

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

EFFECTIVE DATE: May 5, 2006

DATE ISSUED: May 5, 2006

(Rescinds Division Circular #51 issued on November 8, 2001)

- I. **TITLE:** Class I Commitments

- II. **PURPOSE:** To establish uniform procedures for responding to court-ordered Class I commitments of eligible individuals to the care and custody of the Commissioner of the Department of Human Services.

- III. **POLICIES:** N.J.S.A.2C:4-6 provides that when a criminal court of competent jurisdiction finds a criminal defendant incompetent to stand trial (IST), the court may commit him or her to the care and custody of the Commissioner of the Department of Human Services. This is known as a Class I commitment. See N.J.S.A. 30:4-25.1.

The purpose of the Class I commitment is to (1) educate the defendant about the nature of the charges against him or her and (2) teach the defendant about the criminal proceeding against him or her. Throughout the education process, the defendant is periodically reviewed by a court of competent jurisdiction to determine if the defendant shall remain a Class I commitment or be treated as a voluntary recipient of Division services.

An individual committed to the care and custody of the Commissioner is not considered a voluntary recipient of services and his or her discharge from services requires court approval while committed.

V. GENERAL STANDARDS:

A. DEFINITIONS

For the purpose of this circular, the following terms shall have the meaning defined herein:

“Change Of Status” means changes in the living situation of the individual. This includes but is not limited to: movement from one cottage to another in a developmental center, changes in the supervision provided to the individual, movement to the community from a developmental center or movement from one community living arrangement to another.

“Chief Executive Officer” (CEO) means the person having administrative authority and responsibility over a State-operated developmental center for individuals with developmental disabilities.

“Regional Administrator” (RA) means an employee of the Division with administrative authority over community programs within a specific geographic region.

- B.** When an adult criminal defendant is declared IST and he or she is committed to the care and custody of the Commissioner of Human Services as Class I commitment, the criminal court may order the Division to provide a residential placement for, and training to, the defendant.
- C.** When ordered by the court to provide placement and training, Division staff shall advise the court of available services. If there are proper services available, the defendant shall be immediately admitted to those services. If appropriate services are not immediately available, the court will be advised of the available options while appropriate services are sought.
- D.** Within 30 days of admission to Division residential services, the individual shall be evaluated to determine whether he or she needs a guardian of the person. If it is determined that the individual needs a guardian, a guardianship complaint shall be pursued on an expedited basis in accordance with the requirements of Division Circular #6 (N.J.A.C. 10:43-1et. seq.) and the criminal court shall be notified of the guardianship proceeding.

- E.** Copies of all Class I commitment orders shall be provided to the Regional and Division Administrative Practice Officers. These officers shall be responsible for monitoring compliance with the court order and advising the court of any change in status of the individual. In the case of individuals in the Moderate Security Unit (MSU), the Director of MSU shall be responsible to monitor compliance with the order and advise the court. The Director of the MSU shall advise the Regional and Division Administrative Practice Officers of his or her actions.

VI. PROCEDURES:

1. If charges against the defendant are pending (not dismissed):
 - A.** In accordance with N.J.S.A. 2C:4-6, the Class I commitment order shall establish the frequency of court reviews and indicate the need to advise the court of changes in the status of the individual. The schedule of hearings outlined in VI C, D, E, & F are the requirements contained in N.J.S.A. 2C:4-6.
 - B.** The court may choose to establish a review schedule different than the one outlined in VI C through F. However, if no hearing is scheduled, the Division shall request a hearing in accordance with these guidelines.
 - C.** The first court review shall be conducted within 3 months of the initial commitment to the care and custody of the Commissioner. At this hearing and each subsequent review hearing before the criminal court, Division staff may be required to submit written reports or provide oral testimony concerning the individual's competency to stand trial.
 - D.** If the court does not dismiss the charges against the defendant, another review shall occur 6 months from the defendant's date of Class I commitment.
 - E.** If the court does not dismiss the charges at the 6-month review hearing, another review shall occur 12 months from the defendant's date of Class I commitment.

- F.** If, after 12 months of Division services, the charges against the defendant are not dismissed, a review hearing shall occur at six months intervals until the court dismisses the charges against the defendant or finds the defendant competent to stand trial.
- G.** If, at a review hearing, the court does not schedule a subsequent review hearing, it is the responsibility of the Chief Executive Officer (CEO) or Regional Administrator (RA) or designee to advise the Regional Administrative Practice Officer that no hearing has been scheduled. It is the responsibility of the Regional Administrative Practice Officer to contact the court and the prosecutor, in writing, and request a hearing date within the guidelines of N.J.S.A. 2C:4-6.
1. If the court does not schedule a review hearing within 30 days of the written request from the Regional Administrative Practice Officer, the Division's Administrative Practice Officer (APO) shall be so advised, in writing, by the Regional Administrative Practice Officer. A copy of the written request to the court shall be provided to the APO.
 2. In turn, the Division's APO will contact the DAG to determine how to proceed.
- H.** Through the review process, it is the responsibility of the CEO or designee or the Regional APO to advise, in writing, the defendant, county prosecutor, and the court of any change in the defendant's status.
- I.** It is the responsibility of the CEO or RA or designee to advise the defendant of the status of the proceedings against him or her following each review hearing.
2. If charges against the defendant are dismissed:
- A. The Division may have a psychiatric evaluation conducted for the purpose of considering a possible general civil commitment. See N.J.S.A. 30:4-27.10.

- B. If the individual is charged with a sex offense, six months prior to discharge, the psychiatric evaluation shall also consider the possibility of commitment under the Sexually Violent Predator Act. See N.J.S.A. 30:4-27.25 et seq.
- C. If the person cannot be civilly committed or committed under the Sexually Violent Predator Act, the individual shall be considered a voluntary admission. The former defendant shall be advised of his voluntary status. If the individual requests to be discharged from services, the requirements of Division Circular #48 shall be followed.

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File:DC51