

CF OPERATING PROCEDURE  
NO. 155-22

STATE OF FLORIDA  
DEPARTMENT OF  
CHILDREN AND FAMILIES  
TALLAHASSEE, FL  
October 30, 2023

Mental Health/Substance Abuse

LEAVE OF ABSENCE AND DISCHARGE OF PATIENTS COMMITTED TO A STATE MENTAL  
HEALTH TREATMENT FACILITY PURSUANT TO CHAPTER 916, FLORIDA STATUTES

1. Purpose. This operating procedure sets standards for the use of leave of absence and the conditions when a patient committed to the Department of Children and Families pursuant to Chapter 916, Florida Statutes (F.S.), may be discharged from a forensic or civil mental health treatment facility operated by the state or a contract provider.
2. Scope. This operating procedure applies to all patients committed to the Department due to mental illness and admitted to a forensic or civil mental health treatment facility pursuant to Chapter 916, F.S.
3. References.
  - a. CFOP 155-12, Forensic Transfers to Civil Mental Health Treatment Facilities.
  - b. CFOP 155-13, Incompetence to Proceed and Non-Restorable Status.
  - c. CFOP 155-17, Guidelines for Discharge of Patients from a State Civil Mental Health Facility to the Community.
  - d. CFOP 155-27, Guidelines for Pre-Release Referral of Patients in State Mental Health Treatment Facilities for Social Security Benefits and Insurances and for the Institutional Care Program (ICP) Medicaid.
  - e. CFOP 155-45, Guidelines for Conducting Sexually Violent Predator Assessment of Individuals Found Not Guilty by Reason of Insanity and Committed for Involuntary Hospitalization.
  - f. CFOP 155-48, Registration Guidelines for Forensic and Civil Patients Who Are Classified as Sexual Offenders or Sexual Predators.
  - g. CFOP 155-35, Violence Risk Assessment Procedure in State Mental Health Treatment Facilities.
  - h. Chapter 394, Part V, Sections 394.910-394.931, F.S., Involuntary Civil Commitment of Sexually Violent Predators.
  - i. Chapter 916, F.S., Forensic Client Services Act.
  - j. Florida Rules of Criminal Procedure, 3.210 to 3.219.
  - k. Chapter 65E-20, Florida Administrative Code (F.A.C.), Forensic Client Services Act Regulation.

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This operating procedure supersedes CFOP 155-22 dated August 17, 2021.

OPR: SMF

l. Managing Entity FY 18-19 Contract Documents, Guidance Document 7, or latest version thereof: <https://www.myflfamilies.com/services/substance-abuse-and-mental-health/samh-providers/managing-entities/managing-entities-fy23>

m. Foucha v. Louisiana, 504 U.S. 71 (1992). A U.S. Supreme Court ruling finding that potential dangerousness was not a justification to retain a person found not guilty by reason of insanity if no mental illness was present.

4. Definitions. As used in this operating procedure, the following terms mean:

a. Clinical Summary. A document provided to the courts by the forensic or civil mental health treatment facility appointed staff. The document addresses salient treatment issues, diagnoses, mental health history, current mental health status, and recommendations regarding commitment criteria, as specified in Chapter 916, F.S. Clinical summaries are prepared for patients committed as Not Guilty by Reason of Insanity.

b. Community Representative. An individual who works with patients and their families, community service providers, and the recovery team to ensure continuity of care. The Community Representative assesses patient needs, plans services, links the patient to services and supports, assists in securing community placement, monitors service delivery and evaluates the effectiveness of service delivery. The community liaison, FACT Team leaders/case managers, forensic specialist, forensic case manager, and any other *community staff may function as a civil or forensic patient's Community Representative. (Note: For forensic patients committed pursuant to Chapter 916, F.S., facilities must ensure that they are consulting with the proper community representative. As a general rule, forensic specialists, forensic coordinators and case managers should be consulted on any proposed conditional release plan, notification of Leave of Absence and discharge as stipulated in paragraph 8f of this operating procedure.)*

c. Competency Evaluation Report. A standardized mental health document addressing relevant mental health issues and the individual's clinical status regarding competence to proceed. The report is completed in the Department's approved format detailed in Appendix B of CFOP 155-19 (Evaluation and Reporting of Competency to Proceed) and submitted to the court pursuant to Section 916.13(2), F.S.

d. Conditional Release. A court-approved discharge for a patient committed under Chapter 916, F.S., from a state mental health treatment facility to a less restrictive community setting. It is also used in lieu of an involuntary commitment to a facility pursuant to ss. [916.13](#) or [916.15](#), F.S.

e. Conditional Release Plan. A court ordered plan for providing appropriate care and treatment for individuals found Incompetent to Proceed or Not Guilty by Reason of Insanity. The committing Court may order the Conditional Release of any defendant in lieu of an involuntary commitment to a state mental health treatment facility, or upon a recommendation that treatment in the community is appropriate. A written plan for treatment, including recommendations from qualified professionals, must be filed with the Court with copies to all parties. Such a plan may also be submitted by the defendant and filed with the Court with copies to all parties.

f. Discharge. The release of an individual from the custody of a forensic or civil mental health treatment facility under the authority of the committing court. The transfer of a patient from a secure forensic treatment facility to a forensic step-down unit within a civil mental health treatment facility is not considered a discharge as the patient remains in the custody of the Department (transfers between facilities will count as a discharge for the releasing facility for data purposes only). Per s. 916.13(2), F.S. pertaining to those involuntarily committed as incompetent, individuals must be transported within 7 days of the court's notification that the defendant is competent to proceed or no longer meets the criteria for continued commitment. Per s. 916.15(5), F.S., NGI individuals who no longer meet commitment criteria must be transported to the committing court's jurisdiction in time for their commitment hearing which must be held within 30 days after the court being notified.

