



Vermont Judiciary Commission on Mental Health and the Courts

First Annual Report

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Appendix A



Vermont Judiciary Commission on Mental Health and the Courts

CHARGE AND DESIGNATION

July 2022

INTRODUCTION

The Vermont Supreme Court hereby establishes a Commission on Mental Health and its impact on Vermont's courts and to propose measures to respond to the needs of court-involved individuals with mental health issues for the following reasons, and for the purpose set forth below:

1. When individuals with serious mental illness need help, it can be hard to find. Everyone involved, with the justice system, including law enforcement officers, is frustrated by the frequent inability to connect people with serious mental illness with the treatment they need. The challenge is at least as acute for children arriving in juvenile court as for adults. Most Vermonters are faced with long wait lists for outpatient treatment, and when in acute mental health distress, they may wait days in our hospitals' emergency departments for an inpatient bed.
2. When individuals with serious mental illness arrive in Vermont criminal court, some are given basic screening and advised by pretrial services to seek assessment and follow treatment recommendations. But even for people with obvious treatment needs who are charged with crimes, there may be long waits for such assessments and follow up treatment may not be available even when strongly recommended.
3. The inpatient mental health treatment system is a combination of emergency room beds, a limited number of crisis-focused community beds and more extended treatment beds in designated hospitals around the State and at the State Hospital in Berlin. About a third of the extended treatment beds are currently unavailable due to staff shortages.
4. Individuals with serious mental illness frequently have co-occurring challenges with substance abuse, physical illness, cognitive deficits and lack of housing. These issues can exacerbate their symptoms, put them at risk of serious physical illness, and make them vulnerable to others. People with serious mental illness are vulnerable to crimes by others and are often unable to seek help due to their illness.
5. The agencies and entities that are expected to assist people with serious mental illness are many. They include the Vermont Judiciary, the Department of Mental Health; the Department for Children and Families; the Department of Aging and Independent Living; the Department of Corrections; the Department of Public Safety; the Division of Substance Use Programs; the Vermont Attorney General; the Department of Education; law enforcement agencies in every community, public schools in every

community, State's Attorneys, Public Defenders, Vermont Legal Aid and other entities that provide legal services, and the Vermont Housing and Conservation Board.

6. There are eleven private non-profit agencies (ten community mental health agencies and Pathways) that provide the vast bulk of non-school based mental health outpatient services, and there are many private mental health care providers throughout the state
7. When individuals with serious mental illness arrive in Vermont criminal court, the issue of competency is usually raised, and an evaluation ordered. If an outpatient evaluation is ordered, it is usually not completed for months, and then more time goes by before the report is filed and a hearing held. In the meantime, the person may be incarcerated and/or may engage in conduct that brings about multiple new charges.
8. When individuals with serious mental illness are incarcerated prior to trial because there is strong evidence that they have committed violent offenses against others, and they pose an active risk to others, and/or there is a question about the likelihood they will appear in court as needed, they are not often provided treatment while incarcerated. They may be held in solitary confinement or otherwise in conditions that exacerbate their illness.
9. When individuals with serious mental illness are found incompetent to stand trial in Vermont, most are placed on orders of non-hospitalization that do not include actual treatment plans and therefore cannot be effectively enforced in court. Often, progress on these non-hospitalization orders is not monitored by the court.
10. The vast majority of crimes committed by individuals with serious mental illness are non-violent misdemeanors. However, these offenses are nonetheless serious concerns for the people who are affected, for the victims and community.
11. The victims of crimes committed by those with mental illness, whether the rare cases of serious physical violence or the myriad variations of property and public disturbance offenses, are understandably frustrated with the lack of treatment and effective response by the justice system.
12. We understand there are models of better ways to address some of these issues. Other states are ahead of us in both preliminary and years-long efforts. The judiciary has taken a leadership role in many of these states by convening the necessary actors to launch a better response. Judicial branches in other states have, in many instances, also taken the initiative themselves by educating judges, changing court processes and finding funding for staff and programs that help people with mental illness to get necessary treatment.
13. Every interaction that a person with a mental illness has with a public entity, whether school, law enforcement, healthcare provider, Department for Children and Families, Department of Corrections, Department of Mental Health, or court, is an opportunity to intervene and provide help. The sooner a person with serious mental illness is offered and engages with treatment, the more likely it is that they will benefit, with fewer long-term negative consequences for themselves and others. Many opportunities for intervention exist and include the contacts that people have with the criminal justice system, including 911 (and now 988) calls; arrest; diversion; arraignment; open DCF cases, CHINS petitions; competency evaluation requests; competency determination; incarceration; post-incarceration release, and others. Each stage is viewed as an opportunity to initiate earlier treatment through employing a process known as the Sequential Intercept Model. The sooner there is intervention and more opportunities for offering treatment and/or de-escalation the better. Every interaction should be considered as such an opportunity.

14. There are alternative models for interventions at many stages. When they are effective, they provide help to the person with mental illness, and significantly reduce the financial costs of the most expensive care models that we now rely on most, i.e. hospitals and jails. These interventions also reduce many other risks and costs, related to re-offense, domestic violence, homelessness, inadequate physical healthcare, and negative impacts on families and communities.
15. The many successful models around the country have been built on local community engagement from the beginning and ongoing, including 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. When connections are made and communication and cooperation are at the forefront, real improvements are obtainable. Courts in other jurisdictions have convened these meetings and then helped to coordinate the follow-up with assistance from national state judicial resources and federal support from the federal Substance Abuse and Mental Health Services Administration (SAMHSA). The Vermont Judiciary hopes to follow these examples.

