

## Forensic Working Group Meeting Minutes

11/16/2022

Info from presentations will be provided in the report to the legislature. We would like a summary paragraph for those who did present. If not presenting, you may send feedback/thoughts to Karen/Sam by 12/1/22 via email of anything you'd like included in the report.

### Debrief on October's presentations:

We don't need to write more laws. Need to carry out what's already a law. UCS and law enforcement failure to. Need a comparison of services because there is a lack of them in Bennington. No structure in place for tracking people and consistency. System needs more resources/money to deliver services effectively.

### Presentations

Kim Blake – Many people die after being released from prison. More medication treatment and hand off services coming out of incarceration for smooth transitions. Would like some money to go towards a rehabilitative program instead of just housing people. Need more addiction and mental health treatment in jail.

<https://www.healthvermont.gov/sites/default/files/documents/pdf/ADAP-2018-Vermont-Social-Autopsy.pdf>

Heidi Henkel – Need accessible least restrictive mental health treatment where having committed a crime does not have to be a prerequisite to receive services. Actionable policy, prioritize treatment, not punitive in nature. Trauma treatment in the center of preventing recidivism. More court diversion programs, grand jury process before competency evaluations, competency evaluations should not compel medical records. Act 248; competency restoration; mental health treatment is separate from conditions of release.

Concerns about Department of Corrections being involved and overburdened. DOC could handle conditions of release.

Zack Hughes – Least restrictive environment. Keep punishment and politics out of this. Conditions conducive to what is needed in treatment. Peers should be on boards, including ONH review meetings.

### Questions/Comments:

There should still be treatment, even if found competent to stand trial.

Department of Corrections *does* offer mental health treatment. There are also valid reasons why psychiatrists review medical records for making an assessment on competency/sanity.

Competence restoration can be done anywhere is often done outpatient. Guilty but mental ill often leaves people in jail.

[10:33 AM] Heidi Henkel (Guest)

My information about it being the same judge in both the competency hearing and the mental health hearing about possible commitment was from Jack McCullough

[10:35 AM] Heidi Henkel (Guest)

My point was that competency restoration should not sabotage treatment. Medications should be used only if they're truly appropriate for treatment. Competency restoration is part of pursuing punishment, so nothing should be done to that end, that is counter to what is truly best for treatment. I think the educational components are valid but using medication should only be for treatment if it's truly indicated for treatment.

[10:36 AM] Jack McCullough

Yes. It's generally the same judge for the hearings in the criminal division. What Karen was talking about was a hearing on an application for continued treatment at the end of the initial 90-day order of hospitalization or non-hospitalization. Because those are filed in the Family Division, rather than the Criminal Division, they will often be in front of a different judge. They could also be in a different county. The competency and hospitalization hearings will generally be heard in the county in which the criminal case is filed. The hearing on a subsequent application for continued treatment, which is a request to extend the commitment, will be heard wherever the person lives. There are counties, though, in which there is only one judge sitting in all three courts, so in those cases that judge would adjudicate the cases no matter which court they're in.

[10:38 AM] Dr. Kimberly Blake (Guest)

According to VCRJ, still very limited treatment available. My son never saw a Psychiatrist

Treatment is available but voluntary in DOC.

Corrections is understaffed with mental health professionals. People are subjected to the criminal justice process and are punished.

[10:47 AM] Heidi Henkel (Guest)

No NGRI verdicts is partly because the instructions to the juries are faulty and not fully honest. The goal of restoring competency is different from the goal of optimally treating the person's mental illness.

Mental illness can affect abilities.

Not enough bodies to do all that we want to do.

Shouldn't be forcing psychiatric medications on people for competency restoration. It can affect their memory of what happened.

[10:56 AM] Valerio, Matthew

The jury instructions have been vetted over and over in appellate case law, at each jury trial by the judge and lawyers, and substantially they do state the law. But the jury does not understand that just because someone is found NGRI they do not just walk out the door free to do whatever they want.

[10:58 AM] Heidi Henkel (Guest)

EXACTLY. By omission the juries are pushed into making compromise verdicts because they falsely think public safety as at stake

Joanne K. :

I am concerned with the way today's meeting wrapped up that people might have the impression that medication can be used to restore competency without other considerations. There is a statutory provision in Vermont that outlines the process for involuntary medication. As has been pointed out repeatedly there isn't even a statutory requirement in VT for competency restoration treatment once an individual is found incompetent to stand trial.