

disABILITY LAW CENTER

OF VIRGINIA

Protection & Advocacy for Virginians with Disabilities



UNDERSTANDING NGRI

Resource Guide

September 2023

TABLE OF CONTENTS

Introduction.....	1
Definitions.....	2
Goals of the Privilege System.....	3
Privilege Level Overview.....	4
Moving Through Levels.....	5
Continuation Hearings.....	6
Conditional Release.....	7
FAQs.....	9
Need Help?.....	10



INTRODUCTION

This guide provides an overview of The Department of Behavioral Health and Developmental Service's (DBHDS) privileging system program for individuals found Not Guilty by Reason of Insanity (NGRI).

It also offers NGRI patients practical tips and strategies to work through the process. This guide will help you, the NGRI patient, better understand your rights and how to file complaints or appeals.

DEFINITIONS

Acquittee: Person found “not guilty” of a criminal charge

Appeal: Asking for a decision to be reconsidered or changed

Commissioner: Director of DBHDS

Conditional Release: NGRI patient is released from the hospital to live in the community under CSB/BHA supervision

Unconditional Release: NGRI is released from the hospital to live in the community unsupervised

Facility Director: Director of the State Hospital

Forensic Review Panel (FRP): A state-level panel that approves or denies requests for privilege level increases

Human Rights Advocate: Works for the DBHDS’ Office of Human Rights with patients in facilities to address concerns and assist with filing complaints

Internal Forensic Privileging Committee (IFPC): A facility-level committee that approves or denies privilege level increases

Petition: A formal request for a decision or to appeal a decision

Goals of the Privilege System

DBHDS' Program consists of nine levels, which you are required to successfully move through for the DBHDS Commissioner to recommend your release from the hospital. The purpose of each of these levels is to give you a little more freedom to show that you're able to handle the responsibility that comes with the increase.

These are the NGRI program goals:

