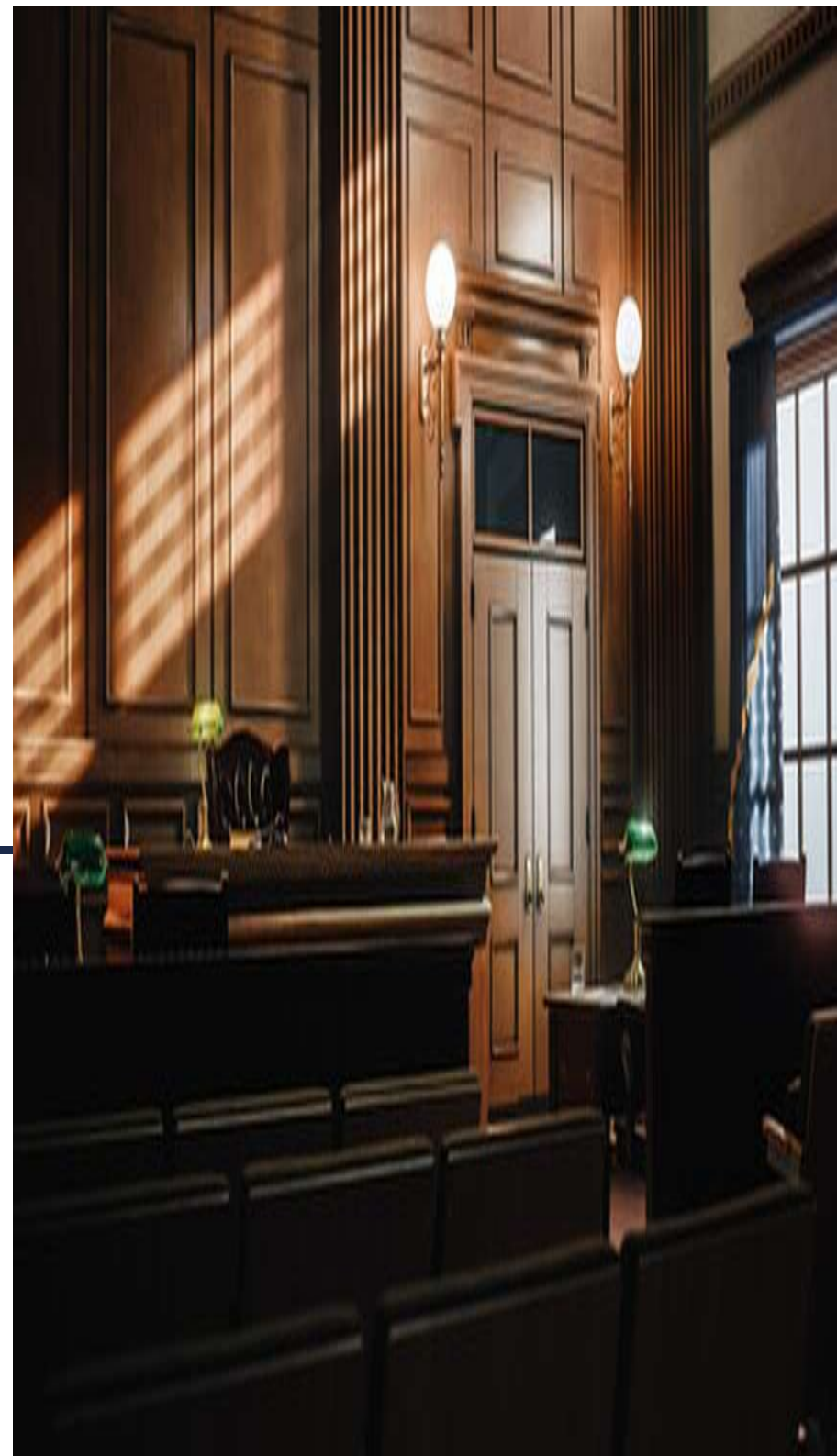


Post-Acquittal Procedures After an NGRI Verdict in Texas

Texas Code of Criminal Procedure | Chapter 46C

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NGRI Overview

- Judge/Jury verdict options:
 - Guilty
 - Not guilty; or
 - Not guilty by reason of insanity (NGRI)
- NGRI is a verdict of acquittal (different than ordinary acquittal)
- Post-acquittal procedures



Dangerousness Determination

Court must determine if the offense Defendant was acquitted of involved conduct that:

- Caused serious bodily injury (SBI) to another person;
- Placed another in imminent danger of SBI; or
- Consisted of a threat of SBI to another through use of a deadly weapon



Non-Dangerous Acquitted Person

- Criminal court evaluates evidence of mental illness (MI) or intellectual and developmental disability (IDD)
- Court determines whether there is evidence to support a finding that AP has a MI/IDD
 - If yes, court transfers jurisdiction to a court with probate jurisdiction for civil commitment proceedings under Texas H&S Code
 - Court may order temporary detention in jail or other suitable place pending civil commitment proceedings
- If no, AP is released

Dangerous Acquitted Person

Criminal court retains jurisdiction over AP until:

- Court discharges AP and terminates its jurisdiction in advance:
 - AP does not have severe MI or IDD; or
 - AP is not likely to cause serious harm to another because of severe MI/IDD

OR

- Jurisdiction automatically terminates because AP “times out”:
 - Cumulative total period of institutionalization and outpatient treatment under court’s jurisdiction equals the max term of the offense for which found NGRI

