

# The NGI Process: Multiple Ways to Proceed...

Training for Members of  
the Judicial System

Provided by Wisconsin Community  
Services, Court Liaison Services  
*Supporting the Wisconsin Department of  
Health Services*

## WSS 971 Processes

### NGI Plea Under WSS 971.16- ***Use Form CR-270***

If the defendant has entered a plea of not guilty by reason of mental disease or defect (NGI) the court may appoint at least one physician or at least one psychologist, but not more than 3 physicians or psychologists or combination thereof, to examine the defendant and to testify at the trial. ***The compensation of the physicians or psychologists shall be fixed by the court and paid by the county upon the order of the court as part of the costs of the action. The examiner must be a non-DHS examiner, as our Dept does not contract with examiners or pay for this type of examination.***

If a defendant is found not guilty by reason of mental disease or defect (NGI), the court shall enter a judgment of not guilty by reason of mental disease or defect. The court shall thereupon proceed under s. 971.17. A judgment entered under this paragraph is interlocutory to the commitment order entered under s. 971.17. ***The Order of Commitment (Form CR-271) is to be completed at this time, and this Order form will always be accompanied by another Order form, depending on how the Court is proceeding with the placement determination under the commitment.***

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	For Official Use
State of Wisconsin, Plaintiff -vs- _____ Name Defendant	<b>Order for Examination under §971.16</b> (Not Guilty by Reason of Mental Disease or Defect)
_____ Date of Birth	Case No. _____

**Defendant's:**

Telephone Number	Address
Present Location	

**THE COURT FINDS:**

The defendant has entered a plea of not guilty by reason of mental disease or defect to the following crime(s):

<u>Crime(s)</u>	<u>Wis. Statute(s) Violated</u>	<u>Date(s) Committed</u>
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**THE COURT ORDERS:**

1. The defendant be examined by (name) \_\_\_\_\_
2. This outpatient examination be conducted at \_\_\_\_\_
3. The report shall contain the examiner's opinions as to both the ability of the defendant to appreciate the wrongfulness of his or her conduct and the ability of the defendant to conform his or her conduct to the requirements of the law at the time of the commission of the crime(s) charged.
4. If sufficient information is available to reach an opinion, the report shall include the examiner's opinions as to whether the defendant needs medication or treatment and whether the defendant is competent to refuse medication or treatment as defined in §971.16(3), Wisconsin Statutes.
5. The defendant submit to the examination.
6. The examiner submit a report to the court no later than (date) \_\_\_\_\_
7. The clerk provide the examiner a copy of the most recent criminal complaint and all other examiner's report(s).
8. Other: \_\_\_\_\_

**BY THE COURT:**

	Circuit Court Judge
	Name Printed or Typed
	Date

- Distribution:**
1. Court - Original
  2. District Attorney
  3. Defense Attorney
  4. Examiner

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

For Official Use

State of Wisconsin, Plaintiff

-vs-

**Order of Commitment  
(Not Guilty by Reason of  
Mental Disease or Defect)**

Defendant

Name

Case No. \_\_\_\_\_

Date of Birth

**Defendant's:**

Telephone Number	Address (include municipality and county)
Present Location (include municipality and county)	

**THE COURT FINDS:**

1. The defendant was found not guilty by reason of mental disease or defect to the following crime(s):  
Crime(s) Wis. Statute(s) Violated Date(s) Committed

- 2. At least one of the crimes is a misdemeanor and the maximum term of imprisonment, including imprisonment authorized by penalty enhancers, is \_\_\_\_\_ years, \_\_\_\_\_ months, \_\_\_\_\_ days.
- 3. At least one of the crimes is a felony committed:
  - before July 30, 2002
  - after July 30, 2002
 and the maximum term of imprisonment for the crime(s), including imprisonment authorized by penalty enhancers, is:  life.  life plus \_\_\_\_\_ years.  \_\_\_\_\_ years, \_\_\_\_\_ months, \_\_\_\_\_ days.
- 4. The crime (or at least one of them if more than one) is a felony and the court has informed the defendant of the requirements and penalties under §941.29, Wisconsin Statutes, related to possession of a firearm.
- 5. The crime (or at least one of them if more than one) is a violent felony and the court has informed the defendant of the requirements and penalties under §941.291, Wisconsin Statutes, related to possession of body armor.

