

## **A lens of what the Forensics system in Vermont should be**

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**Prepared presentation to The Vermont Legislature under S3.**

I am preparing this short paper under S3 and adding it to the report to the Vermont Legislature. The paper gives a short view of the important values that must be taken into account as the legislature moves forward to revamp the current forensics issues. I am a mental Health consumer of 31 years in Vermont. Before I lived in Vermont I was in a Texas institution for disabled from 1984 to 1988. I have been an advocate for 24 years if not longer. I have also been a victim of crime that has resulted in court action because of the accused's mental state.

### **Perception and a new view of Forensics**

The perception is "People are getting away with murder!" This is one way of looking at it. I challenge the legislature and our community to look at this another way. The person lacks the ability to either understand what they did was wrong and or they can't assist in their criminal defense. To look at this any other way goes against our laws. Yes we would have to dismantle the system if we looked at it in that perception listed above. This is about fairness to due process rights for the accused. This new view must include looking at this process as non criminal and non punitive in nature. Under this new view it means doing something different. Something bold with Vermont values It is important to understand a legal process is afforded here.

### **Points to consider.**

**\*It is not a crime there is no conviction in this process.**

**The person has not been convicted of a crime. This is really important to understand.**

**Our laws are very clear about due process. However if one lacks knowledge or understanding that creates their inability to receive that due process Therefore there should not be any punitive approach taken here.**

**\*Person centered treatment needs to be available before this forensics may be needed! That involves continued investment in an already overburdened systems**

**\*Look outside the box on options that have not been tried before.**

**\*Involve peer support and Peers on ONH reviews and on all other service related boards and committees.**

**\* Remember this is non punitive, do not treat it as a criminal system. Be cautious about involving prosecutors or any criminal type system\***

**\*Any conditions set should be least restrictive and conducive to treatment not punishment**

**\* If there is a Forensic hospital it needs to function as follows:**

**A: Forensics only it should not be used as another state hospital**

**B: Anyone in the Forensic hospital should have ability to reintegrate into the community and not remain in the forensic hospital any longer than clinically needed**

### **Challenges and on-going work**

This is on-going work. Even writing or revising laws won't mean it's solved. Even as I write I have questions. To me this paper represents a good start along with my colleague's presentation (Hedi Henkel)

Some questions I am still trying to answer.

- 1. How do we connect and recognize victims of crime in this process?**
- 2. How do we deal with people who continue to commit crimes and are going in and out of court like a revolving door? ( When I ask this I am asking about a person in the forensics process.)**
- 3. Is there room for new approaches without the current perceptions?**

### **References and Attachments**

**13 V.S.A. § 4801**

**13 V.S.A. § 4817**

**13 V.S.A. § 4819**

**13 V.S.A. § 4822**

## CONSTITUTION OF THE STATE OF VERMONT

AS ESTABLISHED JULY 9, 1793, AND AMENDED THROUGH NOVEMBER 2, 2010

### CHAPTER I.

#### A DECLARATION OF THE RIGHTS OF THE INHABITANTS

#### OF THE STATE OF VERMONT

#### Article 10

**. [Rights of persons accused of crime; personal liberty; waiver of jury trial]**

5th Amendment of the US Bill of Rights/US Constitution

Defendants found Incompetent or Insane: What does it mean?

By Kristen J. Chandler J.D.

Department of Mental Health Conference October 2019.