Therefore, the Commission on Mental Health and the Courts (the Commission) is hereby established. The Commission's overarching purpose shall be to advance the pursuit of equal justice under the law. The goal is to identify advances in our justice system that will positively impact the administration of justice where it intersects with mental health, evaluate solutions, and recommend changes. The Commission's work will address practices relating to mental- health-involved individuals prior to the initiation of court proceedings and once they have begun. The Commission shall have discretion to define the scope of its work within the framework established below. To begin the work, an Organizational Meeting of the Members of the Commission identified below will take place within the next sixty days or as soon thereafter as possible.

COMMISSION FRAMEWORK

1. Train and assist communities to identify those people who are part of the criminal and civil justice systems (justice system) who routinely come into contact with those with mental illness and investigate or create alternative ways to resolve the issue prior to taking legal action, employing the Sequential Intercept Model;
2. Identify other ways to deal with those with mental illness who commit crimes rather than immediately arresting or citing into court;
3. Recommend measures to ensure that all those who work in or are involved with the justice system are properly trained on how to detect and respond to mental illness;
4. Design a robust Pretrial Services Program for those with mental illness who are charged with crimes so that proper assessment, referral to treatment, or placement can be obtained;
5. Recommend measures to ensure that court-ordered competency hearings are completed within a specified number of days and that a hearing also follows within a specified period of time so that delay does not result in a defendant with mental illness being held unnecessarily;
6. Seek agreement with Department of Corrections so that defendants who have mental illness and are ordered held by the court are housed in appropriate spaces within the correctional facility and are receiving treatment;

7. Recommend measures to ensure that non-hospitalization orders include treatment plans and judges make orders including these treatment plans and court-ordered reviews before the orders lapse;
8. Convene a Vermont summit on mental health and the justice system.
9. Make such other recommendation to the Vermont Supreme Court as the Commission deems appropriate.

MEMBERSHIP

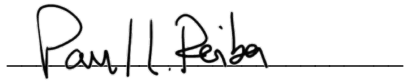
The Vermont Supreme Court hereby appoints Chief Justice Paul L. Reiber and Justice Karen R. Carroll as Co-Chairs and the following persons to the Commission:

1. Judge Thomas Carlson, Vice-Chair
2. Judge Katherine Hayes, Vice-Chair
3. Vermont Court Administrator or Designee
4. Chief Superior Judge or Designee
5. Interim Chief of Trial Court Operations or Designee
6. The Vermont Bar Association President or Designee
7. Vermont Attorney General or Designee
8. Vermont Defender General or Designee
9. Senator Virginia Lyons
10. Agency of Human Services Secretary or Designee
11. Executive Director of the States Attorneys Association John Campbell or Designee
12. Representative of the state's Designated Agencies
13. Representative of the state's Designated Hospitals
14. Commissioner of Department of Corrections or Designee

At its Organizational Meeting the Commission shall: (1) Identify and review specific goals and desired outcomes of the Commission's efforts; (2) Convene committees and appoint members which may include non-Commission members, as needed to be chaired by a Justice, Judge or Commission member; and (3) Consider funding and staffing to propose to the Court Administrator, who will have discretion to approve the proposal. The commencement of work and Reports to the Vermont Supreme Court will be made in six-month intervals with a deadline for completion of the Commission's work by December 31, 2023. The commencement of work and the deadlines outlined above will be amended depending on the adequacy of funding and staffing that are approved and secured.

This Charge becomes effective on 18th of July 2022.

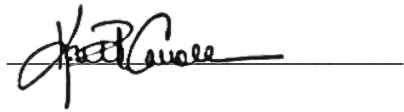
Signed on 18th of July 2022.




HON. PAUL L. REIBER
Chief Justice, Vermont Supreme Court



HON. HAROLD E. EATON, JR.
Associate Justice, Vermont Supreme Court



HON. KAREN R. CARROLL
Associate Justice, Vermont Supreme Court



HON. WILLIAM D. COHEN
Associate Justice, Vermont Supreme Court



HON. NANCY J. WAPLES
Associate Justice, Vermont Supreme Court

Appendix B

Commission Composition

Executive Committee

Chief Justice Paul L. Reiber, Co-Chair

Justice Karen R. Carroll, Co-Chair

Superior Court Judge Thomas Carlson, Vice Chair

Superior Court Judge Kate Hayes, Vice Chair

Chief Superior Judge Thomas Zonay

State Court Administrator Therese Corsones

Commission Members

Sen. Virginia Lyons - Chair, Senate Committee on Health and Welfare

Rep. Martin LaLonde - Chair, House Judiciary Committee

Emily Hawes - Commissioner, VT Department of Mental Health

Nicholas Deml - Commissioner, VT Department of Corrections

Jennifer Morrison – Commissioner, VT Department of Public Safety

Monica White – Commissioner, VT Dep’t of Disabilities, Aging and Independent Living

