Meeting Minutes
Working Group on Policies Pertaining to Individuals with Intellectual Disabilities Who Are Criminal-Justice Involved
September 20, 2023
Microsoft Teams Phone/Video Conference

ATTENDEES

Working Group Members Present: Susan Aranoff (Developmental Disabilities Council - DDC), Susan Garcia Nofi (Vermont Legal Aid - VLA), Stuart Schurr (Department of Disabilities, Aging, and Independent Living - DAIL), Jennifer Poehlmann (Vermont Center for Crime Victim Services - VCCVS) , Tiffany North Reid (Office of Racial Equity - ORE), Rep. Ela Chapin (House Judiciary - HJ), Pat Frawley (Vermont Crisis Intervention Network - VCIN), Hon. Karen Carroll (Vermont Judiciary - VJud), Max Barrows (Green Mountain Self-Advocates - GMSA), Mary-Graham McDowell (Vermont Care Partners - VCP), Karen Barber (Department of Mental Health - DMH), Rep. Rey Garofano (House Human Services - HHS).

Working Group Members Absent: Eliza Novick Smith (Vermont State Employees Association - VSEA), Sen. Dick Sears (Senate Judiciary - SJ), Sen. Ginny Lyons (Senate Health and Welfare- SHW).

Others Present: Kim Guidry (DAIL), Rebecca Silbernagel (DAIL), Joanne Kortendick, Michael Casper (GMSA), Kirsten Murphy (Developmental Disability Council), Marie Lallier (VT Care Partners).

Motion to Approve September 5, 2023, Minutes: First: Hon. Karen Carroll
Second: Rep. Ela Chapin

Minutes were approved as written.

Hillary Ward – Director Adult Services Rutland Mental Health, LCSW
A presentation of the perspective from someone in the field of Adult Services and Mental Health

Hillary has been 12 years in the field and her specialty is with individuals with challenging behaviors, severe borderline personality disorder bridging all cognitive functioning. Works primarily in CRT (Community Rehabilitation Services), which serves the most serious mental illnesses such as schizophrenia, bipolar disorder and major depression, but she also works with the adult services program.

Community settings often have entry level positions, staff have minimal experience and receive only basic training. The proposed forensic facility could offer 24/7 observation and behavioral intervention by an experienced, core team for those individuals with complex and acute needs, who present more dangerous behaviors. This level of observation in one location could offer more accurate diagnoses, more timely medication adjustments, and holistic observation of the whole person for medical, psychiatric, substance-use struggles, trauma reaction, and cognitive functioning. In a community setting, coordinating these individual specialists for an observation is difficult and time-consuming. A single

location with a core staff team could provide a consistent approach. Community staff can provide 24/7 eyes-on, but there's little they can do to intervene if dangerous or unsafe behaviors occur, including violence and elopement.

People with I/DD (Intellectual/Developmental Disabilities) experience difficulty with transitions. Moving to a new place, changing routines and support staff, preparing for discharge, could all be challenging to individuals with I/DD. A strong routine, increased structure, and familiarity with staff over time could decrease the interest to discharge. Staff can also create an accountability plan for undesirable behaviors consistent with the behavior support plan. It would be important for the outpatient team and the community team to remain engaged with the individual to maintain a connection showing the individual that the community is still actively supportive and aware of challenges and progress that can be incorporated into the discharge plan.

Transitioning back into community support with increased autonomy and decreased support can spark a return to old patterns. Discharge planning needs to start at the moment of admission; what are the goals for discharge? This gives participants next steps, positive reinforcement, and future focus.

Hillary recommends a transition step when someone is transitioning from 24/7 eyes-on to a more independent living situation. Some programs use a level system to determine readiness and assess safety for discharge. Level 1 may be those individuals that don't leave the premises, Level 2 might be permission to go out in the community with staff and Level 3 may be permissions for passes for certain amounts of time on their own to evaluate their skill in those areas. The key to this proposed facility is to support regulating emotions, developing skills to tolerate distress and communicate effectively, in order to be safe in the community.

Hillary feels it's important to use basic support, skill development and 24/7 staffing support for individuals before the facility is an option. When, after other supportive mechanisms are not successful, and an individual continues to struggle with emotional regulation and being safe, the facility should be considered.

What might it look like in a facility when someone is admitted? Hilary opined that one third of people with intellectual and developmental disabilities have emotional dysregulation and challenging behaviors requiring intensive and comprehensive treatment over an extended period of time. DBT-SS is a combination of the DBT skills system and the SS (Skill System), creating a combined approach which is considered to be the best evidence-based practice in treatment of borderline personality disorder.

Justice Carroll asked: Is there anything about being in a locked facility that would be detrimental to the participant? Hillary answered that being placed in a forensic facility isn't ideal, so all options at lower levels of restrictions should be tried before resorting to the facility.

Susan Garcia Nofi asked if there was any reason the benefits of 24/7 with higher level of skill staff, DBT skill support, and routine framework, can't be implemented in a community-based setting?

Hillary responded that the facility has the added features of medical (e.g., psychiatrist, medical director) oversight, access to restraints if there is harm to self or others, and a core group of staff on location with consistent training vs. trying to get staff in different locations. These supports are not available in community settings.

Susan asked what would be the criteria, and at what stage should someone be placed in this facility?

