The Road to Reintegration: California's Conditional Release Program

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Learning Objectives

1. Review California's conditional release program (CONREP), including its history and the unique population it serves
2. Describe the forensic treatment and supervision provided in CONREP with consideration of community safety concerns
3. Examine the programmatic design of CONREP

The History of Conditional Release Programs

The History of Conditional Release Programs

- The concept of ***conditional release*** can be traced back to the Mental Deficiency Law of 1913
- Conditional release programs resulted from federal and state court decisions in the 1960s, which afforded ***Not Guilty by Reason of Insanity*** (NGRI/NGI) individuals the right to be provided with commitment procedures similar to civil commitment.
  - During the 1960s and 1970s, state courts grew concerned and issued rulings protecting the civil rights of the mentally ill.
  - Many courts struck down laws providing for the automatic and indefinite confinement of defendants who had been acquitted by NGRI/NGI.

The History of Conditional Release Programs

- The courts said that due process and equal-protection concerns required that those found not guilty but confined due to mental illness had ***the right to periodic reassessment of their mental health status and dangerousness***.
- By the early 1980s, all but 10 state legislatures had responded to these decisions and reformed their laws to provide for such review procedures.

The U.S. Supreme Court ruled that:

1. Individuals must be both *actively mentally ill* and *dangerous* to be kept in the hospital.
2. Because individuals found not guilty by reason of insanity were not convicted of a crime, he/she may not be punished for the crime.
3. There is no clear correlation between a hypothetical criminal sentence and the time it takes the offender to recover. The court accepted that some NGRIs might not recover and remain dangerous and require continued hospitalization.

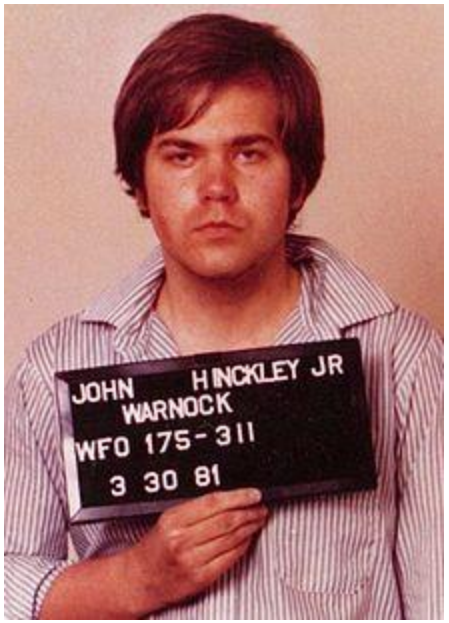
The History of Conditional Release Programs

- As it was found that these NGRI/NGI individuals could legally be released from state hospitals, states grew concerned with releasing potentially "dangerous" offenders with mental illness into the community unsupervised.
- Therefore, states created a new category of ***post-hospitalization supervision***, conditional release programs.
- Conditional release programs are designed to protect the safety of the community all the while meeting the courts' mandate that some individual liberties be protected.
- Conditional release programs have achieved two goals:

1. ***Insanity acquittees no longer remained in hospitals with no hope of being released.***
2. ***Those NGRI/NGI individuals who were deemed to continue to be dangerous and mentally ill, remained in a secure facility.***

The Most Famous Conditional Release Case of All

- In 1981, John Hinckley Jr. shot then-U.S. President Ronald Reagan, a secret service agent, a Washington police officer, and Reagan's press secretary. Hinckley claimed that he was trying to impress the actress Jodie Foster, with whom he was infatuated.
- This incident impacted conditional release programs nationwide.
- Hinckley eventually received a number of one-day conditional releases under the supervision of his parents in 2003.
- In 2007, he began to spend weekends with his family.
- He was released conditionally in 2016. Since then, he has been monitored, and there has been no indication of any problems.
- He will receive unconditional release in June 2022, if he complies with current restrictions.



