Forensic Monitor
BHO

Incompetent to Stand Trial-Unrestorable-Criminal Court Jurisdiction (Conditional Release)

This matter came for hearing this _____ day of _____, A.D., 200__, the Defendant, _____ (name) being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The issue of the Defendant's competency to stand trial having previously been raised, the Defendant was referred to the _____ (name of forensic center) for examination pursuant to Section 2945.371, R.C. The written report of the examination has been filed with the Court and copies provided to the Prosecuting Attorney and defense counsel. All parties stipulate to the _____ (name of forensic center) report dated _____.

Thereupon, pursuant to 2945.39(A) (2) and 2945.401(J) (1) & (2) R.C., this Court will maintain jurisdiction until such time as the maximum time has been served in this matter.

On consideration of the report and other evidence before the Court, the Court finds that:

1. The Defendant is not capable of understanding the nature and objective of the proceedings against **him/her** and is not capable of presently assisting in **his/her** defense.
2. The Defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded individual subject to institutionalization by court order.
3. There is clear and convincing evidence that the Defendant committed the offense(s) with which the Defendant is charged.
4. There is a not substantial probability that the Defendant will become capable of understanding the nature and objective of the proceedings against **him/her** or capable of assisting in **his/her** defense within one (1) year if provided with a course of treatment.

It is therefore ORDERED:

1. The Defendant shall undergo treatment at _____ (name of community agency) pursuant to Section 2945.39 (D)(1) R.C. which is the least restrictive alternative available that is consistent with public safety and treatment goals, and further orders the person who supervises the treatment to file written reports with the Court pursuant to Section 2945.38(F) of the Ohio Revised Code.
2. The Defendant shall not be released or discharged from _____ (name of community agency) except as authorized by this order or future order of this court.
3. The Defendant will live at _____.
4. _____ (name of forensic center) report shall be released to _____ (name of community agency) in order to facilitate their provision of services for the defendant.

5. _____ (name of forensic center) report shall also be released to the Forensic Monitor.
6. The Forensic Monitor shall monitor and shall notify the Court of any deterioration in ***his/her*** condition or violation of the terms of the conditional release, pursuant to this order immediately upon hearing of the violation.
7. This order shall remain in effect for six (6) months unless superseded by further order of this court.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Center
Community Treatment Agency
Forensic Monitor

Finding of NGRI and order for Post NGRI evaluation

This matter came for hearing this _____ day of _____ A.D., 200___. The Defendant, _____ (name), being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The Question of the Defendant's sanity having previously been raised, the Defendant was referred to the _____ (name of forensic center), for examination. The written report of the examination has been filed with the Court and copies provided to the Prosecuting Attorney and defense counsel. All parties stipulate to the _____ (name of forensic center) report.

In consideration of all evidence, the Court finds that the Defendant, _____ (name) is a mentally ill person subject to hospitalization by Court order as defined in Section 5122.01 R.C. and further the Court finds the Defendant Not Guilty by Reason of Insanity of the charge(s) of _____ [name of Legal charge(s); ORC Section, severity of charge].

It is therefore ORDERED that _____ (name of forensic center) shall perform a level of commitment evaluation pursuant to ORC Section 2945.40 to assist the Court in determining whether the respondent is a mentally ill person subject to hospitalization by Court order, and, if so, the least restrictive setting consistent with his treatment needs and the safety of the community.

IT IS FURTHER ORDERED that the respondent be remanded to the xxxxxxxx County Jail to await a hearing set for _____ (date)

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Center
ADAMHS/CMH Board
Forensic Monitor

Finding of NGRI and order for inpatient treatment

This matter came for hearing this _____ day of _____ A.D., 200___. The respondent _____ (name), being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The respondent having previously been found Not Guilty by Reason of Insanity on the charge(s) of _____ (name of charges) and pursuant to the report received from the _____ (name of forensic center), a hearing was held pursuant to Section 2945.40 R.C. to determine whether the respondent is a mentally ill person subject to hospitalization by Court order or a mentally retarded person subject to institutionalization by Court order, and all parties stipulate to _____ (name of forensic center) report dated _____.

In consideration of all evidence, the Court finds by clear and convincing evidence that the defendant, _____ (name), is a mentally ill person subject to hospitalization by Court order as defined in Section 5122.01 R.C.

It is therefore ORDERED that:

1. The defendant shall be committed to _____ (name of BHO) the least restrictive commitment alternative available consistent with public safety and the welfare of the defendant, pursuant to Ohio Revised Code Section 2945.40.
2. The defendant shall not be released or discharged from _____ (name of BHO) except as authorized by this court.
3. This order shall remain in effect for six months unless superseded by further order of this court.

IT IS THE FURTHER ORDER OF THIS COURT that xxxxxx County Sheriff's Office transport the defendant to _____ (name of BHO) as soon as a bed is available.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Center
Forensic Monitor
BHO

Continued Hospitalization- NGRI

This matter came for hearing this _____ day of _____ A.D., 200____. The respondent, _____ (name), being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The respondent having previously been found Not Guilty by Reason of Insanity of the charge(s) of _____ (name of charges, ORC code and severity of charges) and committed to _____ (name of BHO), a hearing was held pursuant to ORC 2945.402 to determine whether the respondent's commitment should be continued.

The Court is in receipt of a report from _____ (name of BHO) and copies have been provided to the Prosecuting Attorney and defense counsel. All parties stipulate to the report.

In consideration of all the evidence, the Court finds that the respondent remains a mentally ill person subject to hospitalization by Court order as defined in Section 5122.01 Revised Code.

It is therefore ORDERED that:

1. The respondent shall be committed to _____ (name of BHO), the least restrictive commitment alternative available consistent with public safety and the welfare of the respondent, pursuant to Ohio Revised Code Section 2945.40.
2. The respondent shall not be transferred or discharged from _____ (name of BHO), without Court approval.
3. This order shall remain in effect for two years unless superseded by further order of this court.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Monitor
BHO

NAME *****

DOCKET NO **CR**

SUGGESTED JOURNAL ENTRY

This cause came for hearing on this *** day of **** 2005 for the Conditional Release into the community for the Defendant. The Defendant, *****, represented by Attorney ****, the Prosecutor ****, and the Forensic Monitor ****.

Based on the evidence previously presented, the Court maintains by clear and convincing evidence that the Defendant remains a mentally ill individual and in need of continued involuntary commitment pursuant to O.R.C. 2945.401. The Court further finds that the least restrictive alternative is Conditional Release into the community with the following conditions:

1. The Defendant is to see the psychiatrist from The **** (Agency) at least *****. He is to comply with all recommendations of the psychiatrist, including taking prescribed oral and/or injectable medications.
2. The Defendant is to receive community support services from *** and shall see his Support Specialist and/or treatment team at least ** times per week and shall follow all recommendations of the specialist and the treatment team. The (Agency) shall also provide the Forensic Monitor with monthly reports on the Defendant's progress in treatment.
3. The Defendant is to live in transitional housing at the ***** as arranged by the Court and the Forensic Monitor and shall not change residences without the approval of the Forensic Monitor and the Court.
4. The Defendant is to refrain from the use of alcohol, non-prescribed drugs, or illegal substances, and shall submit to random blood and/or urine screens as requested by the staff from *** (Agency), or the Forensic Monitor.
5. The Defendant shall not possess or use firearms, weapons, or items fashioned as weapons.
6. The Defendant is to immediately report to his Support Specialist or Forensic Monitor any violations of municipal, state or federal laws.
7. The Defendant is not to leave *** County or the State of Ohio without authorization of the Forensic Monitor and the Court.
8. The Defendant is not to have any contact with ****.
9. The Defendant shall be evaluated for possible employment and shall follow all recommendations of that service provider.
10. The Defendant will comply with counseling and any recommendations of the therapist. Sessions will be determined by the therapist depending on the Defendant's progress in treatment.
11. The *** Program will handle the Defendant's financial matters.

12. The Defendant's commitment is to be to the *** County Board of Mental Health following any hospital discharge, once in the community.
13. The Forensic Monitor, ***, shall immediately notify the Court, the prosecutor and the defense attorney of any violations of the conditions noted in this entry.
14. The Defendant agrees to have read and accepted the conditions under which the Court releases him and fully understands his failure may result in one or more of the following: Notification to the Court and proper legal authorities; Modifications of the Conditional Release Plan, Emergency hospitalization; Arrest and prosecution; Revocation of Conditional Release and return to the hospital.
15. Based on the NGRI finding dated *****, the maximum length of this commitment may be ** unless terminated earlier by this court per statute. See Ohio Revised Code 2945.40 for further reference.
16. Copies of this entry will be sent to: **, Forensic Monitor

**, LAA BHO
Attorney **, Prosecutor
Attorney **, Defense Attorney
****, CSN Supervisor
**, Defendant

Date: _____

Judge: _____

NGRI and Granting Conditional Release

This matter came for hearing this _____ day of _____ A.D., 200____. The respondent, _____ (name), being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The respondent having previously been found Not Guilty by Reason of Insanity of the charge(s) of _____ (name of charges), and pursuant to a report received from _____ (names of BHO and/or forensic center), the Court finds by clear and convincing evidence that the respondent, _____ (name), is a mentally ill person subject to hospitalization by Court order as defined in Section 5122.01 R.C. All parties stipulate to the _____ (names of BHO and/or forensic center) report.

It is therefore ORDERED that:

1. The defendant shall be committed to _____ (name of community treatment agency), the least restrictive commitment alternative available consistent with public safety and the welfare of the respondent, pursuant to Ohio Revised Code Section 2945.40.
2. The defendant is ordered to comply with all forms of treatment and prescribed medications, including the use of long-acting injectible antipsychotic medications.
3. The defendant shall reside at _____ and not change residence without Court approval.
4. The defendant will abstain from the use of alcohol, non-prescribed drugs and illicit substances. Random urine screens are to be provided per the request of _____ (agency and/or Forensic Monitor).
5. The defendant shall see his treating psychiatrist at Community Support Services at least monthly and his community living specialist at least weekly.
6. The Forensic Monitor shall monitor and shall notify the Court of any deterioration in **his/her** condition or violation of the terms of the conditional release, pursuant to this order immediately upon hearing of the violation.
7. _____ (name of treatment agency) shall submit reports to the Forensic Monitor at least monthly and upon any change in the respondent's compliance.
8. _____ (name of BHO and/or forensic center) report shall be released to _____ (name of agency) and the Forensic Monitor in order to facilitate their provision of services for the defendant.

9. This order shall remain in effect for six months unless superseded by further order of this court.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Center
Forensic Monitor
Treatment Agency

Continued Conditional Release (NGRI)

This matter came for hearing this _____ day of _____ A.D., 200____. The respondent, _____ (name), being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The respondent having previously been found Not Guilty by Reason of Insanity of the charge(s) of _____ (name of charges, ORC code and severity of charge) and placed on Conditional Release a hearing was held pursuant to ORC 2945.402 to determine whether the respondent's commitment and Conditional Release should be continued.

In consideration of all the evidence, the Court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by Court order as defined in Section 5122.01 Revised Code.

The Court has further considered the current quantity of psychotropic medications and other treatment that the respondent is receiving and the likelihood that the respondent will continue to take the drugs and continue with treatment. Further considering the risks to public safety and the welfare of the respondent, the Court finds that the respondent should be continued on Conditional Release.

It is therefore ORDERED that:

1. The respondent shall be committed to _____ (name of treatment agency), the least restrictive commitment alternative available consistent with public safety and the welfare of the respondent, pursuant to Ohio Revised Code Section 2945.40.
2. The respondent is ordered to comply with all forms of treatment and prescribed medications, including the use of long-acting injectible antipsychotic medications.
3. The respondent shall reside at _____ and not change residence without Court approval.
4. The respondent will abstain from the use of alcohol, non-prescribed drugs and illicit substances. Random urine screens are to be provided at the request of _____ (name of treatment agency and/or Forensic Monitor).
5. The respondent shall see his treating psychiatrist at _____ (name of agency) at least _____ and his community living specialist at least _____.
6. The Forensic Monitor shall monitor and shall notify the Court of any deterioration in **his/her** condition or violation of the terms of the conditional release, pursuant to this order immediately upon hearing of the violation.
7. _____ (Name of treatment agency) shall submit reports to the Forensic Monitor at least _____ and upon any change in the respondent's compliance.

8. This order shall remain in effect for two years unless superseded by further order of this court.

Date: _____

Judge: _____

cc: Prosecutor
Defense Attorney
Forensic Monitor
Treatment Agency

IN THE COURT OF COMMON PLEAS

XXXXXXXXXX COUNTY, OHIO

STATE OF OHIO)	
)	
Plaintiff)	CASE NO. 00-CR-00000
)	
vs.)	
)	JUDGMENT ENTRY
)	
Defendant)	

This matter came before this Court this xth day of August 2006 upon a written request by Name of Forensic Monitor , xxxxxxxxxx County Forensic Monitor, based on a letter dated August 1, 2006.

Assistant Prosecutor Attorney Name represented the State of Ohio. The Defendant was present and represented by counsel, Attorney Name. Also present was Name of Forensic Monitor of Agency name.

The Court finds that the letter filed on August 1, 2006 advised the Court of the Defendant's failure to attend scheduled appointments, tested positive for illegal drugs and failed to comply with the guidelines of the Defendants conditional release.

Based on the evidence presented the Court hereby Orders that the Defendant's conditional release previously ordered by this court is revoked.

The Defendant is therefore ordered conveyed to the custody of Name of ODMH BHO by the xxxxxxxxxx County Sheriff's Department.

It is further ordered that the xxxxxxxxxx County Sheriff's Department shall take the Defendant into Custody and hold the Defendant in the xxxxxxxxxx County Jail until such time as a bed becomes available with the hospital.

IT IS SO ORDERED.

DATE

JUDGE

Cc: Prosecutor, Name
Defense Atty., Name
LAA of BHO, Name
Forensic Monitor, Name

Termination of NGRI/CR status

This matter came for hearing this _____ day of _____ A.D., 200___. The respondent, _____ (name), being present before the Court and represented by counsel, _____ (name), and the State being represented by the Prosecuting Attorney _____ (name).

The respondent having previously been found Not Guilty by Reason of Insanity of the charge(s) of _____ (name of charges, ORC code, severity of charges) and placed on Conditional Release, a hearing was held pursuant to ORC 2945.402 to determine whether the respondent's commitment and Conditional Release should be continued.

In consideration of all the evidence, the Court finds that the respondent is no longer a mentally ill person subject to hospitalization by Court order as defined in Section 5122.01 R.C.

or

The Defendant has served the maximum amount of time allowed for the crime,

It is therefore ORDERED that the Defendant's conditional release is terminated and he be released from any further responsibility in this case.

cc: Prosecutor
Defense Attorney
Forensic Monitor
Treatment Agency

Appendix G

Ohio Competency and Sanity Laws: A Summary

(Reproduced from booklet published by ODMH, March 2003)

Definitions

Examiner—means either of the following:

A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I)(1) of Section 5122.01 of the Ohio Revised Code (ORC) or is employed by a Certified Forensic Center designated by the Department of Mental Health to conduct examinations or evaluations.

For purposes of a separate mental retardation evaluation that is ordered by a court pursuant to division (H) of Section 2945.371 of the ORC, a psychologist designated by the Director of Mental Retardation and Developmental Disabilities pursuant to that section to conduct that separate mental retardation evaluation.

Mentally Ill Person subject to Hospitalization by Court Order—defined in ORC Section 5122.01

Mentally Retarded Person subject to Institutionalization by Court Order—defined in ORC 5123.01

Nonsecured Status—Any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any conditional release, that is granted to a person who is found Incompetent to Stand Trial and is committed pursuant to Section 2945.39 ORC or to a person who is found Not Guilty by Reason of Insanity and committed pursuant to Section 2945.40 ORC.

Unsupervised, Off-Grounds Movement—Includes only Off-Grounds privileges that are unsupervised and that have an expectation of return to the hospital or institution on a daily basis.

Trial Visit—A patient privilege of a longer stated duration of unsupervised community contact with an expectation of return to the hospital or institution at designated times.

Conditional Release—A commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitalization or reinstitutionalization of the person as described in Division (A) of Section 2945.402 ORC and pursuant to which a person who is found Incompetent to Stand Trial (Unrestorable, under Criminal Court Jurisdiction) or a person who is found Not Guilty by Reason of Insanity lives and receives treatment in the community for a period of time that does not exceed the maximum prison term or term of imprisonment that the person could have received for the most serious offense in question had the person been convicted of the offense instead of being found Incompetent to Stand Trial on the charge of the offense or being found Not Guilty by Reason of insanity relative to the offense.

Statute Number Designations

2945.371 (G)(3): Competency Evaluation

2945.371 (G)(4): Sanity Evaluation

2945.38 (B): Incompetent to Stand Trial—Restoration Treatment (IST-R)
2945.38 (H)(4): Incompetent to Stand Trial—Unrestorable Probate Court Jurisdiction (IST-U)
2945.39 (A)(2): Incompetent to Stand Trial—Unrestorable—Criminal Court Jurisdiction (IST-U-CJ)
2945.40: Not Guilty by Reason of Insanity
2945.402: Incompetent to Stand Trial—Unrestorable—Criminal Court Jurisdiction and Not Guilty by Reason of Insanity on Conditional Release

COURTS

The issue of a defendant's competence in a criminal action can be raised in common pleas, municipal and county courts.

