



DATE: August 13, 2024  
TO: Attorneys and Judicial Officers Adjudicating Guilty Except for Insanity Cases  
FROM: Alison Bort, Executive Director  
Psychiatric Security Review Board  
SUBJECT: PSRB Length of Jurisdiction Calculations; Clarification of OAR 859-030-0010(8)

This memorandum clarifies the Psychiatric Security Review Board's (PSRB) procedures to calculating the length of jurisdiction for individuals adjudicated "guilty except for insanity" (GEI) and placed under its jurisdiction.

ORS 161.325(2)(c) provides that the court "shall \* \* \* [s]tate on the record the maximum total period of commitment or conditional discharge under ORS 161.327 (5)." However, no statute in ORS chapters 137 or 161 address how PSRB should apply or if it should apply "time served" credits to that total maximum period of jurisdiction. Historically, the agency computed the end of jurisdiction date using ORS 137.370 and 137.372 as its guiding authority. However, these statutes only authorize the Department of Corrections to apply time served, not the PSRB. Consequently, the Board amended its rules to clarify its position that time served credits could only be applied when explicitly indicated in the GEI judgment order. This rule was not retroactive, thus prior calculations remain unchanged.

Currently, courts may rely on the PSRB to compute an individual's end of jurisdiction date as directed in the GEI judgment order. In 2022, the Board updated its judgment order templates to guide legal professionals to include this information if applicable. While the Board prefers the GEI order include the specific amount of time served to be applied, OAR 859-030-0010(8) guides the calculation when it is generally stated. However, it's important to note that without specific instructions, the Board may encounter difficulties in obtaining complete information about all institutions where time served applies, which can complicate accurate calculations.

Rather than relying on the PSRB to handle these intricate calculations, the Board recommends that legal professionals familiarize themselves with the legislative impact of HB 3100 (2012), now codified in ORS 161.327(7), which rendered the use of time served credits in GEI cases obsolete. Courts now possess the authority to order commitments that are less than the statutory maximum sentences for offenses.<sup>1</sup> The Board advocates for courts and parties to establish the agreed-upon period of PSRB jurisdiction during the underlying criminal proceedings and to include it in the GEI order. This proactive approach not only promotes transparency for the adjudicated individual and preserves the intention of the parties, but also reduces reliance on future legal representatives and the Board to interpret and compute these calculations.

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<sup>1</sup> ORS 161.327(7) states, "The total period of commitment or conditional release... may not *exceed* the maximum sentence provided by statute for the crime for which the person was found guilty except for insanity" [Emphasis added]. Cf. ORS 161.327(8)(2011): "The period of jurisdiction of the board is *equal to* the maximum sentence provided by statute for the crime for which the person was found guilty except for insanity" [Emphasis added].