

THE INSANITY DEFENSE AND THE CONNECTICUT MODEL

**Ellen Lachance, MSW
Executive Director**

AFFIRMATIVE DEFENSE

C.G.S. Sec 53a-13

- A finding of NGRI is an affirmative defense, not imposed on a defendant
- The defendant must be competent to stand trial to mount an insanity defense
- A finding of NGRI predates the establishment of the PSRB



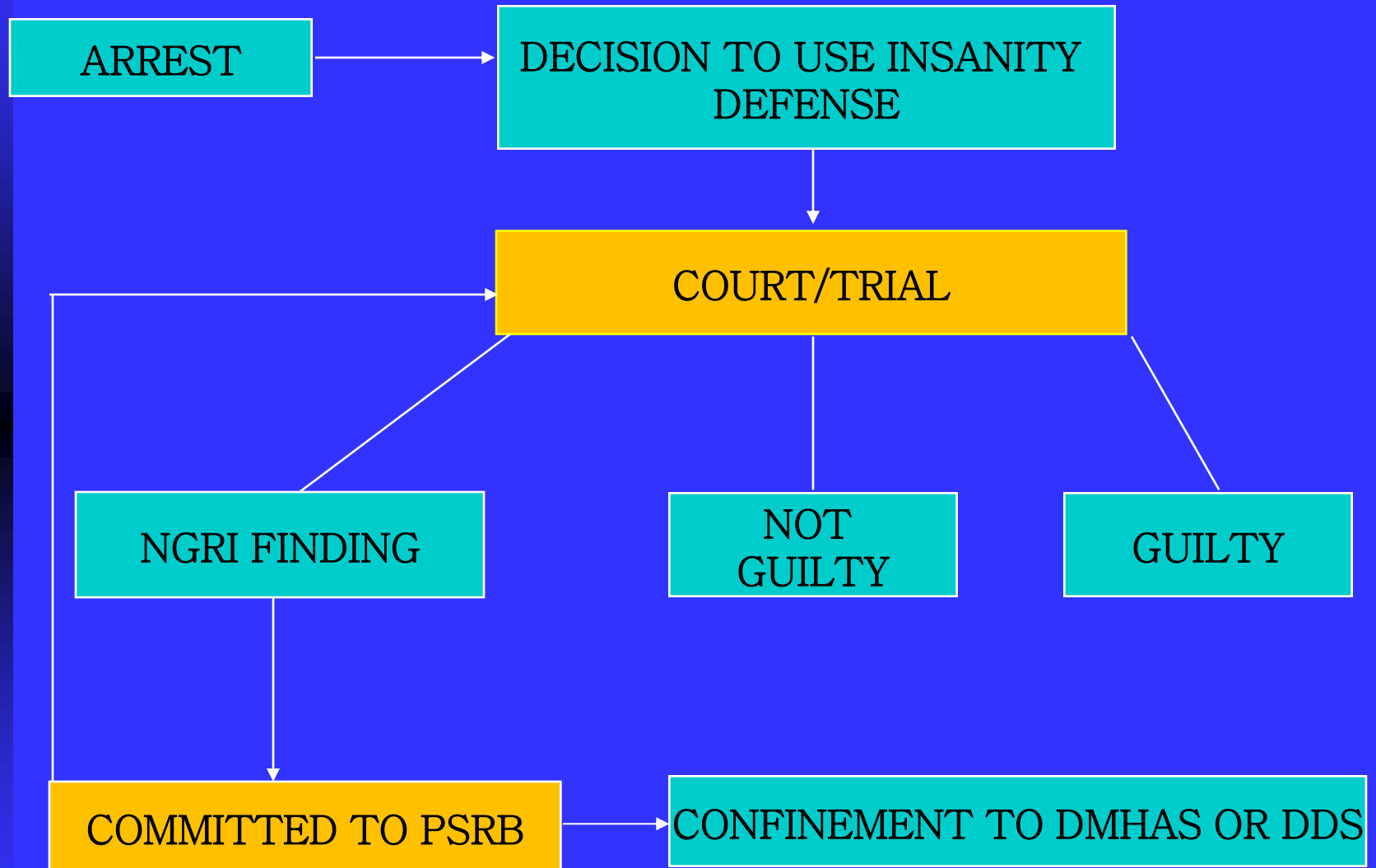
PSYCHIATRIC SECURITY REVIEW BOARD

Created by the legislature in 1985
C.G.S. Sec. 17a-581-603



CT HISTORY

- 1982 – John Hinckley verdict
- 1983 – Connecticut legislature orders the Connecticut Law Review Commission to undertake study of NGRI post-verdict dispositions
- Commission findings revealed inadequate oversight of acquittees and recommended the establishment of a new system to assure greater accountability
- Law Review Commission and committee members compose the substance of the PSRB statutes, following the Oregon Model
- 1985 – The PSRB was drafted into law and established pursuant to Connecticut General Statutes, Sections 17a-581-603
- The new process distributed authority for insanity acquittees between the court, mental health facilities and an independent administrative board, the PSRB