Jennifer Myka – Commissioner Designee, VT Dep’t for Children and Families

Samantha Sweet – Secretary Designee, VT Agency of Human Services

Emma Harrigan, Representative of State’s Designated Hospitals

Devon Green, Representative of State’s Designated Hospitals

Simha Ravven, M.D. – Representative of State’s Designated Agencies

Karen Kurrle - Representative of State’s Designated Agencies

Domenica Padula - Vermont Attorney General Designee

John Campbell - Executive Director, State's Attorneys and Sheriffs’ Office

Marshall Pahl - Vermont Defender General Designee

Laurie Canty – VT Judiciary Chief of Trial Court Operations

Andrew Manitsky - Vermont Bar Association Designee

Brigid Lynch - Vermont Legal Aid Designee

Appendix C

Pre-Charge Diversion Committee Members

Hon. Tom Carlson, Superior Court Judge (retired), Chair

Hon. Thomas Zonay, Chief Superior Court Judge

Rep. Martin LaLonde

Megan Mitchell

Karen N. Dolan

Marshall Pahl

Jennifer Garabedian

Becky Penberthy

Karen Kurrle

Laurie Canty

Emma Harrigan

Isaac Lawrence

Mourning Fox

Timothy Lueders-Dumont

Linda Richard

Willa Farrell

Karen Barber

Jeffrey Nunemaker

Appendix D

Post-Charge Pre-Trial Services Committee Members

Hon. Kate Hayes, Superior Court Judge (retired), Chair

Rep. Barbara Rachelson

Karen Barber

Lindy Boudreau

Dale Crook

Devon Green

Willa Farrell

Anthony Folland

Jennifer Myka

Colleen Nilsen

Marshall Pahl

Rachel Munoz

Timothy Lueders-Dumont

Appendix E

Competency Evaluations & Related Issues Committee Members

Hon. Karen Carroll, Associate Justice, Chair

Karen Barber

Jared Bianchi

John Campbell

Devon Green

Emma Harrigan

Rep. Martin LaLonde

Brigid Lynch

Senator Virginia Lyons

Domenica Padula

Marshall Pahl

Dr. Simha Ravven

Rick Schwermer

Matt Viens

Monica White

Appendix F

Mental Illness and Intellectual Disability Training Members

Hon. Thomas Zonay, Chief Superior Judge, Chair

Therese Corsones

Nicholas Deml

Brigid Lynch

Andrew Manitsky

Karen Barber

Monica White

Alecia Armstrong

Samantha Sweet

Colleen Nilsen

Kirsten Murphy

Alycia Post

Linda Richard

Appendix G
Summit Schedule

Vermont Judiciary Commission on Mental Health and the Courts
First Annual Summit
Thursday, September 14, 2023 from 8:00 am – 4:30 pm
Vermont Statehouse

8:00 am	Registration with Coffee/Fruit/Bagels
8:30 – 9:45 am	Welcome and Opening Remarks <i>Vermont Supreme Court Chief Justice Paul Reiber</i> <i>Vermont State Senator Virginia (Ginny) Lyons</i> <i>Vermont Chief Prevention Officer Monica Hutt</i> <i>Keynote Speaker Hon. Steven Leifman</i>
9:45 – 10:45am	Topic One – Overview of Crisis Intervention Projects in Vermont <i>Vermont Supreme Court Justice Karen Carroll</i> <i>DMH Care Management Director Allie Nerenberg</i> <i>DMH Chief, Adolescent & Family Unit Dana Robson</i> <i>HCRS Chief Clinical Services Officer Kate Lamphere</i>
10:45 – 11:00 am	Break

11:00 am – 12 pm	Topic Two – Survey Responses; SIM Exercise Collaboration by Region <i>Superior Court Judge Thomas Carlson</i> <i>Washington County Mental Health Programs Kate Kurrle</i> <i>National Center for State Courts Consultant Michelle O’Brien</i>
12:00 – 1:00 pm	Lunch in statehouse cafeteria - Judge Leifman “Q and A”
1:00 – 2:00 pm	Topic Three – Commission Recommendations; Audience Input Welcome <i>Competency Evaluations Committee, Hon. Karen Carroll</i> <i>Pre-Charge Diversion Committee, Hon. Thomas Carlson</i> <i>Post-Charge Pre-Trial Services Committee, Hon. Kate Hayes</i> <i>Mental Illness Training Committee, Hon. Thomas Zonay</i>
2:00 – 2:15 pm	Break
2:15 – 4:00 pm	Topic Four – Panel Overview of Peer Support Strategies <i>Superior Court Judge Kate Hayes</i> <i>Executive Director Recovery Vermont Will Eberle</i> <i>Pathways VT Training Coordinator Alexander Ferguson</i> <i>Illinois Statewide Behavioral Health Administrator Scott Block</i>
4:00 – 4:30 pm	Next Steps and Wrap Up

Appendix H

Behavioral Health Consultant Recruitment Notice

The Vermont State Court System is currently seeking a **Behavioral Health Consultant** for a three-year, part-time contract beginning in 2023.

This person will work with the [Vermont Judiciary Commission on Mental Health and the Courts](#) and its justice partners and stakeholders to understand ways to improve the court and community response to individuals experiencing mental illness. This individual will manage process, evaluate solutions, and recommend change based on national best practices in behavioral health initiatives in justice systems. The ideal candidate will be a Vermont-based experienced clinical practitioner who can provide leadership in our efforts to advance the administration of justice where it intersects with mental health. They must provide onsite facilitation several days per month at stakeholder events held at various locations throughout Vermont.

In recognition of the impact that individuals with mental health issues have on Vermont's courts and to respond to their needs, the Vermont Supreme Court has established the Vermont Judiciary Commission on Mental Health and the Courts. Comprised of representatives from each of the three co-equal branches of Vermont state government including judges, legislators and executive agencies that assist people with serious mental illness, the Commission's overarching purpose is to advance the pursuit of equal justice under the law while identifying advances in the justice system that will positively impact the administration of justice where it intersects with mental health. The Commission will also evaluate solutions and recommend change.

The Commission would like to retain a consultant to work with them and their justice partners and stakeholders to assist with expanding and improving the judicial response to mental and behavioral health issues, to assist with the development and implementation of training curriculum and materials, and to facilitate and support justice partners and stakeholders in the Commission's work. Justice partners and stakeholders include treatment providers, law enforcement, Department of Corrections personnel, legislators, justice and public safety representatives, state's attorneys and public defenders and members of the public. Work is performed with considerable latitude for the exercise of independent judgment and evaluative thinking.

