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February 4, 2022

Senate Committee on Institutions

Re: Testimony on Vermont's Continuum of Care System Needs

On behalf of Disability Rights Vermont (DRVT), the federally authorized disability protection and advocacy system in Vermont pursuant to 42 U.S.C. 10801 et seq., and the Mental Health Care Ombudsman for the State of Vermont pursuant to 18 V.S.A. §7259, thank you for this invitation to testify. For some background, DRVT provides direct advocacy support to Vermonters with disabilities state-wide. We provide services in hospitals, prisons, and any place where people with disabilities are living. Our services range from informal advocacy support to formal legal representation in complaints and lawsuits. DRVT's mission is to promote the equality, dignity, and self-determination of people with disabilities.

It is often said that this Committee is focused on "brick and mortar" and less so what the programming provided entails. But they are intertwined. The type of building, where it is, how big it is, what it is designated for, all those things affect programming and staffing. And the programming and services needs of Vermonters are considerations in what buildings and placements are developed.

The development of programs and placements is a matter of how we shape our system of care. There's a finite amount of resources and so it's a question of how we properly invest in Vermonters. As we know, there is a continuum of care: the services needed and placement options to provide services for people with disabilities must account for the entire continuum. Most people, most of the time, can be served effectively with home and community based care. Receiving supports, treatment, and services in the community empowers people to thrive. They can maintain employment, further their education, spend time with their family, and engage with their community all while receiving necessary supports.

Defending and Advancing the rights of people with disabilities.

Email at info@DisabilityRightsVT.org,

On the web: www.disabilityrightsvt.org

Not only are outcomes of the individual and the community improved through community-based services, but it is the law to provide services in the most community integrated setting. In *Olmstead v. L.C. ex rel Zimring*, the United States Supreme Court, in interpreting the Americans with Disabilities Act, held that states must place individuals with disabilities in the least-restrictive community settings when it is clinically appropriate to do so. *Olmstead v. L.C.*, 527 US 581 (1999). The State of Vermont, primarily through the Agency of Human Services, has the task of developing and enhancing community based services and integrating healthcare services. The Department of Mental Health, for example, is currently facilitating the Mental Health Integration Council and has the charge of bringing together all sectors of the healthcare system. See 18 V.S.A. §7251(4). Providing services in the most community integrated setting requires having adequate community placements and adequate resources invested in community-based services.

While a building to go to is not always needed, sometimes people need places to go to for services. Some are day programs, residential, and very few at times need secure placements. There needs to be an examination of the data to determine how best to allocate resources. Mostly, what is lacking is home and community based services and that's where the bulk of our investments should go.

See <https://disabilityrightsvt.org/wp-content/uploads/2020/06/DRVT-Olmstead-Report.pdf> (finding, after a 6-month investigation, that many Vermonters were stuck unnecessarily in inpatient settings due to a lack of community resources, placements, and home-based services).

Our community system of care is in crisis. We have insufficient community capacity and a major staffing shortage contributing to people being boarded for long periods of time in hospital emergency departments or in inpatient settings when they no longer need to be there due to the lack of alternative, less restrictive community placements. Vermonters are experiencing increased stress and psychiatric crisis. We need to work to serve children and families as best we can in the community. Services such as psychiatric and developmental disability services, affordable and accessible housing, childcare, educational supports, and career opportunities need to be provided.

Mental health and intellectual/developmental services seem to be the greatest need. Again, most youth can be served in the community at home with the right supports and services. Some need residential. Those that have the hardest time getting adequate community services and the appropriate residential placement are youth requiring both mental health services and developmental disability services.

There's been discussion of developing a replacement for the former Woodside Juvenile Rehabilitation Center and a new facility for justice-involved youth. It's unclear, however, whether that is our State's greatest need. How many youths are justice-involved and require a secure facility? It is unlikely that number is beyond 10. In the spirit of serving youth in the community, it would be better to have more than one small facility in different parts of the State so that youth can stay closer to their home. The data identifying what programming Vermont's youth need and what is lacking in the state should be analyzed carefully before investing millions of dollars, especially in a secure building, which cannot be easily reinvested elsewhere and is not where we want to serve our youth.

For mental health needs, we clearly need more emergency room diversion programs and placements. Our hospitals are being overwhelmed by Vermonters of all ages in search of mental health services. Often times, the hospital is not the appropriate place for these individuals seeking services. Alternatives like peer respite centers, crisis living-room model placements, and mobile crisis units should be developed to best serve these people and families.

Any buildings developed need to be physically therapeutic and provide comfortable conditions for the residents and staff. And it is Vermont's legal obligation to always consider whether there are less restrictive alternatives. DRVT has several concerns with the proposal in S. 245 on this front. It is unclear how this prison can effectively be transformed into a therapeutic facility for youth. Woodside was never effectively converted into a physically therapeutic facility. It is also unclear that a 10-bed facility for justice-involved youth is what is needed to serve children and families and bring children currently out of state back home. Spending over three million dollars on this project is unlikely to accomplish our goals of serving youth and complying with the law. Community placements for youth with mental health and developmental disability needs is likely a better investment.

Thank you for your consideration of these comments.

Sincerely,
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