Stuart responded that the total number of proposed beds at this facility is nine (9), shared between DAIL's Act 248 participants and those in the custody of the Commissioner of Mental Health. This facility would be for those who have met clinical and dangerousness criteria and for whom a community-based setting is not suitable. This is a small subset of the Act 248 participants.

Stuart asked Hillary if are there any factors where an individual wouldn't be able to be safely served and the public cannot be protected from an individual in the community?

Hilary said cases should be evaluated on a case-by-case basis, to look at the many factors that lead someone to become violent or dysregulated. Factors such as what was going on before the charge, their environment, environmental influences, were they under the influence of substances? These considerations and more need to be evaluated holistically before making a determination about whether someone should go directly to the facility or placed in the community. That being said, she could see a situation where someone could be recommended to go directly to the facility, but she emphasizes the need for a careful study, perhaps by a team of a medical director, a clinical professional, and someone from the developmental services side.

Stuart commented that the clinical and dangerousness factors, as well as a determination as to when someone may be eligible for placement in the facility, must be established. Is an individual only eligible for placement at the time of their initial commitment to the program? Is it necessary to exhaust every community-based option before placement in the facility may be considered, despite an individual's dangerous behaviors?

Mary Graham believes there would be a smaller number of individuals who would qualify to go straight to the facility.

Rep. Chapin said this proposed forensic facility is specifically for those with an intellectual disability who exhibit unsafe behaviors towards themselves or others, and/or are doing something illegal, including hurting someone, and who cannot face the charge/s through the judicial system because of their disability. The remedies include getting treatment for that individual and protecting them and the public. Justice Carrol added that these individuals have due process, including having a hearing in front of a judge, being represented by an attorney, and having a judge make a decision about this process and facility.

Title Updates on Process
Facilitation of the Remaining Meetings and Overview of Remaining Agendas

To make the most of the remaining time the working group has together, Stuart will pass the facilitator role to Jennifer Poehlmann (vice-chair), so Stuart can discuss DAIL's position on this proposed facility, starting next meeting.

**** Next meeting is moved from October 4th to October 11th still from 2:00 – 4:00pm**

The agenda for the October 11th meeting will include:

1. Discussion: Is there a need for this facility?
2. Discussion: The extent to which this facility addresses any unmet needs or gaps in resources. (Are more data needed to answer this question for the report?)
3. Referring to the Legislature's draft that was sent out for this 9/20/23 meeting, working group members will review the statutory language and make note of concerns and will bring those items for discussion to the meeting.
4. What work can each of us do before the meeting on the 18th to fill any remaining information gaps for the report?

October 18th meeting agenda:

1. Joanne, Kelly and Jennifer talk about victims and survivors.
2. Also still looking for family members, individuals, siblings, or others of those under commitment.
3. Legislation – statutory language

Nov 1

1. Spend time on draft language
2. Identify further language

Nov. 15th

1. Review final draft

Stuart asked for thoughts or objections to the proposed final agendas, and there were none.

The Vermont Developmental Disabilities Council's (DDC) Perspectives

Susan Aranoff

Susan's presentation can be found here on DAIL's Working Group webpage

Mission: to help build connections and supports that bring people with developmental disabilities and their families into the heart of Vermont communities.

All states and territories have a DDC, which is administered by the Administration for Community Living (ACL).

The Council's five-year plan identified people with the highest support needs as an underserved group in Vermont.

Susan confirmed the DDC does not support creation of the facility, preferring to see Vermont develop a strong, robust, legally compliant set of common community-based services for people with disabilities.

Stuart asked Susan, "If not a forensic facility, what does the DDC suggest for those posing safety and elopement concerns for self and community?"

Susan said VT DOC employees could be better trained to provide support and training to an offender with I/DD who is in the corrections system. She also said other states have forensic facilities that are set

up differently, are more free-standing, when compared to VT's corrections system. Susan feels there's a difference between public safety and treatment for these individuals, and that each of these two situations should be handled differently. She feels those with I/DD in the Act 248 program that may be candidates for the proposed forensic facility would be better served from the treatment perspective, and not as a corrections issue.

Susan's presentation ended.

Stuart asked the group to think about these for discussion:

1. Do we need to exhaust other types of settings before we look at placement in a facility?
2. When it is appropriate to determine that someone is suitable for a forensic facility? Would it be appropriate to determine suitability for the facility after initial commitment and during their commitment?
3. How to keep individuals from staying in this facility for the extent of their Act 248 commitment?

Mary-Graham McDowell referred to the *Original Charges* handout and wanted to make sure everyone understood this spreadsheet wasn't exhaustive in representing the continuing offenses by those participating in Act 248 program.

1. Stuart suggested the Working Group review the forensic facility draft legislation (S.89, Draft No. 2.4) and its proposed changes to Titles 13 and Title 18, specifically. (Page 1 and 2; Human Services Community Safety Panel
2. Page 2; Members of the Panel
3. Page 2; Section 3, 13 V.S.A Section 4821
4. Pages 4 and 5; Proposed criteria the Panel would consider in making a determination as to whether an individual would be considered or recommended to the Court for placement in the facility.
5. Page 19 and to the end of the draft; Section 12, 13 V.S.A Section 4823.

Meeting on October 4th changed to October 11th, same time; 2:00 – 4:00pm.

Meeting adjourned 3:50pm.