

**Vermont Judiciary Commission on Mental Health and the Courts****First Annual Report****12-31-23****Charge and Designation:**

The Vermont Judiciary Commission on Mental Health and the Courts (hereinafter “Commission”) was officially established by the Vermont Supreme Court by Charge and Designation in July 2022. The Charge and Designation was born of a series of organizational meetings that began in early 2022 and a regional summit session of New England court representatives that was held in Vermont in May 2022. The Charge and Designation coincided with issuance of the Findings and Recommendations of the National Judicial Task Force to Examine State Courts’ Response to Mental Illness by a consortium of the Conference of Chief Justices, Conference of State Court Administrators, the State Justice Institute and the National Center for State Courts. Vermont Chief Justice Paul Reiber has led the national effort in partnership with other Chief Justices and has led the Vermont effort in partnership with Justice Karen Carroll. The effort has had invaluable support from the National Center for State Courts.

The Commission was established, per the Charge and Designation, to study the interaction between current judicial and mental health systems and to

propose measures to better respond to the needs of court-involved individuals with mental health issues. The Commission's underlying mission, based on the National Task Force Findings and reports from the ground in Vermont, was to look for ways to shift the focus of response away from judicial process and toward intervention and care that could provide more timely relief to everyone involved. The Charge and Designation in full is set forth in Appendix A.

### **Composition:**

To that end, the Commission was formally launched as a Tri-Branch effort. Its membership includes representation from the Legislature and from every state agency involved with court-involved individuals in the mental health field including the Departments of Mental Health, Aging and Independent Living, Children and Families, Public Safety and Corrections; the designated hospitals and community mental health agencies that provide mental health care; and from all parts of the judicial system including trial judges, court administration, the VBA, the Attorney General, Vermont Legal Aid, prosecutors and defense counsel and pre-trial, diversion and restorative justice agencies. A listing of Commission members is set forth in Appendix B.

### **Committees:**

At the outset, the Commission established four working committees focused on: (i) intervention prior to a formal criminal charge; (ii) intervention

following a formal criminal charge; (iii) proceedings to determine sanity and competency to stand trial; and (iv) training opportunities for all. All four committees had broad representation from Commission and non-Commission members.

### **Committee on Pre-Charge Diversion:**

The Committee on Pre-Charge Diversion focused on pre-charge interventions and conducted a comprehensive survey of people in every role in the system: law enforcement; community care providers; hospital care providers; judges; lawyers; and diversion and restorative justice agencies. The survey asked for constructive comments on what is working well and what would make things better. More than one hundred responses from across the spectrum of roles revealed a clear consensus:

1. The system works best where there are collaborative working relationships between the emergency responders, treatment providers and judicial system players. "Relationships are everything."
2. To improve the response to justice-involved individuals with mental illness, the State needs: alternatives to reliance on hospital emergency rooms; full staffing of community and State treatment teams; multi-disciplinary training and relationship building; more timely competency evaluations; equity of resources around the State including diversion, pretrial and restorative justice programs; and an emphasis on early intervention with support services.

A listing of Pre-Charge Diversion Committee members is set forth in Appendix C.

### **Committee on Post-Charge Pre-Trial Services:**

The Committee on Post-Charge Pre-Trial Services arrived at recommendations that in many respects echoed those of the Pre-Charge Diversion Committee. It recommended supporting growing communication and collaboration among all interested agencies and parties by way of information sharing and multi-disciplinary training. Towards that end, it developed excellent resources including a “Pre-Trial Services Overview” and “Pre-Trial Services Best Practices for Attorneys”. It recommended improving access to services by way of staffing new and existing community services. It also recommended support for existing and additional peer support resources including an active presence in the court system to facilitate better interactions at each stage of events and better connections to community support and services.

A listing of Post-Charge Pre-Trial Services Committee members is set forth in Appendix D.