Municipal courts can hospitalize a defendant at an ODMH hospital for a competency or sanity evaluation only if recommended by an outpatient community certified Forensic Center examiner.

Municipal and County courts can tax the costs of outpatient evaluations ordered as court costs.

COMPETENCY TO STAND TRIAL

A defendant is presumed to be competent to stand trial.

Defense attorney, prosecutor or judge may raise the issue of competency to stand trial.

Court may order one or more evaluations.

Examiner does not make a conclusory statement regarding defendant's competency to stand trial but does state:

(a) whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense.

(b) whether the defendant is presently mentally ill or mentally retarded, whether the person appears to be subject to institutionalization by court order. *If the defendant is a mentally retarded person and appears to be subject to institutionalization, the Court shall order a separate mental retardation evaluation conducted by a psychologist designated by the Director of the Department of Mental retardation and Developmental Disabilities.*

(c) if assessed as incompetent, whether the defendant can be restored to competency in one year if provided with a course of treatment.

(d) a recommendation as to the least restrictive treatment alternative, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community.

The Court shall hold a hearing regarding competency if it is raised.

The Court may authorize the continuing administration of the medication or other appropriate treatment in order to maintain the defendant's competency, unless attending physician advises against.

As another consideration, the Court may authorize the involuntary administration of medication in order to restore the defendant's competency to stand trial after a hearing.

Treatment shall occur in the least restrictive alternative.

Time lines for treatment: **One Year** [2945.38(C)(1)] if most serious offense charged is one of the following: (a) aggravated murder, murder, or an offense of violence for which life imprisonment or the death penalty is imposed; (b) violent felony offense of the 1st or 2nd degree; and (c) conspiracy to commit, an attempt to commit or complicity in the commission of any of (a) and (b) if the conspiracy, attempt or complicity is a felony of the 1st or 2nd degree; **Six Months:** Felonies other than described above; **Sixty Days:** 1st and 2nd degree misdemeanors; **Thirty Days** for all other misdemeanor charges.

If committed to a hospital for restoration, voluntary admission, supervised off-grounds movement, and unsupervised on or off-grounds movement is prohibited.

Reports are due to the Court: (1) whenever treating supervisor believes the defendant is competent; (2) for a felony, 14 days before the maximum time for continuing evaluation and treatment has expired; (3) for a misdemeanor, 10 days before the maximum time for treatment has expired; (4) any time the treatment supervisor believes there is not a substantial probability of restoration; and (5) after each six months of treatment.

Hearings must be held: (1) within 10 days after expiration of maximum time for treatment; (2) within 30 days after the defendant's request for a hearing, no more than six months from the last hearing; and (3) within 30 days after the treating physician says the defendant is competent.

At the hearing, the Court may do any of the following:

- (1) If competent, proceed against the defendant;
- (2) If incompetent and maximum time for treatment has not expired, the Court may order continued treatment with the possibility of changing the treatment facility or program;
- (3) If the treatment supervisor finds that the defendant incompetent and not likely to be restored even with a course of treatment at any time during the commitment or whenever the maximum treatment time has expired, if the defendant is charged with a lesser felony offense than described above for 2945.38(C)(1), the Court can dismiss indictment, discharge defendant, or refer to probate court.

The place of probate commitment must notify the prosecutor in writing when defendant (a) is ready for discharge (10 days prior), (b) goes AWOL, (c) prior to granting Unsupervised Off-Grounds movement, and (d) whenever there is a change of the defendant's commitment or admission to voluntary status, or

(4) If found incompetent and not restorable, and the defendant is charged with an offense as described in 2945.38(C)(1), the criminal court has the option to maintain jurisdiction over the defendant (Incompetent to Stand Trial, under Criminal Court Jurisdiction), if after a hearing, it is found by clear and convincing evidence that the defendant committed the offense with which he/she was charged and the defendant is found to be mentally ill or mentally retarded and subject to hospitalization or institutionalization.

SHARING OF INFORMATION

Prosecutors are required to send to the place of commitment information about the defendant's current mental condition and other relevant information including police reports, transcripts of hearings, and arrest records, unless the release of this information would interfere with the effective prosecution of any person or create a substantial risk of harm to anyone.

The place of commitment shall send to the Alcohol, Drug Addiction & Mental Health Services or Community Mental Health Board all of the information it receives from the prosecutor.

NOT GUILTY BY REASON OF INSANITY (NGRI)

A defendant is held responsible if all the elements of a criminal act are proven.

Defendant may raise a plea of NGRI to the charge to negate culpability.

Defense may retain of the Court may appoint examiners.

Examiners shall give an opinion as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

At trial, the defendant must prove NGRI by a preponderance of the evidence.

PROVISIONS FOR PERSONS FOUND NGRI AND THOSE FOUND IST-U-CJ

If found NGRI, a hearing shall be held to determine if the person is mentally ill and subject to hospitalization or mentally retarded and subject to institutionalization.

The burden of proof at commitment hearings to retain the person is on the prosecutor to prove by clear and convincing evidence.

Defendants committed under 2945.39 (IST-U-CJ) or 2945.40 (NGRI) can remain under the criminal court's jurisdiction until expiration of the maximum prison term or term of imprisonment the defendant could have received if convicted of the charges against the defendant. If after the expiration of the maximum term, the defendant still requires hospitalization, the court or prosecutor can file an affidavit in probate court.

Reports to the Court shall be made by the place of commitment after the initial six months of treatment and every two years after the initial report is made.

Hearings shall be held within 30 days of receipt of the report or if the defendant has requested a hearing. Defendant can only request a hearing after six months or more have elapsed since the most recent hearing was held. If the hearing is for a person found Incompetent to Stand Trial-Unrestorable and under Criminal Court Jurisdiction, the place of commitment shall give an opinion as to whether or not the defendant remains incompetent to stand trial.

MOVEMENT PROCEDURES FOR PERSONS FOUND NGRI AND IST-U-CJ

The place of commitment can recommend a change in the conditions of the defendant's placement or termination of the defendant's commitment at any time after an evaluation of risks to public safety and the defendant's welfare.

If On-Grounds Unsupervised or Off-Grounds Supervised Movement is requested, the following applies: (1) the CCO requests the movement from the Court; if the prosecutor does not request a hearing within 15 days, the Court either approves the CCO's request or may hold a hearing on its own accord within 30 days; if the prosecutor does request a hearing, the Court holds the hearing within 30 days of request; if the hearing is held, the Court must notify the prosecutor 15 days prior to the hearing date and at the conclusion of the hearing, make a decision regarding the CCO request.

If the CCO recommends Discharge, Termination of the commitment, or the first of any Nonsecured status, the CCO shall also notify the local Forensic Center and the Court of the recommendation.

The Forensic Center shall examine the person and send a written report to the CCO and the Court within 30 days. The Court sends the report to the prosecutor and the defense counsel.

If the Forensic Center disagrees with the CCO recommendation (reasons must be included), the CCO can withdraw, modify, or proceed with the recommendation.

If the Forensic Center agrees with the CCO recommendation (reasons must be included), the CCO will proceed with the recommendation to the court.

If the CCO proceeds with the recommendation, the CCO shall work with the Board of Alcohol, Drug Addiction, and Mental Health Services or Community Mental Health Board to develop a plan to implement the recommendation. The plan shall include a system to monitor medication compliance if the person is on medication.

The Court shall hold a hearing within 30 days unless continued for not more than 30 more days at the request of the prosecutor to obtain an independent expert evaluation.

For mentally retarded persons subject to institutionalization by court order and residing in facilities operated by the Department of Mental Retardation and Developmental Disabilities, the requirement of a second opinion from the Forensic Center before granting Nonsecured Movement privileges does not apply.

In making a determination regarding nonsecured status or termination of commitment, the "In Re Burton" criteria should be considered: (1) whether the person represents a substantial risk of

physical harm to self or others, (2) Psychiatric and medical testimony as to the person's mental and physical condition, (3) Whether the person has insight into his or her condition and will continue treatment as prescribed or needed, (4) The grounds upon which the state relies for proposed commitment, (5) Any past history relevant to establish the defendant's conformity to laws, rules, regulations, and values of society, and (6) If the person's mental illness is in a state of remission, the probability the defendant will continue treatment to maintain the remissive state.

CONDITIONAL RELEASE

Conditional Release is a commitment and hearings must be held as described above for persons found Not Guilty by Reason of Insanity and Incompetent to Stand Trial-Unrestorable-Under Criminal Court Jurisdiction.

The Forensic Monitor shall notify the Court upon learning of a Conditional release violation.

The Court may issue a Temporary Order of Detention (TOD) back into the hospital or institution or issue an Arrest Warrant as necessary.

After an alleged violation is reported to the Court, a hearing must be held within 10 days to determine whether the Conditional Release should be modified or terminated (preponderance of evidence). The hearing can be continued for 10 days for good cause or upon motion of the respondent. (If the hearing is not held within time limits, prior Conditional release is restored.)

The burden of proof is on the prosecutor to show that the conditions of release were violated.

Conditional release ends when the maximum time for commitment expires or the person is no longer mentally ill or subject to hospitalization (dangerous) as determined by the Court.

COMMUNITY FORENSIC TRACKING AND MONITORING SYSTEM

In January 1998, ODMH in conjunction with the Alcohol, Drug Addiction and Mental Health Services or Community Mental Health Board, implemented a coordinated system to track and monitor persons found NGRI and IST-U-CJ and granted Conditional Release.

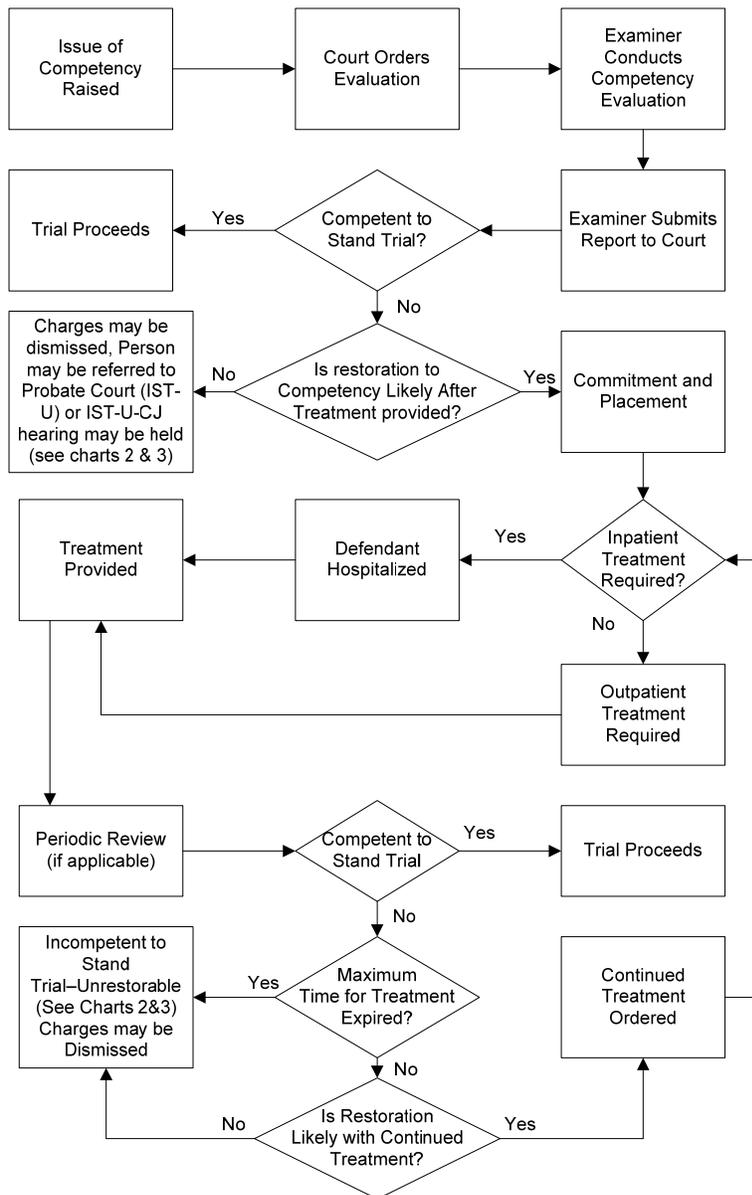
The tracking and monitoring system centralized responsibility for tracking persons on Conditional release, developed uniformity in monitoring, and developed a mechanism to allow prompt rehospitalization, institutionalization or detention when a Conditional Release violation occurs.

A **Community Forensic Monitor** is required for all Alcohol, Drug Addiction and Mental Health Services or Community Mental Health Boards. These Monitors work collaboratively with the hospitals, courts, and mental health treatment agencies to monitor persons found NGRI and IST-U-CJ who are on Conditional Release. Monitors collaborate on the hospital conditional release plans, attend court hearings, coordinate services, and monitor progress of persons through periodic risk assessments and treatment compliance reports. Monitors may make recommendations to the courts regarding medication of conditional release plans, revocation of conditional release through arrest or rehospitalization, or discharge from Conditional release.

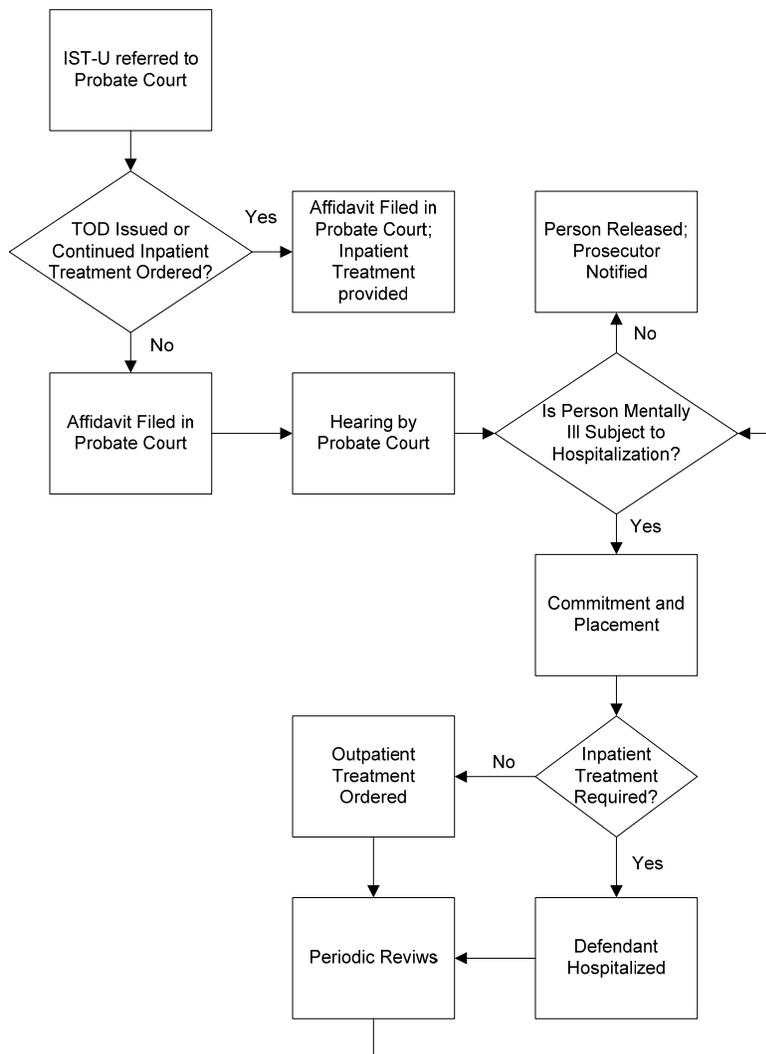
Community Forensic Monitors are required to report data quarterly to the Office of Forensic services regarding persons on Conditional release, thus maintaining a statewide tracking system.

The Office of Forensic services meets periodically with all the forensic Monitors to assure consistency and make changes as needed in the program.