This position will be part-time (at least three days per week) for a three-year period beginning in 2023. To learn more about the Vermont Judiciary Commission on Mental Health and the Courts, you can visit the Judiciary [website](#).

To apply: Please submit a resume to JUD.jobs@vermont.gov. The position recruitment will be open until filled.

Essential Functions:

- With clinical expertise in the field of behavioral health, serve as a subject matter expert in the process of expanding and improving the judicial response to mental and behavioral health issues.
- Support Commission and other projects to educate those working to improve the court and community response to individuals experiencing mental illness.
- Manage assigned programs, projects, and/or grants, including responsibility for planning, budgeting, implementing and effectively allocating resources and delivering results against stated goals.
- Support Commission and other education and training events as needed, which may include convening multi-disciplinary stakeholders, facilitating substantive planning sessions, creating project timetables, evaluating strategies and proposed solutions, and producing related reports.
- Identify measurable project goals, including criteria for evaluating a project and its objectives, and demonstrate excellent project management skills related to timeliness, progress, accountability, and budgeting.
- Develop project schedules, work plans, resource requirements, and cost estimates.
- Assist in on-going statutory and policy review in order to facilitate systemic change and improve access for court-involved adults and children.
- Research and maintain familiarity with national best practices in behavioral health initiatives in justice systems.
- Serve as project manager for Commission initiatives and special studies.
- Develop tools to effectively measure, analyze and communicate the performance of programs and services against established goals.
- Fulfill other duties and responsibilities as needed.

Minimum Qualifications:

Education: Bachelor's Degree or greater in Behavioral Science, Social Services, Psychology, or related fields. A graduate degree is preferred. Experience and education may be substituted for one another.

Experience: Mental-health/ clinical practitioner with experience in project management or policy development in areas related to mental/behavioral health treatment providers and evidence-based practices for mental/behavioral health, substance abuse disorders, and/or co-occurring disorders. Familiarity with court processes is a plus.

Remuneration:

The consulting rate is negotiable depending upon qualifications and experience.

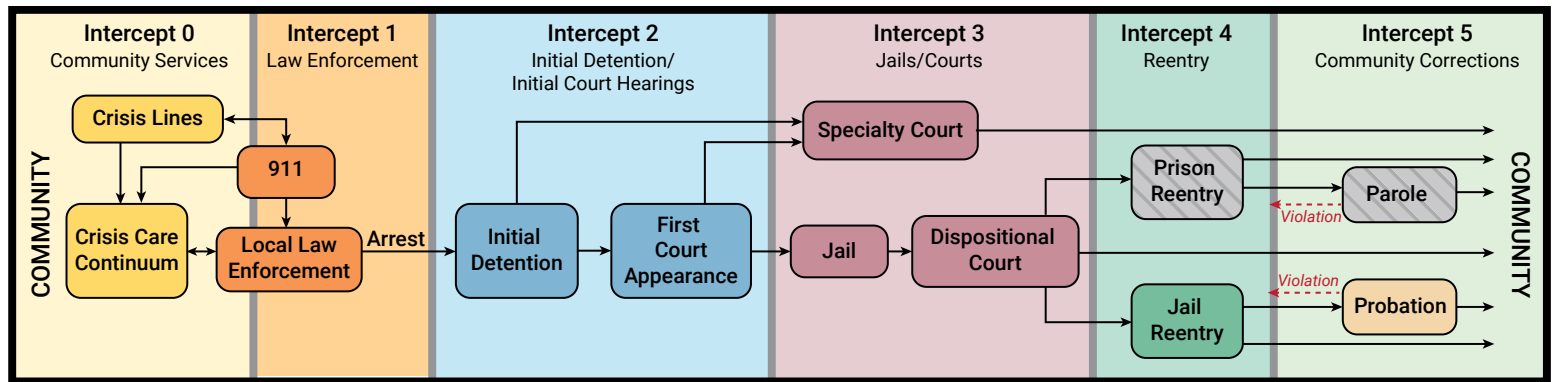
To apply: Please submit a resume to JUD.jobs@vermont.gov.

The State of Vermont celebrates diversity and is committed to providing an environment of mutual respect and meaningful inclusion that represents a variety of backgrounds, perspectives, and skills in all state government positions. The Judicial Branch is committed to a policy of equal employment opportunity, and the recruitment process is designed to treat all applicants equitably.

THE SEQUENTIAL INTERCEPT MODEL

Advancing Community-Based Solutions for Justice-Involved People
with Mental and Substance Use Disorders

The Sequential Intercept Model



Key Issues at Each Intercept

Intercept 0

Mobile crisis outreach teams and co-responders. Behavioral health practitioners who can respond to people experiencing a mental or substance use crisis or co-respond to a police encounter.

Emergency department diversion. Emergency departments (EDs) can provide triage with behavioral health providers, embedded mobile crisis staff, and/or peer specialist staff to provide support to people in crisis.

Police-behavioral health collaborations. Police officers can build partnerships with behavioral health agencies along with the community and learn how to interact with individuals experiencing a crisis.

Intercept 1

Dispatcher training. Dispatchers can identify mental or substance use crisis situations and pass that information along so that Crisis Intervention Team officers can respond to the call.

Specialized police responses. Police officers can learn how to interact with individuals experiencing a crisis in ways that promote engagement in treatment and build partnerships between law enforcement and the community.

Intervening with frequent utilizers and providing follow-up after the crisis. Police officers, crisis services, and hospitals can reduce frequent utilizers of 911 and ED services through specialized responses.