**THE COURT ORDERS:**

- 1. Judgment of not guilty by reason of mental disease or defect be entered for the above listed crime(s).
- 2. The defendant committed to the Department of Health and Family Services (DHFS) for:
  - life.
  - \_\_\_\_\_ years, \_\_\_\_\_ months, \_\_\_\_\_ days, which does not exceed the maximum term of confinement/imprisonment that could be imposed on an offender convicted of the same felony(ies), plus imprisonment authorized by any penalty enhancer.
  - \_\_\_\_\_ years, \_\_\_\_\_ months, \_\_\_\_\_ days, which is not more than two-thirds of the maximum term of imprisonment that could be imposed on an offender convicted of the same misdemeanor(s), including imprisonment authorized by any penalty enhancer.
- 3. This commitment is  consecutive to any other §971.17 commitments or  commences on (date) \_\_\_\_\_ which is concurrent with any other §971.17 commitments.
- 4. The defendant be granted \_\_\_\_\_ days credit.
- 5. The clerk to provide DHFS a copy of the most recent criminal complaint and all examiner reports.

**Distribution:**

- 1. Court (Original)
- 2. District Attorney
- 3. Defense Attorney
- 4. Department of Health and Family Services
- 5. Department of Corrections
- 6. §51.42 Board (where defendant resides)
- 7. Sheriff (where defendant resides)
- 8. Municipal Police Department (where defendant resides)

**BY THE COURT:**

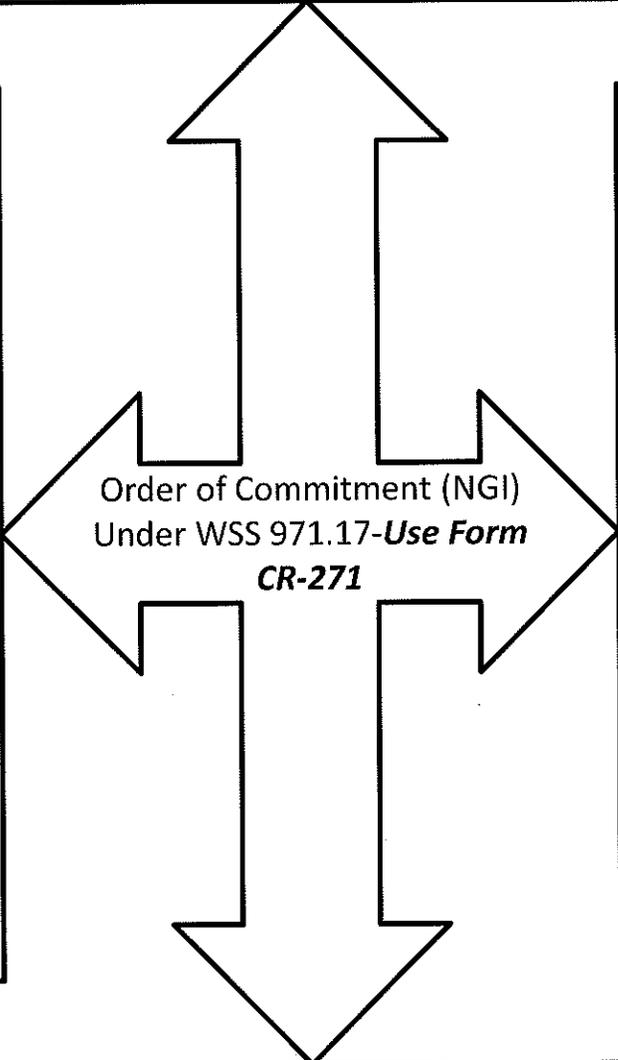
\_\_\_\_\_  
Circuit Court Judge

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Date

**Conditional Release (CR) Plan-Use Form  
CR-274**  
If Court is certain that placement in the community, on Conditional Release, under the NGI commitment is appropriate. DHS has 21 days to complete the CR Plan.

**Predisposition Investigation (PDI)-  
Use Form CR-272**  
If the Court is uncertain of placement the Court can order the PDI to assist in making the placement determination. PDI is done by the DHS contracted CR service provider for your county, and this can be done while the defendant is in custody or out on bail/bond.