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g. Discharge Ready. The patient's psychiatric condition has improved so that the patient no longer requires continued inpatient psychiatric treatment in a SMHTF.

h. Forensic Coordinator. A staff member employed by the Managing Entity, or their contracted provider, who has contractual and programmatic oversight responsibility of forensic services for adults for each court circuit in the covered region.

i. Forensic Specialist/Forensic Case Manager. A staff member employed by a community mental health provider, under contract with a Managing Entity, to provide an array of services to individuals who are at risk or have been committed to the Department of Children and Families pursuant to the provisions of Chapter 916, F.S., by one of the state's twenty circuit courts. Specifically, these are individuals who have been adjudicated as Incompetent to Proceed (ITP) or Not Guilty by Reason of Insanity (NGI) due to mental illness.

j. Incompetent To Proceed (ITP). A determination made by the Circuit Court that an individual is unable to proceed at any material stage of a criminal proceeding. These stages shall include pretrial hearings and trials involving questions of fact on which the defendant might be expected to testify. It shall also include entry of a plea, proceedings for violations of probation or violation of community control, sentencing, and hearings on issues regarding a defendant's failure to comply with Court orders. It shall also consider conditions or other matters in which the mental competence of the defendant is necessary for a just resolution of the issues being considered.

k. Leave of Absence (LOA). A brief absence or trial period of release from a forensic or civil mental health treatment facility. During the LOA, the commitment order remains in effect, and the bed at the facility remains unfilled, allowing for the direct return of the patient to the facility.

l. Managing Entity (ME). As defined in s. 394.9082(2)(b), F.S., an entity that manages the delivery of behavioral health services.

m. Non-Violent Offense. A crime that does not involve a violent crime against a person and is *not* one of the violent or capital offenses found in s. 916.145, F.S. Individuals that have only non-violent offenses are a priority population for discharge.

n. Not Guilty by Reason of Insanity (NGI). A determination made by the Circuit Court that an individual is acquitted of criminal charges because the individual is found insane at the time of the offense.

o. Patient. A person who receives mental health treatment services in a forensic or civil mental health treatment facility. The term is synonymous with "client", "individual", "resident", or "person served".

p. Peer Specialist (PS). Designated staff who provide support services, serves as a peer advocate and provides information and linkage to additional services to meet the needs of the individual and/or family member. PS provides support in a variety of settings and performs a wide range of tasks to support individuals and/or families in directing their own recovery and wellness.

q. Recovery Plan. A written plan developed within 30 calendar days of admission by the patient and his or her recovery team. This plan is based on assessment data, identifying the patient's (individual) clinical, rehabilitative, and quality of life/enrichment service or recovery needs, the strategy for meeting those needs, documented treatment and recovery goals and objectives, criteria for terminating the specified interventions, and services and supports needed for discharge. Also referred to as the "plan". The recovery plan is reviewed at least every 30 calendar days.

r. Recovery Team. An assigned group of individuals with specific responsibilities identified on the recovery plan including the patient, psychiatrist, guardian/guardian advocate (if patient has a guardian/guardian advocate), community representative, family member and other treatment professionals as determined by the patient's needs, goals, and preferences.

s. Referral Packet. A packet of clinical, medical, psychological, social services, and legal

information obtained from the patient's clinical record for forwarding to the community representative. This information is used to refer patients to various residential programs and services in the community and in the development of the patient's discharge or conditional release plan. Appropriate releases must be obtained, as required, prior to sending the referral packet.

t. Patient Advocate. An individual whose primary job is to assist the patient in meeting the patient's expressed needs separate and apart from the Recovery Team process.

u. State Mental Health Treatment Facility (SMHTF). A facility operated by the Department of Children and Families or by a private provider under contract with the Department to serve individuals committed pursuant to Chapter 394, F.S., or Chapter 916, F.S.

v. SMHTF Program Office Benefits Coordinator. An employee with the ACCESS program and consultant to the SAMH SMTHF Policy and Program Office. The Benefits Coordinator provides technical assistance about the eligibility criteria and benefits status to the facility liaison at the State Mental Health Treatment Facility for patients who are being discharged to the community.