Intercept 2

Screening for mental and substance use disorders. Brief screens can be administered universally by non-clinical staff at jail booking, police holding cells, court lock ups, and prior to the first court appearance.

Data-matching initiatives between the jail and community-based behavioral health providers.

Pretrial supervision and diversion services to reduce episodes of incarceration. Risk-based pre-trial services can reduce incarceration of defendants with low risk of criminal behavior or failure to appear in court.

Intercept 3

Treatment courts for high-risk/high-need individuals. Treatment courts or specialized dockets can be developed, examples of which include adult drug courts, mental health courts, and Veterans treatment courts.

Jail-based programming and health care services. Jail health care providers are constitutionally required to provide behavioral health and medical services to detainees needing treatment, including providing access to medication-assisted treatment (MAT) for individuals with substance use disorders.

Collaboration with the Veterans Justice Outreach specialist from the Veterans Health Administration.

Intercept 4

Transition planning by the jail or in-reach providers. Transition planning improves reentry outcomes by organizing services around an individual's needs in advance of release.

Medication and prescription access upon release from jail or prison. Inmates should be provided with a minimum of 30 days' medication at release and have prescriptions in hand upon release, including MAT medications prescribed for substance use disorders.

Warm hand-offs from corrections to providers increase engagement in services. Case managers that pick an individual up and transport them directly to services will increase positive outcomes.

Intercept 5

Specialized community supervision caseloads of people with mental disorders.

MAT for substance use disorders. MAT approaches can reduce relapse episodes and overdoses among individuals returning from detention.

Access to recovery supports, benefits, housing, and competitive employment. Housing and employment are as important to justice-involved individuals as access to mental and substance use treatment services. Removing criminal justice-specific barriers to access is critical.

Implementing Intercept 0

Crisis Response

Crisis response models provide short-term help to individuals who are experiencing mental or substance use crisis and can divert individuals from the criminal justice system. Crisis response models include:

- Certified Community Behavioral Health Clinics
- Crisis Care Teams
- Crisis Response Centers
- Mobile Crisis Teams

Police Strategies

Proactive police responses with disadvantaged and vulnerable populations are a unique method of diverting individuals from the criminal justice system. Proactive police response models include:

- Crisis Intervention Teams
- Homeless Outreach Teams
- Serial Inebriate Programs
- Systemwide Mental Assessment Response Teams

Sequential Intercept Model as a Strategic Planning Tool

The **Sequential Intercept Model** is most effective when used as a community strategic planning tool to assess available resources, determine gaps in services, and plan for community change. These activities are best accomplished by a team of stakeholders that cross over multiple systems, including mental health, substance use, law enforcement, pretrial services, courts, jails, community corrections, housing, health, social services, people with lived experiences, family members, and many others. Employed as a strategic planning tool, communities can use the **Sequential Intercept Model** to:

1. Develop a comprehensive picture of how people with mental and substance use disorders flow through the criminal justice system along six distinct intercept points: (0) Community Services, (1) Law Enforcement, (2) Initial Detention and Initial Court Hearings, (3) Jails and Courts, (4) Reentry, and (5) Community Corrections
2. Identify gaps, resources, and opportunities at each intercept for adults with mental and substance use disorders
3. Develop priorities for action designed to improve system and service-level responses for adults with mental and substance use disorders

Policy Research Associates

We are a national leader in behavioral health services research and its application to social change. Since 1987, we have assisted over 200 communities nationwide through a broad range of services to guide policy and practice.

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History and Impact of the Sequential Intercept Model

The Sequential Intercept Model (SIM) was developed over several years in the early 2000s by Mark Munetz, MD, and Patricia A. Griffin, PhD, along with Henry J. Steadman, PhD, of Policy Research Associates, Inc. (PRA). The SIM was developed as a conceptual model to inform community-based responses to the involvement of people with mental and substance use disorders in the criminal justice system.

After years of refinement and testing, several versions of the model emerged. The “linear” depiction of the model found in this publication was first conceptualized by Dr. Steadman of PRA in 2004¹ through his leadership of a National Institute of Mental Health-funded Small Business Innovative Research grant awarded to PRA. The linear SIM model was first published by PRA in 2005² through its contract to operate the GAINS Center on behalf of the Substance Abuse and Mental Health Services Administration (SAMHSA). The “filter” and “revolving door” versions of the model were formally introduced in a 2006 article in the peer-reviewed journal *Psychiatric Services* authored by Drs. Munetz and Griffin.³ A full history of the development of the SIM can be found in the book *The Sequential Intercept Model and Criminal Justice: Promoting Community Alternatives for Individuals with Serious Mental Illness*.⁴

With funding from the National Institute of Mental Health, PRA developed the linear version of the SIM as an applied strategic planning tool to improve cross-system collaborations to reduce involvement in the justice system by people with mental and substance use disorders. Through this grant, PRA, working with Dr. Griffin and others, produced an interactive, facilitated workshop based on the linear version of the SIM to assist cities and counties in determining how people with mental and substance use disorders flow from the community into the criminal justice system and eventually return to the community.

During the mapping process, the community stakeholders are introduced to evidence-based practices and emerging best practices from around the country. The culmination of the mapping process is the creation of a local strategic plan based on the gaps, resources, and priorities identified by community stakeholders.

Since its development, the use of the SIM as a strategic planning tool has grown tremendously. In the 21st Century Cures Act,⁵ the 114th Congress of the United States of America identified the SIM, specifically the mapping workshop, as a means for promoting community-based strategies to reduce the justice system involvement of people with mental and substance use disorders. SAMHSA has supported community-based strategies to improve public health and public safety outcomes for justice-involved people with mental and substance use disorders through SIM mapping workshop national solicitations and by providing SIM mapping workshops as technical assistance to its criminal justice and behavioral health grant programs. In addition, the Bureau of Justice Assistance has supported the SIM mapping workshop by including it as a priority for the Justice and Mental Health Collaboration Program grants.

