

Wis. Stat. ch. 971 Processes

Competency Questioned under
Wis. Stat. § 971.14(2) *Form CR-205*

If court appoints a specific doctor - not the Wisconsin Department of Health Services (DHS) - to do exam, county pays for exam and must be done in the jail, other locked facility, or agreed location for out of custody defendants.

If court appoints DHS to do exam, state pays and DHS - via Wisconsin Forensic Unit (WFU) - completes the exam in the jail, at the state Mental Health Institute (MHI) - if an inpatient exam is deemed necessary by WFU, or agreed location for out of custody defendants.

If WFU report opines competent, and court adjudicates defendant as competent to proceed, then criminal proceedings continue.

If WFU report opines not competent and not likely to become competent within the timeframe allowed (NC/NL), and the court adjudicates defendant as NC/NL, then criminal proceedings can either be dismissed; suspended and scheduled for review by the DA; or civil commitment proceedings can be initiated.

If WFU report opines as not competent but likely to become competent, then proceedings are suspended and the defendant is committed to DHS under Wis. Stat. § 971.14(5). DHS determines where treatment will occur under the commitment (inpt vs outpt).

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Treatment to Competency
Commitment under Wis. Stat. § 971.14(5)
Form CR-206

Inpatient Treatment

There is no reference to the OCRP in the WFU report, so the court completes order form CR-206 and emails this order, the criminal complaint and the WFU report to the DHS email address provided. The defendant is added to the admission list and the MHIs decide which institute will admit the defendant when a bed is available. ***Please note if there is a sentence enhancer and/or medication authorization on the order form.***

Defendant committed to DHS and DHS determines whether treatment will occur inpatient at one of the state mental health institutes (MHI) or Wisconsin Resource Center (WRC); or outpatient through the Outpatient Competency Restoration Program (OCRP). Court ***MAY REFER DEFENDANT TO OCRP, but the Court CANNOT ORDER OUTPATIENT TREATMENT.***

Outpatient Treatment

There is reference to the OCRP being a possible option, so the court completes order form CR-206 and emails this order, criminal complaint and the WFU report to the DHS email address provided. The defendant is assessed for the OCRP, and the court receives a letter indicating whether the defendant is accepted into the OCRP, or if he/she has been denied for the program. If the defendant is denied for the OCRP, the MHI will proceed with the admission process for inpatient treatment.

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NGI Plea under Wis. Stat. § 971.16

Form CR-270

If the defendant has entered a plea of not guilty by reason of mental disease or defect (NGI), the court may appoint at least one physician or at least one psychologist, but not more than 3 physicians or psychologists or combination thereof, to examine the defendant and to testify at the trial. ***The compensation of the physicians or psychologists shall be fixed by the court and paid by the county upon the order of the court as part of the costs of the action. The examiner must be a non-DHS examiner, as DHS does not contract with examiners or pay for this type of examination.***

If a defendant is found not guilty by reason of mental disease or defect (NGI), the court shall enter a judgment of not guilty by reason of mental disease or defect. The court shall thereupon proceed under Wis. Stat. § 971.17. A judgment entered under this paragraph is interlocutory to the commitment order entered under Wis. Stat. § 971.17. ***The Order of Commitment (Form CR-271) is to be completed at this time, and this order form will always be accompanied by another order form, depending on how the court is proceeding with the placement determination under the commitment.***