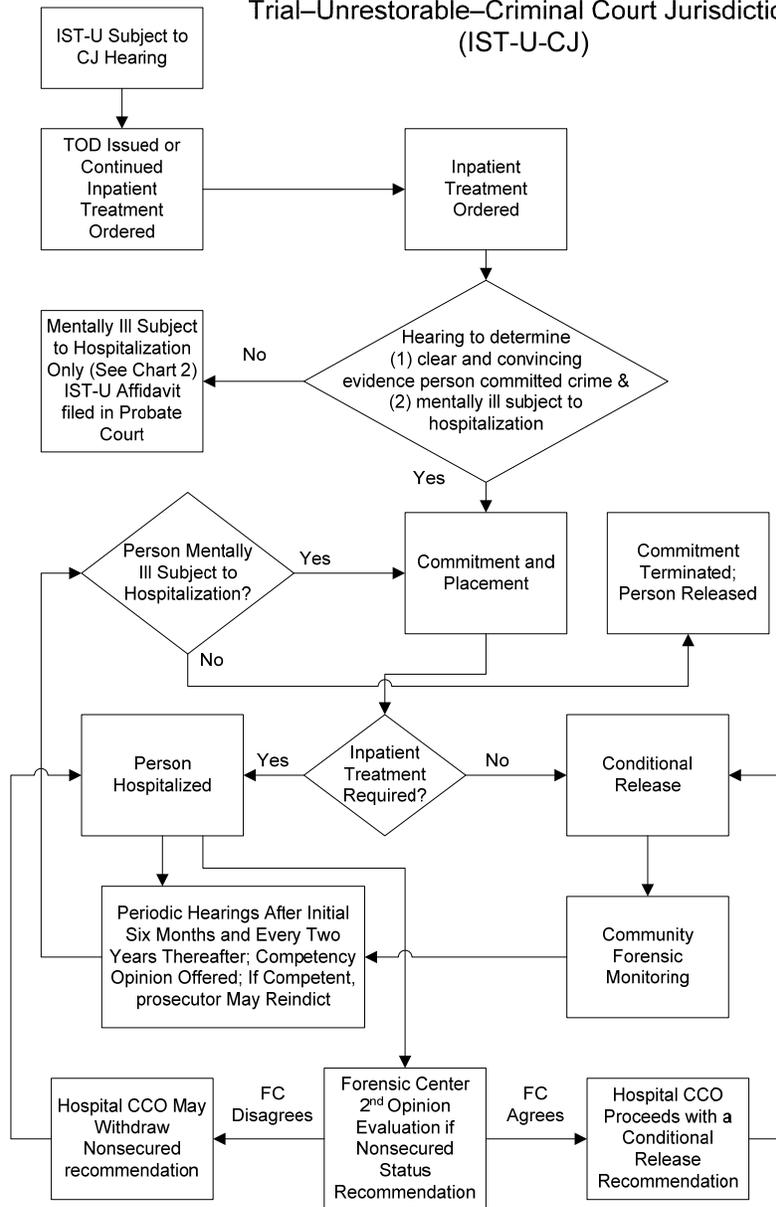
Flowchart #1: Incompetent to Stand Trial–Restorable IST-R



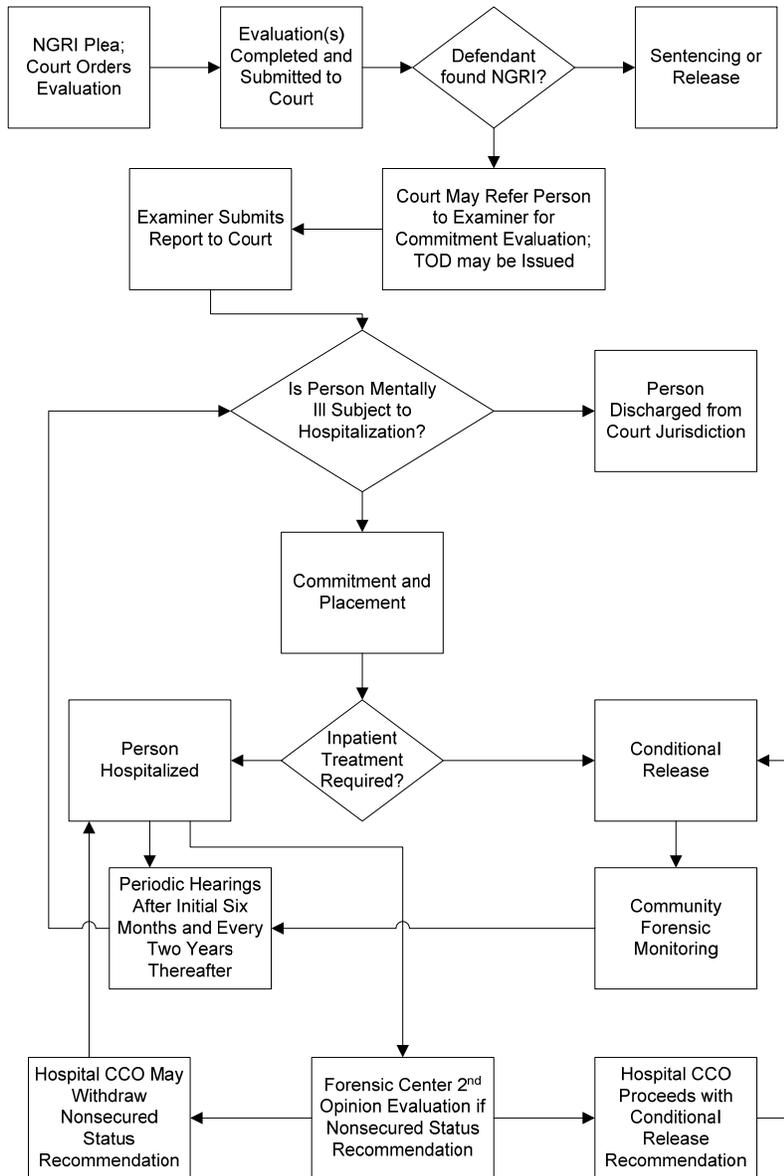
Flowchart #2: Incompetent to Stand Trial–Unrestorable, Probate Court (IST-U)



Flowchart #3: Incompetent to Stand Trial–Unrestorable–Criminal Court Jurisdiction (IST-U-CJ)



Flowchart #4: Not Guilty by Reason of Insanity (NGRI)



Appendix H

OHIO REVISED CODE 2945.37 TO 2945.402

2945.37 Competency to stand trial definitions - hearing.

(A) As used in sections 2945.37 to 2945.402 of the Revised Code:

(1) "Prosecutor" means a prosecuting attorney or a city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has authority to prosecute a criminal case that is before the court or the criminal case in which a defendant in a criminal case has been found incompetent to stand trial or not guilty by reason of insanity.

(2) "Examiner" means either of the following:

(a) A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I)(1) of section 5122.01 of the Revised Code or is employed by a certified forensic center designated by the department of mental health to conduct examinations or evaluations.

(b) For purposes of a separate mental retardation evaluation that is ordered by a court pursuant to division (H) of section 2945.371 of the Revised Code, a psychologist designated by the director of mental retardation and developmental disabilities pursuant to that section to conduct that separate mental retardation evaluation.

(3) "Nonsecured status" means any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any conditional release, that is granted to a person who is found incompetent to stand trial and is committed pursuant to section 2945.39 of the Revised Code or to a person who is found not guilty by reason of insanity and is committed pursuant to section 2945.40 of the Revised Code.

(4) "Unsupervised, off-grounds movement" includes only off-grounds privileges that are unsupervised and that have an expectation of return to the hospital or institution on a daily basis.

(5) "Trial visit" means a patient privilege of a longer stated duration of unsupervised community contact with an expectation of return to the hospital or institution at designated times.

(6) "Conditional release" means a commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitalization or reinstitutionalization of the person as described in division (A) of section 2945.402 of the Revised Code and pursuant to which a person who is found incompetent to stand trial or a person who is found not guilty by reason of insanity lives and receives treatment in the community for a period of time that does not exceed the maximum prison term or term of imprisonment that the person could have received for the offense in question had the person been convicted of the offense instead of being found incompetent to stand trial on the charge of the offense or being found not guilty by reason of insanity relative to the offense.

(7) "Licensed clinical psychologist," "mentally ill person subject to hospitalization by court order," and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.

(8) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.

(B) In a criminal action in a court of common pleas, a county court, or a municipal court, the court, prosecutor, or defense may raise the issue of the defendant's competence to stand trial. If the issue is raised before the trial has commenced, the court shall hold a hearing on the issue as provided in this section. If the issue is raised after the trial has commenced, the court shall hold a hearing on the issue only for good cause shown or on the court's own motion.

(C) The court shall conduct the hearing required or authorized under division (B) of this section within thirty days after the issue is raised, unless the defendant has been referred for evaluation in which case the court shall conduct the hearing within ten days after the filing of the report of the evaluation or, in the case of a defendant who is ordered by the court pursuant to division (H) of section 2945.371 of the Revised Code to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of mental

retardation and developmental disabilities, within ten days after the filing of the report of the separate mental retardation evaluation under that division. A hearing may be continued for good cause.

(D) The defendant shall be represented by counsel at the hearing conducted under division (C) of this section. If the defendant is unable to obtain counsel, the court shall appoint counsel under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code before proceeding with the hearing.

(E) The prosecutor and defense counsel may submit evidence on the issue of the defendant's competence to stand trial. A written report of the evaluation of the defendant may be admitted into evidence at the hearing by stipulation, but, if either the prosecution or defense objects to its admission, the report may be admitted under sections 2317.36 to 2317.38 of the Revised Code or any other applicable statute or rule.

(F) The court shall not find a defendant incompetent to stand trial solely because the defendant is receiving or has received treatment as a voluntary or involuntary mentally ill patient under Chapter 5122. or a voluntary or involuntary mentally retarded resident under Chapter 5123. of the Revised Code or because the defendant is receiving or has received psychotropic drugs or other medication, even if the defendant might become incompetent to stand trial without the drugs or medication.

(G) A defendant is presumed to be competent to stand trial. If, after a hearing, the court finds by a preponderance of the evidence that, because of the defendant's present mental condition, the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the court shall find the defendant incompetent to stand trial and shall enter an order authorized by section 2945.38 of the Revised Code.

(H) Municipal courts shall follow the procedures set forth in sections 2945.37 to 2945.402 of the Revised Code. Except as provided in section 2945.371 of the Revised Code, a municipal court shall not order an evaluation of the defendant's competence to stand trial or the defendant's mental condition at the time of the commission of the offense to be conducted at any hospital operated by the department of mental health. Those evaluations shall be performed through community resources including, but not limited to, certified forensic centers, court probation departments, and community mental health agencies. All expenses of the evaluations shall be borne by the legislative authority of the municipal court, as defined in section 1901.03 of the Revised Code, and shall be taxed as costs in the case. If a defendant is found incompetent to stand trial or not guilty by reason of insanity, a municipal court may commit the defendant as provided in sections 2945.38 to 2945.402 of the Revised Code.

Effective Date: 07-01-1997

2945.371 Evaluations and reports of the defendant's mental condition.

(A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation.

(B) If the court orders more than one evaluation under division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court shall inform the defendant that the defendant may have independent expert evaluation and that, if the defendant is unable to obtain independent expert evaluation, it will be obtained for the defendant at public expense if the defendant is indigent.

(C) If the court orders an evaluation under division (A) of this section, the defendant shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order a defendant who has been released on bail or recognizance to submit to an evaluation under this section. If a defendant who has been released on bail or recognizance refuses to submit to a complete evaluation, the court may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a center, program, or facility operated or certified by the department of mental health or the department of mental retardation and developmental disabilities where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days.

(D) A defendant who has not been released on bail or recognizance may be evaluated at the defendant's place of detention. Upon the request of the examiner, the court may order the sheriff to transport the defendant to a program or facility operated by the department of mental health or the department of mental retardation and developmental disabilities, where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the defendant to the place of detention after the evaluation. A municipal court may make an order under this division only upon the request of a certified forensic center examiner.

(E) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged.

(F) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome."

(G) The examiner shall file a written report with the court within thirty days after entry of a court order for evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the following:

(1) The examiner's findings;

(2) The facts in reasonable detail on which the findings are based;

(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense;

(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, whether the defendant presently is mentally ill or mentally retarded and, if the examiner's opinion is that the defendant presently is mentally retarded, whether the defendant appears to be a mentally retarded person subject to institutionalization by court order;

(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment;

(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or mentally retarded, the examiner's recommendation as to the least restrictive treatment alternative, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community.

(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

(H) If the examiner's report filed under division (G) of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a mentally retarded person subject to institutionalization by court order, the court shall order the defendant to undergo a separate mental retardation evaluation conducted by a psychologist designated by the director of mental retardation and developmental disabilities. Divisions (C) to (F) of this section apply in relation to a separate mental retardation evaluation conducted under this division. The psychologist appointed under this division to conduct the separate mental retardation evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate mental retardation evaluation, and the court shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions (G)(1) to (4) of this section. If the court orders a separate mental retardation evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code

regarding that defendant until a report of the separate mental retardation evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

(I) An examiner appointed under divisions (A) and (B) of this section or under division (H) of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

(J) No statement that a defendant makes in an evaluation or hearing under divisions (A) to (H) of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other witnesses or presenting other evidence on competency or insanity issues.

(K) Persons appointed as examiners under divisions (A) and (B) of this section or under division (H) of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Effective Date: 02-20-2002

2945.38 Competence to stand trial.

(A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment. If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the treatment or continuing evaluation and treatment shall occur at a facility operated by the department of mental health or the department of mental retardation and developmental disabilities, at a facility certified by either of those departments as being qualified to treat mental illness or mental retardation, at a public or private community mental health or mental retardation facility, or by a psychiatrist or another mental health or mental retardation professional. The order may restrict the defendant's freedom of movement as the court considers necessary. The prosecutor in the defendant's case shall send to the chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed copies of relevant police reports and other background information that pertains to the defendant and is available to the prosecutor unless the prosecutor determines that the release of any of the information in the police reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person.

In determining placement alternatives, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and treatment goals. In weighing these factors, the court shall give preference to protecting public safety.

(c) If the defendant is found incompetent to stand trial, if the chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer, managing officer, director, or person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant charged with a felony offense. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 or 5123.71 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. or 5123. of the Revised Code.

(C) No defendant shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;

(b) An offense of violence that is a felony of the first or second degree;

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree.

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section;

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor.

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed to a hospital or other institution by the court under this section shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or the institution to which the defendant is committed. The chief clinical officer of the

hospital or the managing officer of the institution to which the defendant is committed or a designee of either of those persons may grant a defendant movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the defendant, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or the managing officer of the institution shall notify the court within twenty-four hours of the defendant's movement to the medical facility for an emergency medical situation under this division.

(F) The person who supervises the treatment or continuing evaluation and treatment of a defendant ordered to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or mentally retarded, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive treatment alternative that is consistent with the defendant's treatment needs for restoration to competency and with the safety of the community. The court shall provide copies of the report to the prosecutor and defense counsel.

(H) If a defendant is committed pursuant to division (B)(1) of this section, within ten days after the treating physician of the defendant or the examiner of the defendant who is employed or retained by the treating facility advises that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment, within ten days after the expiration of the maximum time for treatment as specified in division (C) of this section, within ten days after the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, within thirty days after a defendant's request for a hearing that is made after six months of treatment, or within thirty days after being advised by the treating physician or examiner that the defendant is competent to stand trial, whichever is the earliest, the court shall conduct another hearing to determine if the defendant is competent to stand trial and shall do whichever of the following is applicable:

(1) If the court finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law.

(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the facility or program at which the treatment is to be continued, and shall specify whether the treatment is to be continued at the same or a different facility or program.

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the

defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401 , and 2945.402 of the Revised Code.

(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment. All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall do all of the following:

(i) Notify the prosecutor, in writing, of the discharge of the defendant, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the defendant will be discharged;

(ii) Notify the prosecutor, in writing, when the defendant is absent without leave or is granted unsupervised, off-grounds movement, and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the prosecutor, in writing, of the change of the defendant's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the defendant was committed or admitted on a voluntary status.

(b) Upon receiving notice that the defendant will be granted unsupervised, off-grounds movement, the prosecutor either shall re-indict the defendant or promptly notify the court that the prosecutor does not intend to prosecute the charges against the defendant.

(l) If a defendant is convicted of a crime and sentenced to a jail or workhouse, the defendant's sentence shall be reduced by the total number of days the defendant is confined for evaluation to determine the defendant's competence to stand trial or treatment under this section and sections 2945.37 and 2945.371 of the Revised Code or by the total number of days the defendant is confined for evaluation to determine the defendant's mental condition at the time of the offense charged.

Effective Date: 02-20-2002

2945.39 Expiration of the maximum time for treatment for incompetency.

(A) If a defendant who is charged with an offense described in division (C)(1) of section 2945.38 of the Revised Code is found incompetent to stand trial, after the expiration of the maximum time for treatment as specified in division (C) of that section or after the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, one of the following applies:

(1) The court or the prosecutor may file an affidavit in probate court for civil commitment of the defendant in the manner provided in Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may detain the defendant for ten days pending civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions.

(2) On the motion of the prosecutor or on its own motion, the court may retain jurisdiction over the defendant if, at a hearing, the court finds both of the following by clear and convincing evidence:

(a) The defendant committed the offense with which the defendant is charged.

(b) The defendant is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order.

(B) In making its determination under division (A)(2) of this section as to whether to retain jurisdiction over the defendant, the court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense charged, and any history of the defendant that is relevant to the defendant's ability to conform to the law.

(C) If the court conducts a hearing as described in division (A)(2) of this section and if the court does not make both findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall dismiss the indictment, information, or complaint against the defendant. Upon the dismissal, the court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code. If the court or prosecutor files an affidavit for civil commitment, the court may order that the defendant be detained for up to ten days pending the civil commitment. If the probate court commits the defendant subsequent to the court's or prosecutor's filing of an affidavit for civil commitment, the chief clinical officer of the hospital or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall send to the prosecutor the notices described in divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code within the periods of time and under the circumstances specified in those divisions. A dismissal of charges under this division is not a bar to further criminal proceedings based on the same conduct.