Commitment for Evaluation

- Court orders AP to a HHSC designated facility for evaluation and treatment
- 30-day commitment
 - Transcript of medical testimony and vital stats are sent to mental health facility
- Court must hold a hearing within 30 days of acquittal to determine disposition of AP
 - Waitlist
- Court requires a report filed with the court 4+ days before the hearing



Report to Court

Report must address:

- Whether AP has MI or IDD and if so whether it is severe
- Whether, as a result of severe MI/IDD, AP is likely to cause serious harm to another
- Whether AP meets civil commitment criteria under H&S Code
- Whether treatment and supervision can be safely and effectively provided on an outpatient basis



Disposition Hearing

Hearing conducted in same manner as application for involuntary commitment under H&S Code and court addresses:

- Whether AP has a severe MI or IDD
- Whether, as a result of MI/IDD, AP is likely to cause serious harm to another
- Whether appropriate treatment and supervision can be safely and effectively provided on an outpatient basis
- State's burden by C&CE



Possible Outcomes

- Inpatient/residential commitment if grounds established
- Outpatient commitment if grounds established
- Transfer to a court with probate jurisdiction for civil commitment if State fails to establish grounds for inpatient or outpatient, but evidence provides reasonable basis for commitment under H&S Code
- Discharge and immediate release if none of the above are established



Inpatient Commitment Criteria

Court shall order AP to HHSC designated facility for a 180-day commitment if it finds:

- AP has a severe MI or IDD
- As a result of MI/IDD, AP is likely to cause serious harm to another if not provided with treatment and supervision
- Inpatient/residential treatment is necessary to protect the safety of others



Maximum Security Unit (MSU) Review

If HHSC designates AP to a MSU:

- They must be presented to a Review Board within 60 days
- Review Board determines if AP is manifestly dangerous
- If not manifestly dangerous → transfer AP to non-MSU facility or state supported living center



Outpatient/Community-Based Treatment Criteria

Court shall order AP to outpatient/community-based treatment and supervision for 12 months if it finds:

- AP has a severe MI or IDD
- As a result of MI/IDD, AP is likely to cause serious harm to another if not provided with treatment and supervision
- State fails to establish that inpatient/residential treatment is necessary to protect the safety of others



Outpatient/Community-Based Treatment and Supervision

- Court must approve outpatient treatment/supervision plan
- Plan must be available and provided to acquitted person
- Court must have as its primary concern the protection of society
- Court may order:
 - AP to participate in a prescribed regimen of medical, psychiatric or psychological care/treatment to include psychoactive medication
 - AP to be supervised by the appropriate community supervision and corrections department or facility administrator of a community center
 - AP to participate in a supervision program funded by TCOOMMI

Outpatient/Community-Based Treatment and Supervision

- Supervision Requirements:
 - Monitor AP's condition
 - Determine whether AP is compliant with the regimen of treatment and supervision
- Court and prosecutor must be notified if AP:
 - Fails to comply with the regimen; and
 - Becomes likely to cause serious harm to another

Facility Responsibility

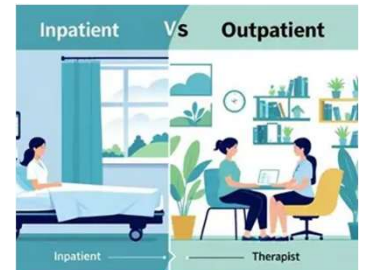
- The treating facility has a continuing responsibility during the inpatient commitment period to determine if AP:
 - Continues to have a severe MI/IDD and is likely to cause serious harm to others; and
 - If so, whether treatment/supervision cannot be safely and effectively provided on an outpatient basis
- The facility must notify the court and seek a modification of the order if AP no longer:
 - Has severe MI/IDD;
 - Likely to cause serious harm to another; or
 - Treatment/supervision can be safely provided on an outpatient basis

Modification of Treatment Orders

- Court may modify inpatient ↔ outpatient when deemed appropriate
 - Improvement/stabilization can lead to outpatient treatment
 - Request may be made by AP, inpatient facility or prosecutor
 - Court shall modify order to direct outpatient treatment/supervision if it is shown by PPE that treatment/supervision can be safely/effectively provided on an outpatient basis
- Non-compliance or danger may require return to inpatient treatment
 - The court on its own motion or the motion of any interested person may revoke or modify an outpatient commitment order if it is shown by C&CE that AP:
 - Failed to comply with treatment/supervision in a way that indicates they will become likely to cause serious harm to another; or
 - Has become likely to cause serious harm to another if provided continued outpatient treatment

Request for Renewal of Commitments

- Request to renew the order **MUST** be filed no later than 30 days before the current commitment order expires
- Request may be filed by the prosecutor, inpatient facility or outpatient provider
- Must explain in detail why renewal is being requested and accompanied by a Certificate of Medical Examination (CME) signed by a **physician** who examined the individual within the 30 days preceding the date of filing the renewal request
- A request to renew an inpatient order must also explain in detail why outpatient treatment/supervision is not appropriate



Renewal of Commitments

- Court reviews inpatient/outpatient treatment orders annually
- Court shall renew an order for inpatient or outpatient treatment only if court finds by clear and convincing evidence that continued mandatory supervision and treatment is appropriate
- Renewal order authorizes treatment/supervision up to 12 months

Tarrant County NGRI & Commitment Overview

Current Commitment Orders

- 25 inpatient
- 1 outpatient

NGRI Findings (last 4 years)

Year	NGRI Findings
2023	3
2024	5
2025	2
2026	3 (to date)

Practical Tips

- Establish a process
 - Example: Outpatient renewal request
- Develop points of contact at facilities, with those responsible for administering outpatient/community-based treatment and supervision, courts, prosecution, attorneys representing AP
- Communicate

Questions?