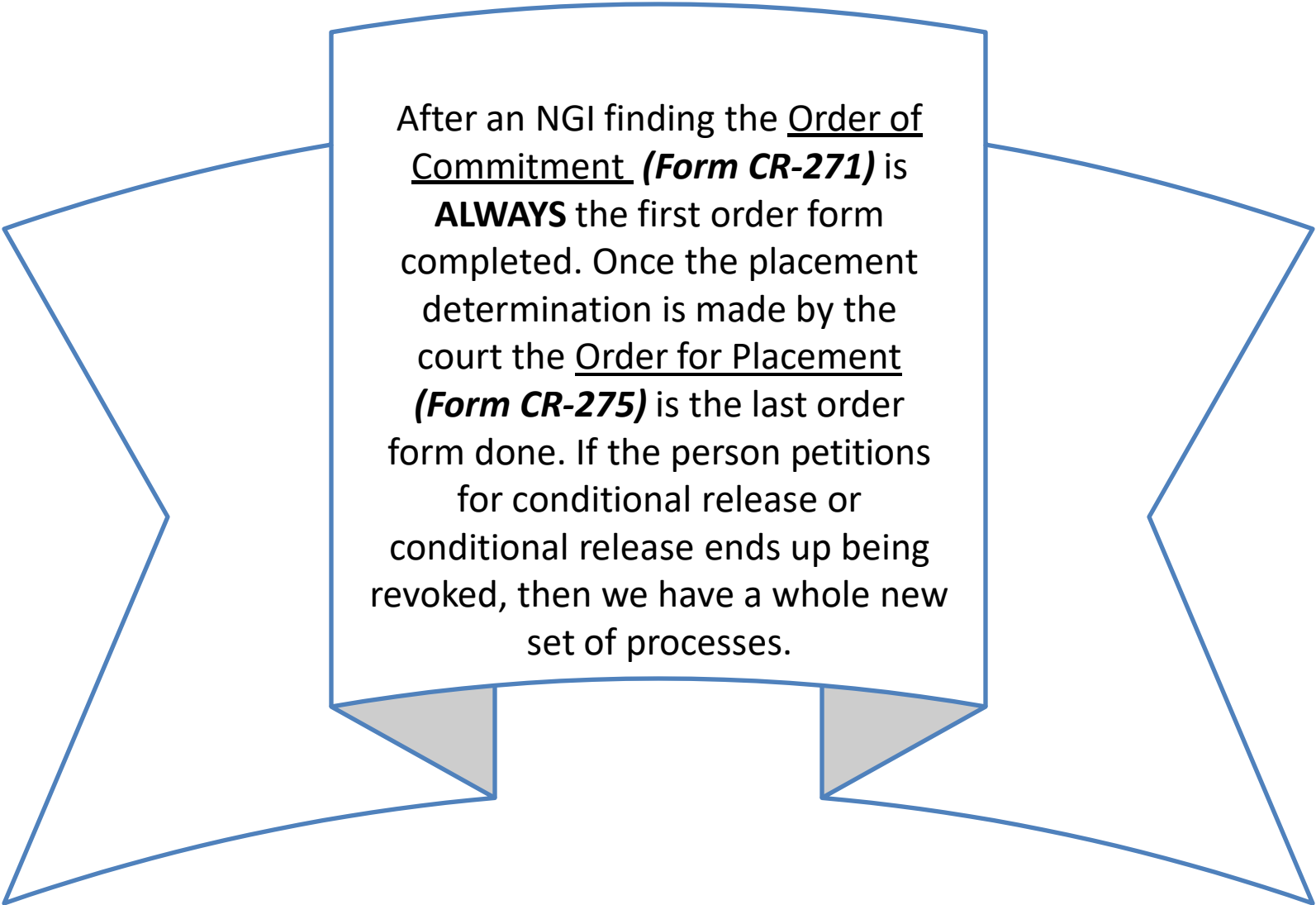
Conditional Release (CR)-Form CR-274 & CR-275
If court is certain that placement in the community, on conditional release, under the NGI commitment is appropriate. DHS has 21 days to complete the CR Plan.

Predisposition Investigation (PDI)-Form CR-272
If the court is uncertain of placement the court can order the PDI to assist in making the placement determination. PDI is done by the DHS contracted CR service provider for your county, and this can be done while the defendant is in custody or out on bail/bond.

