

Mental Health Colorado and Disability Law Colorado would like to formally submit the following policy recommendations to the Mental Health Disorders in the Criminal and Juvenile Justice Systems Oversight Committee.

Proposal #1: People Found Incompetent to Proceed

- Update 16-8.5-116 Certification - reviews - termination of proceedings
- Amend statute to clarify that dismissal timelines apply to people who also receive outpatient competency restoration services.
- Amend statute to clarify timelines for court reviews also should apply to people in outpatient competency restoration services.
- Clarify that the timelines for dismissal start to apply at the point in time that the court finds the person ITP, not once restoration services begin (include time served).
- Clarify that re-evaluations should begin once the person is found ITP, not once restoration begins.
- Make clear in 16-8.5-116(4) that a judge does not have to wait for 3 evaluations if the person is found not restorable before that point in time to dismiss the case.
- Clean up 16-8.5-116(6)(b) and (10) to reflect actual certification practice outlined in 27-65-107.
- Amend ITP statute(s) to clarify that bond supersedes an inpatient competency evaluation or restoration order. Mental health should not determine if someone is eligible for bond or how a bond is set. That process is outlined in 16-4-101-106.

Proposal #2: Not Guilty by Reason of Insanity (NGRI)

Discretionary Commitment

- Allow for discretionary rather than mandatory commitment (i.e. inpatient hospitalization at CMHIP) so that judges can choose where to place people once they are adjudicated NGRI. This would allow judges to consider placement in the community or outside of CMHIP and would limit inpatient hospitalization to cases where if it is clinically and legally appropriate at the time of adjudication (which is often months or years after the offense occurred).

Address the “Hotel California” Issue

- Individuals who have been found NGRI can stay confined in the custody of the department for 1 day to life. They may be confined for much longer than if they were found guilty of the crime.
- Recommend the state place limits on how long someone can be detained to match what we have for those found ITP – Max sentence, less fifty percent.
- Mandate court review for appropriateness of inpatient placement at more regular intervals (i.e. every 2 years)