(D)(1) If the court conducts a hearing as described in division (A)(2) of this section and if the court makes the findings described in divisions (A)(2)(a) and (b) of this section by clear and convincing evidence, the court shall commit the defendant to a hospital operated by the department of mental health, a facility operated by the department of mental retardation and developmental disabilities, or another medical or psychiatric facility, as appropriate. In determining the place and nature of the commitment, the court shall order the least restrictive commitment alternative available that is consistent with public safety and the welfare of the defendant. In weighing these factors, the court shall give preference to protecting public safety.

(2) If a court makes a commitment of a defendant under division (D)(1) of this section, the prosecutor shall send to the place of commitment all reports of the defendant's current mental condition and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A)(2) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses. The prosecutor shall send the reports of the defendant's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. Upon admission of a defendant committed under division (D)(1) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the defendant were filed a copy of all reports of the defendant's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A)(2) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses.

(3) If a court makes a commitment under division (D)(1) of this section, all further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code.

Effective Date: 02-20-2002

2945.391 Not guilty by reason of insanity finding.

For purposes of sections 2945.371 , 2945.40, 2945.401 , and 2945.402 and Chapters 5122. and 5123. of the Revised Code, a person is "not guilty by reason of insanity" relative to a charge of an offense only as described in division (A)(14) of section 2901.01 of the Revised Code. Proof that a person's reason, at the time of the commission of an offense, was so impaired that the person did not have the ability to refrain from doing the person's act or acts, does not constitute a defense.

Effective Date: 07-01-1997

2945.392 Expert testimony of the battered woman syndrome.

(A) The declarations set forth in division (A) of section 2901.06 of the Revised Code apply in relation to this section.

(B) If a defendant is charged with an offense involving the use of force against another and the defendant enters a plea to the charge of not guilty by reason of insanity, the defendant may introduce expert testimony of the "battered woman syndrome" and expert testimony that the defendant suffered from that syndrome as evidence to establish the requisite impairment of the defendant's reason, at the time of the commission of the offense, that is necessary for a finding that the defendant is not guilty by reason of insanity. The introduction of any expert testimony under this division shall be in accordance with the Ohio Rules of Evidence.

Effective Date: 07-01-1997

2945.40 Acquittal by reason of insanity.

(A) If a person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. Prior to the hearing, if the trial judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or mentally retarded person subject to institutionalization by court order, the trial judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court shall inform the person that the person has all of the following rights:

(1) The right to be represented by counsel and to have that counsel provided at public expense if the person is indigent, with the counsel to be appointed by the court under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code;

(2) The right to have independent expert evaluation and to have that independent expert evaluation provided at public expense if the person is indigent;

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses against the person;

(4) The right to testify in the person's own behalf and to not be compelled to testify;

(5) The right to have copies of any relevant medical or mental health document in the custody of the state or of any place of commitment other than a document for which the court finds that the release to the person of information contained in the document would create a substantial risk of harm to any person.

(D) The hearing under division (A) of this section shall be open to the public, and the court shall conduct the hearing in accordance with the Rules of Civil Procedure. The court shall make and maintain a full transcript and record of the hearing proceedings. The court may consider all relevant evidence, including, but not limited to, any relevant psychiatric, psychological, or medical testimony or reports, the acts constituting the offense in relation to which the person was found not guilty by reason of insanity, and any history of the person that is relevant to the person's ability to conform to the law.

(E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.

(F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, it shall commit the person to a hospital operated by the department of mental health, a facility operated by the department of mental retardation and developmental disabilities, or another medical or psychiatric facility, as appropriate, and further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code. In determining the place and nature of the commitment, the court shall order the least restrictive commitment alternative available that is consistent with public safety and the welfare of the person. In weighing these factors, the court shall give preference to protecting public safety.

(G) If a court makes a commitment of a person under division (F) of this section, the prosecutor shall send to the place of commitment all reports of the person's current mental condition, and, except as otherwise provided in this division, any other relevant information, including, but not limited to, a transcript of the hearing held pursuant to division (A) of this section, copies of relevant police reports, and copies of any prior arrest and conviction records that pertain to the person and that the prosecutor possesses. The prosecutor shall send the reports of the person's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. Upon admission of a person committed under division (F) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the person were filed a copy of all reports of the person's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the person and that the prosecutor possesses.

(H) A person who is committed pursuant to this section shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to sections 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

Effective Date: 07-01-1997

2945.401 Incompetency finding or insanity acquittal continuing jurisdiction of court.

(A) A defendant found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code or a person found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code shall remain subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section. If the jurisdiction is terminated under this division because of the final termination of the commitment resulting from the expiration of the maximum prison term or term of imprisonment described in division (J)(1)(b) of this section, the court or prosecutor may file an affidavit for the civil commitment of the defendant or person pursuant to Chapter 5122. or 5123. of the Revised Code.

(B) A hearing conducted under any provision of sections 2945.37 to 2945.402 of the Revised Code shall not be conducted in accordance with Chapters 5122. and 5123. of the Revised Code. Any person who is committed pursuant to section 2945.39 or 2945.40 of the Revised Code shall not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. All other provisions of Chapters 5122. and 5123. of the Revised Code regarding hospitalization or institutionalization shall apply to the extent they are not in conflict with this chapter. A commitment under section 2945.39 or 2945.40 of the Revised Code shall not be terminated and the conditions of the commitment shall not be

changed except as otherwise provided in division (D)(2) of this section with respect to a mentally retarded person subject to institutionalization by court order or except by order of the trial court.

(C) The hospital, facility, or program to which a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code shall report in writing to the trial court, at the times specified in this division, as to whether the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order and, in the case of a defendant committed under section 2945.39 of the Revised Code, as to whether the defendant remains incompetent to stand trial. The hospital, facility, or program shall make the reports after the initial six months of treatment and every two years after the initial report is made. The trial court shall provide copies of the reports to the prosecutor and to the counsel for the defendant or person. Within thirty days after its receipt pursuant to this division of a report from a hospital, facility, or program, the trial court shall hold a hearing on the continued commitment of the defendant or person or on any changes in the conditions of the commitment of the defendant or person. The defendant or person may request a change in the conditions of confinement, and the trial court shall conduct a hearing on that request if six months or more have elapsed since the most recent hearing was conducted under this section.

(D)(1) Except as otherwise provided in division (D)(2) of this section, when a defendant or person has been committed under section 2945.39 or 2945.40 of the Revised Code, at any time after evaluating the risks to public safety and the welfare of the defendant or person, the chief clinical officer of the hospital, facility, or program to which the defendant or person is committed may recommend a termination of the defendant's or person's commitment or a change in the conditions of the defendant's or person's commitment.

Except as otherwise provided in division (D)(2) of this section, if the chief clinical officer recommends on-grounds unsupervised movement, off-grounds supervised movement, or nonsecured status for the defendant or person or termination of the defendant's or person's commitment, the following provisions apply:

(a) If the chief clinical officer recommends on-grounds unsupervised movement or off-grounds supervised movement, the chief clinical officer shall file with the trial court an application for approval of the movement and shall send a copy of the application to the prosecutor. Within fifteen days after receiving the application, the prosecutor may request a hearing on the application and, if a hearing is requested, shall so inform the chief clinical officer. If the prosecutor does not request a hearing within the fifteen-day period, the trial court shall approve the application by entering its order approving the requested movement or, within five days after the expiration of the fifteen-day period, shall set a date for a hearing on the application. If the prosecutor requests a hearing on the application within the fifteen-day period, the trial court shall hold a hearing on the application within thirty days after the hearing is requested. If the trial court, within five days after the expiration of the fifteen-day period, sets a date for a hearing on the application, the trial court shall hold the hearing within thirty days after setting the hearing date. At least fifteen days before any hearing is held under this division, the trial court shall give the prosecutor written notice of the date, time, and place of the hearing. At the conclusion of each hearing conducted under this division, the trial court either shall approve or disapprove the application and shall enter its order accordingly.

(b) If the chief clinical officer recommends termination of the defendant's or person's commitment at any time or if the chief clinical officer recommends the first of any nonsecured status for the defendant or person, the chief clinical officer shall send written notice of this recommendation to the trial court and to the local forensic center. The local forensic center shall evaluate the committed defendant or person and, within thirty days after its receipt of the written notice, shall submit to the trial court and the chief clinical officer a written report of the evaluation. The trial court shall provide a copy of the chief clinical officer's written notice and of the local forensic center's written report to the prosecutor and to the counsel for the defendant or person. Upon the local forensic center's submission of the report to the trial court and the chief clinical officer, all of the following apply:

(i) If the forensic center disagrees with the recommendation of the chief clinical officer, it shall inform the chief clinical officer and the trial court of its decision and the reasons for the decision. The chief clinical officer, after consideration of the forensic center's decision, shall either withdraw, proceed with, or modify and proceed with the recommendation. If the chief clinical officer proceeds with, or modifies and proceeds with, the recommendation, the chief clinical officer shall proceed in accordance with division (D)(1)(b)(ii) of this section.

(ii) If the forensic center agrees with the recommendation of the chief clinical officer, it shall inform the chief clinical officer and the trial court of its decision and the reasons for the decision, and the chief clinical officer shall proceed in accordance with division (D)(1)(b)(iii) of this section.

(iii) If the forensic center disagrees with the recommendation of the chief clinical officer and the chief clinical officer proceeds with, or modifies and proceeds with, the recommendation or if the forensic center agrees with the recommendation of the chief clinical officer, the chief clinical officer shall work with the board of alcohol, drug addiction, and mental health services or community mental health board serving the area, as appropriate, to

develop a plan to implement the recommendation. If the defendant or person is on medication, the plan shall include, but shall not be limited to, a system to monitor the defendant's or person's compliance with the prescribed medication treatment plan. The system shall include a schedule that clearly states when the defendant or person shall report for a medication compliance check. The medication compliance checks shall be based upon the effective duration of the prescribed medication, taking into account the route by which it is taken, and shall be scheduled at intervals sufficiently close together to detect a potential increase in mental illness symptoms that the medication is intended to prevent.

The chief clinical officer, after consultation with the board of alcohol, drug addiction, and mental health services or the community mental health board serving the area, shall send the recommendation and plan developed under division (D)(1)(b)(iii) of this section, in writing, to the trial court, the prosecutor and the counsel for the committed defendant or person. The trial court shall conduct a hearing on the recommendation and plan developed under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) and (d) and (E) to (J) of this section apply regarding the hearing.

(c) If the chief clinical officer's recommendation is for nonsecured status or termination of commitment, the prosecutor may obtain an independent expert evaluation of the defendant's or person's mental condition, and the trial court may continue the hearing on the recommendation for a period of not more than thirty days to permit time for the evaluation.

The prosecutor may introduce the evaluation report or present other evidence at the hearing in accordance with the Rules of Evidence.

(d) The trial court shall schedule the hearing on a chief clinical officer's recommendation for nonsecured status or termination of commitment and shall give reasonable notice to the prosecutor and the counsel for the defendant or person. Unless continued for independent evaluation at the prosecutor's request or for other good cause, the hearing shall be held within thirty days after the trial court's receipt of the recommendation and plan.

(2)(a) Division (D)(1) of this section does not apply to on-grounds unsupervised movement of a defendant or person who has been committed under section 2945.39 or 2945.40 of the Revised Code, who is a mentally retarded person subject to institutionalization by court order, and who is being provided residential habilitation, care, and treatment in a facility operated by the department of mental retardation and developmental disabilities.

(b) If, pursuant to section 2945.39 of the Revised Code, the trial court commits a defendant who is found incompetent to stand trial and who is a mentally retarded person subject to institutionalization by court order, if the defendant is being provided residential habilitation, care, and treatment in a facility operated by the department of mental retardation and developmental disabilities, if an individual who is conducting a survey for the department of health to determine the facility's compliance with the certification requirements of the medicaid program under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the defendant's receipt of the residential habilitation, care, and treatment in the facility as being inappropriate under the certification requirements, if the defendant's receipt of the residential habilitation, care, and treatment in the facility potentially jeopardizes the facility's continued receipt of federal medicaid moneys, and if as a result of the citation the chief clinical officer of the facility determines that the conditions of the defendant's commitment should be changed, the department of mental retardation and developmental disabilities may cause the defendant to be removed from the particular facility and, after evaluating the risks to public safety and the welfare of the defendant and after determining whether another type of placement is consistent with the certification requirements, may place the defendant in another facility that the department selects as an appropriate facility for the defendant's continued receipt of residential habilitation, care, and treatment and that is a no less secure setting than the facility in which the defendant had been placed at the time of the citation. Within three days after the defendant's removal and alternative placement under the circumstances described in division (D)(2)(b) of this section, the department of mental retardation and developmental disabilities shall notify the trial court and the prosecutor in writing of the removal and alternative placement.

The trial court shall set a date for a hearing on the removal and alternative placement, and the hearing shall be held within twenty-one days after the trial court's receipt of the notice from the department of mental retardation and developmental disabilities. At least ten-[sic]days before the hearing is held, the trial court shall give the prosecutor, the department of mental retardation and developmental disabilities, and the counsel for the defendant written notice of the date, time, and place of the hearing. At the hearing, the trial court shall consider the citation issued by the individual who conducted the survey for the department of health to be prima-facie evidence of the fact that the defendant's commitment to the particular facility was inappropriate under the certification requirements of the medicaid program under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and potentially jeopardizes the particular facility's continued receipt of federal medicaid moneys. At the conclusion of the hearing, the trial court may approve or disapprove the defendant's removal and alternative placement. If the trial court approves the

defendant's removal and alternative placement, the department of mental retardation and developmental disabilities may continue the defendant's alternative placement. If the trial court disapproves the defendant's removal and alternative placement, it shall enter an order modifying the defendant's removal and alternative placement, but that order shall not require the department of mental retardation and developmental disabilities to replace the defendant for purposes of continued residential habilitation, care, and treatment in the facility associated with the citation issued by the individual who conducted the survey for the department of health.

(E) In making a determination under this section regarding nonsecured status or termination of commitment, the trial court shall consider all relevant factors, including, but not limited to, all of the following:

(1) Whether, in the trial court's view, the defendant or person currently represents a substantial risk of physical harm to the defendant or person or others;

(2) Psychiatric and medical testimony as to the current mental and physical condition of the defendant or person;

(3) Whether the defendant or person has insight into the defendant's or person's condition so that the defendant or person will continue treatment as prescribed or seek professional assistance as needed;

(4) The grounds upon which the state relies for the proposed commitment;

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D)(1) or (2) of this section, the prosecutor shall represent the state or the public interest.

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the chief clinical officer of a hospital, program, or facility, the trial court may approve, disapprove, or modify the recommendation and shall enter an order accordingly.

(J)(1) A defendant or person who has been committed pursuant to section 2945.39 or 2945.40 of the Revised Code continues to be under the jurisdiction of the trial court until the final termination of the commitment. For purposes of division (J) of this section, the final termination of a commitment occurs upon the earlier of one of the following:

(a) The defendant or person no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, as determined by the trial court;

(b) The expiration of the maximum prison term or term of imprisonment that the defendant or person could have received if the defendant or person had been convicted of the most serious offense with which the defendant or person is charged or in relation to which the defendant or person was found not guilty by reason of insanity;

(c) The trial court enters an order terminating the commitment under the circumstances described in division (J)(2)(a)(ii) of this section.

(2)(a) If a defendant is found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code, if neither of the circumstances described in divisions (J)(1)(a) and (b) of this section applies to that defendant, and if a report filed with the trial court pursuant to division (C) of this section indicates that the defendant presently is competent to stand trial or if, at any other time during the period of the defendant's commitment, the prosecutor, the counsel for the defendant, or the chief clinical officer of the hospital, facility, or program to which the defendant is committed files an application with the trial court alleging that the defendant presently is competent to stand trial and requesting a hearing on the competency issue or the trial court otherwise has reasonable cause to believe that the defendant presently is competent to stand trial and determines on its own motion to hold a hearing on the competency issue, the trial court shall schedule a hearing on the competency of the defendant to stand trial, shall give the prosecutor, the counsel for the defendant, and the chief clinical officer notice of the date, time, and place of the hearing at least fifteen days before the hearing, and shall conduct the hearing within thirty days of the filing of the application or of its own motion. If, at the conclusion of the hearing, the trial court determines that the defendant presently is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense, the trial court shall order that the defendant is competent to stand trial and shall be proceeded against as provided by law with respect to the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code and shall enter whichever of the following additional orders is appropriate:

(i) If the trial court determines that the defendant remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the hospital, facility, or program be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code.

(ii) If the trial court determines that the defendant no longer is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the trial court shall order that the defendant's commitment to the hospital, facility, or program shall not be continued during the pendency of the trial on the applicable offenses described in division (C)(1) of section 2945.38 of the Revised Code. This order shall be a final termination of the commitment for purposes of division (J)(1)(c) of this section.

(b) If, at the conclusion of the hearing described in division (J)(2)(a) of this section, the trial court determines that the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the trial court shall order that the defendant continues to be incompetent to stand trial, that the defendant's commitment to the hospital, facility, or program shall be continued, and that the defendant remains subject to the jurisdiction of the trial court pursuant to that commitment, and to the provisions of this section, until the final termination of the commitment as described in division (J)(1) of this section.