### **Committee on Competency Evaluations and Related Issues:**

The Committee on Competency Evaluations reported successful interaction with the Department of Mental Health and the Legislature in the form of S.91, a bill co-sponsored by Committee member State Senator Virginia Lyons. The bill addressed many issues surrounding competency

evaluations. The testimony of a number of Committee members helped shape the legislation. Components of the bill include: expediting evaluations by way of adding qualified psychologists as evaluators; adding a clearer burden on counsel to explain the need for evaluations; bifurcating insanity and competency evaluations; ensuring timely records availability; and consolidating repeat requests where one person is the subject of multiple cases.

A listing of Competency Evaluations and Related Issues Committee members is set forth in Appendix E.

### **Committee on Mental Illness and Intellectual Disability Training:**

The Committee on Mental Illness and Intellectual Disability Training developed a curriculum of programs to be presented in webinars with four focuses:

1. Mental Health 101-The Challenges of Mental Illness and the System of Care.
2. Intellectual Disabilities 101
3. Co-Occurring Disorders 101
4. Mental Health Services in the Department of Corrections

The first training occurred in July 2023 and was recorded for re-broadcast and ongoing reference. Over one hundred persons attended the training and over eighty persons have linked to a recording of the training to date. In addition, training regarding how to identify signs of mental illness and how to best interact with those exhibiting signs of mental illness was

provided to all judicial officers at Judicial College in June 2023 and to members of the bar at the VBA Mid-Year Meeting in March 2023.

A listing of Mental Illness and Intellectual Disability Training Committee members is set forth in Appendix F.

### **First Annual Summit on Mental Health and the Courts:**

The work of the four committees culminated in presentations of recommendations made at the First Annual Mental Health and the Courts Summit held at the Statehouse on September 14, 2023. Keynote Speaker Hon. Steven Leifman spoke passionately about the efforts he has pioneered as a trial judge in Miami-Dade County, Florida and around the country to change judicial response to mental illness from custody to careful early intervention. Representatives from the Department of Mental Health provided a detailed overview of the emerging Mobile Crisis Response effort coordinated with law enforcement throughout the state, as well as the development of alternatives to emergency room care and dependence on limited beds in the State Psychiatric Hospital in Berlin. The survey responses described above were detailed in conjunction with an overview of SIM exercises by region planned for 2024. The Summit concluded with a compelling presentation from two individuals with lived experience who demonstrated and advocated for the power of non-clinical assistance to people with mental health challenges from people who have faced their own.

The Summit yielded four major considerations:

1. How to support and proceed with regional multi-disciplinary meetings to build information sharing and collaboration aimed at careful early intervention.
2. How to continue focus in judicial training on mental health and intellectual disabilities and the need for early identification and intervention in order to arrive at meaningful non-hospitalization orders, while utilizing pretrial, diversion and restorative justice services.
3. How to best continue to effectively collaborate and coordinate efforts in early intervention, competency evaluations and realistic oversight of court-ordered treatment.
4. How to help grow peer support availability and assistance in the community and in the courthouse.

The Summit Schedule is set forth as Appendix G. A recording of the Summit is linked [HERE](#) . A WCAX story about the Summit is linked [HERE](#) .

### **Byrne-SCIP Grant**

The Commission was pleased to learn that the Vermont Judiciary applied for and received approval for a four-year Byrne State Crisis Intervention Program (SCIP) Grant from the Department of Justice, which can be utilized in part to support the robust multi-disciplinary training program that the Commission recommends. Commission members also serve as members of the Crisis Intervention Advisory Board to oversee implementation of the SCIP Grant-funded trainings and budget.

**Action Plan:**

1. Behavioral Health Consultant
2. SIM Exercises
3. S.91 Follow-Up
4. Peer Support
5. On-Going Trainings

**1. Behavioral Health Consultant**

The Commission's Charge and Designation notes the critical importance of local community engagement with local prosecutors, public defenders, legal aid organizations, community mental and physical health agencies, hospitals, schools, law enforcement, housing and local state agency offices, peers and families, faith-based and other community organizations and local elected officials. Many successful models around the country have been built on local community engagement from the beginning and ongoing. A key position cited in this effort is a state-wide Behavioral Health Consultant, to assist with expanding and improving judicial response to mental and behavioral health issues, assist with the development and implementation of training curriculum and materials, and facilitate and support local subaward recipients.