COMMITMENT TERM

- Following a finding of NGRI, the court will set a commitment length, commit the individual to the jurisdiction of the Board, but maintain ultimate authority
 - ◆ Average commitment length is 31 years
 - ◆ Unlike a criminal sentence, the commitment length can be extended or shortened

BOARD APPOINTMENTS

- The Board is composed of six members, appointed by the Governor to serve a four year term
- Confirmed by legislature
- May be re-appointed
- Board members provide a public service and receive \$75 honorary per diem
- Appointment, per statute, is by area of expertise

PSRB MEMBERS

- Chair, Attorney Member - Sheila Hennessey, Esq.
- Psychiatrist - Hassan Minhas, M.D.
- Psychologist - Mark Kirschner, Ph.D
- Probation/parole expert - Cheryl Abrams, MS
- Lay person from the public - Sylvia Cancela, MBA
- Victim services experience - Susan Blair, MS, LPC

BOARD AUTHORITY

- The Board confines individuals to the Department of Mental Health and Addiction Services or to the Department of Developmental Services
- The Board determines the level of placement for an acquittee and the level of supervision in the community
- By statute, the Board's primary concern is the "protection of society"

BOARD AUTHORITY

- Board orders placement in maximum-security or transfer to a less restrictive secured hospital setting
- Board grants Temporary Leave or Conditional Release to the community
- Board may revoke an acquittee's community placement due to psychiatric decompensation or violation of conditions
- May order supervision through the Office of Adult Probation

LIMITS OF AUTHORITY

- The Board's authority is limited when acquittees are residing in the hospital
- Board does not have authority over hospital privilege levels for patients to be unescorted on hospital grounds or spend time in the community with hospital staff
- By statute, the weight of the Board's authority is more significant for acquittees in the community

HEARINGS

- The Board's decision making process is achieved through administrative contested hearings held every two weeks and open to the public
- Hearings are posted on the agency website
- At hearings, acquittees are represented by a defense attorney and the state is represented by a state's attorney
- Testimony is provided by hospital staff for inpatient acquittees and community providers for acquittees on Conditional Release

HEARINGS

- By statute, each acquittee must have a hearing every two years to review their status
- Hearings are held more frequently for a change in status, such as applications to transfer out of maximum-security, transition to the community on Temporary Leave or Conditional Release
- Board decisions are issued in a Memorandum of Decision and may be appealable to Superior Court

PSRB POPULATION

- 148 acquittees as of April 23, 2019
- Agency
 - ◆ DMHAS - 146
 - ◆ DDS – 2
- Current placement
 - ◆ WFH – 117
 - Dutcher Enhanced Security Unit – 88
 - Whiting Maximum Security Unit – 29
 - ◆ Conditional Release – 28
 - ◆ Incarcerated - 2
 - ◆ AWOL - 1

COMMUNITY TRANSITION

TEMPORARY LEAVE

- Authority to transition to the community resides with the Board and begins with Temporary Leave
- Temporary Leave is the first step in the transition from inpatient to the community and applications are the responsibility of the hospital
- Temporary Leave can be for a few hours or to reside overnights in the community
- Acquittee remains the responsibility of WFH until conditionally released

CONDITIONAL RELEASE

- Conditional Release is a discharge from the hospital to the community
- Any party, including the acquittee, can apply for Conditional Release
- The Board sets conditions recommended by the hospital or the community providers and may order its own
- Over time, modifications to decrease stipulations result in less supervision and increased independence

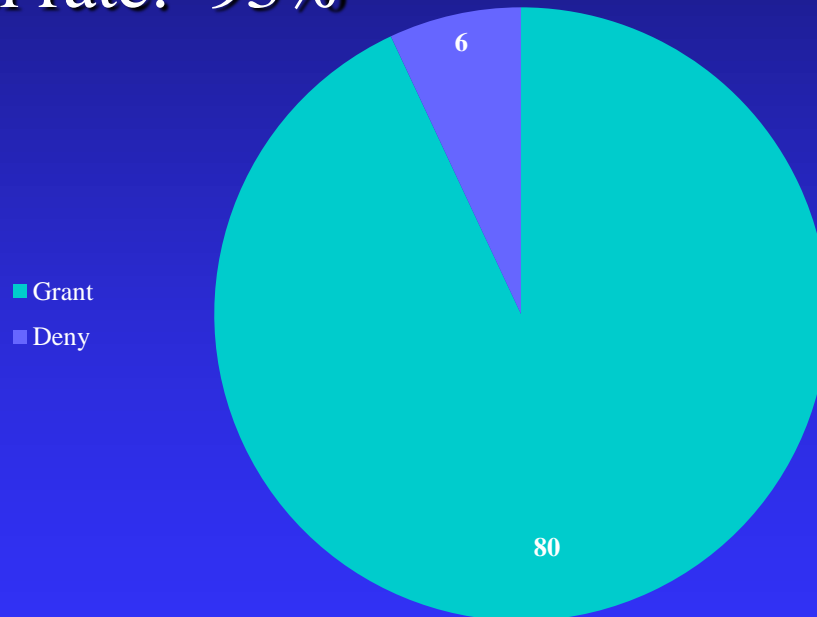
CONDITIONAL RELEASE

- Conditional Release can be revoked due to decompensation or violation of conditions, such as drug use
- Revocation results in readmission to hospital with average revocations of 1-2 per year
- Conditional Release usually precedes an application for discharge to the court