With the advent of Intercept 0, the SIM continues to increase its utility as a strategic planning tool for communities who want to address the justice involvement of people with mental and substance use disorders.⁶

1 Steadman, H.J. (2007). *NIMH SBIR Adult Cross-Training Curriculum (AXT) Project – Phase II final report*. Delmar, NY: Policy Research Associates. (Technical report submitted to NIMH on 3/27/07.)

2 National GAINS Center. (2005). *Developing a comprehensive state plan for mental health and criminal justice collaboration*. Delmar, NY: Author.

3 Munetz, M.R., & Griffin, P.A. (2006). Use of the sequential intercept model as an approach to decriminalization of people with serious mental illness. *Psychiatric Services*, *57*, 544-549. DOI: 10.1176/ps.2006.57.4.544

4 Griffin, P.A., Heilbrun, K., Mulvey, E.P., DeMatteo, D., & Schubert, C.A. (Eds.). (2015). *The sequential intercept model and criminal justice: Promoting community alternatives for individuals with serious mental illness*. New York: Oxford University Press. DOI: 10.1093/med/psych/9780199826759.001.0001

5 21st Century Cures Act, Pub. L. 114-255, Title XIV, Subtitle B, Section 14021, codified as amended at 41 U.S.C. 3797aa, Title I, Section 2991

6 Abreu, D., Parker, T.W., Noether, C.D., Steadman, H.J., & Case, B. (2017). Revising the paradigm for jail diversion for people with mental and substance use disorders: Intercept 0. *Behavioral Sciences & the Law*, *35*, 380-395. DOI: 10.1002/bsl.2300

Appendix J

No. 28
2023

Page 1 of 13

No. 28. An act relating to competency to stand trial and insanity as a defense.

(S.91)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 4801 is amended to read:

§ 4801. TEST OF INSANITY IN CRIMINAL CASES

(a) The test when used as a defense in criminal cases shall be as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect ~~he or she~~ the person lacks adequate capacity either to appreciate the criminality of ~~his or her~~ the person's conduct or to conform ~~his or her~~ the person's conduct to the requirements of law.

(2) The terms “mental disease or defect” do not include an abnormality manifested only by repeated criminal or otherwise ~~anti-social~~ antisocial conduct. The terms “mental disease or defect” ~~shall include~~ includes congenital and traumatic mental conditions as well as disease.

(b) The defendant shall have the burden of proof in establishing insanity as an affirmative defense by a preponderance of the evidence. The defendant shall be responsible for hiring the defendant's own forensic evaluator for the purpose of establishing insanity, provided that the Office of the Defender General shall pay for the evaluation of an indigent defendant.

Sec. 2. 13 V.S.A. § 4814 is amended to read:

§ 4814. ORDER FOR EXAMINATION OF COMPETENCY

(a) Any court before which a criminal prosecution is pending may order the Department of Mental Health to have the defendant examined by a psychiatrist at any time before, during, or after trial, and before final judgment in any of the following cases:

(1) ~~when the defendant enters a plea of not guilty, or when such a plea is entered in the defendant's behalf, and then gives notice of the defendant's intention to rely upon the defense of insanity at the time of the alleged crime, or to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he or she had the mental state required for the offense charged; [Repealed.]~~

(2) when the defendant, the State, or an attorney, guardian, or other person acting on behalf of the defendant, raises before such court the issue of whether the defendant is mentally competent to stand trial for the alleged offense; or

(3) ~~when the court believes that there is doubt as to the defendant's sanity at the time of the alleged offense; or [Repealed.]~~

(4) when the court believes that there is doubt as to the defendant's mental competency to be tried for the alleged offense.

(b) ~~Such~~ The order may be issued by the court on its own motion, or on motion of the State, the defendant, or an attorney, guardian, or other person acting on behalf of the defendant.

(c) An order issued pursuant to this section or Rule 16.1 of the Vermont Rules of Criminal Procedure shall order the release of all relevant records to the examiner, including all juvenile and adult court, mental health, and other health records.

(d) Notwithstanding any other provision of law, an examination ordered pursuant to subsection (a) of this section may be conducted by a doctoral-level psychologist trained in forensic psychology and licensed under 26 V.S.A. chapter 55. This subsection shall be repealed on July 1, 2024.

(e) After an initial competency determination, a court may order subsequent evaluations of a defendant to be performed by the Department of Mental Health only upon a showing of changed circumstances. In determining whether to order subsequent evaluations, the court shall consider a treating physician's clinical evidence, if any, indicating that the defendant's competency may have changed. This section shall not limit the parties' abilities to secure their own evaluations voluntarily or under Vermont Rule of Criminal Procedure 16.1.

(f) The court may issue a warrant for the arrest of a defendant who, after receiving notice of an evaluation ordered under this section, fails to appear for the evaluation.

Sec. 3. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(c) A motion for examination shall be made as soon as practicable after a party or the court has good faith reason to believe that there are grounds for an examination. A motion for an examination shall detail the facts indicating incompetency on which the motion is based and shall certify that the motion is made after the moving party has met with or personally observed the defendant. An attorney making such a motion shall be subject to the potential sanctions of Rule 11 of the Vermont Rules of Civil Procedure.

(d) Upon the making of a motion for examination, if the court finds sufficient facts to order an examination, the court shall order a mental health screening to be completed by a designated mental health professional while the defendant is still at the court.