The California CONREP Program

A History of the California Conditional Release Program

- CONREP is a State of California, Department of State Hospitals entity
- CONREP is mandated as a State responsibility by the Governor's Mental Health Initiative of 1984 (post-Hinckley)
- The CA Forensic Conditional Release Program (CONREP) began operations in 1986
- Funding is provided through the State General Fund
- CONREP was mandated as a state responsibility in 1984, and began operating in 1986. CONREP's patients have typically experienced lengthy hospital stays and in some cases served full prison sentences.
- The Department of State Hospitals currently contracts with 11 distinct subcontractors which serve all 58 counties in the State of California.

CONREP Patient Population

Who Qualifies for CONREP?

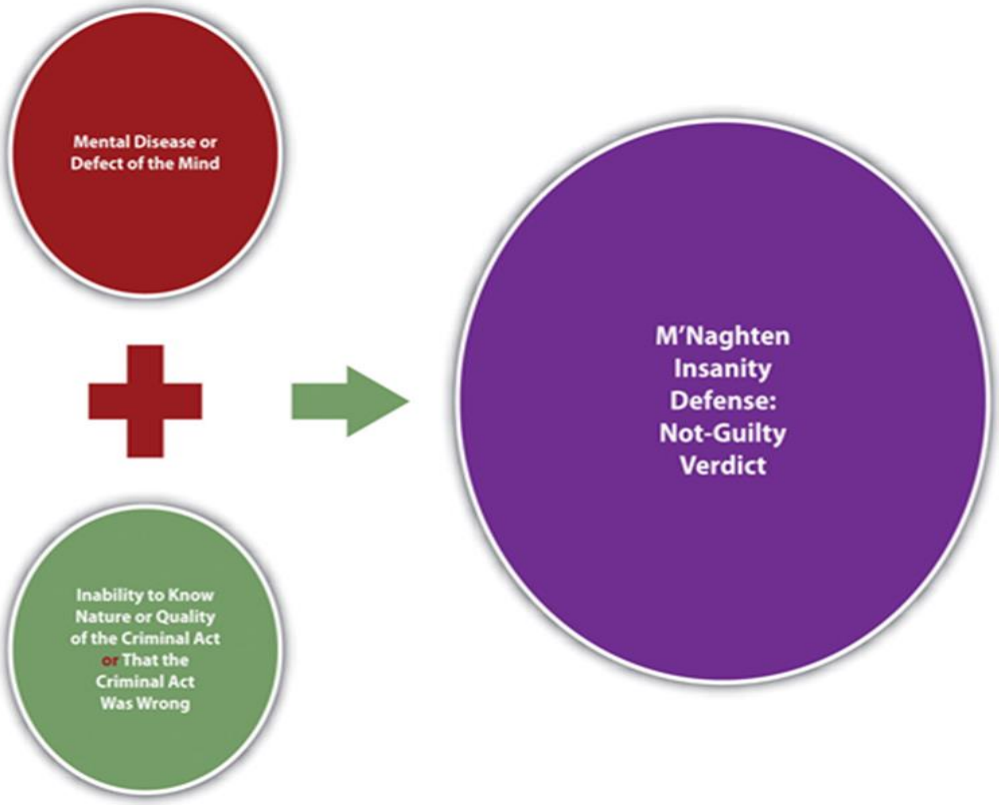
- Statewide system of *community outpatient treatment* programs for persons in California who are judicially committed as:
  - **PC 1026** **Not Guilty by Reason of Insanity**
  - **PC 1026.5** **Civilly Extended NGRI/NGI**
  - WIC 702.3 Juvenile NGRI/NGI
  - **PC 1370** **Incompetent to Stand Trial (IST)**
  - **PC 2964** **Offenders with Mental Disorders (OMD), Parolee**
  - **PC 2972** **Civilly Extended OMD**
  - WIC 6316 Mentally Disordered Sex Offender (MDSO)
  - WIC 6608 Sexually Violent Predator (SVP)

Not Guilty By Reason of Insanity

- The insanity defense is used in only 1% of all criminal proceedings, and its success rate is only 25% of that 1%.
- Therefore, less than 1 in 400 defendants are found NGI in the United States a year (2020).
- Patients found NGRI/NGI, are sent to the state hospital, and eventually discharged to CONREP when the court determines the patient can be treated in a less restrictive environment (low level of dangerousness).
- Prior to release, the court is required to ask for opinion's on release from the treatment team at DSH and CONREP.

