

# VICTIM SERVICES

FOR CASES BEFORE THE PSYCHIATRIC SECURITY REVIEW BOARD



## Where Did the Defendant Go?

According to Oregon law, a person is "guilty except for insanity" (GEI) if they engage in criminal conduct and lack the ability to understand the criminal nature of their conduct, or they are unable to conform to the requirements of the laws.

Following the entry of judgment where the defendant pleads, or is found GEI of a felony or a misdemeanor in which the defendant caused physical injury or risk of injury to another person, the court will likely order the person to be placed under the jurisdiction of the Oregon Psychiatric Security Review Board (PSRB).

The next decision is regarding the physical custody of the defendant. In determining whether a person should be committed to a state hospital or be conditionally released to a community setting, the court shall have as its primary concern, the protection of society.

The period of the jurisdiction by the PSRB is equal to the maximum sentence under the law for the crime for which the person is found guilty. The period of stay in the Oregon State Hospital or in other community settings varies from case to case.

**NOTE:** Juvenile offenders will still be placed under the jurisdiction of the PSRB, but will be housed in a secure intensive community inpatient facility designated for persons under the age of 18.

If the judge finds the person can be adequately controlled with supervision and treatment, the person may go directly to conditional release in a community setting. Conditional release plans are subject to specific restrictions.

Even when a defendant is on conditional release, the patient is still under the supervision of the PSRB and subject to their conditions and ongoing oversight. In cases of conditional release, the court will designate a person or agency to supervise the defendant and that person must report to the PSRB.

The defendant is often sent to the physical custody of the Oregon State Hospital. The Oregon State Hospital has campuses in Salem and Portland and it is the state's primary state-run psychiatric facility for adults. The hospital operates under the direction of the Department of Human Services, Office of Mental Health and Addictions which is a different agency from the PSRB.

In the majority of cases involving a serious person crime, and where the person presents a substantial danger to themselves or others, the defendant will be placed in the Oregon State Hospital for treatment and will be referred to as a "forensic patient". It is important to note this is focused on treatment and is not incarceration.

## What Happens Next?

The PSRB hereafter assumes legal responsibility for these individuals. The board's primary purpose is to protect the public through the on-going review of the progress of those placed under its jurisdiction and a determination of their appropriate placement.

Routine hearings regarding adult patient status are held in person before the PSRB in Salem. Notice of the hearing will be sent in advance to the Department of Justice, and to any victims who have filed a request and kept their contact information current.

**Initial Hearing:** All defendants going under the jurisdiction of the PSRB have an initial hearing which generally takes place not later than 90 days after the judgment of conviction and sentencing. These hearings are most often held in Salem at the Oregon State Hospital in a secure meeting room.

**Patient Request Hearing:** Forensic patients are able to request hearings before the PSRB every six months. The PSRB will work to schedule the hearings within 60 days of the request.

**Oregon State Hospital Requested Hearings:** The Oregon State Hospital may request a hearing regarding the placement of a patient at any time based on their ongoing risk assessment and when their opinion is that hospital level treatment is no longer necessary.

**Two Year Hearing:** By law, PSRB has to conduct a hearing for any patient who has not had a hearing in the previous two years. (Note: Hearings are held annually on Juvenile Cases.)

**Five Year Hearing:** After a patient is conditionally released into a community setting and becomes an "outpatient", services are being provided by county mental health and private contractors. The patient is still under the jurisdiction of the PSRB. The PSRB must conduct a hearing at any point an individual has been in conditional release status without interruption for five years. (Note: Hearings are held every 3 years for juvenile cases.)

**Revocation Hearing:** Once a patient is approved and moves to conditional release to a community setting, they must still comply with all parts of their PSRB approved release plan. Any violation of one of these conditions may result in a hearing before the PSRB.

## What is Discussed at the Hearings?

### Jurisdiction

- Does the patient have mental disease or defect?
- When this mental disease or defect is present are they a danger to the public?

### The Patient may agree to

- The ongoing jurisdiction of the PSRB; or
- Seek an order of discharge

### The Patient May Request

- That, due to mental disease, they should stay at the Oregon Sate Hospital
- Conditional release to a community setting; or
- Planning/evaluation in preparation for conditional release

### In all Cases decisions are based on whether or not

- The person is no longer affected by mental disease or defect;
- The defendant no longer presents a substantial danger to others; or
- The defendant can be controlled with proper care, medication and supervision with conditional release.

At each hearing, the state is represented by an assistant attorney general from the Oregon Department of Justice who will call witnesses such as the treating doctor and possibly a Deputy District Attorney or police officer. The patient's attorney will do the same. Sometimes the patient will testify as well. The PSRB members may ask questions. **Victims or representatives have the opportunity to be heard and to make a victim impact statement at the end of the hearing (it is helpful if you coordinate this with the DOJ Victim Advocate).**

After all of the testimony, the PSRB deliberates in private and in most cases, immediately issues their decision. A written order will follow and again copies are provided to DOJ and any victims.

## Please Contact Us to Find Out More

The best way to know what is going on with your case is to stay in touch with our office:

Oregon Department of Justice | Crime Victims' Services Division  
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