(e) If the screening cannot be commenced and completed at the courthouse within two hours from the time of the defendant's appearance before the court, the court may forgo consideration of the screener's recommendations.

(f) The court and parties shall review the recommendation of the designated mental health professional and consider the facts and circumstances surrounding the charge and observations of the defendant in court. If the court finds sufficient facts to order an examination, it may be ordered to be

completed in the least restrictive environment deemed sufficient to complete the examination, consistent with subsection (a) of this section.

* * *

(h) ~~Except upon good cause shown, defendants~~ Defendants charged with misdemeanor offenses who are not in the custody of the Commissioner of Corrections shall be examined on an outpatient basis for mental competency unless the court makes findings on the record that there is good cause for an inpatient evaluation. Examinations occurring in the community shall be conducted at a location within 60 miles of the defendant's residence or at another location agreed to by the defendant.

* * *

Sec. 4. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to ~~one or both of the following:~~

~~(1) mental competency of the person examined to stand trial for the alleged offense.~~

~~(2) sanity of the person examined at the time of the alleged offense.~~

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c)(1) As soon as practicable after the examination has been completed, the examining psychiatrist or, if applicable under subsection (b) of this section, ~~the psychiatrist and~~ the psychologist shall prepare a report containing findings in regard to the applicable provisions of subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, to the respondent, to the respondent's attorney if the respondent is represented by counsel, to the Commissioner of Mental Health, and, if applicable, to the Department of Disabilities, Aging, and Independent Living.

~~(2) If the court orders examination of both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist are able to form the opinion that the person is competent to stand trial, unless the defendant requests that the examinations occur concurrently. If the evaluation of the defendant's sanity at the time of the alleged offense does not occur until the defendant is deemed competent to stand trial, the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist shall make a reasonable effort to collect and preserve any evidence necessary to form an opinion as to sanity if the person regains competence.~~

(d) No statement made in the course of the examination by the person examined, whether or not ~~he or she~~ the person has consented to the examination, shall be admitted as evidence in any criminal proceeding for the purpose of proving the commission of a criminal offense or for the purpose of impeaching testimony of the person examined.

(e) The relevant portion of a psychiatrist's report shall be admitted into evidence as an exhibit on the issue of the person's mental competency to stand trial and the opinion shall be conclusive on the issue if agreed to by the parties and if found by the court to be relevant and probative on the issue.

(f) Introduction of a report under subsection (d) of this section shall not preclude either party or the court from calling the psychiatrist who wrote the report as a witness or from calling witnesses or introducing other relevant evidence. Any witness called by either party on the issue of the defendant's competency shall be at the State's expense, or, if called by the court, at the court's expense.

Sec. 5. 13 V.S.A. § 4817 is amended to read:

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

(a) A defendant shall be presumed to be competent and shall have the burden of proving incompetency by a preponderance of the evidence.

(b) A person shall not be tried for a criminal offense if ~~he or she~~ the person is found incompetent to stand trial by a preponderance of the evidence.

~~(b)~~(c) If a person indicted, complained, or informed against for an alleged criminal offense, an attorney or guardian acting in ~~his or her~~ the person's behalf, or the State, at any time before final judgment, raises before the court before which such person is tried or is to be tried, the issue of whether such person is incompetent to stand trial, or if the court has reason to believe that such person may not be competent to stand trial, a hearing shall be held before such court at which evidence shall be received and a finding made regarding ~~his or her~~ the person's competency to stand trial. However, in cases where the court has reason to believe that such person may be incompetent to stand trial due to a mental disease or mental defect, such hearing shall not be held until an examination has been made and a report submitted by an examining psychiatrist in accordance with sections 4814–4816 of this title.

~~(e)~~(d) A person who has been found incompetent to stand trial for an alleged offense may be tried for that offense if, upon subsequent hearing, such person is found by the court having jurisdiction of ~~his or her~~ the person's trial for the offense to have become competent to stand trial.

Sec. 6. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) ~~Is reported by the examining psychiatrist following examination pursuant to sections 4814-4816 of this title to have been insane at the time of the alleged offense. [Repealed.]~~

(2) ~~Is~~ is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect;

(3) ~~Is~~ is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court; or

(4) ~~Upon~~ upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding ~~15~~ 21 days.

(b) When a person is found to be incompetent to stand trial, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health and, if applicable, the Department of Disabilities, Aging, and Independent Living shall be entitled to appear and call witnesses at the proceeding.

(c) Notwithstanding any other provision of law, a commitment order issued pursuant to this chapter shall not modify or vacate orders concerning conditions of release or bail issued pursuant to chapter 229 of this title, and the commitment order shall remain in place unless expressly modified, provided that inpatient treatment shall be permitted if a person who is held without bail is found to be in need of inpatient treatment under this chapter.

Sec. 7. COMPETENCY RESTORATION PROGRAM PLAN

(a)(1) On or before November 15, 2023, the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall report to the Governor, the Senate Committees on Judiciary and on Health and Welfare, and the House Committees on Judiciary, on Health Care, and on Human Services on whether a plan for a competency restoration program should be adopted in Vermont.

(2) For purposes of the report required by the section:

(A) the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall consult with:

(i) the Chief Superior Judge or designee;

(ii) the Commissioner of Corrections or designee;

(iii) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(iv) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(v) the Vermont Legal Aid Disability Law Project; and

(vi) the Defender General or designee; and

(B) consideration shall be given to providing notification and information to victims of record.

(b) If a competency restoration plan is recommended, the report shall include recommendations for best practices, any changes to law necessary to establish the program, estimated costs, and a proposal for implementing the program.