## 5. Leave of Absence (LOA).

a. An LOA may only be used under the following circumstances:

(1) When a patient's return to jail is initiated by the court (i.e., annual hearing, Petition for Writ of Habeas Corpus, etc.) pending a hearing and the forensic or civil mental health treatment facility is recommending he or she continues to meet the commitment criteria;

(2) When patients are returned to court for some other unrelated legal action (i.e., child custody hearing);

(3) When patients are authorized by the court to attend activities such as a funeral or family visits, etc. (requires advance court notification and approval);

(4) When patients are authorized by the committing court for a trial placement in the community pending conditional release (requires advance court notification and approval); and,

(5) When patients are placed in a local hospital or medical service provider. Typically, this is for medical treatment or tests that cannot be performed at the state treatment facility. Staff are to remain with the patient.

b. Appointed forensic or civil mental health treatment facility staff must check weekly on the status of all patients on LOA. A weekly LOA status report including the names of all patients on LOA, facility released from, beginning date of the LOA, where released (facility name, family, jail, etc.), and LOA status including anticipated return date or date of discharge must be submitted to the Forensic Admissions Coordinator of the Mental Health Program Office. Efforts should be made to quickly return or discharge all individuals on LOA.

c. An LOA pending conditional release must only be used when necessary to meet a court requirement for conditional release or when required by a placement facility as a term of acceptance and no placement alternatives are available or appropriate. The length of the LOA must be kept to a minimum and is limited to a maximum of thirty (30) days.

d. Patients who have been restored to competency and return to jail pending a hearing to proceed with disposition of their case, must be discharged. LOA is not appropriate for patients who have been opined by the state hospital as competent.

e. Patients who no longer meet commitment criteria as non-restorable and return to jail pending a hearing to proceed with disposition of their case, must be discharged. LOA is not appropriate for patients who have been opined by the state hospital as non-restorable.

f. The forensic or civil mental health treatment facility appointed staff must notify, in advance when possible or within a minimum of twenty-four (24) hours of release, the community representative via phone, fax or email when a patient, regardless of legal status, returns to the jail or county on LOA status for any reason.

g. To ensure continuity of care, the community representative must monitor individuals on LOA status, attend any court hearings and report status changes to the forensic or civil mental health treatment facility recovery team and forensic coordinator. The community representative must ensure that patients released by order of the court while on LOA status are assigned to a community representative and linked to appropriate community-based services upon release from the jail.

h. Upon notification from either the forensic coordinator or the forensic specialist and a copy of any order that resulted in the discharge from court jurisdiction or from the jail, the state treatment facility will discharge the patient.

6. Discharge. A patient committed to the Department pursuant to Chapter 916, F.S., and subsequently admitted to a forensic or civil mental health treatment facility, may not be discharged without an appropriate order issued by the committing court, such as:

- a. Orders directing another party to assume custody of the patient and transport;
- b. Orders directing the Department or facility administrator to release the patient with or without conditions; and,
- c. Orders dismissing charges or terminating the court's jurisdiction.

7. Discharge Criteria.

- a. Incompetent to Proceed patients achieve discharge readiness when they are:
  - (1) Considered competent to proceed; or if remaining incompetent they:
    - (a) Are considered capable of surviving alone or with the help of willing and responsible family or friends, including available alternative services and when provided with treatment are not likely to suffer from neglect or refusal to care for themselves; and,
    - (b) With treatment, they are considered unlikely in the near future to inflict serious bodily harm to themselves or another person, as a result of their mental illness.
  - (2) Remain incompetent with no likelihood of being restored to competency.
- b. Not Guilty by Reason of Insanity patients achieve discharge readiness when:
  - (1) They are no longer considered manifestly dangerous to themselves or others, as a result of their mental illness; and,
  - (2) A conditional release plan for appropriate aftercare and treatment has been developed including provisions for residential care and supervision, mental health and substance abuse services, and auxiliary services such as vocational training, educational services or special medical care needs. Exceptions to the conditional release plan requirement would include immigration cases where the patient is to be deported or cases where the patient is believed not to have a mental illness.

8. Conditional Release / Discharge Planning Standards. Conditional Release / Discharge planning for individuals who are ITP or NGI is a collaborative process involving the patient, the family or guardian, if applicable, the recovery team, the community representative, the forensic coordinator, Managing

Entities, community mental health service provider agencies and residential programs and facilities. The process begins at admission and continues throughout the patient's hospitalization. CFOP 155-27 details the guidelines for pre-release referral of patients for Supplemental Security Income and Medicaid. CFOP 155-48 provides registration guidelines for patients who are classified as sexual offenders or sexual predators, including steps to follow prior to conditional release to the community.

a. Individuals with Non-Violent Offenses. As defined in paragraph 4m of this operating procedure, recovery teams should identify individuals that have non-violent offenses only and prioritize their discharge. Recovery teams should be able to justify why individuals with non-violent felony offenses must remain at the facility.

(1) The responsibility for Conditional Release planning is shared by the SMHTF Recovery Team, the community treatment provider who will monitor and provide mental health services for the individual, the Managing Entity, and the Forensic Specialist. The Forensic Specialist/Forensic Case Manager provides consultation and linkage to the community treatment providers in his/her circuit.

(2) At each recovery planning meeting, the Recovery Team will assess the individual's progress towards conditional release. Patients should be assessed each month to determine if discharge barriers have been addressed and/or eliminated, and if they are clinically appropriate for discharge. Documentation of progress to discharge shall be made in the monthly team meeting notes. Individuals committed as ITP who remain incompetent but no longer meet criteria for hospitalization should be released to community competency restoration programs under conditional release whenever possible, and with the committing court's approval.

(3) Once it is determined an individual no longer meets criteria for involuntary hospitalization and a conditional release will be sought, Facility staff shall follow the guidelines for tracking patients who are ready for community placement as outlined in CFOP 155-17, paragraph 7a(12).