Not Guilty By Reason of Insanity

- To be found NGRI/NGI:
  - Incapable of knowing or understanding the nature and quality of act, **or**
  - Incapable of distinguishing right from wrong AT THE TIME OF THE OFFENSE
- In California, defendants only have to prove one of prongs



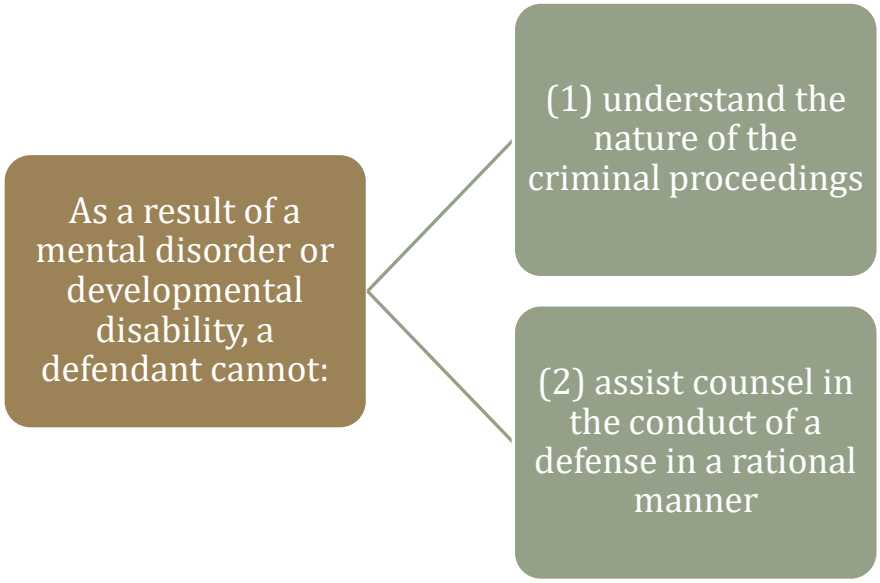
Offenders with Mental Health Disorders

- In California, the law states that individuals residing in state prison be evaluated for severe mental disorder during the first year of their sentence, and some form of treatment should be provided in the prison setting.
- An inmate-patient who has been identified and offered treatment is then evaluated for the presence of six specific criteria *within the year prior to release on parole*, called an Offender with Mental Health Disorder (OMD) evaluation.
- If the individual meets all of the six criteria, they are ordered to the state hospital for treatment, and likely will eventually be discharged to CONREP.
- When an OMD is ordered to community outpatient treatment, the court **does not** have to ask CONREP for an opinion.

Offenders with Mental Health Disorders: Criteria

- The individual has a severe mental disorder.
- The individual used forced or violence or caused bodily injury during the committing crime.
- The severe mental disorder was one of the causes of, or was an aggravating factor in the crime for which he/she was sentenced.
- The individual is not in remission or cannot be kept in remission without treatment.
- The individual was in treatment for the severe mental disorder for 90 days or more within the year prior to parole.
- As a result of the severe mental disorder, the individual represents a substantial danger of physical harm to *others.*

Incompetent to Stand Trial (IST)



- The court refers defendants found IST of felony charges due to mental disorder to CONREP for evaluation to see if they can be safely treated in the community or require a higher level of care (inpatient)
- The court can then order IST defendants into CONREP for competency restoration in the community.
- These patients remain in CONREP until:
  - Their competency is restored,
  - They are deemed unrestorable,
  - Exceed two years of treatment,
  - Or they pose a danger to the community and therefore are sent to the state hospital for competency restoration.

