FORENSIC WORKING GROUP

Location: Microsoft Teams

Date: 9.28.22

Time: 9:00am – 11:00pm

Facilitators: Samantha Sweet
Karen Barber

Agenda Items

9:00 – 9:15	Welcome Introductions
9:15 – 9:30	Overview – where are we at right now? • 3 meetings left • November/December meeting to be a working session, go through the draft, make sure it's representing everything, answer questions, formatting. • Looking for more presentations or submit something in writing to be included in the report. • 1 request was around language of notification of individuals out of compliance with ONH's. State's attorney could do a presentation about specific requests. Would like to be able to submit a request for more information if needed. Need to make sure it's not punitive in nature. • DMHC report of restoration of competency and how that should be done in VT, specifically mentions this working group. Concerned that VT as not aware of this report considering Anne Donahue was talking about this report. https://rockefeller.dartmouth.edu/sites/rockefeller.prod/files/2122-12_forensic_mental_health_final.pdf • Judiciary members working on a similar issue. Legislature likely didn't give exclusivity to this group to work on this issue. Other working groups on this topic exist considering this is a national initiative. We can see if other people from other groups can chat with us about what they're doing. • The majority of ONH's are in civil cases, however, can come out of criminal court as well. • VT does not have a forensic system of care. There are gaps in the system and may not be meeting all of the needs of Vermonters. No

	forensic facility. Criminal justice individuals are often placed in beds but not always. • If you're charged with a crime, you may be evaluated either inpatient or outpatient basis. Court issues an order. Person may return to DOC/community if outpatient eval (12 month wait on average). If inpatient, evaluated to determined if they meet inpatient level of care. If yes, they wait for a bed. Wait for this eval is around 1-4 months. Then evaluated on an outpatient basis. Terms may be more "legal" in nature or mental health related. A court can order someone into the hospital, but it is up to the hospital to determine if that person meets hospital level of care. Both clinical and legal threshold. • People with developmental and intellectual disabilities are caught in this legal no man's land too • There are no ED psychiatrists. • DMH serves people in the least restrictive way possible. The goal is not to lock someone away for the rest of their lives. • ONH's are not conditions of probation/parole. If someone violates, hospitalization should not be punitive. As long as person is still engaging with treatment team that's ok. If ONH is not adequate to meet person's needs, court can modify ONH. • What is it about ONH's that clinicians object to reporting about? It's not practical to report every violation. Align with client to achieve goals. It's difficult to wear two hats, these roles are often separated. Conflict of interest. Grey areas of what to report. People often say ONH's are useless because you can't enforce them, however this isn't true. If the agency believes someone is in violation of the order they can request to have the case reviewed in court to potentially grant revocation. DMH ultimately decides whether to pursue ONH revocation, it's not up to the clinician; sometimes there are differing views. Even if court decides to not revoke, they can impose additional conditions. Different perspectives, concerns and priorities. Resources that people may want/need are not always available.
9:30 – 9:35	Review of the remaining monthly meetings • Wednesday, October 26, 9:00 – 11:00 • Monday, November 21, 9:00 – 11:00 • Monday, December 19, 9:00 – 11:00
9:35 – 9:45	Sharing of data • Wait times for evals are long. Inpatient evals go to the closest designated hospital, may not be where they ultimately end of hospitalized. • https://www.vermont-demographics.com/counties_by_population Vermont counties by population. Bennington is #7 in population, but #3 in court-ordered forensic evaluations. • Need for continued education, guidelines for requesting evals. This could help with high wait times and numbers of evals being done. VT seems to have no limitations on how to request evals (criteria). • Isn't there a sanction for requesting an eval that didn't need to be done? Only if there was no real reason to request one, would have

	to flat out lie about needing one but there's usually some basis for requesting one. • How many turn out to be incompetent to stand trial? If we're able to get this info we can share it next month. • How does our data compare to other states? Is our practice different? We don't have any numbers to compare. Cases in VT are likely treated differently than in other states. • Assessment of competence should come first so that the individual can make the decision to use the insanity defense. • Limited data tracked about the outcomes of evals. OH/ONH's. Would need to go back and open cases to look into other outcomes. Civil vs. criminal cases outcomes may differ.
9:45 – 10:50	Q&A session with Karen Barber & Matt Viens • ONH's out of criminal court like probation? Depends on who you ask/their perspective. This viewpoint is not shared with many agencies including DMH. Supposed to be about treatment per title 18, not be punitive in nature. ONH is supposed to be a tool to guide in treatment. Clients may feel as though it is like probation/parole considering the consequences that could occur should they not adhere to the conditions. Mental health treatment providers are not in a position to be law enforcement officers. Violation of certain ONH conditions does not necessarily mean they need to be hospitalized. More robust independent way to address the concern of blurred lines? Statutory changes would need to happen to appropriately create that intersection. Mental health and corrections types duties seem to be melding. Providers should consider what is their responsibility to the client. • DMH is involved in Conflict Counsel: now the defendant may be represented by MHLP. DMH is not given party status we are allowed to have a seat at the table to present our opinion to the court. DMH historically was left out from the criminal process. We didn't always agree with those outcomes. Now we have a contract for an outside attorney who represents DMH in those cases where we don't agree with the prosecution. Allows an opportunity to prevent people from coming into the system who don't need to be. • There is an overlap with DAIL sometimes and they too are able to have a seat at the table. • Information about DMH system of care limitations has been communicated to judges. • DAIL and ADAP also important factors to consider.
10:50 – 11:00	Public Comment

Next meeting: Wednesday, October 26, 9:00 – 11:00

Future presentations:

October – Joanne Kortendick & Kelly Carroll
-Kim Blake
November - Heidi Henkel, Zach Hughes
December – formulate final report

Current Evaluation Data

Outpatient Evaluations	
FY	**# of Evaluations**
2022	314
2021	148
2020	304

Inpatient Evaluations	
FY	**# of Evaluations**
2022	17
2021	15
2020	23

County-by-County Breakdown	
County	**# of Evaluations**
Addison	19
Bennington	41
Caledonia	9
Chittenden	83
Essex	4
Franklin	11
Grand Isle	0
Lamoille	16
Orange	9
Orleans	13
Rutland	12
Washington	49
Windham	22
Windsor	26