**Supplementary Mental Examination (SME)-Use Form  
CR-273**  
If the Court is uncertain of placement the Court can order the SME to assist in making a placement determination. SME is done on an inpatient basis, at either MMHI or WMHI. **Optional private SME**

**Placement for Institutional Care-Use  
Form CR-275**  
If the Court is certain that placement in the one of the State Mental Health Institutes, under the NGI commitment, is necessary.

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

*For Official Use*

State of Wisconsin, Plaintiff  
-VS-

**Order for Predisposition  
Investigation  
(Not Guilty by Reason of  
Mental Disease or Defect)**

\_\_\_\_\_  
Name Defendant

Case No. \_\_\_\_\_

\_\_\_\_\_  
Date of Birth

**Defendant's:**

Telephone Number	Address
Present Location	

**THE COURT FINDS:**

1. The defendant was committed to the Department of Health and Family Services (DHFS) on (date) \_\_\_\_\_. A copy of the Order of Commitment is attached.
2. The court lacks sufficient information to determine whether the commitment should be for institutional care or conditional release.

**THE COURT ORDERS:**

1. DHFS to conduct a predisposition investigation and prepare a report to assist the court in framing a placement order under the commitment.
2. All the defendant's treatment records requested by the investigator be released to the investigator.
3. The report be furnished to the court no later than (date) \_\_\_\_\_.
4. A hearing be held on (date) \_\_\_\_\_ at (time) \_\_\_\_\_.

Additional information or concerns, if any:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BY THE COURT:**

\_\_\_\_\_  
Circuit Court Judge/Clerk of Court

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Date

**Distribution:**

1. Court - Original
2. District Attorney
3. Defendant/counsel
4. Department of Health and Family Services

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

For Official Use

State of Wisconsin, Plaintiff  
-vs-

**Order for Supplementary  
Mental Examination**  
(Not Guilty by Reason of  
Mental Disease or Defect)

\_\_\_\_\_  
Name Defendant

Case No. \_\_\_\_\_

\_\_\_\_\_  
Date of Birth

**Defendant's:**

Telephone Number	Address
Present Location	

**THE COURT FINDS:**

- The defendant was committed to the Department of Health and Family Services (DHFS) on (date) \_\_\_\_\_.  
A copy of the Order of Commitment is attached.
- The court lacks sufficient information to determine whether the commitment should be for institutional care or conditional release.

**THE COURT ORDERS:**

- A supplementary mental examination be conducted by:
  - a. The Department of Health and Family Services (DHFS).  
The sheriff shall:
    - Arrange for transportation of the defendant to the examining facility within 48 hours after notification.
    - Return the defendant to the jail within 48 hours, after receiving notice from the examining facility that the examination has been completed.
  - OR
  - b. Other examiner: \_\_\_\_\_
    - The defendant shall:
      - Be examined on (date) \_\_\_\_\_ at (time) \_\_\_\_\_  
at (location) \_\_\_\_\_
      - OR
      - Schedule an appointment with the examiner within 24 hours of the date of this order.
    - The clerk to attach a copy of the commitment order with its attachments.
    - The cost of the examination be paid by: \_\_\_\_\_
- All the defendant's treatment records requested by the investigator be released to the investigator.
- The examination be completed and a report filed within 15 days from the date of this order.
- A hearing be held on (date) \_\_\_\_\_ at (time) \_\_\_\_\_

**Additional information or concerns, if any:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BY THE COURT:**

\_\_\_\_\_  
Circuit Court Judge/Clerk of Court

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Date

- Distribution:
- Court - Original
  - District Attorney
  - Defendant/counsel
  - Department of Health and Family Services or examiners

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

For Official Use

State of Wisconsin, Plaintiff  
-vs-

**Order for Conditional  
Release Plan**  
(Not Guilty by Reason of  
Mental Disease or Defect)

\_\_\_\_\_  
Name Defendant

Case No. \_\_\_\_\_

\_\_\_\_\_  
Date of Birth

**Defendant's:**

Telephone Number	Address
Present Location	

**THE COURT FINDS:**

1. The defendant was committed to the Department of Health and Family Services (DHFS) on (date) \_\_\_\_\_. A copy of the Order of Commitment is attached.
2. On (date) \_\_\_\_\_, the court determined that conditional release would not pose a significant risk either of bodily harm to the defendant or to others, or of serious property damage.
3. The defendant resides in \_\_\_\_\_ County.