The CONREP Mission, Treatment, and Forensic Focus

CONREP Mission

- CONREP's mission is to promote **public safety** and the successful integration of the patient with his/her community through effective, comprehensive, and standardized outpatient treatment including:
  - Assessment
  - Supervision
  - Treatment

- Standardization is achieved via the structure provided by CONREP Levels of Service, Required Services, and policy; treatment is individualized within this structure.

Program Emphasis: Prevention of Re-offense

- Integrated system of community treatment services
- Treatment to enhance functioning in the community
- Clinical assessment to evaluate effectiveness of integrated treatment plans
- Active risk assessment and risk management
- Terms and conditions of outpatient treatment
- Intensive outpatient and case management services
- **Re-hospitalization and preventative revocation of outpatient status**
- Liaison with state hospitals for continuity of care

Treatment in the CONREP Program

Individual evidence-based treatment	Group evidence-based treatment	Psychiatry visits
Substance use monitoring and treatment (drug testing, AA/NA, recovery groups)	Collateral contacts (contact with family, friends, work, AA/NA sponsor, etc)	Home visits and searches
Wraparound case management (medical and dental care, social benefits, employment, residential placement, transportation)	Day socialization (milieu format with social and life skills groups)	Annual case review (interdisciplinary treatment team format)

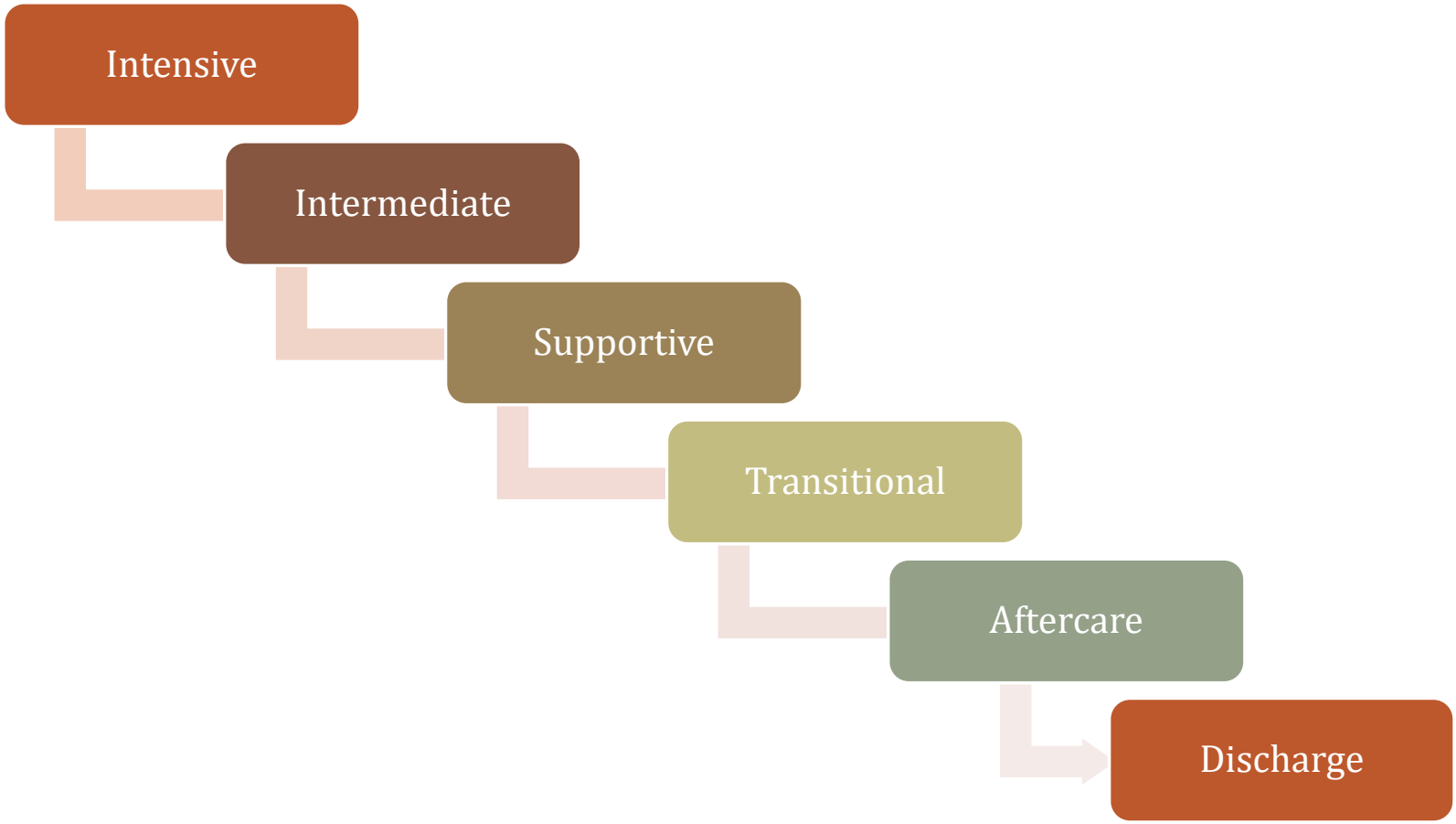
Risk-Need-Responsivity Model [1]

