

Meeting Minutes
Working Group on Policies Pertaining to Individuals with Intellectual Disabilities
Who Are Criminal-Justice Involved
October 11, 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), 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: Pat Frawley (Vermont Crisis Intervention Network - VCIN)

Others Present: Kim Guidry (DAIL), Rebecca Silbernagel (DAIL), Matthew Valerio (Defender General), Jennifer Garabedian (DAIL Dir DDS), Karen Topper (GMSA), Kelly Carroll.

Motion to Approve September 20, 2023, minutes with the below edits:

Minutes were approved with two edits; one change reflects Max Barrow's requested change to the minutes. That change is found herein. Two, that a link to Susan Aranoff's slides is incorporated into the minutes.

First motion: Susan Aranoff
Seconded: Justice Carroll

Stuart asks to start discussion:

"Is there a need for a forensic level of care for participants in the Act 248 program who are in the custody of the Commissioner of DAIL?"

Jennifer asked for comments and discussion about this above.

Justice Carroll: There is if the desire is to limit sending those with disabilities to jail or Corrections because they present a danger to the public or care-providers and cannot remain safely in the community. A need also exists when an individual hasn't committed a new crime, but is an elopement and violence risk, and isn't willing to engage in programming, putting the community support systems at risk.

Karen Barber: the Department of Mental Health supports creating a forensic facility for those in both populations; DMH realizes restrictive systems are helpful to those with complex needs to get support for greater independence. There is a population of people that DMH cannot serve. When serving people in the community in the least restrictive settings isn't possible, a temporary, secure setting provides safety for the participant and the community. A forensic facility would allow DMH to serve people they can't

serve right now. Karen said that there are some people in the community that **do** need extra supports and services and that this is an area of care in our system that is lacking.

Rep. Garofano: Acknowledged there is a gap in the system based on her messages from her constituents. However, she isn't sure if the forensic facility addresses those gaps. Her concerns include: wanting to be sure people will be placed in less-restrictive environments as soon as possible after admittance to the facility, people staying longer than necessary in the facility because of the staffing and community-placement shortages, will this facility be too small in the near future, and, the possibility of re-igniting trauma for individuals as a result of other residents. She wants to focus on addressing the problems that have created the need for this facility.

Senator Sears: The alternative to someone with I/DD who commits a serious crime is jail, and for many reasons, corrections facilities are not an appropriate place for those with disabilities.

Susan Aranoff: Let's invest in community placement, invest in our underfunded system to keep people out of crisis, and invest to keep people safe in the community.

Max Barrows: Vermont has fewer service providers for people with intellectual and developmental disabilities than most other states, including other rural states. Vermont needs to find new providers to serve people in community-based programs.

Position poll results to the question: **Is there a need for any of the 9 beds to be available for individuals with an intellectual disability who are justice involved?**

Results: (9 yes, 4 no, 1 abstain)

Susan Garcia-Nofi:	No. Services should be provided in a community-based setting.
Susan Aranoff:	No. Services should be provided in a community-based setting.
Max Barrows:	No.
Mary- Graham McDowell	Yes, with strong clinical consideration.
Karen Barber:	Yes.
Jennifer Poehlmann:	Yes
Eliza Novick Smith:	Yes.
Tiffany North Reed:	Abstain
Justice Carroll:	Yes.
Rep. Garofano:	No.
Rep. Chapin:	Yes.
Sen. Lyons:	Yes, with clinical supports and services.
Sen. Sears:	Yes.
Stuart Schurr:	Yes. For the few, there needs to be another option to community-based care.
Pat Frawley:	Absent

Susan Aranoff: Information the Working Group didn't have but the Legislature will need going forward includes: What is Vermont's *Olmstead* plan? How much has Vermont invested in housing, not services, for people with disabilities since Brandon Training School closed? VDDC did a study showing VT is 600 units short of housing for adults with I/DD.

Proposed Data Points to research and submit to Group:

Schurr: What investments, policies, programmatic options for high-quality community-based supports for at-risk people committed to the custody of the DAIL commissioner need to be identified?

Aranoff: What will this forensic facility cost, per person, per year? What are Vermont's investments in community housing for those with I/DD? How does the DA's workforce pay rate compare with hospital workforce and the nursing home workforce?

Garcia Nofi: What are the wait times for those participating in Act 248 to get competency evaluations and do there need to be additional investments in resources in that area, as it pertains to investment in those who may be eligible for the forensic facility?

Response: Karen Barber shared that there isn't a wait list at the moment for outpatient competency evaluations. They are scheduling 4-8 weeks out, but there is no wait list right now.

Sen. Sears: Length of time incarcerated for those with mental health issues, mental impairment, and developmental and intellectual disabilities.

Justice Carroll: How would this affect gaps in resources? For example, how many individuals who work with disabilities in community settings are leaving jobs because of assaults, or difficult behaviors of the residents? This data point may support the use of a different facility for those individuals.

Stuart: Jennifer Garabedian will check with DAIL's Public Safety Specialist, and partners, to see what data may be collected and report back to the Working Group.

Aranoff: Will VT state employees staff this facility or contractors?

Max Barrows: What is the diversity of those in the facility?

Tiffany North Reid: Will the facility staff have training and understanding with cultural competency? Will staff be able to work with those from different cultural, ethnic, and language backgrounds? Will there be diversity in the workforce?

Sen. Sears: Who is eligible for this facility? Those committing serious crimes or crimes of violence? Who decides eligibility - DAIL or the court system?

Discussion:

Max Barrows: Disputes the opinion offered by the witness during the 9/20/23 meeting that one-third of people with I/DD have severe emotional dysregulation and challenging behaviors requiring intensive and comprehensive treatment over an extended period of time. Max asserts that his research reveals that 30-70% of people with ADHD have emotional dysregulation and challenging behaviors.

Aranoff: Would like to visit VPCH. She will reach out to Karen Barber to discuss her potential visit.

Susan Garcia Nofi: Clarified that the group should refer to **all** drafts of the statute when developing individual proposals for statutory language.

Review draft legislation (draft no. 2.4-S.89) and its proposed changes to Title 13 (Criminal Statute) and Title 18 (Health), specifically. (Focus on the underlined language which is new proposed language, and the text with strike-through, as that's proposed language to remove):

1. Page 1 and 2; Human Services Community Safety Panel (HSCSP)
2. Page 2; Members of the Panel.
3. Page 2; Section 3, 13 V.S.A Sect. 4821
4. Pages 4 and 5; Proposed criteria the HSCSP would consider in making a determination as to whether an individual would be considered or recommended to the Court for placement.
5. Page 19 and to the end of the draft; Section 12, 13 V.S.A Section 4823.

The Group discussed the appropriateness of disclosing racial demographics of current Act 248 participants, if such data are even available.

Susan Aranoff shared these articles in the chat:

<https://vtdigger.org/2023/09/08/2-of-every-3-beds-empty-as-state-psychiatric-hospital-tackles-doctor-transitions-staffing-costs/>

<https://www.burlingtonfreepress.com/story/news/politics/government/2018/02/05/report-says-racism-pervasive-vermont-psychiatric-hospital/1079913001/>

Response: Karen Barber: Today, the vast majority of staff at VPCH are state employees, including the two newly hired psychiatrists who live and work in VT. Only physicians are contracted staff.

The meeting ended at 4:00 pm.