(4) Pursuant to Section 429.075, F.S., An Assisted Living Facility (ALF) that serves one or more mental health residents must obtain a limited mental health license. Residents will not be discharged to an ALF that does not have a limited mental health license.

(5) In accordance with the Forensic Mental Health Services Model (see Appendix A to this operating procedure), the Forensic Specialist is to provide the Forensic Coordinator with a monthly release plan status report for all forensic individuals referred by the forensic and/or civil treatment facilities as seeking community placement for conditional release. The Forensic Coordinator shall ensure the participation of the Forensic Specialist in the prompt development of the Conditional Release Plan.

(6) The Forensic Coordinator shall ensure the access and availability of services specified in each individual's Conditional Release Plan through programmatic and contractual monitoring.

b. Patients committed as Incompetent to Proceed. The forensic or civil mental health treatment facility administrator must tell the committing court in a written competency evaluation report when the following decisions are made regarding patients committed as Incompetent to Proceed:

- (1) When the facility appointed competency evaluator decides the patient's competency has been restored;
- (2) When the patient's recovery team decides the patient no longer requires treatment in a maximum-security environment and should be transferred to a less restrictive forensic step-down facility. The forensic mental health treatment facility appointed staff must follow procedures as outlined in CFOP 155-12, Forensic Transfers to Civil Mental Health Treatment Facilities;
- (3) When the patient's recovery team decides the individual no longer meets criteria for hospitalization and a proposed conditional release plan is developed and submitted for approval;
- (4) When the facility appointed competency evaluator decides the patient will not regain competency in the foreseeable future. The report must include a recommendation regarding the patient's commitment criteria status; or,
- (5) When the patient has remained incompetent for five continuous years -- or three continuous years if charged with only non-violent offenses -- and is not likely to regain competency in the foreseeable future. The forensic or civil mental health treatment facility appointed staff must follow procedures as outlined in CFOP 155-13, Incompetence to Proceed and Non-Restorable Status, when tracking and reporting to the court.

c. Patients Committed as Not Guilty by Reason of Insanity. The forensic or civil mental health treatment facility administrator must tell the committing court in a written clinical summary when the following decisions are made regarding patients committed as Not Guilty by Reason of Insanity:

- (1) When the patient's recovery team decides a less restrictive treatment environment is appropriate and a proposed conditional release plan is developed and submitted for approval;
- (2) When the patient's recovery team decides he or she has no major mental illness and does not meet commitment criteria and a discharge plan is developed and submitted for consideration; or,
- (3) When the patient's recovery team decides he or she has no major mental illness and does have an antisocial personality disorder (Foucha v. Louisiana).

#### 9. Discharging Competent Patients Returning to Jail.

a. When the patient is deemed competent to proceed, the designated recovery team member will contact the community representative to discuss the patient's pending discharge and to review aftercare recommendations in the event the patient is released into the community. Aftercare recommendations should mirror those that are provided in the report to the court. Should the court unexpectedly release the patient to the community, the community representative must be prepared to assist the individual secure housing, aftercare services and benefits, as well as set up an appointment with a medical/psychiatric provider to ensure the patient can receive prescriptions to remain on his/her medications.

b. Incompetent to Proceed patients returning to court as competent must be discharged when picked up by the sheriff's department or contract transport provider for transporting to jail pending a hearing.,

c. The community representative must check the patient's status while in jail, arrange competency restoration services when available to assist the patient in maintaining competency,

assist to assure needed psychiatric treatment (medication) is continued while in jail when possible, attend court hearings, and follow the patient's case through to disposition. If the patient is released from jail to the community, the community representative must make sure the patient is linked to appropriate community-based services and recommended services are received after discharge.

#### 10. Discharging Patients to the Community.

a. The community representative must participate in finding services and supports needed for the patient to make a successful transition to living in the community and in the development of the conditional release plan.

b. Within seven (7) working days of deciding a patient is ready to begin the process of finding community placement and services, designated SMHTF staff must send a referral packet to the patient's community representative and copy the forensic coordinator.

c. Designated SMHTF staff will determine the benefits status and assist the patient in obtaining financial resources as necessary for funding community placement and services prior to discharge; assist in the initial application for benefits and disability determination and verify that persons returning to the community are eligible for reinstatement of pay status upon discharge. The Benefits Coordinator or identified facility staff should track the status of the patient's application for benefits.

d. Designated SMHTF staff will verify that the patient has sufficient identifying documents to support application for benefits and/or state issued identification card including, as appropriate, birth certificate, marriage certificate(s), driver's license, current passport, social security card, or U.S. military issued photo-ID.

e. Designated SMHTF staff must keep in weekly contact with the community representative regarding the status of efforts to locate the individual's placement and services in the community. Discharge planning progress must be tracked and reported monthly. See CFOP 155-17, paragraph 7a(12) for tracking requirements.

f. The forensic coordinator and community representative must participate in forensic or civil mental health treatment facility or Mental Health Program Office initiated discharge status telephone and video conference calls.

g. The community representative will find any available residential programs or placements and services meeting the needs of the individual, make recommendations to the patient's recovery team, perform home visits (if requested), and secure placement and services in cooperation with the forensic or civil mental health treatment facility designated staff.

h. Services for patients being considered for conditional release should be sought in the circuit in which the committing court is located, unless there are compelling reasons for placement in another circuit. If an alternative circuit placement is sought, the community representative and forensic coordinators from both circuits must work cooperatively to develop the conditional release plan prior to submission to the court. A Circuit Transfer Request form must be completed (form CF-MH 1072, available in DCF Forms).