Offenders are less likely to recidivate when:

1. They receive supervision and treatment services that align in intensity to their **risk** for recidivating
2. They are involved in programs that address their criminogenic **needs**
3. Supervision and intervention strategies are tailored to match offenders' individual learning styles, motivations, and abilities (**responsivity**)

"While positive relationships between offenders and agents is a factor that has been correlated with reduced rates of recidivism, too much supervision can result in higher rates of revocation."

Overview of Level of Care Model



Level of Care Model:
Based on Patient's level of risk

SERVICE FUNCTION TYPE	CARE LEVELS					
	Intensive	Inter-mediate	Supportive	Transi-tional	Aftercare	STRP
Forensic Individual Contact	4 per Month	3 per Month	2 per Month	Monthly		2 per Month
Group Contact	4 per Month	3 per Month	2 per Month	Monthly	None	8 per Month
Case Management	Up to 8 Hours per Month	Up to 2 Hours per Month				Up to 8 Hours per Month
Home Visits	2 per Month	Monthly		Quarterly		None
Collateral Contact	2 per Month	Every Other Month (6 per Year)			Monthly	2 per Month#
Substance Abuse Screening	4 per Month	2 per Month	2 per Month	Monthly	Quarterly	4 per Month
Annual Case Review (Assessment)	YEARLY (1 per Year)					Yearly*
Court Reports – COT patients	Quarterly					Quarterly*
Psychiatric Practice – Admission or Re-Admission	1 Service per Admission or Re-Admission					None
Psychiatric Practice – Annual Note	Yearly					1 per Year*
Psychiatric Practice – Progress Note (Med Check)	1 per Month	1 Every Other Month		3 per Year	1 to 2 Services per Year	1 per Month
Regional Meetings (2 per Year)						
Forensic Training (1 per Year per Staff Attending)						
State Hospital Liaison Visits - 2 Services per Year per Patient						

CONREP Offices

CONREP Housing

Program Characteristics

Team

- Employ various professional disciplines
- Organized under the direction of the Community Program Director
- Client support and monitoring is the responsibility of ALL staff (e.g., any change in functioning reports from clerical staff)

