



Selected Statutes

INSANITY DEFENSE REFORM ACT OF 1984

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§ 17. INSANITY DEFENSE

(a) Affirmative defense. It is an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense.

(b) Burden of proof. The defendant has the burden of proving the defense of insanity by clear and convincing evidence.

§ 4241. DETERMINATION OF MENTAL COMPETENCY TO STAND TRIAL OR TO UNDERGO POSTRELEASE PROCEEDINGS

(a) Motion to determine competency of defendant. At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, or at any time after the commencement of probation or supervised release and prior to the completion of the sentence, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering

from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

(b) Psychiatric or psychological examination and report. Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c) [18 USCS § 4247(b) and (c)].

(c) Hearing. The hearing shall be conducted pursuant to the provisions of section 4247(d) [18 USCS § 4247(d)].

(d) Determination and disposition. If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility--

(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that

in the foreseeable future he will attain the capacity to permit the proceedings to go forward; and

(2) for an additional reasonable period of time until--

(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the proceedings to go forward; or

B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the proceedings to go forward, the defendant is subject to the provisions of sections 4246 and 4248 [18 USCS §§ 4246 and 4248].

(e) Discharge. When the director of the facility in which a defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the

certificate to the defendant's counsel and to the attorney for the Government. The court shall hold a hearing, conducted pursuant to the provisions of section 4247(d) [18 USCS § 4247(d)], to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial or other proceedings. Upon discharge, the defendant is subject to the provisions of chapters 207 and 227 [18 USCS §§ 3141 et seq. and 3551 et seq.].

(f) Admissibility of finding of competency. A finding by the court that the defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the offense charged, and shall not be admissible as evidence in a trial for the offense charged.

§ 4242. DETERMINATION OF THE EXISTENCE OF INSANITY AT THE TIME OF THE OFFENSE

(a) Motion for pretrial psychiatric or psychological examination. Upon the filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, that the defendant intends to rely on the defense of insanity, the

court, upon motion of the attorney for the Government, shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c) [18 USCS § 4247(b) and (c)].

(b) Special verdict. If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find the defendant--

- (1)** guilty;
- (2)** not guilty; or
- (3)** not guilty only by reason of insanity.

§ 4243. HOSPITALIZATION OF A PERSON FOUND NOT GUILTY ONLY BY REASON OF INSANITY

(a) Determination of present mental condition of acquitted person. If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e).

(b) Psychiatric or psychological examination and report. Prior to the date of the hearing, pursuant to subsection (c), the court shall order that a psychiatric or psychological examination of the defendant be conducted, and

that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c) [18 USCS § 4247(b) and (c)].

(c) Hearing. A hearing shall be conducted pursuant to the provisions of section 4247(d) [18 USCS § 4247(d)] and shall take place not later than forty days following the special verdict.

(d) Burden of proof. In a hearing pursuant to subsection (c) of this section, a person found not guilty only by reason of insanity of an offense involving bodily injury to, or serious damage to the property of, another person, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect. With respect to any other offense, the person has the burden of such proof by a preponderance of the evidence.

(e) Determination and disposition. If, after the hearing, the court fails to find by the standard specified in subsection (d) of this section that the person's release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate

official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until--

(1) such a State will assume such responsibility; or

(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

(f) Discharge. When the director of the facility in which an acquitted person is hospitalized pursuant to subsection (e) determines that the person has recovered from his mental disease or defect to such an extent that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would no longer create a

substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d) [18 USCS § 4247(d)], to determine whether he should be released. If, after the hearing, the court finds by the standard specified in subsection (d) that the person has recovered from his mental disease or defect to such an extent that--

(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall--

(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment

that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

(g) Revocation of conditional discharge. The director of a medical facility responsible for administering a regimen imposed on an acquitted person conditionally discharged under subsection (f) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to

comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

(h) Limitations on furloughs. An individual who is hospitalized under subsection (e) of this section after being found not guilty only by reason of insanity of an offense for which subsection (d) of this section creates a burden of proof of clear and convincing evidence, may leave temporarily the premises of the facility in which that individual is hospitalized only--

(1) with the approval of the committing court, upon notice to the attorney for the Government and such individual, and after opportunity for a hearing;

(2) in an emergency; or

(3) when accompanied by a Federal law enforcement officer (as defined in section 115 of this title [18 USCS § 115]).

(i) Certain persons found not guilty by reason of insanity in the District of Columbia.

(1) Transfer to custody of the Attorney General. Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have

been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

(2) Application.

(A) In general. The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

(B) Notice. The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

(C) Order. Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

(D) Effect. Nothing in this paragraph shall be construed to--

- (i)** create in any person a liberty interest in being granted a hearing or notice on any matter;
- (ii)** create in favor of any person a cause of action against the United States or any officer or employee of the United States; or
- (iii)** limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

(3) Construction with other sections. Subsections (f) and (g) and section 4247 [18 USCS § 4247] shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.