(1) Mental health services, including case management, will be provided by the circuit in which the individual will reside, unless alternative arrangements have been made and agreed to by the individual served, both circuit Forensic Coordinators and the committing Court.

(2) All reports to the Court will be provided by the circuit providing services with copies provided to the other circuit. This is the preferred process as the reports are based on firsthand knowledge. However, if the Court requires, the Forensic Specialist in the committing circuit may act as the liaison with the Court, furnishing updates to the Court based on information provided by the Case Manager in the circuit where the individual resides.

(3) If a transfer to another circuit occurs, provider staff from the committing circuit should consider the case still “open” and be ready to help the individual return to the committing circuit if the court so requires or if the individual needs to return to the committing circuit for support and services.

i. Once an appropriate placement and all identified necessary services have been secured and a signed conditional release order has been obtained, the patient will be scheduled for discharge. A copy of the Conditional Release Plan should be placed in the patient’s clinical record and provided to the community representative.

j. On the day of discharge, the referring physician or autonomous Advanced Practice Registered Nurse (APRN), or in absence of either, the designated charge nurse, will complete form CF-MH 7002 (Physician to Physician Transfer, available in DCF Forms). The completed form will accompany the patient and be given to the aftercare provider or entity responsible for dispensing or administering medications.

k. The facility administrator or designee shall provide prompt written notice of the discharge of an involuntary patient in the form of CF-MH 3038, “Notice of Release or Discharge” (available in DCF Forms), to the patient, guardian, first representative, Community Representative, circuit court judge, public defender/defense attorney, and state attorney, with a copy retained in the patient’s clinical record.

l. Patients being discharged directly to the community by court order or to the jail may receive up to a 30-day supply of medication, to ensure continuity of care.

#### 11. Conditional Release Plan.

a. The components of a Conditional Release Plan shall include (see Appendix A to this operating procedure for template):

(1) General conditions that apply to all individuals on Conditional Release and the consequences for not complying with these conditions;

(2) The specific conditions related to the individual patient’s recovery plan, including the management of unique risk factors and the provision of outpatient mental health services, along with the consequences for not complying with these conditions;

(3) Specific provisions for residential treatment or adequate supervision of the individual;

(4) The provision of community-based competency restoration services, for those individuals found ITP;

(5) An Agency Agreement to Treat (form CF-MH 2015, available in DCF Forms) signed by a representative of the community provider agency (the original should be included with the clinical summary and recommended conditional release plan when forwarded to the Court for approval);

(6) A plan to monitor compliance with the conditions of release and the individuals responsible; and,

(7) A Statement of Understanding and Consent (form CF-MH 2016, available in DCF Forms), signed by the individual, allowing communication among the civil/forensic facility Recovery Team, Forensic Specialist, community provider agency, and any other entity involved in the treatment or monitoring of the individual. This must be signed by the individual either before or after the conditional release plan has been approved by the Court.

b. The individual shall sign the Conditional Release Plan.

c. The Conditional Release Plan shall be reviewed and approved, in accordance with each facility's forensic review process. The Conditional Release Plan and the clinical summary will be completed simultaneously. The review process shall include the assessment of risk and whether the Conditional Release Plan adequately addresses risk management issues in the community. The review process shall focus on whether all the required elements are included in the plan and whether all persons who should be involved in the process were involved.

d. The original Conditional Release Plan and Agency Agreement to Treat shall be submitted to the committing Court by the treatment facility administrator. **Facility attorneys shall monitor pending conditional release recommendations to the courts and consult with the appropriate DCF Regional Legal Counsel if there appear to be delays in the court process.**

e. Per the Forensic Mental Health Services Model, when an individual is placed on conditional release, the Forensic Specialist will transfer the individual's case to the appropriate community Case Manager (Targeted Case Management, Intensive Case Management, Comprehensive Community Service Team, Forensic Case Management Team or Florida Assertive Community Treatment [FACT] team).

f. The community Case Manager will coordinate services and provide the Court with routine progress reports as required by the Conditional Release Order. The Case Manager will address the need for continued supervised follow-up care or recommend termination.

g. The Forensic Specialist will accompany the Case Manager to Court hearings regarding individuals on conditional release.

h. After consultation with the Forensic Specialist, the Case Manager or, if appropriate, the Forensic Specialist will immediately notify the Court of any Conditional Release violations via affidavit or sworn statement per s. 916.17(2), F.S. The Forensic Specialist will notify the Forensic Coordinator of individuals at risk of violating conditional release to facilitate the staffing of cases to recommend service provision changes.

i. Per the Forensic Mental Health Services Model, the Forensic Specialist shall track all individuals on Conditional Release and provide the Forensic Coordinator with an updated Conditional Release list quarterly and ensure that the Coordinator receives a copy of the Conditional Release Order and all subsequent orders of continuance, modification, revocation or termination.

j. The Court, per 3.219(c), F.R.C.P. and s. 916.17(3), F.S., may terminate Conditional Release if it determines that supervised follow-up care is no longer required; therefore, the Case Manager is responsible for requesting a hearing if termination of the Conditional Release Plan is recommended by

the individual's recovery team.