The SCIP Grant includes funding for such a position in Vermont. Following widespread publicity for the position, interviews are currently being set up for several applicants. When the successful applicant is identified, a



timeline for the individual's work in the coming year should be established. The position will be part-time (at least three days per week), with the individual's work to be performed with considerable latitude for the exercise of independent judgment and evaluative thinking. A copy of the Behavioral Health Consultant Recruitment Notice is provided in Appendix H.

## **2. SIM Exercises**

Once the Behavioral Health Consultant is identified and begins work, "Train the Trainer" events should be scheduled to train identified facilitators to conduct five regional mapping workshops. Planning for Sequential Intercept Model (SIM) Exercises should then begin in earnest, following the model described by Michelle O'Brien, Principal Court Management Consultant for the National Center for State Courts and Scott Block, Illinois State-wide Behavioral Health Administrator.

A description of the SIM model is provided in Appendix I.

## **3. S.91 Follow-up**

S.91 created several study committees requiring:

1. Examination of whether a plan for a competency restoration program should be adopted in Vermont;
2. Determination of whether Vermont law should permit competency examinations of defendants under 13 VSA § 4814 to be

conducted by psychiatric nurse practitioners or other professionals;  
and

3. Recommendations on how to address competency evaluations of persons who have already been determined incompetent to stand trial in another matter, including whether previous evaluations may be used or relied upon for subsequent evaluations.

The Competency Committee should continue to monitor and give feedback on the work of the above-noted legislatively created committees. It should also continue to monitor whether the changes made in S.91 have improved the evaluation process, whether further amendments are necessary, and whether new issues have arisen that require attention.

A copy of S.91 (after enactment known as Act 28) is provided in Appendix J.

#### **4. Peer Support**

The Post-Charge Pre-trial Services Committee recommended that peer support services be available to defendants in the criminal division who are subject to pre-trial services orders.

Powerful presentations by two experienced peer support providers at the Summit confirmed that such services can be life-changing. Judge Leifman's presentations at the Summit also made it clear that peer support services are a key element of effective diversion programs in Florida. In Vermont, there are now ongoing peer-managed efforts, with the Department of Mental Health's support, to enable peer support providers to obtain state certification. The 24/7 mental health mobile crisis

unit program being rolled out in January 2024 by the Department of Mental Health will likely include peer supports as an integral part of the teams.

The Commission should authorize a new committee that is entirely focused on peer support services, to explore how to include or support such services at all phases (intercepts) of the criminal and civil court processes for persons who have mental health and/or substance use issues.

A Peer Support Committee should include as members both of the speakers from the Summit, as well as representatives from the bar, community mental health agencies, the Department of Mental Health, and the Legislature.

## **5. On-Going Trainings**

As a result of the SCIP Grant funding, seventeen mental health trainings for court staff, Guardians Ad Litem and Treatment Court personnel conducted by Sonny Provetto LICSW, EMDR have been scheduled throughout 2024. Similar training opportunities should be offered to other partners in each locale.

Following the successful launch of the first of four remote training events in July 2023, the Committee on Mental Illness and Intellectual Disability Training should plan for the next training regarding Intellectual Disabilities and continue exploring other opportunities for trainings associated with mental illness and intellectual disabilities.

A copy of the training schedule scheduled to date for 2024 is provided in Appendix K.

**Conclusion:**

The Commission was formed in July 2022 and met on October 24, 2022, November 21, 2022, January 30, 2023, March 27, 2023, May 22, 2023, July 24, 2023, October 9, 2023 and December 4, 2023. The Commission Charge and Designation provides that the Commission's work was to be completed and a Report issued by December 31, 2023.

The Commission respectfully provides this Report to the Vermont Supreme Court with a request that the Court consider extending the Charge and Designation to permit the Commission to continue its work, including completion of the Action Plan referenced in the Report.