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE
REVIEW; COMPETENCY EXAMINATIONS

(a) The Joint Legislative Justice Oversight Committee shall review whether Vermont law should permit competency examinations of defendants under 13 V.S.A. § 4814 to be conducted, in addition to psychiatrists and doctoral-level psychologists trained in forensic psychology, by other doctoral-level mental health providers, psychiatric nurse practitioners, or any other professionals. The review shall include consideration of laws on the issue in other states and whether any changes to 13 V.S.A. § 4814 or any other Vermont laws are necessary to permit referral of the evaluation to a psychiatrist when appropriate. The Committee's recommendation under subsection (c) of this section shall reflect its determination of which professionals, if any, should be permitted to conduct the competency examinations.

(b) The Joint Legislative Justice Oversight Committee shall conduct the review of competency evaluation procedures required by subsection (a) of this section at not more than four of its 2023 meetings. Two members of the Senate Committee on Health and Welfare appointed by the Chair of that Committee and two members of the House Committee on Health Care appointed by the Chair of that Committee shall be permitted to attend and participate in the meetings. Members of the Committees on Health and Welfare and on Health Care who attend the meetings as authorized by this section shall be permitted to participate in the Justice Oversight Committee's development of the recommendations required by subsection (c) of this section.

(c) On or before November 15, 2023, the Committee shall recommend any changes it deems advisable to 13 V.S.A. § 4814(d) (permitting competency examinations by doctoral-level psychologists trained in forensic psychology) to the Senate and House Committees on Judiciary, the Senate Committee on Health and Welfare, the House Committee on Health Care, and the House Committee on Human Services.

Sec. 9. REPORT ON CUMULATIVE COMPETENCY EVALUATIONS

On or before December 15, 2023, the Department of Mental Health, in consultation with the Department of Disabilities, Aging, and Independent Living shall report on cumulative competency evaluations to the House Committees on Judiciary and Health Care and the Senate Committees on

Judiciary and Health and Welfare. The report shall include 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.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

Date Governor signed bill: May 30, 2023

Appendix K

Training Schedule 2024

MENTAL HEALTH TRAINING SCHEDULE

Court(s)	In-Service Schedule	Time
Addison - All divisions	1st Friday of the month	8:00AM- 12:00 PM
Mental Health Training	January 5, 2024	10:00 AM – 12:00 PM
Bennington Criminal and Family divisions	3rd Friday of the month	8:00 AM - 12:00 PM
Mental Health Training	March 15, 2024	10:00 AM – 12:00 PM
Bennington Civil and Probate divisions	1st Friday of the month	12:30 PM - 4:30 PM
Mental Health Training	April 5, 2024	1:00 PM – 3:00 PM
Caledonia - All divisions	2nd Tuesday of the month	8:00 AM - 12:00 PM
Mental Health Training	April 9, 2024	10:00 AM-12:00 PM
Chittenden - All divisions	2nd Tuesday of the month	1:00 PM - 4:00 PM
Mental Health Training (w/ Environmental, Jury Adm., Info Center)	February 13, 2024	1:00 PM – 3:00 PM
Environmental division/jury adm/info ctr.	2 nd Tuesday of the month	1:00 PM – 4:00 PM
Mental Health Training (w/ Chittenden)	February 13, 2024	1:00 PM- 3:00 PM
Essex – All divisions	2 nd Tuesday of the month	8:00 AM – 12:00 PM
Mental Health Training (w/ Caledonia)	April 9, 2024	10:00 AM- 12:00 PM

Franklin – All divisions	Last Monday of the month	9:00 AM – 12:00 PM
Mental Health Training (w/ Grand Isle)	January 29, 2024	10:00 AM– 12:00 PM
Grand Isle – All divisions	Last Monday of the month	9:00 AM – 12:00 PM
Mental Health Training (w/ Franklin)	January 29, 2024	10:00 AM-12:00 PM
Judicial Bureau	2 nd Friday of the month	8:00 AM – 12:00 PM
Mental Health Training (w/ Windsor- All Divisions)	May 10, 2024	10:00 AM – 12:00 PM
Lamoille – All divisions	2 nd Thursday of the month	12:30 PM – 4:30 PM
Mental Health Training	January 11, 2024	1:00 PM – 3:00 PM
Orange – All divisions	2 nd Friday of the month	8:00 AM – 12:00 PM
Mental Health Training	July 12, 2024	10:00 AM-12:00 PM
Orleans – All divisions	3 rd Wednesday of the month	8:00 AM – 12:00 PM
Mental Health Training	May 15, 2024	10:00 AM- 12:00 PM
Rutland – Criminal and Family divisions	1 st Tuesday of the month	8:00 AM – 12:00 PM
Mental Health Training	June 4, 2024	10:00 AM – 12:00 PM
Rutland – Civil and Probate divisions	1 st Thursday of the month	12:30 PM – 4:30 PM
Mental Health Training	August 1, 2024	1:00 PM – 3:00 PM
Washington – All divisions	4 th Wednesday of the month	8:00 AM – 12:00 PM
Mental Health Training	March 27, 2024	10:00 AM – 12:00 PM
Windham – All divisions	1 st Friday of the month	8:00 AM- 12:00 PM
Mental Health Training	September 6, 2024	10:00 AM – 12:00 PM

Windsor – All divisions (to be held w/ Judicial Bureau in White River Junction)	2 nd Friday of the month	8:00 AM – 12:00 PM
Mental Health Training	May 10, 2024	10:00 AM – 12:00 PM
Treatment Court Staff	May 13, 2024	10:00 AM – 12:00 PM
Guardians ad Litem	To be determined	