1. Provide you with privileges that match where you are in treatment

2. Make sure risks are assessed before gaining an increase in freedom

3. Facility must provide the chance for you to show that you can be responsible with various levels of freedom

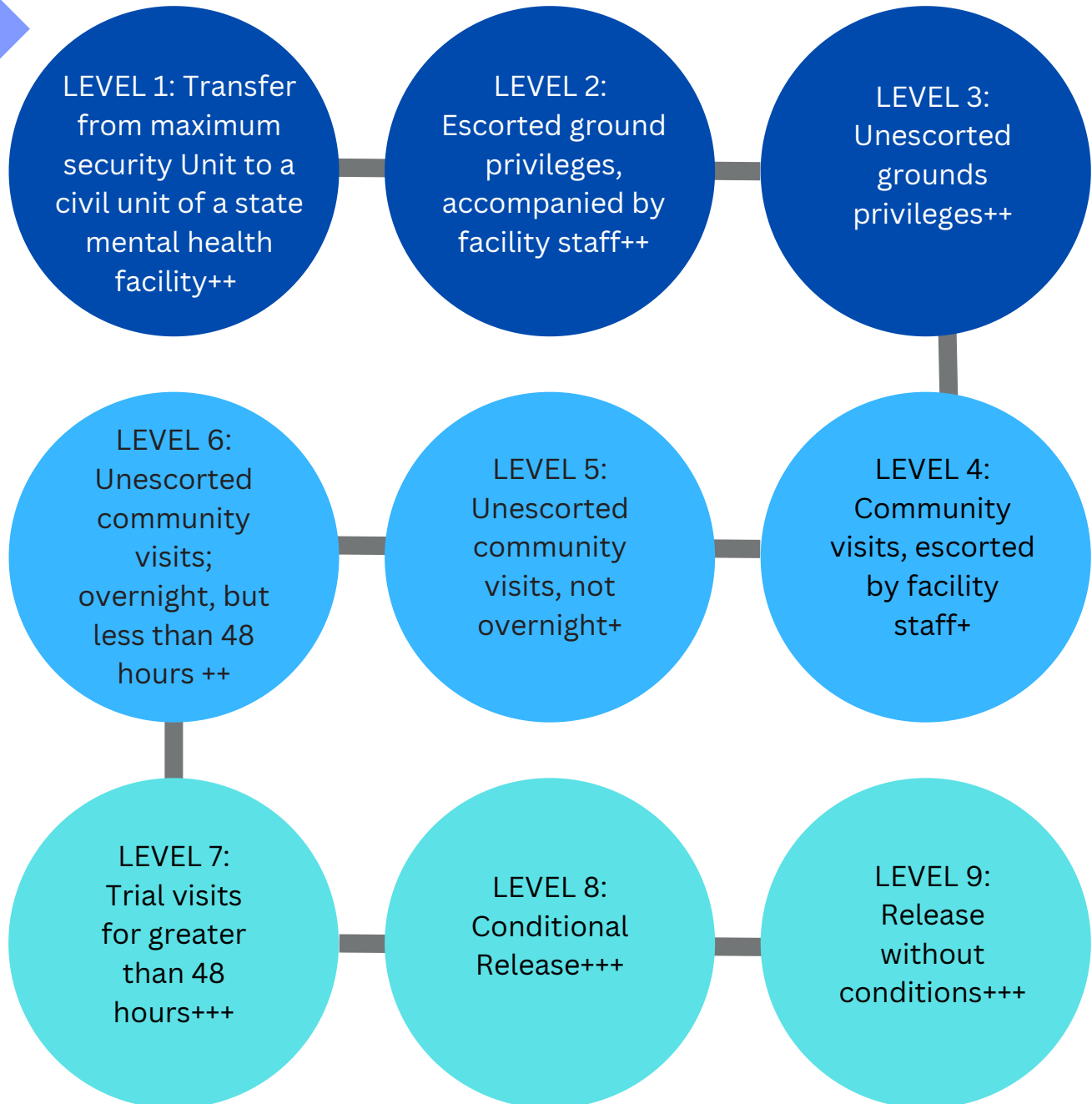
4. The IFPC & FRP decide if you are ready for conditional release based on your treatment team's recommendation

5. All this leads to the main goal of reducing the risk to public safety



To start the privilege level system, you must be on a civil unit. If you are on the Maximum Forensic Unit at Central State Hospital, you are not considered a civil patient and will not be able to start the privileging process until you are placed on a civil unit.

Privilege System Overview



+ = IFPC Approval

++ = FRP Approval

+++ = Court Approval

Moving Through the Levels

You must meet certain requirements to move up through the privilege levels. Your treatment team can recommend a privilege increase if they think you're ready for more freedom and responsibility.

Here are some factors that will be considered by the treatment team, IFPC, and FRP, Facility Director, and court when deciding if you can move up in privilege.



Did you know?





You can request a privilege level increase every 30 days using the Acquittee Privilege Request Form.

The request gets reviewed by the treatment team, Forensic Coordinator, IFPC, then finally FRP.

The treatment team must inform you and provide you with a copy of the FRP's decision within one day of receiving it. The treatment team must also inform you of your appeal rights if you disagree with the FRP decision.

If you disagree with the decision and you want to appeal, let your treatment team know.

NGRI Patient Checklist

-  Your current mental state
-  Your involvement in treatment
-  Your treatment goals at the next privilege level
-  Your strengths/skills that will help you succeed in future levels

Continuation of Confinement Hearings

You must attend yearly court hearings about your progress and current mental state for the first five years of being committed in a hospital. After the first five years, you will attend a hearing every two (2) years to discuss your progress and current mental state.

The court will decide if you should continue treatment at the hospital or be released from the hospital with or without conditions.