BOARD VOTING RECORD 2007-2017

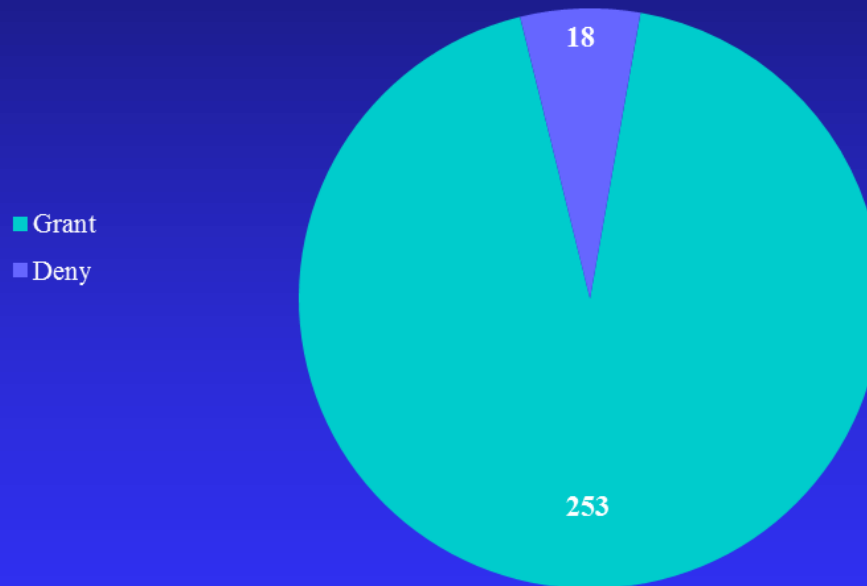
TRANSFER FROM MAXIMUM-SECURITY

Approval rate: 93%



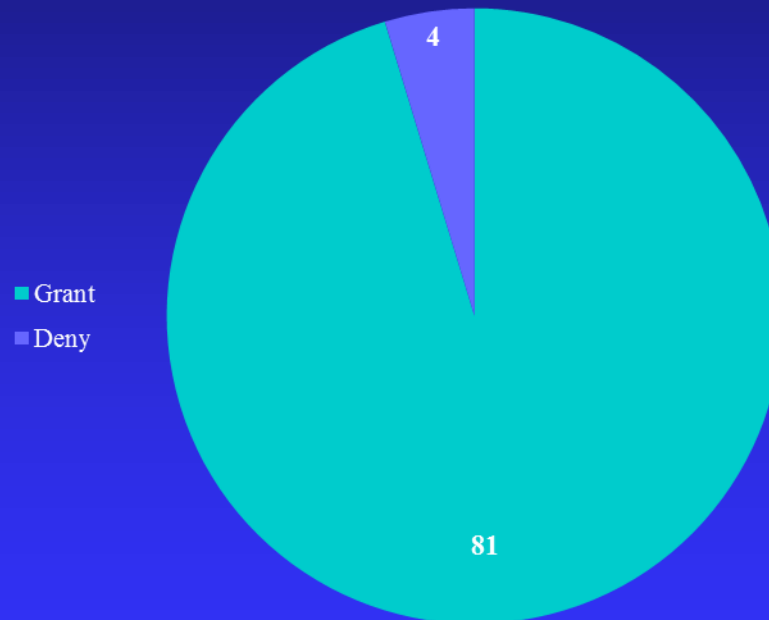
APPLICATIONS FOR TEMPORARY LEAVE

Approval rate: 93%



APPLICATIONS FOR CONDITIONAL RELEASE

Approval rate: 95%



EARLY DISCHARGE

- Early discharge is a discharge from the Board commitment granted by the court
- An acquittee may apply for discharge from the Board at any point during their commitment
- By statute, the Board provides a recommendation to the court on the application
- Since July 1985, the courts have granted early discharge to 72 acquittees
- Once discharged, the Board's jurisdiction ends and cannot be reinstated

CONTINUED COMMITMENT

- Continued commitment is an extension of an acquittee's commitment beyond the original term set by the court
- By statute, only the state's attorney can petition the court to extend a commitment if the state believes an acquittee remains dangerous as a result of a mental illness
- The Board provides a recommendation to the court on the state's petition
- Since July 1985, the courts have extended the commitment of 100 acquittees

REGISTRATION

- Acquittees who have committed sex offenses must register with the Sex Offender Registry
- Acquittees must register a DNA sample with the state police
- A criminal background check will show an acquittee's NGRI finding on the index offense

PSRB

CONTACT INFORMATION

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