

**Act No. 27 (2023) Working Group Meeting Minutes**  
**July 10, 2023**  
**Microsoft Teams Phone/Video Conference Only**  
**Time: 1:00-3:00 pm**

**Working group Members Present:**

Stuart Schurr (DAIL); Susan Garcia Nofi (VLA/DLP); Susan Aranoff (VTDDC); Max Barrows (GMSA); Mary-Graham McDowell (VCP); Pat Frawley (VCIN); Karen Barber (DMH); Jennifer Poehlmann (CCVS); Eliza Novick-Smith (VSEA); Tiffany North Reid (ORE); Rep. Garofano (HHS); Sen. Lyons (SCHW); Michael Kasper

**Working group Members Not Present:**

Hon. Karen Carroll (VT Judiciary); Rep. Chapin (HCJ); Sen. Sears (SCJ)

**Others Present:**

Kim Guidry (DAIL); Jennifer Garabedian (DAIL/DDSD); Joanne Kortendick; Rebecca Silbernagel (DAIL); Kelly Carroll; Michael Kasper

**Roll Call and Minute Approval:**

Motion to approve June 14, 2023, minutes by Rep. Garofano, seconded by Susan Aranoff. Minutes approved.

**Developmental Disabilities Services Division (DDSD) Overview**

Jennifer Garabedian, Director of DAIL's DDSD, presented an overview. DS Home- and Community-Based Services (HCBS) are delivered through a system of designated community mental health agencies. Designated Agencies (DAs) are geographically located (in "catchment areas") and are responsible for ensuring services are available through planning and service coordination and by monitoring outcomes. Agencies belong to a "no-refusal" system (i.e., everyone who is eligible, regardless of how complex the needs are, will get services) within their catchment area, meaning that they must deliver the services or arrange for them to be delivered. Specialized Service Agencies (SSAs) have the flexibility to take clients they feel they can serve, and they specialize in the delivery of developmental services only.

HCBS is a full complement of support. 3300 adults received home and community-based services in FY2022.

Residential Supports are supported in a variety of residential models, which are overseen by the DA and SSAs:

- Shared Living – the predominant HCBS model in Vermont, an individual lives with another person or couple. There were over 1,200 shared living situations in FY2022.
- Staffed Living – the individual receives support from agency staff. 53 homes.
- Group Homes – support a variety of different populations; limited to 6 people in the same location. 23 homes.
- Supervised Living – individuals living with supervision up to 24/7. 57 people received this type of support.
- Independent Living – people living with their family receiving supports.

- In-home Family Supports - people living with their family for support.

Group homes are currently limited to 6 people to provide variety and to ensure no return to institutionalization.

Developmental Disabilities Services and Public Safety – In the state budget, DDSD is appropriated funding to support those at risk for public involvement, and DDSD identified that in FY23 there would be an increased need to support additional individuals with “fairly significant” needs. DDSD requested, and was appropriated, \$1.4M in additional funding to support those people.

“Public Safety Risk Individuals” – include those adjudicated for a criminal act or found incompetent and civilly committed to the Commissioner under Act 248.

Identified a gap in the DDSD system, thus this working group.

Act 248 is a subset of the public safety pool of individuals and is only for those who have an intellectual disability, are criminally charged, and pose a danger to themselves and/or the public. How someone qualifies for the public safety case load funding is found in DDSD’s System of Care Plan, which can be found on the Division’s webpage [Vermont State System of Care Plan \(SOCP\) DS Services | Developmental Disabilities Services Division](#).

### **Act 248 presentation**

Stuart Schurr, DAIL General Counsel

Act 248 is the commitment of an individual with intellectual disability to the custody of the DAIL Commissioner. Under Vermont law, someone who commits an act of extreme physical or sexual violence and who cannot be held criminally responsible for that conduct due to their intellectual disability may be ordered into the custody of the commissioner of DAIL. These individuals in the Act 248 program live in home- and community-based settings (e.g., shared living spaces, staffed homes, or group homes). The Act 248 court orders for these individuals are specific to their situations and needs. These orders are reviewed annually, and the Department must demonstrate that the person is still a person in need of custody, care, and habilitation.

Criteria for initial commitment. The individual:

1. Has an intellectual disability
  - a. Manifestation before 18;
  - b. IQ of 70 or below (with additional conditions presented); and
  - c. Significant deficits in adaptive behavior;
2. presents a danger of harm to others; and
3. Is one for whom appropriate care, custody, and habilitation can be provided by the Commissioner in a designated program. (The Commissioner provides services and supports through DAs).

A clinical definition of intellectual disability was presented.

The specific supports and care are dependent on the needs of the individual.

On rare occasions, when an individual under an Act 248 commitment order refuses to comply with their order, neither support staff nor agency staff are able keep themselves or the public safe, and further restrictions are not successful in maintaining compliance.

The DMH system of care

Pat Frawley speaking about the VCIN (Vermont Crisis Intervention Network).

Discussion about the concern and awareness that a forensic facility not become a means of institutionalizing individuals, and reiteration that DAAIL is not wanting that either.

### **Review draft of Working Group Operating Procedures, Meeting Dates and Topics**

Sen. Lyons emphasized the need for flexibility for the 5-day turnaround for minutes.

No objections to the draft Working Group Operating Procedures, so they were made official.

### **The Group then agreed to the following meeting dates:**

*Meetings will be held from 2:00 – 4:00 pm in person at the Waterbury State Office Complex (WSOC) in one of the upstairs meeting rooms in the atrium, with an on-line option available. Resources can be found on DAAIL's website.*

**7/10/2023:** Overview of the Developmental Services System of Care and Act 248

**8/2/2023:** Identify unmet needs/gaps in resources for individuals with ID that could be addressed in a forensic facility (invite DOC to present) (Mary-Graham McDowell (VCP) and Pat Frawley (VCIN) will present.)

**8/23/2023:** Proposed (subject to change): Discuss amendments to 18 V.S.A. chapter 206, the role of VT Legal Aid, an ombudsman, and DRVT, and necessary changes to 13 V.S.A. chapter 157 (invite State Attorney/Sheriffs and Defender General?)

**9/6/2023:** Proposed (subject to change): Identify investments, policies, and programmatic options for high-quality community-based supports.

**9/20/2023:** Proposed (subject to change): Discuss the circumstances and process under which an individual committed under Act 248 could be placed in the forensic facility.

**10/4/2023:** Topic TBD

**10/18/2023:** Topic TBD

**11/1/2023:** Topic TBD

**11/15/2023:** Topic TBD

**11/21/2023:** If needed

**12/1/2023:** Report due to Legislature

If anyone wants to present on any of the topics, or anything in the Act, please feel free to notify Ashley.

Meeting adjourned at 2:44 pm