Effective Date: 07-01-1997

2945.402 Conditional release.

(A) In approving a conditional release, the trial court may set any conditions on the release with respect to the treatment, evaluation, counseling, or control of the defendant or person that the court considers necessary to protect the public safety and the welfare of the defendant or person. The trial court may revoke a defendant's or person's conditional release and order rehospitalization or reinstitutionalization at any time the conditions of the release have not been satisfied, provided that the revocation shall be in accordance with this section.

(B) A conditional release is a commitment. The hearings on continued commitment as described in section 2945.401 of the Revised Code apply to a defendant or person on conditional release.

(C) A person, agency, or facility that is assigned to monitor a defendant or person on conditional release immediately shall notify the trial court on learning that the defendant or person being monitored has violated the terms of the conditional release. Upon learning of any violation of the terms of the conditional release, the trial court may issue a temporary order of detention or, if necessary, an arrest warrant for the defendant or person. Within ten court days after the defendant's or person's detention or arrest, the trial court shall conduct a hearing to determine whether the conditional release should be modified or terminated. At the hearing, the defendant or person shall have the same rights as are described in division (C) of section 2945.40 of the Revised Code. The trial court may order a continuance of the ten-court-day period for no longer than ten days for good cause shown or for any period on motion of the defendant or person. If the trial court fails to conduct the hearing within the ten-court-

day period and does not order a continuance in accordance with this division, the defendant or person shall be restored to the prior conditional release status.

(D) The trial court shall give all parties reasonable notice of a hearing conducted under this section. At the hearing, the prosecutor shall present the case demonstrating that the defendant or person violated the terms of the conditional release. If the court finds by a preponderance of the evidence that the defendant or person violated the terms of the conditional release, the court may continue, modify, or terminate the conditional release and shall enter its order accordingly.

Effective Date: 07-01-1997

Appendix I

DATA MANAGEMENT TOOLS

Turning Point Counseling Services, Inc.

A Contract Agency of Mahoning County Mental Health Board

611 Belmont Ave
Youngstown, OH 44502
330.744.2991

420 Youngstown-Poland Road
Struthers, OH 44471
330.755.2147

156 Ohio Avenue
Sebring, OH 44672
330.938.9760

CLIENT NAME: _____ DATE: _____

CASE MANAGER: _____ AGENCY: _____

COMMITTING OFFENSE: _____

1. SERVICES PROVIDED TO CLIENT DURING PAST MONTH:

Service	Date of Contacts	Agency
Case Management		
Group Therapy		
Marital/Family conference		
Marital/Family therapy		
Chemotherapy		
Day/Partial Hosp/Drop-In-Center		
Vocational Programs		
Substance Abuse Counseling		
Drug Screen		
Crisis Intervention		

2. HAS CLIENT FAILED TO KEEP ANY APPOINTMENTS? Yes _____ No _____

If so, was appointment rescheduled? Yes _____ No _____ Date _____

3. PRESENT DSM-IV DIAGNOSES: _____

4. PRESENT MENTAL STATUS/LEVEL OF FUNCTIONING: _____

5. PRESENT MEDICATION(S): _____

6. TO YOUR KNOWLEDGE, IS CLIENT TAKING HIS/HER MEDICATION? Yes _____ No _____

If no, why not? _____

7. FORM OF MEDICATION Pill/Capsule _____ Liquid _____ Injection _____

8. METHOD OF VERIFICATION: Client Self-Report _____ Confirmed by Significant Other _____

Administered by Treatment Staff _____ Drug Screen _____ Other _____

9. SIGNIFICANT CHANGES IN CLIENT'S CIRCUMSTANCES (Job Loss, death of significant other, marital problems, etc.)

10. REPORT BY SIGNIFICANT OTHER (Family, Friend, AA sponsors, etc.) _____

Turn over Please

11. CLIENT'S PRESENT ADDRESS AND LIVING ARRANGEMENTS: _____

12. HOW DOES CLIENT OCCUPY TIME? _____

13. RESULTS OF DRUG SCREENS OBTAINED DURING MONTH (Include Dates and Substance Tested):

14. THE TREATMENT PLAN HAS/HAS NOT CHANGED (Please Attach New Plan if Changed): _____

15. ADDITIONAL COMMENTS: _____

Signature _____

Date: _____

**Please fax completed form to Linda Blum
at 330-746-3449
Due: Beginning of Month
Example: June Report due by July 7th**

CONDITIONAL RELEASE MONTHLY PROGRESS REPORT

Client's Name: _____ Date: _____
 Service Provider: _____ Service Agency: _____

1.) Services provided to client during past month

Service	Dates of Contacts	Agency
Case Management		
Ind./Group Therapy (circle)		
Marital/Family Conference		
Marital/Family Therapy		
Chemotherapy		
Day/Partial Hosp./Drop-In Center		
Vocational Programs		
Substance Abuse Counseling		
Drug Screen		
Crisis Intervention		

2.) Has client failed to keep any appointments? **Yes** _____ **No** _____
 if so, was appointment rescheduled? **Yes** _____ **No** _____

3.) Present DSM Diagnosis: _____

4.) Present Mental Status/Level of Functioning: _____

5.) Present Medication: _____

6.) To your knowledge, Is client taking his/her medication? **Yes** _____ **No** _____
 If no, why not? _____

7.) Form of medication: Pill/Capsule: _____ Liquid: _____ Injection: _____

8.) Method of verification: Client self report: _____ Confirmed by significant other: _____
 Drug Screen _____ Administered by treatment staff: _____
 Other: _____

9.) Significant changes in Client's circumstances (job loss, death of significant other, marital problems, etc.)

10.) Report by significant other (family, friend, AA sponsor, etc.): _____

11.) Client's present address and living arrangements: _____

12.) How does client occupy time? _____

13.) Results of drug screens obtained during month (include dates and substances tested) _____

 Person Completing This Form

 Date

Appendix J

Residence Determination and Dispute Process for Inpatient Services: Guidelines for ODMH Behavioral Healthcare Organizations and CMH/ADAMHS Boards

Purpose

The purpose of these guidelines is to establish procedures to determine the county of residence with respect to inpatient services. These guidelines are to be implemented in a way that is in the best interest of persons served, and in a manner that respects the expressed wishes of individuals with respect to residence.

Background

The definition of residence for financial purposes under Chapters 5119 and 5122 of the Revised Code is set out in ORC Section 5122.01(S), which states as follows:

"Residence" means a person's physical presence in a county with intent to remain there, except that: (1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained his primary place of residence at the time he entered the facility, or (2) committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401 or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed. [Except for persons civilly committed after a finding under 2945.38(H)(4)].

When a **college student** is seeking inpatient services, residence is the county where their parents live, if student is claimed as a tax dependent on their parents' return. If the student is emancipated, at a graduate level of study or has dependent children, the student should have further screening to determine actual county of residency. If the student is from out of state, the criteria used for out of state residency determination should be used.

When a **homeless person/ legal migrant** seeks inpatient services, residence is the county where they reside as homeless or otherwise.

When a **transitional homeless person**, whose residence is unknown and cannot be determined, seeks inpatient services, residence is the county where they present for services.

When a person from **out of state/ illegal migrant** seeks inpatient services in a state-operated Behavioral Healthcare Organization (BHO), residence is the county where the BHO is located.

Dispute Process

With respect to the **dispute of a person's residence**, Section 5122.01(S) states:

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for persons in an emergency situation.

Disputes may arise in connection with two (2) types of circumstances, the first being when a person has been hospitalized and the second is when a person presents himself or herself in a given county and requests or otherwise is in need of mental health services. The Dispute Process set out below addresses the process for inpatient residency disputes. The outpatient residency dispute process is described in the section entitled, "Guidelines and Operating Principles for Outpatient Residency Determinations Among CMH/ADAS/ADAMHS Boards" that begins on page 7 of this document.

Dispute Process

1. Any community mental health agency, which provides a prescreening service, must, as part of such service provided to an individual, determine the person's county of legal residence in accordance with ORC 5122.01(S). The prescreening service must ensure that written information indicating the person's county of residence accompanies any person admitted to an ODMH BHO along with the UCI number.
2. The ODMH BHO to which a person is admitted shall assign a county of residence for all persons admitted based on the information provided in 1) above, or upon its own determination if such information is insufficient or in error. This information will be documented in the Patient Care System (PCS) within two hours of admission. Each board is responsible to monitor new admissions on a daily basis and submit the UCI number if not provided at prescreening.
3. If the community mental health board to which the hospitalized person has been assigned objects to the determination of residence, the board may investigate the issue of the person's residence and must notify the board whose service district the assigned board feels is the person's residence. Such notification must occur within ten (10) calendar days of admission and must include a written statement of reasons for the dispute of residence. At the same time, the assigned board must also copy the Chief Executive Officer (CEO) of the BHO on any dispute.
4. The boards identified in 3) above must negotiate the issue of the person's county of residence. This negotiation must occur within ten (10) calendar days of the notification made in 3) above. If the negotiation results in agreement that the person's residence is the initially assigned board or an alternative board, both boards must notify the BHO immediately of the correct assignment of residence. The board assigned in 2) above will remain the board of residence until another board notifies the BHO in writing that it agrees to be assigned as the board of residence or until the CEO or Area Director (AD) make a different determination as described in 6) or 7) below. Until such change, the board assigned residence in 2) above shall be responsible for discharge planning, case management, and other critical services, and no patient shall be kept in a BHO or be denied services by the board assigned residence due to a pending dispute.
5. If the matter of residence is not resolved in 4) above, the objecting board may notify the BHO CEO of its objection by mail, or facsimile. The objection must specify the hospitalized person's name, age, last residence, and length of time in that residence; the reasons for the objection; and persons to be contacted at the board about the objection. Within three (3)

calendar days of receiving the objection, the BHO CEO shall arrange a conference call with all persons available and necessary to provide information in order to make a final determination. Every effort should be made to have the hospitalized person participate in the conference call. If the hospitalized person cannot participate, the CEO must attempt to obtain the wishes of the person prior to the conference call.

6. Within twenty-four (24) hours after the conference call in 5) above, the CEO of the BHO shall notify all affected parties of the determination of county of residence. In making a determination, the CEO shall accept the hospitalized person's statement of residence unless there is clear evidence to the contrary. The CEO shall be responsible for ensuring that any change in residence resulting from the determination is entered into the Patient Care System.

7. The board assigned residence in 6) or the hospitalized person may request reconsideration of the BHO CEO's determination. Such request must be made within three (3) calendar days of the determination and must be based on significant errors in judgment or fact. The reconsideration request must be made in writing to the AD for the BHO in which the person is hospitalized and the AD may accept or deny the request based on the extent to which it is made clear that the request is based on significant errors in judgment or fact. If the request is accepted the AD must make a final determination and notify all affected partners within three (3) calendar days of the request. In making a determination, the AD shall accept the hospitalized person's statement of residence unless there is clear evidence to the contrary. The final county of residence determination must be communicated to the CEO, who is responsible for ensuring that any change in residence is entered into the Patient Care System.

8. The board assigned residence shall remain responsible for services until final determination as in 7). Until such a change, the board assigned residence shall be responsible for discharge planning, case management, and other critical services, and no patient shall be kept in a hospital or be denied services by the board assigned residence due to a pending dispute. If steps 1 - 7 result in a change of assigned residence, the new board shall be responsible for the patient's care, including service delivery and payment for inpatient care, from the day of admission.

Determining Residency and Financial Responsibility for Individuals with a Forensic Status

An individual's county of residence becomes an important issue when determining financial responsibility for the provision of inpatient services. This issue may be further complicated when the individual has a forensic legal status.

This section is intended to clarify the residence categories as they relate to a person in a forensic status. This clarification will provide consistency in terminology and information that is documented in the Ohio Department of Mental Health (ODMH) Patient Care System (PCS), including the provision of the UCI number to ODMH BHOs. Boards will be required to verify patients assigned residency to them on a daily basis.

Applicability

These guidelines are applicable to persons admitted to an ODMH Behavioral Healthcare Organization (BHO) and are tracked as forensic status.

Definitions

In accordance with Section 5122.01(S) of the Ohio Revised Code (ORC), **residence** (for financial responsibility purposes) is defined as a person's physical presence in a county with intent to remain there, except that: (1) If a person is receiving mental health services at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained his primary place of residence at the time the person entered the facility; or (2) committed pursuant to Section 2945.38, 2945.39, 2945.40, 2945.401 or 2945.402 of the ORC, residence means the county where the criminal charges were filed. The court order or journal entry should be consulted to verify the county where the charges were filed. [Except for persons civilly committed after a finding under 2945.38 (H) (4)].

The following terms are used in these guidelines to ensure consistency:

- **County of Legal Residence** - the county of the person's usual residence
- **County of Committing Court** - the county where the criminal charges were filed
- **County of Service Provision** – a county other than the home county or legal county where a person may be receiving mental health services (generally this is applicable to persons on conditional release commitment)

For purposes of these guidelines, forensic legal status includes persons admitted in the following statuses or for tracking purposes have been flagged in the PCS system as Forensic:

Section 2945.371(G)(3) and (G)(4) – Competency/Sanity Evaluation

Section 2945.38(A) – Competent – Maintain Restoration

Section 2945.38(B) - Incompetent to Stand Trial - Restoration Treatment Mandatory

Section 2945.38(H)(4) - Incompetent to Stand Trial - Unrestorable (Civil admission status)

Section 2945.39(A) - Incompetent to Stand Trial - Unrestorable - Criminal Court Jurisdiction

Section 2945.40 - Not Guilty by Reason of Insanity

Section 2945.402 - Incompetent to Stand Trial - Unrestorable - Criminal Court Jurisdiction/
Not Guilty by Reason of Insanity on Conditional Release

Section 2967.22 - Parolee/Probationer (Civil admission status)

Jail Transfers (Civil admission status)

Police Holds (Civil admission status)

Determination of County of Residence

The Alcohol, Drug Addiction and Mental Health (ADAMHS) Boards and Community Mental Health (CMH) Boards are responsible to provide services to the residents of the county that they serve. The Boards are financially responsible for inpatient services when a person is hospitalized under a civil status **and** for some persons in a forensic legal status.

When an individual is charged with a crime, they are usually under the jurisdiction of a criminal court in the county where these charges were initiated. This county becomes the county of committing court. This may or may not be their county of legal residence. The county of committing court is usually financially responsible for their services. The guidelines below further delineate the county of responsibility.

At the time of pre-hospitalization screening, the designated community mental health agency is responsible to determine the person's county of legal residence in accordance with Section 5122.01(S) of the O.R.C., and document the person's UCI number to the ODMH BHO. Within two hours of admission to an Ohio Department of Mental Health (ODMH) BHO the admission information is entered in PCS. Each board is responsible to monitor new admissions on a daily basis, and shall follow the procedures as previously outlined if a dispute occurs. Boards have 24 hours to verify residence to the BHO and document the UCI number. If it is determined that a county other than the one indicated at pre-screening is

the county of legal residence, the new board shall document the UCI number to the BHO.
At admission, persons with a forensic legal status are assigned a County of Legal Residence and the County of the Committing Court shall also be documented in PCS, along with the individual's UCI number. There may be one county, or two different Ohio counties that are entered into PCS for forensic admissions.

Guidelines for Financial Responsibility of Inpatient Services

The following guidelines should be followed to assist in clarifying financial responsibility:

1. The County of Legal Residence is financially responsible for inpatient services for persons in the following forensic categories:

2945.38(H)(4) - Incompetent to Stand Trial-Unrestorable

2967.22 - Parolee/Probationer

Jail Transfers and Police Hold

2. The County of the Committing Court is financially responsible for inpatient services for persons in the following forensic categories:

2945.38A - Competent - Maintain Restoration

2945.371(G)(3) - Sanity Evaluation

2945.371(G)(4) - Competency Evaluation

3. ODMH has the financial responsibility for individuals in the following forensic legal statuses in an ODMH hospital:

2945.38 (B) - Incompetent to Stand Trial - Restoration Treatment Mandatory

2945.40 - Not Guilty by Reason of Insanity (NGRI)

2945.39 (A) - Incompetent to Stand Trial - Unrestorable - Criminal Court Jurisdiction

2945.402/402A1 - Conditional Release (IST-U-CJ or NGRI)

Persons listed in 3), above, remain under the jurisdiction of the Criminal Court in the county of the committing court (where the charges were filed).

Persons on Conditional Release commitment who are admitted/re-admitted to an ODMH hospital are the financial responsibility of **ODMH** while in the BHO.

In some cases, an individual may have more than one criminal charge from more than one county court. These cases are worked out between the courts that are involved. Generally, the most serious charge takes precedence, but the involved courts determine this. **The BHO Legal Assurance Administrator, in conjunction with the County of Committing Courts' Forensic Monitors, will resolve this issue prior to discharge from a BHO.**

After an individual is terminated from the Criminal Court's jurisdiction they become the financial responsibility of the **County of Legal Residence** for inpatient and outpatient services.