YOUR RIGHTS AT ALL HEARINGS

You and your attorney should be notified of the hearing before it happens. You have the right to:

1. Be at the hearing
2. The assistance of counsel in preparation for and during the hearing
3. Introduce evidence and cross-examine witnesses at the hearing

Potential Outcomes



Remain in the hospital if you continue to require in-patient hospitalization



Conditional Release IF you:

- DO NOT need inpatient hospitalization
- Meet eligibility



Unconditional Release IF you:

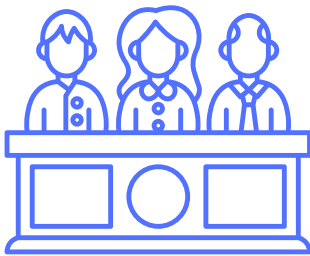
- DO NOT need hospitalization
- NOT eligible for conditional release

Conditional Release

Planning for Conditional Release

Conditional release is the second to last level of the NGRI privileging system. Conditional release is when you are not in need of in-patient hospitalization, but still require outpatient supervision. Once you are approved for conditional release, a plan is created between you, your treatment team, and the CSB called a Conditional Release Plan (CRP). The CRP includes requirements that must be followed in order to help you successfully live in the community.

Your treatment team and CSB will decide if conditional release is right for you. The court sets the conditions of the release, or what you must do in order to live in the community.



Monitoring

The CSB must:

- supervise you
- enforce the CRP
- send updates to the court about your progress

- ✓ You do not need hospitalization but do need outpatient treatment and supervision
- ✓ Appropriate supervision and treatment are available
- ✓ You will follow the conditions set in your CRP
- ✓ You and the community will be safe

Violations

If you fail to follow your CRP and...

DO NOT require inpatient hospitalization:

- the court can put you in jail or make you pay a fine.

DO require inpatient hospitalization

- the court can order to return you to the hospital

Conditional Release

Changing the CRP

Since the court oversees the CRP, it can make, add to, change, or remove conditions from the plan as your needs and situation change. You, the court, the CSB or the Commonwealth's attorney can petition to make changes to the CRP.

After the first six months of being on a CRP, you can also petition to make changes once a year.

When a change is petitioned, the court will request a progress report from the CSB. If the Court approves changes, then you, the CSB, and Commonwealth attorney will be notified.

If there are no objections, the change(s) becomes final after 10 days. If the court objects, a hearing must be held to discuss changing the conditions.

Revocation of Conditional Release

Revocation is when your conditional release privilege is taken away. There are three ways this could happen:

- Violated your CRP
- Are no longer eligible for conditional release
- Require in-patient hospitalization

If your conditional release is considered for revocation, the court will order your evaluation to be performed by a psychiatrist or psychologist.

Based on your evaluation, the court can take away your conditional release and return you to the hospital or placed in jail.



Frequently Asked Questions

What can help me move through the privilege levels quicker?

- Regular attendance to meetings and programs
- Engaging in positive interactions with peers and staff
- Regularly communicating with your treatment team

Can my hearings be conducted virtually?

Yes. It may be conducted using a two-way electronic video and audio communication system, such as Zoom. You, your attorney, or the Commonwealth's attorney has the right to object to completing the hearing in a virtual format.

Can I visit the community if there is an emergency?

Yes. Emergency visits are situations where you have not reached the privilege level to visit the community but need to due to events such as an immediate family member's funeral. These types of visits require the approval of the FRP before the visit can happen.

Can my family attend IFPC meetings with me?

Yes. You may request to attend IFPC meetings to gather additional information about the process or decisions made. You have to give permission before the meeting for your family to attend. There will be time during the meeting for you and your family to ask questions.

Need Help?

If you would like to receive a copy of the DBHDS NGRI Manual (2021) or the Human Right Regulations, please ask your treatment team for a copy.

If you have any questions or concerns about anything in this guide and/or your rights, you can contact the following:

disAbility Law Center of Virginia (dLCV)



800-552-3962



dlcv.org



1512 Willow Lawn Dr, Suite 100 Richmond, VA 23230

Human Rights Advocate

Contact the Human Rights Advocate at your facility. If you're not sure who that is, your treatment team can tell you.

Office of the State Inspector General (OSIG)



833-333-6744

disABILITY LAW CENTER

OF VIRGINIA

Protection & Advocacy for Virginians with Disabilities

