

Judicial Guide to WSS 971 Processes

1. **Clerks Guide to WSS 971 Processes:** Use as reference for the appropriate order form to use at the different phases of proceedings, and distribution of the paperwork needed.
2. **971.14(2) Competency Exams:**
 - a. Language clarification (per order form CR-205): Inpatient-conducted in either MMHI or WMHI, Outpatient-jail (for in-custody) or another location (for out-of-custody) as designated by the examiner through Wisconsin Forensic Unit (WFU).
 - b. Timeframe for examination: Inpatient (In one of the MHI's)-15 days after admission, Outpatient-30 days.
 - c. Inpatient exams (conducted in either MMHI or WMHI) can only be ordered when the DHS contracted service provider (Wisconsin Forensic Unit-WFU) has attempted to conduct the exam on an outpatient basis (which can be in the jail), and was unable to render an opinion, so WFU is recommending an Inpatient Exam.
3. **971.14(5) Treatment to Competency:**
 - a. Make sure to note/discuss the medication recommendations, from the WFU report, regarding the involuntary use of medications. On the order form (CR-206) mark the appropriate boxes (#3 or #4) to support why this is necessary, and also mark the authorization (#7) on page two of the order form.
 - b. Make sure to discuss if the court is specifically directing DHS to “Include a Sentence Enhancer/Modifier” in the commitment calculation, and if so, then this language needs to be noted on line 8 of form CR-206 under “Other”.
 - c. Once the Court receives a progress report indicating that the defendant is now competent, or is not competent and not likely to become competent within the statutory timeframe allowed under the commitment, the statute calls for the Court to hold a Competency Hearing within 14 days of receiving the report. The defendant is to be transported from the facility (MMHI or WMHI) for the appearance.
 - d. There is no Order form needed after a finding that competency has been restored, simply noting the stipulation or finding on the record and reinstating proceedings is sufficient to discharge the defendant from the commitment. If there is a finding of “Not Competent & Not Likely to Become Competent” form CR-280 can be used in the disposition of the commitment and/or case.
4. **Outpatient Competency Restoration Program (OCRCP):**
 - a. Accepting referrals Statewide and assessing on a case-by-case basis.
 - b. Under WSS 971.14(5) when the Court makes a finding of Not Competent, but Likely to Become Competent, the Court commits the defendant to DHS for treatment to competency restoration. The Court **can only refer/request** that DHS consider whether the defendant is appropriate for the OCRCP. The Court **can't Order it**, as the determination of where/how the treatment will be provided is a DHS decision under the statute for the commitment.
 - c. *See **DHS: Outpatient Competency Restoration Program processes.***
5. **971.16 NGI Plea and Examination:**
 - a. The Court is to appoint an examiner, which must be independent from our department (not DHS, WFU or MMHI/WMHI). Our Department has a list of Independent Examiners, which I have available upon request, as merely a resource for your county. If the Court or Attorneys have not specified a specific examiner, the Court can use this list to locate an examiner, but they are **not appointed or paid for by DHS.**

6. **971.17 NGI Commitment:**
- a. Upon a finding of NGI the defendant is committed to DHS, and the order form CR-271 should be done immediately. Additional CR order forms will accompany the CR-271 depending on what course of action the Court is taking next, for example:
 - i. Certain that placement is needed in either MMHI/WMHI, CR-275 Order for Placement (and note as an “Initial” Placement)
 - ii. Certain that placement in the community is appropriate, CR-274 to Order a Conditional Release Plan (to be completed within 21 days)
 - iii. Unsure of appropriate placement, so requesting PDI (CR-272) or SME (CR-273)
*****In every situation the CR-271 is needed first*****
7. **971.17(4) Petition for Conditional Release:**
*****The timeframe and process for CR Petitions on cases prior to 1/1/91 differ from the information provided below, please refer to the language in the older statutes*****
- a. The Court is to appoint an examiner, which must be independent from our department (not DHS, WFU or MMHI/WMHI). Our Department has a list of Independent Examiners, which I have available upon request, as merely a resource for your county. If the Court or Attorneys have not specified a specific examiner, the Court can use this list to locate an examiner, but they are not appointed or paid for by DHS.
 - b. The Court is to appoint an examiner within 20 days of receiving the petition, and the appointed examiner should submit the report to the Court within 30 days of being appointed. The Court shall then hold a hearing within 30 days of receiving the examiner’s report.
 - c. If the Court grants Conditional Release, then the Court Orders the DHS contracted CR Provider for your county to prepare and submit a CR Plan within 60 days.
8. **971.17 Petition to Revoke Conditional Release**
- a. The DOC Agent initiates these proceedings, and an ATR may be considered.
 - b. Order form CR-276 applies to these types of proceedings.
 - c. If client is revoked then a new Placement Order (form CR-275) will be needed, and this Order should be marked as a “Subsequent” placement at the top of the form.

***Additional Questions or Concerns regarding ANY of these processes can be directed to the DHS Statewide Court Liaison:**

Adam Oldenburg-DHS/WCS Court Liaison Office: (414)239-7825, Cell (414)750-3519 or email: aoldenburg@wiscs.org

Vicki Shequen-DHS/WCS Assistant Court Liaison Office (414)303-7547 or email: vshequen@wiscs.org

(And/Or)

***Questions regarding Competency Exams:**

Wisconsin Forensic Unit (414)278-4690 or email: staff@wiforensicunit.com

***Questions regarding the Outpatient Competency Restoration Program (OCRP):**

Behavioral Consultants, Inc. (414)271-5577

***Questions regarding NGI Commitments, PDI/SME’s, CR Petitions and CR Plans: Contact the DHS Court Liaison to determine the appropriate DHS contracted service provider for your county.**