Guidelines and Operating Principles for Outpatient Residency Determinations Among CMH/ADAS/ADAMHS Boards

Residency Guidelines

1. The purpose of these guidelines and operating principles is to clarify what is to take place, in terms of Board responsibilities and residency determinations, when clients seek services outside their service district of residence.
 - a. Nothing contained in this document should be interpreted to reduce in any way the obligation of Boards set forth in ORC Section 5122.01(S) to deal with crisis/emergency situations which occur within their service districts and to respond to essential client service needs while residency questions are being resolved.
 - b. Regardless of residency determination, nothing contained in this document should be interpreted to constrain the freedom of clients to seek services wherever they wish. Rather, it is intended to clarify which Board is to deal with such requests and under the auspices of which Board's Community Plan they are to be considered.
2. For the purposes of MACSIS, the county of assigned residency determines into which Board's service system (i.e. group and plan) an individual is to be enrolled. In special circumstances a client may live in a Board area that differs from that to which residency/enrollment has been legitimately and appropriately assigned.
3. A fundamental tenet that is to guide residency policy and its interpretation is that continuity-of-care is paramount and that responsibility to ensure this in instances of out-of-district placement or referral should rest ultimately with the "home" Board from which the client came. A Board should not be in a position to shift this responsibility by facilitating the relocation of clients to facilities or services that lie outside its service district. The "home" Board to which a client's residency is assigned should carry the following responsibilities (some of which may be delegated to another entity):
 - o Assuring reasonable client access to the services called for in the Board's approved Community Plan in a fair and equitable manner.
- a. Enrolling eligible persons in its benefit plans in accordance with the applicable business rules and providing for the provision and management of these benefits.
 - c. Serving as the local authority for funding, contracting, coordinating, monitoring, and evaluating services. These responsibilities include clinical oversight and utilization review responsibilities as authorized by Chapters 340 and 5122 of the Revised Code.
 - d. Providing the necessary financial resources (to the extent such resources are available to the Board).
 - e. Taking the initiative to negotiate and implement workable solutions when problems involving residency arise.
4. Residency determinations are to be based upon the following:
 - a. For mental health clients, the statutory provisions contained in ORC 5122.01(S), which read as follows:

"Residence" means a person's physical presence in a county with intent to remain there, except that if a person (1) is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which a person maintained his primary place of residence at the time he entered the facility, or (2) is committed pursuant to section 2945.38, 2945.39, 2945.40 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised code, residence means the county where the criminal charges were filed.

b. For alcohol/drug clients, the definition of residency established by ODADAS, which reads as follows:

"Residence means a person's physical presence in a county with intent to remain there, except that, if a person is receiving alcohol or other drug addiction services from a program that includes nighttime sleeping accommodations, residence means that county in which the person maintained his/her primary place of residence at the time he/she entered the program."

5. All policies involving residency-related issues are to be consistent, whether mental health or alcohol/drug issues are involved. There are not to be differing residency determinations/assignments depending upon the nature of the diagnosis, type of service, or sources of financial support. Accordingly, ODMH and ODADAS shall adhere to a policy of reciprocity, wherein each shall defer to the other in the determination of when residency remains with a "home" Board because of a client's placement in a special residential program or facility or because of other unusual circumstances.
6. The provisions of ORC Section 5122.01(S) and the ODADAS definition of residency shall be construed to apply to all specialized residential programs or facilities in which clients are placed because of their need for treatment, supervision/support, or other specialized services, with this principle to be defined and operationalized as follows:
 - a. A primary criterion for what constitutes a specialized residential program or facility shall be that it is subject to licensure (or some comparable certification).
 - b. The type of facilities encompassed includes hospitals, nursing homes, ODMH-licensed and ODADAS certified residential facilities, ODH-licensed Adult Care Facilities, mental retardation group homes, ICF/MR'S, rest homes, drug/alcohol residential programs, crisis shelters, foster-care homes, etc..
 - c. The term "mental health services" is to be construed broadly to encompass all those items contained in OAC 5122-25-02(B) and ORC Section 340.09 and the term "alcohol or other drug addiction services" shall include all those alcohol/drug services identified in OAC 3793:2-1-08 through 17.
 - d. The phrase "receiving (MH or AOD) services at a program/facility" is to be understood to mean "while on the rolls of the program/facility." It is not necessary either for the services to be provided "on the premises of the program/facility" or "by an employee of the program/facility." Likewise, it is not necessary for said services to be officially certified for the purposes of residency determination.
 - e. There is to be no "statute of limitations" on designated residency remaining with the "home" Board for persons placed in specialized residential programs/facilities that lie outside its service district.

- f. Designated residency shall remain with the "home" Board regardless of whether it was directly involved in facilitating placement in an out-of-district specialized program/facility.
 - g. Residency shall not remain with the "home" Board in those situations where a client is placed for an indefinite period in a facility for reasons having nothing to do with mental health or alcohol/drug needs and then develops such problems subsequent to placement. However, no discharge directly from a state hospital to a facility shall cause a change in residency, regardless of the reasons for the discharge.
7. The interpretation of the provisions of ORC Section 5122.01(S) and the ODADAS definition of residency in regard to "intent to remain" shall be guided by the following:
- a. "Intent to remain" is to be interpreted to mean a person's expressed intent, as documented by completing and signing the Residency Verification Form, to remain in the county, with the exception of persons in specialized treatment facilities. There can be no intent to remain when a person is visiting, transient or present in a county for only a time-limited specific purpose. The Residency Verification Form should be completed when:
 - 1) The county of the treating facility does not match the legal county of residence of the client as noted on the enrollment form (child or adult, out-of-county)
 - 2) The physical address of the client as noted on the enrollment form does not match the legal county of residence of the client (ex. domestic violence shelter case, client temporarily living with relatives, etc., child or adult, out-of-county)
 - 3) The child's physical address as noted on the enrollment form does not match the legal custodian's address (child only, in or out-of-county)
 - b. Boards may request from in-county, contracting providers one of the following forms of documentation that is current to assess whether a person's actions demonstrate intent to be a resident. The contract between a provider and board may dictate the form of documentation required for cases not outlined in section 7.a. above.
 - 1. mailing address
 - 2. voting
 - 3. car registration
 - 4. job or other vocational efforts
 - 5. payment of taxes
 - 6. location of family
 - 7. general conduct.
 - 8. signed Residency Verification Form
- Where a client lacks the capacity to communicate clearly or is unwilling to state an intent (and there is no compelling evidence to think otherwise), it shall be assumed that the client intends to remain in the service district he/she is currently located.

- Boards and their agents are not to be involved in efforts to coerce or unduly influence client intent vis-à-vis residency.
 - For out-of-county, non-contracting providers, a signed Residency Verification Form shall suffice as proof of residency.
8. Residency for children is to be determined by the residency of the parents (or guardian) and should change when the parents move (even when this occurs in the middle of a hospitalization or residential placement). When temporary or permanent legal custody of a child has been awarded to some other official entity (such as a CSB, ODYS, etc.), residency should remain with the "home" Board of the county where the court that ruled maintains jurisdiction. Completion and signing of the Residency Verification Form shall provide residency documentation for children.
 - a. This guideline is not intended to resolve boundary issues between the responsibilities of Boards versus those of CSB's, juvenile courts, DYS, etc. Rather, it is intended to clarify that it is the responsibility of the "home" Board to work through such matters for its clients.
 - b. Persons with handicapping conditions who consequently may remain in the custody of a CSB, etc., through their 21st year shall be considered to be children for the purposes of these guidelines.
 9. The interpretation of these residency provisions for children is to be guided by the provisions of ORC Sections 3313.64(A)(1 and 4), 3313.64 (C)(2), and 2151.35, which deal with the determination of local responsibility within the educational system.
 10. For clients committed pursuant to ORC Sections 2945.38, 2945.39, 2945.40 2945.401 [2945.40.1], or 2945.402 [2945.40.2] of the Revised code, residency shall remain with the Board of the service district in which the charges were filed only for as long as the client remains in a forensic status. If and when the client's status reverts to a civil commitment, at that point the client's residency shall be changed to that to which it would be for non-forensic clients (i.e. the "home" Board from which the client originally came). For those clients who may be in a non-hospital setting when their commitment status changes, residency should be determined by type of facility and/or intent, depending upon the circumstances. When residency shifts because of a change in forensic status, the Board from which residency is being shifted is to give timely notice to the new Board of residency.
 11. Where special circumstances, such as result from unusual geographic boundaries, create situations where the applicability of the residency criteria in the law may be especially problematic, the Boards involved may negotiate a "Memorandum of Understanding" as to how various issues will be addressed, rather than repeatedly disputing individual cases.
 12. A Board (directly or through its contract agencies) may receive requests for services from a client whose residency rests with the Board of another service district (with this encompassing clients involved in emergencies while away from home, clients wishing to travel to receive non-emergency services from a provider in another district, and clients placed in a specialized residential facility who seek additional services beyond that which the facility itself may provide). Such requests for services from non-residents should be dealt with as follows:
 - a. Emergency/crisis situations are to be addressed by the Board and/or designated agency where the crisis occurs, regardless of the client's official residency assignment.

1. To the extent that commitment/probate matters may be involved in addressing the crisis, the Boards involved shall be guided by the "Statewide Contract for Services for Persons Receiving Treatment through CMHB's" negotiated in 1989 in response to the passage of the Mental Health Act of 1988.
2. For mental health, non-Medicaid services, the board providing the service is responsible for crisis intervention and pre-hospitalization services up to three days.

For ODADAS, non-Medicaid services out of county/ emergency/ clinically appropriate services are the Level I services (Assessment, Individual Counseling, Group Counseling, Case Management, Crisis Intervention, Alcohol/Drug Screening Analysis, Medical/Somatic, Methadone Administration and Intensive Outpatient services) plus Level III and Level IV Detoxification services provided for three days or until linkage to treatment is established in the "home county". If out of county treatment is to extend beyond three days, the home board must approve the out-of-county placement. It is essential collaborative efforts be made between providers and Boards to establish arrangements for a client's continued care.

3. When an enrollee of a Board receives crisis services [as defined above in paragraph (2)] outside his/her service district and under the auspices of another Board's service system, financial responsibility for these crisis services shall be borne by the Board in which the client is enrolled. The rate for said services shall be that contained in the contract of the local Board under whose auspices the services are being provided.
4. A Board which is providing crisis/emergency services for an individual who is enrolled in another Board's plan shall contact that other Board (or its designee) within one business day, to notify it that one of its members is involved in a crisis situation and to consult on the disposition of the case.
 - a. The Board in which a client is enrolled shall have no financial responsibility for the provision of out-of-district crisis services beyond three days without its concurrence. In the event it is anticipated that the three-day limit shall be exceeded, the Board/agency involved in the provision of crisis services to an out-of-district party shall be responsible for contacting the Board of residency/enrollment to establish appropriate arrangements for payment or to provide for the orderly transfer of the client to a provider selected by the home Board.
 - b. Services other than emergency/crisis services and Medicaid-billable services should remain the sole responsibility of the "home" Board of residency, with this responsibility understood to encompass the items listed in section #2 of this document.
 - c. The Chief Clinical Officer (or designee) of the "home" Board should be responsible for determining what services may be clinically necessary and appropriate for an individual seeking services outside of his/her "home" district. The "home" Board should bear

ultimate responsibility for overseeing and supporting the provision of appropriate out-of-district services (to the extent they are approved as being consistent with the Board's Community Plan and sufficient financial resources are available).

- d. For non-Medicaid services, a Board may have "preferred providers" (i.e. its contract agencies) and expect residents seeking Board-subsidized services to use these organizations.
- e. Non-emergency services may be provided to out-of-district clients by either the "home" Board of residence or the Board from which the client is seeking services. However, no Board should be expected or assumed to provide ongoing, non-emergency services to out-of-district clients without its explicit consent and without a mutually agreeable reimbursement mechanism having been negotiated. All Boards should adopt official policies and procedures which layout how it will respond to requests of its residents who seek services outside the Board's service district.
- f. Anytime an SMD client is placed in an out-of-district residential facility with the involvement of the public community mental health system, the "home" Board should notify the Board where the facility is located and work out matters of service coordination and continuity-of-care.
- g. Contract agencies are free to serve whomever they wish with funds other than those provided pursuant to a contract with a Board.

13. A person incarcerated in an out-of district jail facility shall remain a resident of the district from which he/she came. However, to facilitate and support Board-sponsored programs for the provision of services to a local jail facility, by mutual agreement a temporary re-assignment of a jail inmate to a plan of the local Board may be effected. Upon release from the jail facility, the plan assignment shall revert to the original Board of residence.

14. Residency disputes are to be addressed as follows:

- a. Ultimate responsibility for resolving residency disputes shall rest with ODMH and ODADAS, whose decisions shall be binding.
- b. ODMH and ODADAS shall officially adopt and distribute these "Guidelines and Operating Principles" (along with any subsequent modifications), with the explicit understanding that they are to be followed in the determination of residency.
- c. Boards are expected to work out routine questions of residency among themselves without resorting to an official dispute resolution process.
- d. As the initial step in the formal dispute resolution process, the Board which believes that an individual's residency has been inappropriately determined is to contact the Board it believes is the proper Board to which residency should be assigned. This is to be done in writing and, unless there are extenuating circumstances, is to take place within ten working days of the time a Board first becomes aware that a residency assignment may need to be questioned.

- e. After receipt of the written statement initiating the residency dispute process, the two Boards shall have five additional working days to agree upon the appropriate residency designation. If the matter remains unresolved, either Board may refer the matter to ODMH or ODADAS (depending upon the circumstances) for final resolution. This shall be done in writing and shall occur immediately upon expiration of the five working days during which the Boards are to attempt to resolve the matter between them. The Director of ODMH/ODADAS (or his/her designee) shall make a final determination about residency within ten additional working days, during which time the Boards involved in the dispute and other relevant parties (including, where appropriate, the client) are to be contacted. A written determination, including the rationale for the decision, is to be provided to both Boards.
15. A public record (with client names deleted) of precedents for how residency disputes are resolved by ODMH/ODADAS is to be maintained, so as to serve as a guide for dealing with subsequent disputes.
16. While residency questions are being resolved, essential client services are to be maintained, with the primary responsibility for this to rest with the Board from whose system an individual is receiving services. As part of the resolution of a residency dispute, it shall be determined which Board shall be responsible for the costs of treatment services provided during the period of the dispute. In cases where the appropriate state agency determines that a Board other than the Board that paid for the services is the appropriate Board of residence then the Board that paid for the cost of service will invoice the Board of residence. The Board of residence will be expected to pay the Board of service within a reasonable amount of time.

[For Medicaid purposes only, while the residency dispute process is taking place, the automatic contracting and payment of Medicaid reimbursable services is not to be interrupted or delayed in any way. This is to say that no changes are to be made to the MACSIS "plan" the client is enrolled in, Medicaid reimbursable services are to be continued to be provided and paid for and, if necessary, the "Secondary" Medicaid Contract is to be established within the 30-day limit. For MACSIS purposes, ODMH/ODADAS reserve the right to take any action deemed necessary to assure this process is strictly adhered to.]
17. No Board is to alter an individual's residency/plan assignment within MACSIS without the explicit approval of the other affected Board or a formal ODMH/ODADAS resolution of a residency dispute. (Normal practice should be for the receiving Board to effect a residency change in MACSIS.)
18. Nothing in this document should be interpreted as precluding two Boards from effecting a transfer of residency responsibilities when they mutually determine this to be in the best interest of a client.
 - a. These guidelines deal only with inter-Board residency issues and are not intended to address situations where individuals may be placed or seek services across state lines. It is felt that the issues involved are enough different to warrant separate consideration.

Appendices A through E

A: Guidelines to be used in determining the county of residency for College Students, Homeless Clients and Migrant Workers.

Please note: these guidelines address county of residency determinations for MACSIS enrollment/ plan/panel assignment and not State Hospital county of residency issues.

1. College Student Guideline

As referenced in "The Guidelines and Operating Principles for Residency Determinations Among CMH/ADAS/ADAMHS Boards" (Page 4, Section 8), the residency for children is to be determined by the residency of the parent(s)/or guardian(s) and should change when the parent(s)/guardian(s) move (even when the move occurs in the middle of a hospitalization or residential placement).

The primary question to use in determining whether or not this guideline is applicable is: "Is the student an IRS Tax Dependent?" If the student is, then the board area in which the parent(s)/guardian(s) reside is the child's county of residence. The student is to be enrolled in one of that county's plan(s)/panel(s).

If the student is not considered an IRS Tax Dependent, then the following is to be taken into consideration for county of residency determination:

Is the student emancipated?

Is this a graduate level student?

Does this student have dependent children?

Students who fall within these criteria should have further screening to determine actual county of residency. Please reference the Guidelines and Operating Principles for Residency Determinations among CMH/ADAS/ADAMHS Boards (Page 2, Section 4). Has the client/student established residency or expressed the intent to remain? If the client has, then the Board must enroll that student as a resident of their county.

If it is an out of state college student, enrollment criteria should be developed and implemented by the local Board. These students should be enrolled using the address of the parent(s)/guardian(s) and using "OUTSTATE" in the Sales Rep field.