12. Communication Requirements for Patients Discharged from a Forensic or Civil Mental Health Treatment Facility. The forensic or civil mental health treatment facility appointed staff must:

- a. When seeking placement for all patients adjudicated Not Guilty by Reason of Insanity, follow the guidelines found in CFOP 155-45 to refer individuals to the Sexually Violent Predator Program (SVPP) (the Sexually Violent Predator Program must decide that a patient adjudicated as Not Guilty by Reason of Insanity is not eligible for civil commitment pursuant to s. 394.917, F.S., prior to discharge);
- b. Let the court know via clinical summary or competency evaluation when the facility is recommending discharge to a community setting with or without conditions and when a patient has been restored to competency;
- c. Provide the forensic coordinator and the community representative with copies of the clinical summary or competency evaluation report when letting the court know that a patient has been restored to competency or when recommending discharge or conditional release; and,
- d. Ease continuity of care by contacting, in advance when possible or within a minimum of twenty-four (24) hours of release, the forensic coordinator and community representative via phone, fax or email when an individual returns to jail or the county on LOA status, when an individual considered competent is returned to court to proceed with trial, when an individual is returned to court pending a hearing to consider dismissal of charges or the recommendation for discharge or conditional release.

13. Information Sharing with the County Jail.

- a. County jails receiving forensic or civil mental health treatment facility patients as a discharge or on LOA status must be provided information regarding the patient's current medications, medical and psychiatric diagnoses, pertinent lab work results and follow-up recommendations, details of psychiatric and medical precautions or concerns, and any other information essential to appropriate continuity of care in the jail. Each state mental health treatment facility may develop a form(s) to provide the required information.
- b. Psychiatric and medical care information must be given to the sheriff's deputy or contract transportation provider at the time of release. Forensic or civil mental health treatment facility medical or nursing staff must contact the jail medical provider by telephone, as needed, to discuss any medical or psychiatric issues requiring clarification. Facility medical or nursing staff must ensure information is faxed to the jail medical provider in advance of the patient's release.
- c. A maximum of a 30-day supply of medications may be provided and given to the sheriff's deputy or contract transportation provider, unless the county of discharge has requested a lesser amount or no medication at all. In those cases, the lesser amount should be sent. Facility staff must ensure the medication is packaged to clearly show it contains medications. Receipts for medication and patient personal belongings must be completed and signed as required by forensic or civil mental health treatment facility policy.

BY DIRECTION OF THE SECRETARY:

*(Signed original copy on file)*

MADELEINE NOBLES  
Chief of Mental Health Facilities

## SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

The operating procedure has been reviewed, updating the Leave of Absence process for competent to proceed residents in item 5.d and 9.b., updating the definition of Leave of Absence in 4.k., and changing the definition from "Resident" to "Patient." A new item, 5.e., has been created to allow for discharge of non-restorable patients and subsequent items in the section have been updated. Item 10.j. was updated to include the term Autonomous Advanced Practice Registered Nurse (APRN), item 10.l. was updated to include language allowing for up to a 30-day supply of medication to be sent to the jail, and item 13.c. was updated to allow for up to a 30-day supply of medication to be sent to the jail and remove language allowing the hospital administrator to send additional medication at their discretion.

## FORENSIC MENTAL HEALTH SERVICES MODEL

### TARGET POPULATION:

Forensic Mental Health Services are provided to individuals with mental illnesses pursuant to Chapter 916, Florida Statutes. These are individuals who have been court ordered for an evaluation or who have been committed to the Department of Children and Families under the provisions of Chapter 916, F. S., by one of the state's twenty Circuit Courts. Specifically, these are individuals who have received an Order for Evaluation of Competency or Sanity or have been adjudicated as Incompetent to Proceed (ITP) or Not Guilty by Reason of Insanity (NGI) due to mental illness.

### Managing Entity will ensure their providers:

1. Designate a Forensic Specialist, and other staff as required to fulfill the terms of the contract. These staff will work on forensic mental health issues and with forensic mental health clients.
2. Monitor individuals with mental illnesses in jail at risk for commitment to the Department pursuant to Chapter 916, F.S. Advise the court evaluators and the attorneys of treatment alternatives for appropriate felony offenders including civil diversion and conditional release. Monitor the progress of individuals in jail and/or community-based competency programs.
3. Maintain close working relationships with local jail mental health personnel to coordinate services and address mental health issues involving the Department and local mental health and substance abuse providers. Address any issues that may arise regarding jail medication formularies and the availability of medications to individuals while in jail.
4. Maintain close working relationships with the judicial assistants in the circuit, the Office of the Public Defender, the Office of the State Attorney and the Clerk of the Court's Office. Develop a system for early notification of orders appointing experts and orders of commitment.
5. Attend all scheduled court hearings involving individuals with mental illnesses adjudicated or at risk of being adjudicated Incompetent to Proceed or Not Guilty by Reason of Insanity, including the determination of competency hearings. Be prepared at the hearing to discuss alternative dispositions. Notify the Forensic Coordinator, in a timely manner, when unable to attend a court hearing.
6. Assist the judicial system by tracking each completed Incompetent to Proceed or Not Guilty By Reason of Insanity commitment packet through the Clerk's Office and on to the Forensic Admission Coordinator in the State Substance Abuse & Mental Health Program Office's Treatment Facilities Division. Intervene as necessary to ensure the packet moves through the process in a timely manner.
7. Alert the Forensic Coordinator to any potential legal issues such as incorrect or improper orders to allow for appropriate and timely intervention by circuit legal staff.
8. Participate, upon request, in the state treatment facility's development of the psychosocial assessment and the recovery plan.
9. Provide the state treatment facility(s) recovery teams with all available community information required to assist with the individual's treatment.
10. Conduct a minimum of quarterly face-to-face meetings with individuals at the state forensic treatment facility(s) and civil step-down treatment facility(s). Provide the Forensic Coordinator with quarterly visit reports to include a minimum of the discharge status of each individual, identified barriers to discharge and plans for assisting the individual and the service/treatment team in overcoming barriers to discharge. Record each visit by writing a note in the individual's treatment facility record/ward chart.
11. Work closely with the individual, interested family members when authorized, the treatment facility recovery team, local mental health provider agency staff, and placement sites to locate appropriate