Services

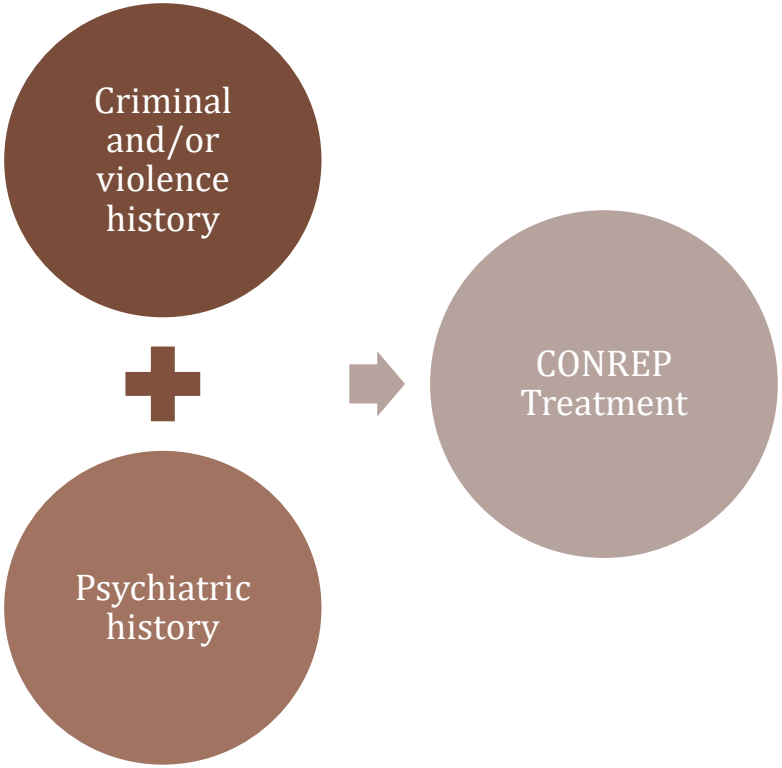
- Treatment, evaluation, and case management services are coordinated and reinforce one another
- Programs utilize a full array of mental health treatment modalities
- Collaborative decision making is vital for the successful treatment and management of the forensic patient

Approach

- Multi-disciplinary treatment and case management
- Team approach to treatment, monitoring, and supervision
- Dual role inherent in treating court-ordered patients
- Our responsibility is to the community, our patients, and the courts
- **Forensic focus** is what is most unique

Forensic Focus

- CONREP treatment is based on ***the relationship between the patient's mental illness and criminal behavior***
- Treatment focuses on:
  1. Identifying and monitoring ***unhealthy behavioral patterns, especially those exhibited prior to and during the offense***
     - Antecedents to psychiatric decompensation
     - Substance use history
     - Relationships, employment, housing, etc.
  2. Developing adaptive coping strategies (Forensic Relapse Prevention Plan)



Evaluations and Assessments

HCR-20-V3

- Version 3 of the HCR-20 is the latest version of a comprehensive set of professional guidelines for violence risk assessment and management based on the Structured Professional Judgement (SPJ) model.
- The HCR-20 was developed to help structured decisions about violence risk.
- It has become the world's most widely used and best validated violence risk assessment instrument. It has been translated into 20 languages and adopted or evaluated in more than 35 countries.
- CONREP uses the HCR-20-V3 to inform and guide treatment. Staff do not base decisions on the assessment, but rather use it in conjunction with observations, clinical judgement, collateral contacts, etc.

Other Evaluations, Services

- Placement Evaluations
- Hospital Liaison Visits
- Community Outpatient Treatment Reports
- Quarterly and Annual Reports
- Intercounty Transfers
- Restoration to Sanity/Discharge Reports
- Testimony
- CFAP

Research

CONREP Effectiveness Study: 2002

- Question 1: ***Does CONREP work?***
- Question 1 Answer:
  - CONREP **protects the public** and provides a **less costly vehicle for treatment** of major mental disorders than expensive state hospital beds.
  - CONREP **reoffense rates are significantly less** than the reoffense rate of a comparison group of patients who left hospitals in the past but without CONREP aftercare.
  - CONREP reoffense rates are the lowest of three states that have published follow-up findings in the research literature regarding similar patients served by their conditional release programs.
  - CONREP increases the number of patients who get jobs and who build positive social supports in the community, and CONREP reduces the numbers of those who use substances.
  - CONREP patients receive intensive treatment in the community at a cost that is approximately one-fifth the cost of placement in a state hospital. [13]