2. Homeless Client Guideline

These clients are to be enrolled in a plan/panel of the board in which they present for services (a type of rolling enrollment).

Example:

The client was originally enrolled in a plan/panel of the Franklin County ADAMHS Board. This client subsequently presents in Montgomery County for services and claims to be homeless (please note that this client can claim an address of homeless or an address of a homeless shelter). The Montgomery

County ADAMHS Board should assume responsibility for the client's services by transferring enrollment into one of their plan/panel combinations. If this client continues their journey and presents for services in Butler County two months later and again claims to be homeless, the Butler County Boards should assume responsibility for the client's services by transferring enrollment into one of their plan/panel combinations. Please note, it is intended for MACSIS to track this type of client to assist in identifying such populations and their need for continuity of care.

How to process enrollments/transfers in MACSIS:

- a. Client not previously enrolled. Board area in which the client presents as homeless should enroll immediately for benefits. Note: A client in this situation should NEVER be terminated for benefits prior to another board assuming responsibility.
- b. Client previously enrolled. If the client is already enrolled in another Board's plan/panel, then the Board in which client has presented for services and stated homelessness MUST immediately transfer the client into one of their plan/panel combinations. As previously noted above, a client in this situation should NEVER be terminated for benefits prior to another board assuming responsibility.

3. Migrant Worker Guideline

The following guideline is applicable to Legal Migrant Workers. (Illegal Migrant workers are still under discussion, however, it was noted that boards should be utilizing the "Out of County Service Matrix" when dealing with these clients.)

These clients are to be enrolled in a plan/panel of the board in which they present for services (a type of rolling enrollment).

Please reference the "Homeless Client Guideline" above.

4. Out of State Client Guideline

How to handle the enrollments within MACSIS:

- a. If the client has a valid Ohio Medicaid card, then the Board in which the client has presented for service should enroll the client in one of their plan/panel combinations or if the client has previously been enrolled, immediately transfer the client to one of their plan/panel combinations.
- b. If the client does NOT have a valid Ohio Medicaid card, then the Board could exercise their local option to enroll these clients for service. (Please reference the enrollment guideline for out of state college students.)

B. Criminal Justice System and Residence Determinations

As part of the Multi-Agency Community Services Information System (MACSIS) implementation by the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) and the Ohio Department of Mental Health (ODMH), many questions have arisen concerning how to determine the "county of residence" for a client

who has recently been under the auspices of the Ohio Department of Rehabilitation and Correction (ODRC) system and is in need of alcohol and other drug or mental health services.

A workgroup, consisting of representatives from ODADAS, ODMH, ODRC, and Alcohol and Drug Addiction Services (ADAS) Boards, Community Mental Health Services (CMHS) Boards, Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Boards and in conjunction with provider input, believes the "Guidelines and Operating Principles for Residency Determination among CMH/ADAS/ADAMHS Boards" document is adequate for determining county of residence in this situation. Former offenders should be treated, for residence determination purposes, in the same manner as any other individual in the State of Ohio. Primacy for determining county of residence shall be upon the individual's statement (i.e., expressed intent to remain) and/or upon the individual's county of residence prior to becoming a charge of the ODRC system.

The applicable section of the residency determination guidelines can be found on page 3, paragraphs 6. a. and b. ODRC will bear the financial responsibility for necessary drug and alcohol and/or mental health services provided to Transitional Control inmates housed in halfway houses contracted with ODRC. When a person transitions from an inmate status to a non-inmate status, eligibility for and the financial responsibility for alcohol and other drug and/or mental health services should be determined as it would be for any other Ohioan. The attached documents, including an inmate versus non-inmate status matrix developed by ODRC and shared and reviewed by the workgroup, should be used in determining when an individual's services are the responsibility of ODRC and when the individual's services become the responsibility of the community alcohol and drug and/or mental health system.

Inmate Status	Non-Inmate Status
Halfway House Population: Transitional Control Offender (ODRC Jurisdiction) Prison (ODRC Jurisdiction)	Halfway House Population: Parole/Post-Release Control/Probation/Community Control
CBCF (County/Court Jurisdiction) Jail (County Sheriff Jurisdiction)	Non-Halfway House Population: Parole/Post Release Control

Jails and CBCF's (Community-Based Correctional Facilities)

- A person in a jail is considered an inmate.
- ODRC does not provide MH or AoD funding for jails but does set standards by which jails are to provide substance abuse and/or mental health treatment services.
- A person in a CBCF is considered an inmate of a correctional institution and is under the jurisdiction of a common pleas court.
- Either of these persons is still a resident of his/her home county.
- In many communities the local ADAS/ADAMHS/CMHS Board has traditionally, through a voluntary collaborative arrangement with the local Judicial Corrections Board, made arrangements for the CBCF to utilize local AoD and MH agencies for the provision of needed services.
- These scenarios are covered by section 11 of the "Guidelines and Operating Principles for Residency Determinations Among CMH/ADAS/ADAMHS Boards."
- A person incarcerated in an out-of-district jail facility shall remain a resident of the district from which he/she came. However, to facilitate and support Board-sponsored programs for the provision of services to a local jail facility, by mutual agreement a temporary re-assignment of a jail inmate to a plan of the local Board may be effected. Upon release from the jail facility, the plan assignment shall revert to the original Board of residence.

Halfway House

ODRC currently contracts with 24 halfway houses throughout the state. All of these facilities house individuals who are considered non-inmates, with the exception of those facilities that serve Transitional Control offenders. Transitional Control (or furlough) clients are considered inmates and their services are the responsibility of ODRC. At which time an offender is no longer under Transitional Control status and is transferred to another status, such as parole or post-release control, and expresses an "intent to remain" in the county, the offender may be referred to community agencies and is eligible for services as any other resident of that county.

C. Normal Out of County Enrollment Process

Step 1 Provider determines client's county of residence.

It is the Provider's responsibility to obtain sufficient documentation to determine the client's county (Board) of residence. It is in everyone's best interest for the provider to obtain as much information as possible to assist in the residency determination process. This information is essential to quickly and correctly identifying a client's correct residence.

Step 2 Provider completes enrollment form, after client has signed release and authorization to bill.

The Provider is responsible for discussing the Notice of Enrollment with the client and obtaining all releases and disclosures per the confidentiality guidelines.

Step 3 Provider faxes form to enrollment center for the board where the client resides.

Once the Provider has determined the residency of the client, the Provider must fax the enrollment form to that Board's enrollment center to begin the enrollment

process. The Provider must indicate on the enrollment form that releases have been obtained for that specific Board area.

Step 4 Board enrolls the client or works with the provider to clarify questions.

Upon receipt of an enrollment form from a Provider that is treating a client who is a resident of that Board area, the Board's enrollment center should look up the client, enroll the client if not already in MACSIS, and then return to the provider the client's UCI, plan assignment and rider information. If there are points of clarification, the Board is responsible for making contact with the Provider to resolve any questions.

Step 5 Board faxes back UCI to provider.

It is recommended that no more than 5 business days (1) should separate the faxing of the enrollment form from the provider to the board and the receipt of the UCI by the provider. The provider will then use the UCI to bill for services. Medicaid clients receiving Medicaid certified services will be paid and non-Medicaid clients and non-Medicaid services will be subject to the Out of County guidelines.

D. Disputed Out of County Enrollment Process (for Providers)

Step 1 Provider follows Normal Enrollment Process.

In all cases, the Provider should follow the process established for a normal out of county enrollment. It is in everyone's best interest for the provider to obtain as much information as possible to assist in the residency determination process. This information is essential to quickly and correctly identifying a client's correct residence. Examples of documentation that can be used to establish a client's residency include:

- Driver License
- State ID Card
- Lease agreement
- Adoption or custody papers
- Statement from Client (Signed and Witnessed) Indicating Residency

Step 2 Board of Residency Refuses to Enroll an Out of County Client

If the Board (where the Provider determines the client resides) refuses to enroll the client or fails to provide a UCI within ten business days, the provider should contact the MACSIS Support line.

Step 3 MACSIS Support Line Enrolls Client

The Provider will provide the MACSIS Support line with copies of the enrollment form and all supporting information that was provided to the Board. As soon as the proper documentation has been received, the MACSIS Support Line staff will send an email to the affected board and wait 1 working day before doing the enrollment. This is to provide time for the affected board to become aware of the issue. (2)

The MACSIS Support Line staff will enroll the client in a generic plan of the Board where the client resides. The MACSIS Support Line will follow the rules as outlined in the Summary Matrix that was included in the December 7, 1999 joint memo from Carolyn Givens and Rick Tully titled: Out-of-County MACSIS Enrollment. A copy of the body of that memo will be included as an attachment to this Guideline.

Note: Providers should be aware that non-Medicaid clients that are not in Crisis WILL NOT be enrolled per the Summary Matrix included in this notice.

The MACSIS Support line Staff will then electronically notify both the Board where the client has been enrolled and the provider that is treating the client, with the enrollment information.

Step 4 Residency Dispute Claim Submitted. If the board where the client is enrolled disputes the residency determination and action taken by the MACSIS Support Line, the Board may file a formal residency dispute following the established RDD Guidelines.

(1) The expectation remains that the majority of enrollments will occur within two (2) to five (5) days. It is understood, however, that exceptional circumstances will occur, particularly with out-of-county enrollments. In no event, however, should any enrollment, in-county or out-of-county, take longer than ten (10) days.

(2) The MACSIS Support Line is not responsible for settling residency disputes and therefore, should not be expected to respond to board disputes which might result from the e-mail notification. They will continue, as outlined in this procedure (i.e., enrolling the client) and the disputing board must then file the appropriate dispute as noted in the RDD guidelines.

E. Clarification of requirements for out-of-county MACSIS enrollment

Mental Health Services

1. Enrollment of Medicaid eligible persons who seek services from provider organizations outside their Board service district in either emergency or non-emergency situations.

In these circumstances such persons must be enrolled with the appropriate Board residence of pursuant to the MACSIS enrollment guidelines. The reason enrollment is required is the Board of residence is responsible for paying Medicaid claims, even in out-of-county non-emergency situations.

2. Enrollment of non-Medicaid eligible persons who seek services from provider organizations outside their Board service district in emergency situations.

In these circumstances, such persons must be enrolled with the appropriate Board of residence pursuant to the MACSIS enrollment guidelines. The reason enrollment is required is the Board of residence is responsible for paying non-

Medicaid claims for Crisis Intervention and Pre-hospitalization Screening services in emergency situations for a period up to 72 hours.

3. Enrollment of non-Medicaid eligible persons who seek services from provider organizations outside their Board service district in non-emergency situations.

In these circumstances the provider organization is not required to enroll such persons. However, the provider organization should refer such persons to the Enrollment Center (a complete listing will be posted on the MACSIS Website) for the person's Board of residence in order to be linked with the appropriate provider organization. The out-of-county provider organization should offer the person assistance in contacting the Enrollment Center for the person's Board of residence. Such assistance in referral will better ensure appropriate continuity of care.

Alcohol and Drug Addiction Services

Medicaid

1. Enrollment of Medicaid eligible persons who seek services from provider organizations outside their Board service district in either emergency or non-emergency situations.

In these circumstances such persons must be enrolled with the appropriate Board residence of pursuant to the MACSIS enrollment guidelines. The reason enrollment is required is the Board of residence is responsible for paying Medicaid claims, even in out-of-county non-emergency situations.

Non-Medicaid

1. ODADAS recognizes non-Medicaid services, out-of-county services, emergency services or clinically appropriate services as:

- Level I Services (Assessment, Individual counseling, Group Counseling, Case Management, Crisis Intervention, Alcohol/Drug Screening Analysis, Medical/Somatic, Methadone Administration and Intensive Outpatient Services, plus)
 - Levels III and IV Detoxification Services

Non-Medicaid clients who present for services out-of-county are eligible for Board funding under the same considerations as if the clients presented for services in their home county. Level I services and Levels III and IV detoxification services may be provided for three days or until linkage to treatment is established in the "home county." If out-of-county treatment is to extend beyond three days, the home board must approve the out-of-county placement. It is essential that collaborative efforts occur between providers and Boards to establish arrangements for a client's continued care.

Out-of-County MACSIS Enrollment Summary Matrix

Circumstances	MH	AOD
Medicaid eligible person - emergency or non-emergency	Enrollment: Must enroll. Services: Any Medicaid covered service.	Enrollment: Must enroll. Services: Any ODADAS Medicaid covered service.
Non-Medicaid eligible person - emergency	Enrollment: Must enroll. Services: Pre-hospitalization and Crisis Intervention for up to three days (72 hours).	Enrollment: Must enroll Services: Level I Services: (assessment, individual counseling, group counseling, crisis intervention, case management, alcohol/drug screening analysis, medical /somatic, intensive outpatient and methadone administration) plus Levels III and IV detoxification services for three days or until linkage to treatment is established in the "home county".
Non-Medicaid eligible person - non-emergency	Enrollment: Not required. Services: Not required to pay for services.	Enrollment: Must enroll Services: Level I services plus Levels III and IV detoxification services for three days or until linkage to treatment is established in the "home county"

Appendix K
Guidelines for
MEMORANDUM OF UNDERSTANDING REGARDING
CONTRACTS BETWEEN COUNTY OF LEGAL RESIDENCE
AND SERVICE PROVISION COUNTY

As a service to Mental Health Boards, ODMH in collaboration with the Community Forensic Monitors is attempting to diminish potential conflicts when persons are Court ordered to receive mental health services outside of the county of court jurisdiction as a result of a conditional release plan. This situation is restricted to individuals who are to be treated while on conditional release status, under the jurisdiction of a criminal court, pursuant to Ohio Revised Code sections 2945.38 - 2945.402, as having been found Not Guilty By Reason of Insanity or Incompetent to Stand Trial, Unrestorable, under Criminal Court jurisdiction.

ORC 5122.01 (S) defines “residence” in two ways -- either the place where a person maintains his/her primary place of residence **or if committed pursuant to ORC 2945.38 - 2945.402, the county where the criminal charges were filed.** In order to avoid confusion in these guidelines, the following terms are used:

- County of Legal Residence (home county)** - the county of the person’s usual residence
- County of Committing Court** - the county where criminal charges were filed
- County of Service Provision** - a county where a person may be receiving mental health services, other than the county of legal residence or committing court

In the vast majority of cases, the County of Legal Residence and Committing Court are the same. The individual has his or her home in the same county as the charges were filed. The County of Committing Court has jurisdiction over the individual and may order appropriate treatment services be arranged for the individual by the county mental health board or provided by community mental health agencies in that county. (Some criminal courts commit the individual on conditional release to the Board while others commit to a specific agency.) The Committing Court Mental Health Board is responsible for monitoring and tracking the individual on conditional release. Conditional release to the community is a commitment status under which a person meets civil commitment criteria, but does not require hospital level care. Conditional release may be maintained by the criminal court for the length of time the individual could have been incarcerated if convicted of the most serious offense charged.

Problems often arise when the Committing Court county and Legal county are not the same and the Court in the Committing Court county seeks to have services provided by the Legal county or a Service Provision county Mental Health Board and community agencies.

Usual Reasons Why The Committing Court County Seeks Services Outside That County:

1. The mental health services recommended by the hospital are not available through the Committing Court county mental health board or agencies.(e.g. intensive treatment services or housing)
2. To distance the person from victims.
3. To be closer to family, other support, or job.
4. Person preference.
5. The person has made significant attachments to mental health services in the county where he/she was hospitalized.
6. Adverse extensive media coverage would be heightened in the Committing Court County reducing the chances for successful community reintegration.
7. Other risk factors are present for the person (e.g. threats of reprisal toward the person)
8. Criminal connections in the Committing Court County.

Reasons for a Legal County (* or Service Provision county) mental health board or agency to refuse services requested by the Committing Court County:

- *1. The services requested in the conditional release plan are not available
- *2. Clinical expertise necessary to carry out the conditional release plan is not available.
- *3. Service programs are at maximum utilization (particularly residential and others—needs to be clearly documented).
- *4. No involvement (and disagreement) with the conditional release plan.
 5. The person has been transient and actually has no home.
 6. Family and/or prior victims prefer distance from the person
 7. Criminal connections in the Legal County.

Reasons for Committing Court County Mental Health Board to Refuse to Fund Services proposed in the conditional release plan:

1. Disagreement with the conditional release plan to have treatment provided in Legal or Service Provision County.
2. Too few services mandated in conditional release plan to be provided in Legal or Service Provision County.
3. Too many or too expensive services to be provided in Legal or Service Provision County.
4. Lack of funds to cover services proposed in the conditional release plan and not paid for by Medicaid or other third party. (Documentation needed.)

Disputes regarding contracts for services and/or monitoring should be worked out by the Mental Health Boards involved. Boards should utilize the current residency dispute guideline, if applicable.

Additional Issues

1. Boards may wish to consider arrangements to share costs for ongoing community services if an individual is charged with a subsequent offense in a Legal or Service Provision county, which now becomes a second legal county involved.

