

## **1. Order Mandating First Post-Acquittal Psychiatric Evaluation as to the NGRI Acquittee's Dangerousness Pursuant to N.J.S.A. 2C:4-8**

This proposed form order is to be used to obtain the first post-acquittal psychiatric evaluation required by N.J.S.A. 2C:4-8(a) and State v. Krol, 68 N.J. 236 (1975).<sup>1</sup> Pursuant to N.J.S.A. 2C:4-8(a) the acquittee shall undergo a psychiatric examination by a psychiatrist of the prosecutor's choosing.

In cases where the Department of Health is to provide the psychiatrist, this order may be used. For the examination to occur by a psychiatrist in the Department of Health the Not Guilty by Reason of Insanity (NGRI) acquittee will need to be committed to one of the State psychiatric hospitals for the purposes of observation and evaluation, and to provide the court with an opinion as to current dangerousness and recommendations for disposition. N.J.S.A. 2C:4-8(b) requires that the psychiatric evaluation provide an opinion as to whether the NGRI acquittee is dangerous to self, others or property as a result of mental illness and if so, whether the acquittee requires inpatient hospitalization or can be managed in the community with or without clinical conditions.

This order requires the prosecutor to provide the Office of the Court Coordinator at the designated State hospital with a copy of the court order and the examining psychiatrist with discovery in the matter.

---

<sup>1</sup> State v. Krol states that "Following acquittal by reason of insanity, the defendant may, at the request of the State, be confined in a suitable mental institution for a period of 60 days for observation and examination." 68 N.J. at 256. See also N.J.S.A. 2C:4-8(a) for a NGRI acquittee who is unwilling to participate in the examination, and citing to N.J.S.A. 2C:4-5(c), which provides for the court to commit such persons for observation for a period not exceeding 30 days except on good cause shown; N.J.S.A. 2C:4-9(a) provides for the examination and report on the NGRI committee's discharge or release on conditions to be provided to the court within 30 days, "or such longer period as the court determines to be necessary."

If the examination is to be done by the State, there will be a need to transfer the acquittee to the institution so that the examination can proceed if the acquittee is not already in a State psychiatric hospital. Medical clearance will need to be coordinated with the Department of Health prior to an admission into a State psychiatric hospital and this order so provides.