§ 4244. HOSPITALIZATION OF A CONVICTED PERSON SUFFERING FROM MENTAL DISEASE OR DEFECT

(a) Motion to determine present mental condition of convicted defendant. A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

(b) Psychiatric or psychological examination and report. Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c) [[18 USCS § 4247\(b\)](#)] and

(c)]. In addition to the information required to be included in the psychiatric or psychological report pursuant to the provisions of section 4247(c) [[18 USCS § 4247\(c\)](#)]; if the report includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best accord the defendant the kind of treatment he does need.

(c) Hearing. The hearing shall be conducted pursuant to the provisions of section 4247(d) [[18 USCS § 4247\(d\)](#)].

(d) Determination and disposition. If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence of

imprisonment to the maximum term authorized by law for the offense for which the defendant was found guilty.

(e) Discharge. When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing and may modify the provisional sentence.

§ 4245. HOSPITALIZATION OF AN IMPRISONED PERSON SUFFERING FROM MENTAL DISEASE OR DEFECT

(a) Motion to determine present mental condition of imprisoned person. If a person serving a sentence of imprisonment objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment, an attorney for the Government, at the request of the director of the facility in which the person is imprisoned, may file a motion with the court for the district in which

the facility is located for a hearing on the present mental condition of the person. The court shall grant the motion if there is reasonable cause to believe that the person may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. A motion filed under this subsection shall stay the transfer of the person pending completion of procedures contained in this section.

(b) Psychiatric or psychological examination and report. Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the person may be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c) [\[18 USCS § 4247\(b\) and \(c\)\]](#).

(c) Hearing. The hearing shall be conducted pursuant to the provisions of section 4247(d) [\[18 USCS § 4247\(d\)\]](#).

(d) Determination and disposition. If, after the hearing, the court finds by a preponderance of the evidence that the person is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility, the court shall commit the person to the custody of the Attorney General.

The Attorney General shall hospitalize the person for treatment in a suitable facility until he is no longer in need of such custody for care or treatment or until the expiration of the sentence of imprisonment, whichever occurs earlier.

(e) Discharge. When the director of the facility in which the person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the person has not expired, the court shall order that the person reimprisoned until the expiration of his sentence of imprisonment.

**§ 4246. HOSPITALIZATION OF A PERSON DUE FOR RELEASE
BUT SUFFERING FROM MENTAL DISEASE OR DEFECT**

(a) Institution of proceeding. If the director of a facility in which a person is hospitalized certifies that a person in the custody of the Bureau of Prisons whose sentence is about to expire, or who has been committed to the custody of the Attorney General pursuant to section

4241(d) [\[18 USCS § 4241\(d\)\]](#), or against whom all criminal charges have been dismissed solely for reasons related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available, he shall transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d) [\[18 USCS § 4241\(d\)\]](#), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

(b) Psychiatric or psychological examination and report. Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a

psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c) [\[18 USCS § 4247\(b\) and \(c\)\]](#).

(c) Hearing. The hearing shall be conducted pursuant to the provisions of section 4247(d) [\[18 USCS § 4247\(d\)\]](#).

(d) Determination and disposition. If, after the hearing, the court finds by clear and convincing evidence that the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until--

(1) such a State will assume such responsibility; or

(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

(e) Discharge. When the director of the facility in which a person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the person or, on the motion of the attorney for the Government or on its own motion, shall hold a

hearing, conducted pursuant to the provisions of section 4247(d) [\[18 USCS § 4247\(d\)\]](#), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that--

(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall--

(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

(f) Revocation of conditional discharge. The director of a medical facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or

treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

(g) Release to State of certain other persons. If the director of a facility in which a person is hospitalized pursuant to this chapter [\[18 USCS §§ 4241](#) et seq.] certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than ten days after certification by the director of the facility.

(h) Definition. As used in this chapter the term "State" includes the District of Columbia.

§ 4247. GENERAL PROVISIONS FOR CHAPTER

(a) Definitions. As used in this chapter [[18 USCS §§ 4241](#) et seq.]--

(1) "rehabilitation program" includes--

(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

(C) drug, alcohol, and sex offender treatment programs, and other treatment programs that will assist the individual in overcoming a psychological or physical dependence or any condition that makes the individual dangerous to others; and

(D) organized physical sports and recreation programs;

(2) "suitable facility" means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant;

(3) "State" includes the District of Columbia;

(4) "bodily injury" includes sexual abuse;

(5) "sexually dangerous person" means a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others; and

(6) "sexually dangerous to others" with respect a person, means that the person suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released.