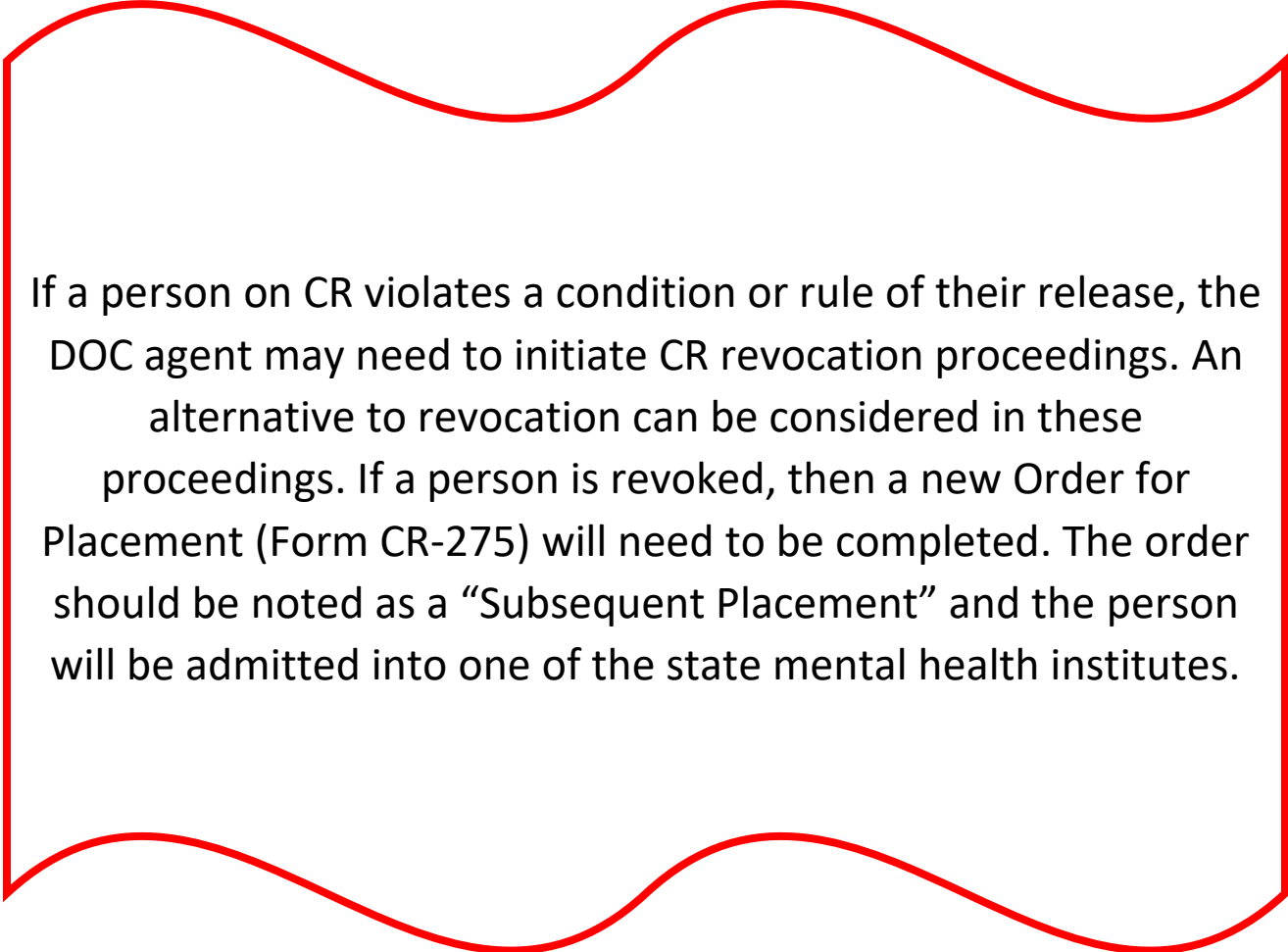
Supplementary Mental Examination (SME)-Form CR-273
If the court is uncertain of placement the court can order the SME to assist in making a placement determination. SME is done on an inpatient basis at either Mendota or Winnebago Mental Health Institute.

Order of Commitment (NGI) under Wis. Stat. § 971.17 Form CR-271

Placement for Institutional Care-Form CR-275
If the court is certain that placement in the one of the state mental health institutes, under the NGI commitment, is necessary.



After an NGI finding the Order of Commitment (**Form CR-271**) is **ALWAYS** the first order form completed. Once the placement determination is made by the court the Order for Placement (**Form CR-275**) is the last order form done. If the person petitions for conditional release or conditional release ends up being revoked, then we have a whole new set of processes.