community placements and arrange for needed aftercare services for individuals determined appropriate for discharge. Intervene when necessary to resolve issues among stakeholders to ensure the process moves forward in a timely manner.

12. Assist the treatment facilities and appropriate court personnel in the development of conditional release plans. Attend all conditional release hearings. Ensure continuity of care by assisting with the coordination of transportation of the individual from the jail or treatment facility to the placement identified in the conditional release order on the date prearranged with the placement site.
13. Track all individuals on conditional release and provide the Forensic Coordinator with an updated conditional release list quarterly. Ensure the Forensic Coordinator receives a copy of the conditional release order and all subsequent orders of continuance, modification, revocation or termination.
14. Work with the circuit Forensic Coordinator to facilitate proposed out-of-circuit placements, coordinating with counterparts in the receiving circuit to ensure continuity of care.
15. Upon receipt of the notification from a state treatment facility of an individual being found Competent to Proceed:
  - a. Coordinate with appropriate court personnel to secure, within thirty (30) days of the date of notification, a transportation date from the Sheriff's Department or contract transportation provider;
  - b. Notify the State Mental Health Program Office of the pick-up transportation date for the individual within twenty-four (24) hours or the next business day; and
  - c. Ensure that any special needs of the individual are known to local forensic staff (circuit and provider) and communicated to the local jail by the state treatment facility.
16. Upon return of a competent individual to jail and immediately after the first competency hearing date, ensure that a community Case Manager is assigned to facilitate follow-up services, if applicable.
17. Work closely with the state forensic and civil treatment facility(s), local mental health providers, crisis stabilization units (CSU) and the courts to ensure the appropriate and timely disposition of individuals not found competent within three or five years, as specified in s. 916.145, F.S.
18. Provide or ensure the provision of information to the Courts and the attorneys pertaining to the individual's treatment in the state treatment facility(s) as requested.
19. Provide community evaluators, treatment facility staff, the Courts, and attorneys information regarding housing options such as Adult Living Facilities (ALF's), group homes, family care homes, apartments, etc, for forensic and/or prospective individuals.
20. Attend and participate in statewide forensic meetings to remain current on issues, activities, and trends affecting forensic individuals or other local meetings as requested by the Managing Entity.
21. Assist with the forensic system training program sponsored by Managing Entity/treatment facilities when scheduled in the circuit.
22. Obtain a certification of attendance from the Florida Forensic Examiner Training or a Forensic Specialist training within one (1) year of employment.
23. Develop, maintain and update, as needed, a directory of all mental health services and providers in the area.
24. When an individual is placed on conditional release, the Forensic Specialist will transfer the individual's case to a Community Case Manager. The Community Case Manager will coordinate services and provide the Court with routine progress reports as required by the conditional release order. The Forensic Specialist will accompany the Case Manager to all court hearings regarding individuals on conditional release.

25. The Forensic Mental Health Specialist will be consulted regarding any apparent conditional release violation. Provider staff will be responsible for notifying the Court of any conditional release violations via affidavit or sworn statement per s. 916.17(2), F.S. They will also notify the circuit Forensic Coordinator.

**Managing Entity (ME) Specific Tracking:**

1. Track the release plan status of all forensic individuals referred by the forensic and/or civil treatment facility(s).
2. Track the following diversions:
  - a. Number of individuals with severe and persistent mental illnesses who are diverted from the forensic system prior to commitment;
  - b. Number of individuals with severe and persistent mental illness who are diverted from the forensic system after commitment, but prior to admission; and
  - c. Number of individuals served.
  - d. The number of individuals served in either pre-commitment or post-commitment diversion with non-violent offenses that do not include any of the offenses listed in s. 916.145, F.S.
3. Track all client level data to ensure that any legislative requests for information can be responded to in a reasonable amount of time.