CONREP Effectiveness Study: 2002

- Question 2: ***What is it about CONREP that works?***
- Question 2 Answer:
  - Of key importance in protecting the public is the legal ability and clinical skill exercised by CONREP staff in **revoking the conditional release of patients who show signs of dangerousness** and immediately placing such patients back into secure hospitals.
  - CONREP programming **prevents crime**:
    - An earlier case-by-case analysis of the reasons for revocation revealed that most persons put back in hospitals had not committed arrestable acts, but rather had **psychiatric and behavioral problems that if left unaddressed could have escalated in seriousness and become criminal acts.**
  - The treatment provided in CONREP programs helps patients **overcome the economic and social isolation** that often accompanies mental illness: The average CONREP patient after a year in treatment is more likely to be employed, works more hours per week, and has higher pay and job responsibilities than when he or she entered CONREP. [13]

CONREP Effectiveness Study: 2002

- Question 2: ***What is it about CONREP that works (continued)?***
- Question 2 Answer:
  - The average CONREP patient after a year in treatment is more likely to have at least one close friend, is **more likely to have friends** who support the treatment program, and is a more frequent participant in **recreational activities** with others than when he or she entered CONREP.
  - The average CONREP patient after a year in treatment is **less likely to have alcohol or drug use problems** than when he or she entered CONREP. [13]

CONREP Effectiveness Study: 2002

- Question 3: ***What proportion of CONREP patients are revoked back to state hospitals?***

- Question 3 Answer:
  - In the 2002 data analysis, 17% of CONREP NGRI/NGI patients, during one year of community exposure, had to be returned from community programs to state hospitalization.
  - The most common reasons for rehospitalization were **psychiatric decompensation** (6.4%), **noncompliance with treatment** requirements (9.3%), and showing **symptoms considered dangerous** (1.9%).
  - An earlier study compared the rate of CONREP rehospitalization to those of two other states. California's 1997 CONREP one-year rehospitalization rate of 20.4% was below that of Oregon's conditional release program (25.8%) but higher than New York's return-rate (14.5%). [13]

CONREP Effectiveness Study: 2021

As per DSH, “The most recent CONREP Effectiveness study examined a five-year subset (2012 to 2017) of adult forensic patients discharged from DSH between 2002 and 2017 and found that patients treated in CONREP recidivate at ***significantly lower rates*** than patients that are discharged directly to the community, which is consistent with the findings in the 2002 report.”

National Research on Conditional Release Programs

- A 2020 California study looked at 93 patients who were found to be NGRI/NGI.
- Rearrest rates were compared for three groups:
  1. patients released to the community with conditional release,
  2. patients who were conditionally released but later restored to sanity with no further court supervision, and
  3. patients released from the hospital to the community by the court with no court-imposed conditions.
- **Nearly half (43.8%)** of the patients released to the community without court-mandated supervision were arrested for another offense in the study period, **compared with 8.2%** of patients released under the supervision of the conditional release program.
- In contrast, 25% of those who were restored to sanity and ultimately released unconditionally had higher arrest rates. [8]

National Research on Conditional Release Programs

- **Recidivism rates for insanity patients are very low**, and rehospitalization and revocation rates approximate 30% in most jurisdictions.
- Patients experience longer conditional release periods when they receive intensive outpatient treatment services, substance use services, and a continuity of care from hospital to community placement.[7]
- Structured living arrangements **help patients to cope with the stressors of life** and maintain community outpatient treatment. [7]
- Although adherence to a treatment plan is an important part of reducing recidivism, acquittees who are offered a variety of services **addressing poverty, antisocial behavior, and criminal thinking** experience more successful tenures in the community. [7]
- The five-year outcomes of an assertive community treatment program that monitored 83 patients found NGRI placed on conditional release into the community: 5 arrests and 60 hospitalizations occurred during the study period.[9]
- Overall, the NGRI/NGI patients were in the community for 83 percent of the time they were eligible for conditional release. [9]

National Limitations for Conditional Release Programs

- There are few, if any, uniform practices for the supervision of an insanity patient on conditional release.
- States and jurisdictions **vary widely** on the structural elements of conditional release monitoring:
  - How the conditional release application is reviewed and approved
  - Who supervises the patient in the community
  - Coordination of care
  - Who has authority to revoke the conditional release
  - The duration of the conditional release itself. [7]

Thank you for your time!

Questions?

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