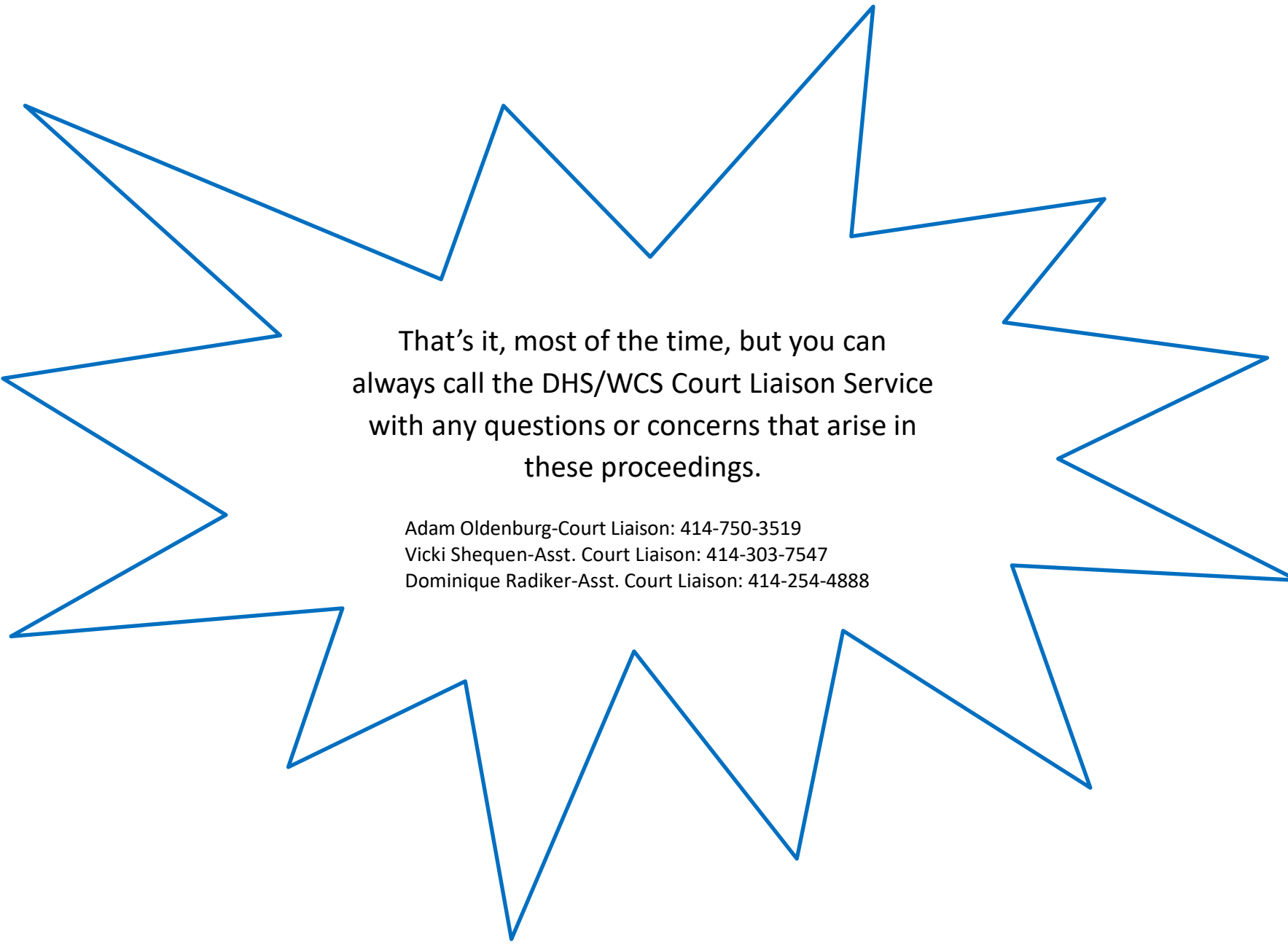
If a person on CR violates a condition or rule of their release, the DOC agent may need to initiate CR revocation proceedings. An alternative to revocation can be considered in these proceedings. If a person is revoked, then a new Order for Placement (Form CR-275) will need to be completed. The order should be noted as a “Subsequent Placement” and the person will be admitted into one of the state mental health institutes.

A person in the MHI under an NGI commitment and placement order can petition for conditional release (CR) 6 months after the initial commitment date, 6 months after having a petition for CR be denied, or 6 months after being revoked from CR. The CR petition process has statutory timeframes that apply.

*****The CR petition process and the statutory timeframes that apply for cases prior to 1/1/91 vary from the current statutes *****

Cases after 12/31/90 follow these basic guidelines:

1. Court appoints an independent examiner within 20 days of receiving petition, using form CR-277.
2. Examiner has 30 days from appointment to complete and submit their recommendation.
3. Court conducts a hearing on the report within 30 days of receiving the examiners report and makes a determination on whether CR is appropriate.
4. If court grants CR, then the court orders the DHS CR provider for your county to prepare a CR plan, using form CR-274.
5. DHS CR provider to complete and submit the CR plan to the court within 60 days, and upon approval of the plan by the court a new Order for Placement (form CR-275) is to be completed, and it should be noted as a "Subsequent Placement".



That's it, most of the time, but you can
always call the DHS/WCS Court Liaison Service
with any questions or concerns that arise in
these proceedings.

Adam Oldenburg-Court Liaison: 414-750-3519

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