In addition, on a monthly basis the ME's Forensic Coordinator will report to the State Substance Abuse and Mental Health Program Office – SAMH Division/Mental Health Unit:

- a. The **overall number** of persons on conditional release, fiscal year to date, **AND** broken down as follows:
  - i. number of Incompetent to Proceed
  - ii. number of Not Guilty by Reason of Insanity
  - iii. number by type of placement/program (home, ALF, Residential Level 1, etc.)
  - iv. number by circuit and county
- b. Number of those on Conditional Release who were restored to competency that month
- c. Number of those on Conditional Release who were determined non-restorable that month.
- d. Number of individuals with non-violent offenses that do not have any of the offenses listed in s. 916.145, F.S. and are discharged on conditional release by the committing court. The ME should ensure that such individuals residing in state mental health treatment facilities are prioritized for conditional release planning and discharge.

Responsibilities delineated in any provision of this Appendix may be transferred to, assumed by, or performed in conjunction with another local entity, with written approval of the Managing Entity.

## Template for Conditional Release Plan

Conditional Release Plan for

\_\_\_\_\_ (Name)  
\_\_\_\_\_ (Docket/Case Number)

Date Plan Submitted: \_\_\_\_\_

TO: Judge \_\_\_\_\_ in the \_\_\_\_\_ Judicial Circuit

### General Conditions:

I, \_\_\_\_\_, understand that I have been found by the Court to be (NGI or ITP) pursuant to Chapter 916, F.S. and that I am being considered for Conditional Release status. I understand that I will be expected to follow the conditions listed below in order to remain living in the community. I specifically agree:

- 1) To obey all municipal, state, and federal laws.
- 2) Not to leave the state of Florida without written permission from the judge who maintains jurisdiction over my case.
- 3) To live at \_\_\_\_\_ (facility name, if applicable address and phone number) with \_\_\_\_\_ (name, if applicable). I agree not to change my address/living situation without prior approval of my assigned Case Manager, or prior written approval from the judge who maintains jurisdiction over my case. (choose one)
- 4) Not to own, possess, or have access to firearms or any other illegal weapons.
- 5) To provide any release of information requested by my treating physician, Case Manager, Forensic Specialist, or other treatment staff concerning my mental health and compliance with the conditions of this Conditional Release Plan.
- 6) Not to take or possess any illegal drugs or prescribed medications unless prescribed by my treating physician.
- 7) To follow the terms of my treatment plan, whether or not they are specified in this Conditional Release Plan.
- 8) To complete any necessary forms for payment of services.
- 9) To understand that, even though I may not have violated any Conditions of Release, I may be re-hospitalized or placed in a crisis stabilization facility if my mental health deteriorates to such a point that hospitalization or stabilization is necessary for my safety and/or the safety of the community.

**Specific Conditions:** (can include any or all of the following, to be tailored to the individual's needs and specific situation)

- 1) Not to consume alcoholic beverages.
- 2) To meet with my assigned Case Manager as required for the purpose of monitoring compliance with the Conditions of Release. These meetings may include scheduled office visits or scheduled and/or random home visits.
- 3) To take all medications as prescribed by my treating psychiatrist. I agree to meet with my treating psychiatrist as scheduled for the purpose of monitoring my medication.
- 4) To cooperate with the collection of laboratory specimens including testing of blood, breath, or urine for alcohol, illicit drugs, and therapeutic medication levels. I understand that some of these requests may be random and unscheduled.
- 5) To attend Alcoholics Anonymous and/or Narcotics Anonymous meetings \_\_\_\_\_ times per week or as scheduled and to provide my Case Manager with proof of attendance.
- 6) To meet with Mental Health/Substance Abuse Counselor \_\_\_\_\_ at \_\_\_\_\_ (agency name), \_\_\_\_\_ times per week/month or as scheduled.
- 7) To attend day treatment \_\_\_\_\_ times per week or as scheduled at \_\_\_\_\_ (agency name).
- 8) To cooperate with all requests for psychological testing.
- 9) To comply with any other special conditions deemed necessary by the mental health staff responsible for my treatment.
- 10) That if I am unable to attend a meeting or session as required by this Conditional Release Plan, I will provide advance notice by telephoning the person with whom I was scheduled to meet. If I am unable to contact this person, I will call one of the two following individuals:
  - 11) Alternative Contact #1: \_\_\_\_\_
  - 12) Telephone Number: \_\_\_\_\_
  - 13) Alternative Contact #2: \_\_\_\_\_
  - 14) Telephone Number: \_\_\_\_\_
- 15) To make arrangements for my transportation between my residence and meetings, appointments and activities and/or attend all meetings, appointments and activities as required by this Plan. I understand that missing meetings, appointments and activities because of a lack of transportation will not be accepted as an excuse.
- 16) Other conditions:
- 17) Agency Agreement to Treat (agreement to be attached).

**Individual Agreement:**

I have read or had read to me and understand and accept the conditions under which I will be released by the Court. I agree to abide and conform to them and fully understand that my failure to do so may result in:

- a) revocation of Conditional Release;
- b) modification of the Conditional Release Plan;
- c) notification of the Court and proper legal authorities;
- d) emergency hospitalization, pursuant to Chapter 916, F.S.; and,
- e) arrest and prosecution.

Individual: \_\_\_\_\_ Date: \_\_\_\_\_

The following individuals participated in the development of this conditional release plan and/or reviewed and approved the plan: (Plan must be reviewed by/with the Psychiatrist, Social Services staff, Psychologist, Forensic Coordinator and Forensic Specialists. Names only, signatures not required.)

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_