**THE COURT ORDERS:**

1. DHFS and the §51.42 Board of the county of the defendant's residence prepare a plan that identifies:
  - The treatment and services, if any, that the defendant will receive in the community.
  - The defendant's needs, if any, for supervision, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment.
  - Who will be responsible for providing the treatment and services identified in the plan.
2. All the defendant's treatment records requested by DHFS be released to DHFS.
3. The plan be presented to the court for approval:
  - within 21 days for a defendant who is not in an institution under this commitment
  - within 60 days for a defendant who is in an institution under this commitment
 after the date the court determined the defendant appropriate for conditional release.
4. The hearing be held on (date) \_\_\_\_\_ at (time) \_\_\_\_\_.

**BY THE COURT:**

**Distribution:**

1. Court - Original
2. District Attorney
3. Defense Attorney
4. Department of Health and Family Services
5. Department of Corrections
6. §51.42 Board (of county of defendant's residence)
7. Sheriff (where defendant will reside)
8. Municipal Police Department (where defendant will reside)

\_\_\_\_\_  
Circuit Court Judge/Clerk of Court

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Date

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

For Official Use

State of Wisconsin, Plaintiff  
-vs-

Order for Placement  
 Initial  Subsequent  
(Not Guilty by Reason of  
Mental Disease or Defect)

\_\_\_\_\_  
Name Defendant

Case No. \_\_\_\_\_

\_\_\_\_\_  
Date of Birth

Defendant's:

Telephone Number	Address
Present Location	

THE COURT FINDS:

- The defendant was committed to the Department of Health and Family Services (DHFS) on (date) \_\_\_\_\_. A copy of the Order of Commitment is attached.
- On (date) \_\_\_\_\_, the court determined that conditional release  would  would not pose a significant risk of bodily harm to the defendant or others, or of serious property damage.
- The involuntary administration of psychotropic medications is needed because:
  - The defendant poses a current risk of harm to self or others if not medicated,
  - The administration of medication is in the defendant's medical interest, and
  - The defendant is not competent to refuse psychotropic medication or treatment due to mental illness, developmental disability, alcoholism, or drug dependence, because:
    - the defendant is incapable of expressing an understanding of the advantages and disadvantages of accepting psychotropic medication or treatment and the alternatives.
    - OR
    - the defendant is substantially incapable of applying an understanding of the advantages, disadvantages and alternatives to his or her mental illness, developmental disability, alcoholism or drug dependence in order to make an informed choice as to whether to accept or refuse psychotropic medication or treatment.

THE COURT ORDERS:

- The following placement:
  - institutional care.  
The sheriff shall transport the defendant to the mental health institute designated by DHFS.
  - conditional release, subject to the plan approved by the court, which is attached to this order.
    - The defendant shall report immediately to the office of the Department of Corrections, Division of Community Corrections, located in the city of \_\_\_\_\_
- DHFS is authorized to administer psychotropic medication or treatment to the defendant and shall observe appropriate medical standards in doing so.

BY THE COURT:

Distribution:

- Court - Original
- Distict Attorney
- Defense Attorney
- Department of Health and Family Services
- Department of Corrections
- §51.42 Board (of county of defendant's residence)
- Sheriff (where defendant will reside)
- Municipal Police Department (where defendant will reside)

\_\_\_\_\_  
Circuit Court Judge

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Date

## **Common Questions:**

- 1. Can a person be sent to the MHI to have an NGI exam done? What if the person is ED'd to the MHI, or already at the MHI under another commitment (Civil), can the MHI staff conduct the exam?**
- 2. Can a person that is under an NGI commitment, and placed in the community on conditional release, live or travel out of state?**
- 3. Can a person who was found NGI be ordered to pay restitution?**
- 4. The Court received a Petition to Revoke Conditional Release, when should a hearing be set?**
- 5. The Court received a Petition for Conditional Release, when should a hearing be set?**
- 6. The Court received a Petition for Termination of Commitment, when should a hearing be set?**