2. Boards may wish to consider arrangements to establish or re-establish residency in their Legal or Service Provision county providing services according to eligibility requirements (e.g. Medicaid) to end the financial liability of the Committing Court county for the services (even though the monitoring responsibility remains with the Committing Court county).
3. The Forensic Monitor needs to be notified promptly by any treatment agency if there is any violation of the conditional release plan or breakdown in services. The Forensic Monitor needs to notify the Committing Court County and assist the court in plans to safeguard the client and the public.

DRAFT

AGREEMENT FOR PROVISION OF SERVICES FOR OUT-OF-COUNTY FORENSIC CLIENTS

This Agreement is entered into by and between the [ADAMH/CMH Board] (the “County of Committing Court”) and the [ADAMH/CMH Board] (the “County of Service Provision.”) The purpose of this Agreement is to specify services, costs and administrative duties associated with the provision of services for out-of-county forensic clients subject to criminal court jurisdiction. A specific and distinct Agreement will be entered into for each individual to be served.

INDIVIDUAL TO BE SERVED: [name or other relevant identifying information for individual to be served]

TERM

This Agreement shall commence on [date] and terminate on [date]. Upon expiration, the Agreement may be renewed by mutual consent, or renegotiated. The estimate of time remaining on the named individual’s conditional release is [time period].

SERVICES

Generally

The services specified in Attachment I shall be provided to the named individual by the County of Service Provision, up to the maximum amounts listed, during the term of this agreement. The listed unit costs for such services shall not exceed the actual cost of providing those services.

Additionally, the County of Committing Court shall reimburse the County of Service Provision for the time and travel expenses of individuals who travel to the County of Committing Court Residence for court hearings or otherwise in conjunction with carrying out their duties under this Agreement.

Monitoring Services

The Forensic Monitor for the [ADAMH/CMH Board] will be providing the forensic monitoring services for the named individual.

[If the County of Service Provision to the named individual is also providing forensic monitoring services for the individual]: The Monitor providing such services is acting as an agent for the County of Committing Court, and as such, shall coordinate those services through [named individual] at the ADAMH/CMH Board of the County of Committing Court and shall provide the County of Committing Court Board with adequate documentation and assurances that appropriate tracking, supervision and reporting activities are performed in a timely and satisfactory manner.

Reporting

The County of Service Provision shall provide to the County of Committing Court updates to the treatment plan [timetables or events which trigger];

- a program and fiscal summary every ninety (90) days;
- an initial risk assessment, and a follow-up risk assessment every six (6) months;
- [all other forensic tracking requirements per policy];
- all other information necessary to enable the County of Legal Residence to fulfill its MHIS and other ODMH reporting responsibilities;
- all other information necessary to enable the County of Legal Residence to fulfill its responsibility for completing 508 certification.

COSTS/REIMBURSEMENTS

The County of Legal Residence shall reimburse the County of Service Provision for the services actually provided per Attachment I, up to the caps designated in Attachment I, and for time and travel expenses incurred in travel to and from the County of Committing Court in conjunction with carrying out duties under this Agreement. [billing procedures-- include procedures and timelines for billing and reimbursement, including process for approval of travel expenses] [is there a Medicaid match issue here?]

RELEASE OF INFORMATION

Pursuant to ORC Sections 2945.39(D)(2), 2945.40(G), the records sent with the client to the place of commitment shall be shared with the ADAMH/CMH Board of the County of Committing Court. Also, pursuant to ORC Section 5122.31(H), community agencies may exchange medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary information with ADAMH/CMH Boards and other agencies in order to provide services to persons involuntarily committed to the Board. Records can also be shared pursuant to a properly executed consent for the release of information, ORC Section 5122.31(A) or court order, ORC Section 5122.31(D).

CONTINUITY OF CARE

The County of Service Provision and the County of Committing Court [or other county, if applicable] shall work together in advance planning for the transition/transfer of the named individual into services provided through the County of Committing Court[or other county] upon the termination of this Agreement.

TERMINATION

This Agreement may be terminated at any time by mutual agreement, or upon the unilateral action of either party with at least sixty (60) days advance written notice to the other party.

DISPUTE RESOLUTION

Any issues in dispute regarding the terms or implementation of this Agreement shall be first referred to the Executive Directors of the parties for resolution. The current Residency Dispute Process will be utilized if applicable. Problems requiring additional intervention will be referred first to an outside [certified] mediator, and lacking resolution through that process, to the appropriate Area Director(s) from the Ohio Department of Mental Health for resolution.

[ADAMH/CMH Board]

[ADAMH/CMH Board]

[name]
Executive Director

[name]
Executive Director

Date

Date

23a. Date that CR was First Granted by Court
 Mo. Day Yr.
 - -

23b. Date of Additional CR Granted by Court During the Current Reporting Period (Enter date only if CR has been previously revoked.)
 Mo. Day Yr.
 - -

23c. List Dates of All Previous CR (optional)

24. If any of the following events occurred **during the reporting period**, check the appropriate boxes and provide the dates of each occurrence. Check box if Yes.

A. Revocation of CR
 (If CR was revoked, complete Item 25 below.)
 Date of Revocation
 Mo. Day Yr.
 - -

B. ODMH Hospital
 Admission
 Discharge
 Date of Admission
 Mo. Day Yr.
 - -
 Date of Discharge
 Mo. Day Yr.
 - -

C. Private Psychiatric Hospital
 Admission
 Discharge
 Date of Admission
 Mo. Day Yr.
 - -
 Date of Discharge
 Mo. Day Yr.
 - -

D. Detention in Jail

 Date of Detention
 Mo. Day Yr.
 - -
 Reason for Detention: _____

E. Arrest for Offense
 Misdemeanor
 Felony
 Date of Arrest
 Mo. Day Yr.
 - -
 Name of Charge(s): _____

F. Conviction for Offense
 Misdemeanor
 Felony
 Date of Conviction
 Mo. Day Yr.
 - -
 Name of Charge(s): _____
 Court Disposition: _____

If sentenced to state prison (ODRC) and NGR/IST-U-CJ commitment is not terminated, has detainer been issued by Prosecutor?
 1 = Yes
 2 = No

G. Violent Behavior/Prominent Risk Issues (threats, substance abuse, curfew violations, etc.)
 (whether or not the behavior resulted in an arrest) Describe: _____

25. Reasons for Revocation of CR (check all that apply)

<input type="checkbox"/> Mental Illness/Decompensation	<input type="checkbox"/> Other, Specify: _____
<input type="checkbox"/> Substance Abuse	<input type="checkbox"/> Violation of CR Plan, Specify: _____
<input type="checkbox"/> Arrest/Conviction (misdemeanor)	<input type="checkbox"/> Medication Noncompliance
<input type="checkbox"/> Arrest/Conviction (felony)	<input type="checkbox"/> AWOL

26. Compliant with Treatment
 1 = Yes
 2 = No

27. Date CR Commitment Terminated By Court (if applicable)
 Mo. Day Yr.
 - -

28. Reason CR Terminated
 1 = No Longer a Mentally Ill Person Subject to Hospitalization by Court Order [2945.401(J)(1)(a)]
 2 = Maximum Expiration of Commitment [2945.401(J)(1)(b)]
 3 = Restored to Competency and No Longer a Mentally Ill Person Subject to Hospitalization by Court Order [2945.401(J)(2)(a)(iii); Applies Only to IST-U-CJ]
 4 = Death, Cause of Death: _____
 5 = Other, Specify: _____

29. Expiration Date of Commitment (maximum time allowed by ORC)
 Mo. Day Yr.
 - -

30. Name (last, first) of Forensic Monitor for Legal/Committing County (Item 9)

31. Name (last, first) of Forensic Monitor for County of Current Address (Item 10)
 IF Person is not Living in Legal/Committing County.



Notification Form for Record Checks

Under O.R.C. 5122.311

Please Type or Print in Ink

Pursuant to Ohio Revised Code 5122.311,

I, _____, Probate Judge Chief Clinical Officer
Name of Reporting Official

of _____ County Hospital, Other
Name of Reporting Entity Agency or Facility

Street Address City State Zip County

report the following regarding a mentally ill person subject to hospitalization by court order or involuntary patient other than one who is a patient only for purposes of observation, to the best of the current knowledge and information available.

Reporting County Court Case #: _____

Name: _____
Last First Middle

Social Security #: _____

Last Known Residence: _____
Street Address City State Zip County

Mailing Address (if different from above): _____
Street Address City State Zip County

Date of Birth: ____/____/____ **Place of Birth:** _____
City State County

Sex: Male Female **Race/National Origin:** White Black Hispanic Asian/Pacific Islander American Indian/Alaskan Native Other _____

The information contained in this document is true and correct to the best of my knowledge.

Date Signature of Judge or Chief Clinical Officer

109: 5-3-01 Procedure for reporting incompetency records.

(A) Not later than seven (7) days after a person is found to be a mentally ill person subject to hospitalization by court order or becomes an involuntary patient other than one who is a patient only for purposes of observation, the Probate Judge who made the adjudication or the Chief Clinical Officer of the hospital, agency, or facility in which the person is an involuntary patient must transmit this form to the bureau of criminal identification and investigation.

(B) The foregoing shall be submitted to the bureau of criminal identification and investigation in one of the following ways:

- (1) Through the mail to the "Bureau of Criminal Identification and Investigation, P.O. Box 365, London, Ohio 43140."
- (2) Electronically in a format designated by the superintendent.

(C) This notification is required under R.C. 5122.311 for the purpose of conducting incompetency records checks pursuant to R.C. 311.41 (application to sheriff for concealed handgun permit).

(D) "Involuntary patient" means a person who is ordered to undergo treatment or continuing evaluation and treatment at a hospital, agency, or facility, or through an individual professional, under sections 2945.38, 2945.39, 2945.40, 2945.402 or committed to a hospital, facility, agency, Alcohol Drug Addiction Mental Health Services/Community Mental Health board or other person or place under section 5122.141 or 5122.15 of the Revised Code. "Involuntary patient" does not include persons admitted for purposes of evaluation pursuant to section 2945.371 of the Revised Code, or for care, observation and treatment pending examination or hearing under section 5122.10 or 5122.11 of the Revised Code.

(E) "For purposes of observation" means held at a center, program or facility for purposes of evaluation pursuant to section 2945.371 of the Revised Code or admitted for purposes of care, observation and treatment pending examination or hearing pursuant to section 5122.10 or 5122.11 of the Revised Code.

(F) "Mentally ill person subject to hospitalization by court order" and "patient" are defined at O.R.C. 5122.01.

CONDITIONAL RELEASE FOLLOW-UP REPORT

This follow-up report is to be completed by Forensic Monitors on discharged NGRI and IST-U-CJ patients and submitted to Legal Assurance Administrators. Report is due 30 days following discharge of patient from a Behavioral Healthcare Organization (BHO).

Today's Date	Date of Discharge	Date of Last Contact with Patient by Monitor or Treating Agency
Name of Patient		Patient No. (MACSIS UCI)
Name of BHO		Name of Monitor
Living Arrangements <input type="checkbox"/> Group Home <input type="checkbox"/> Individual Home <input type="checkbox"/> Shelter <input type="checkbox"/> Supervised Apartment <input type="checkbox"/> Other (specify) _____		
Employment/Training Program (specify where, what job) <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> None 		
Financial Support Type <input type="checkbox"/> Family Support <input type="checkbox"/> Medicaid <input type="checkbox"/> Medicare <input type="checkbox"/> Other Retirement <input type="checkbox"/> Salary or Earned Income <input type="checkbox"/> Soc. Sec. Retirement <input type="checkbox"/> SSDI <input type="checkbox"/> SSI <input type="checkbox"/> Veterans <input type="checkbox"/> Worker's Comp <input type="checkbox"/> Other (specify) _____		
Did the person keep the first scheduled appointment at agency? <input type="checkbox"/> Yes <input type="checkbox"/> No	Date of Appointment	Rescheduled Date
If not, why?		
Agency Name		
Compliance with CR Plan? <input type="checkbox"/> Yes <input type="checkbox"/> No	Have there been any violations of the conditional release plan requiring court notification since discharge? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, type of violation? <input type="checkbox"/> Medication Noncompliance <input type="checkbox"/> Substance Abuse/Usage <input type="checkbox"/> Treatment Appointments, No Show <input type="checkbox"/> Other Violations (specify) _____		
Other Problems Noted <input type="checkbox"/> Health Concerns <input type="checkbox"/> Homelessness <input type="checkbox"/> No Socialization <input type="checkbox"/> Other (specify) _____		
Provide Feedback to the BHO Regarding Discharge <input type="checkbox"/> Was the hospital risk assessment received? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Was the patient ready to leave BHO at time of discharge? (belongings packed, received 2 weeks supply of medications, clinically cleared, etc.) <input type="checkbox"/> Yes <input type="checkbox"/> No If no, Describe Problem _____ _____ _____ <input type="checkbox"/> Other Feedback Regarding this Patient (specify) _____ _____		

Appendix M

FORENSIC MONITORS

The list below is current as of December 1, 2007. Because there are changes to the information on this list, please consult the ODMH website for the most recent information:

<http://www.mh.state.oh.us/forensic/general/forensic.monitoring.program.html>

Adams	Bill Reed	740-374-6990, ext 17
Athens	bill_reed@wcmhar.org	
Hocking		
Lawrence		
Scioto		
Vinton		
Washington		

Allen	Kara Marciani, Psy.D.	937-832-4169
Auglaize	kmarcian@eastway.org	
Clark		
Darke		
Greene		
Hardin		
Madison		
Mercer		
Miami		
Montgomery		
Paulding		
Preble		
Putnam		
Shelby		
Van Wert		

Ashland	Hattie Tracy-Kramer	419-281-3716
	hattie@appleseedcmhc.org	

Ashtabula	Vince Arduin	330-792-1918
Columbiana	forensicctrvfa@choiceonemail.com	
Trumbull		

Belmont	Hugh Ryan	740-439-4136
Coshocton	fdcd9@verizon.net	
Guernsey		
Harrison		
Jefferson		
Monroe		
Morgan		
Muskingum		
Noble		
Perry		

Brown	Cheryl Williams cwilliams@talbothouse.org	937-378-4811
Butler	Myron Fridman mfridman@communitybehavioralhealth.org	513-844-2089
Carroll Tuscarawas	Nanette Roberson nroberson@cmhdover.org	330-364-6488
Champaign Logan	Christian Oberlies coberlies@ccibhp.com	937-465-8065, ext 125
Clermont	Roxanne Huston rhuston@clermontcounseling.org	513-947-7016
Clinton Warren	M. Douglas Reed, PhD drreedassociates@fuse.net	513-779-7400
Crawford	John Tatro ccsi_jtatro@rrohio.com	419-562-2000
Cuyahoga	Carole Ballard ballard@cccmhb.org Laura Brooks lbrooks@recres.org	216-241-3400, ext 312 216-781-9222
Defiance Fulton Henry Williams	Connie Planson mvgccp@defnet.com	419-782-8856
Delaware Morrow	Paul Damron pdamron@ohiopps.org	740-368-1740
Erie	Charon Miller miller@firelands.com	419-557-5177
Fairfield	Lynn Porter ldp@wideopenwest.com	740-654-0829
Fayette Highland Pickaway Pike Ross	Laura Perrott lperrott@spvmhc.org	740-773-8050

Franklin	Margot Gray graym@mh.state.oh.us Lois Van Barriger vanbarrigerl@mh.state.oh.us	614-752-0333, ext 5710 614-752-0333, ext 5775
Gallia Jackson Meigs	Geri Evans evansgeri@hotmail.com	740-446-5500
Geauga	Carla Gilenko gilenkoc@ravenwoodmhc.org	440-285-3568, ext 302
Hamilton	Valerie Evans barberv@mh.state.oh.us	513-948-3600
Hancock	Joe Kizer jkizer@centuryhealth.net	419-422-3711
Holmes Wayne	Diane DeRue dderue@ccwhc.org	330-264-9029
Huron	Cynthia Kegarise kegari@firelands.com	419-663-3737
Knox Licking	Kay Spergel kspergel@bhg.org	740-522-1234
Lake	Fran Beale fran@pathwaysinc.com	440-918-1000
Lorain	Sarah McGuire smcguire@recres.org	216-781-9222
Lucas	Jane Joseph jjoseph@co.lucas.oh.us	419-213-6128
Mahoning	Linda Blum lblum@turningpointcs.com	330-744-2991, ext 163
Marion	David Wilhelm dwilhelm@maccsite.com	740-387-5210
Medina	Gail Carmon gailcarmon@yahoo.com	330-725-0028, ext 6068
Ottawa	Martin Williams mtw@givingtreecounseling.com	419-734-2942, ext 20

Portage	Laura Lieberman laura.lieberman@coleman-bh.com	330-676-8009
Richland	Beth Gardner bethh@cifscenter.org	419-774-6820
Sandusky	Cassandra Hetric hetricc@firelands.com	419-332-5524
Seneca Wyandot	Shelly Biggert biggers@firelands.com	419-448-9440, ext 224
Stark	Gloria Sanders gsanders@starkmhrs.org	330-455-6644
Summit	Becky Brittain brittainb@admboard.org	330-762-3500
Union	Jennifer Burrows jburrows@ccibhp.com	937-644-3426
Wood	Clancy Yeager cyeage@bc.wcnet.org	419-872-2419