(b) Psychiatric or psychological examination. A psychiatric or psychological examination ordered pursuant to this chapter shall be conducted by a licensed or certified psychiatrist or psychologist, or, if the court finds it appropriate, by more than one such examiner. Each examiner shall be designated by the court, except that if the examination is ordered under section 4245, 4246, or 4248 [[18 USCS § 4245](#), [4246](#), or [4248](#)], upon the request of the defendant an additional examiner may be selected by the defendant. For the purposes of an examination pursuant to an order under section 4241, 4244, or 4245 [[18 USCS § 4241](#), [4244](#), or [4245](#)], the court may commit the person to be examined for a reasonable period, but not to exceed thirty days, and under section 4242, 4243, 4246, or 4248 [[18 USCS §](#)

[4242](#), [4243](#), [4246](#), or [4248](#)], for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 4241, 4244, or 4245 [[18 USCS § 4241](#), [4244](#), or [4245](#)], and not to exceed thirty days under section 4242, 4243, 4246, or 4248 [[18 USCS § 4242](#), [4243](#), [4246](#), or [4248](#)], upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

(c) Psychiatric or psychological reports. A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include--

- (1)** the person's history and present symptoms;
- (2)** a description of the psychiatric, psychological, and medical tests that were employed and their results;
- (3)** the examiner's findings; and

- (4) the examiner's opinions as to diagnosis, prognosis, and--
- (A) if the examination is ordered under section 4241 [[18 USCS § 4241](#)], whether the person is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense;
 - (B) if the examination is ordered under section 4242 [[18 USCS § 4242](#)], whether the person was insane at the time of the offense charged;
 - (C) if the examination is ordered under section 4243 or 4246 [[18 USCS § 4243](#) or [4246](#)], whether the person is suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another;
 - (D) if the examination is ordered under section 4248 [[18 USCS § 4248](#)], whether the person is a sexually dangerous person;
 - (E) if the examination is ordered under section 4244 or 4245 [[18 USCS § 4244](#) or [4245](#)], whether the person is suffering

from a mental disease or defect as a result of which he is in need of custody for care or treatment in a suitable facility; or
(F) if the examination is ordered as a part of a presentence investigation, any recommendation the examiner may have as to how the mental condition of the defendant should affect the sentence.

(d) Hearing. At a hearing ordered pursuant to this chapter [[18 USCS §§ 4241](#) et seq.] the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A [[18 USCS § 3006A](#)]. The person shall be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

(e) Periodic report and information requirements.

(1) The director of the facility in which a person is committed pursuant to--

(A) section 4241 [[18 USCS § 4241](#)] shall prepare semiannual reports; or

(B) section 4243, 4244, 4245, 4246, or 4248 [[18 USCS § 4243](#), [4244](#), [4245](#), [4246](#), or [4248](#)] shall prepare annual reports concerning the mental condition of the person and containing recommendations concerning the need for his continued commitment. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct. A copy of each such report concerning a person committed after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this [title \[18 USCS § 871, 879, or 1751\]](#) shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this [title \[18 USCS § 3056\(a\)\]](#).

(2) The director of the facility in which a person is committed pursuant to section 4241, 4243, 4244, 4245, 4246, or 4248 [[18 USCS § 4241](#), [4243](#), [4244](#), [4245](#), [4246](#), or [4248](#)] shall inform

such person of any rehabilitation programs that are available for persons committed in that facility.

(f) Videotape record. Upon written request of defense counsel, the court may order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

(g) Habeas corpus unimpaired. Nothing contained in section 4243, 4246, or 4248 [[18 USCS § 4243](#), [4246](#), or [4248](#)] precludes a person who is committed under either of such sections from establishing by writ of habeas corpus the illegality of his detention.

(h) Discharge. Regardless of whether the director of the facility in which a person is committed has filed a certificate pursuant to the provisions of subsection (e) of section 4241, 4244, 4245, 4246, or 4248 [[18 USCS § 4241](#), [4244](#), [4245](#), [4246](#), or [4248](#)], or subsection (f) of section 4243 [[18 USCS § 4243](#)], counsel for the person or his legal guardian may, at any time during such person's commitment, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility, but no such motion may be filed within one hundred and eighty days

of a court determination that the person should continue to be committed. A copy of the motion shall be sent to the director of the facility in which the person is committed and to the attorney for the Government.

(i) Authority and responsibility of the Attorney General. The Attorney General--

(A) may contract with a State, a political subdivision, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter [[18 USCS §§ 4241](#) et seq.];

(B) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243, 4246, or 4248 [[18 USCS § 4243](#), [4246](#), or [4248](#)];

(C) shall, before placing a person in a facility pursuant to the provisions of section 4241, 4243, 4244, 4245, 4246, or 4248 [[18 USCS § 4241](#), [4243](#), [4244](#), [4245](#), [4246](#), or [4248](#)], consider the suitability of the facility's rehabilitation programs in meeting the needs of the person; and

(D) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the

provisions of this chapter [[18 USCS §§ 4241](#) et seq.] and in the establishment of standards for facilities used in the implementation of this chapter [[18 USCS §§ 4241](#) et seq.].

(j) Sections 4241, 4242, 4243, and 4244 [[18 USCS §§ 4241](#), [4242](#), [4243](#), and [4244](#)] do not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.