LE MH Guidelines Meeting on Process Equity

Introductions

Karen tells everyone that the meeting is being recorded and meeting notes are being taken by CRG's Research Associate. The following people were in attendance:

NAME	TITLE	ORGANIZATION
Tammy Boudah	Team Lead Street Outreach	Howard Center
Dillon Burns	Mental Health Services Director	Vermont Care Partners
Ann Cummings	Family Member/Activist	NAMI Advocate
Mourning Fox	Deputy Commissioner	VT Department of Mental Health
George Karabakakis	CEO	HCRS
Rachel Lawler	Team Lead Community Outreach	Howard Center
Susan Lemere	Outreach Clinician	Washington County Mental Health Services
Jack McCullough	Mental Health Law Project	VT Legal Aid
Hilary Melton	Executive Director	Pathways Vermont
Sara Moran	Vice President	NAMI
Karim Chapman	Executive Director	Vermont Psychiatric Survivors
Laurie Emerson	Executive Director	NAMI VT
Zach Hozid	Staff Attorney	Disability Rights Vermont
Wilda White	Founder	Mad Freedom
Laura Ziegler	Advocate / Activist	National Association for Rights, Protection and Advocacy
Karen Gennette	Executive Director	CRG
Chris Louras	Research Associate	CRG
Jen Morrison	Executive Director of Policy	VT Department of Public Safety
Megan Novak	Research Associate	CRG

How We Got Here- Jennifer Morrison, DPS[1]

Jennifer Morrison introduces herself and the Department of Public Safety's Executive Director of Policy. She is a former law enforcement officer and former Chief of Police in Colchester who now works with the commissioner of public safety to help develop policy initiative and engage the community and stakeholders.

Jennifer notes that on August 2020 Governor Scott issued executive order 3-20, requiring DPS to create a policy on use of force. Notably, the order also includes loss of funding and access to training if law enforcement agencies (LEAs) fail to adopt policy.

To develop the policy outlined in the executive order, the Department of Public Safety Commissioner developed a position to help develop policy and engage stakeholders (currently filled by Jennifer Morrison).

In December 2020 DPS released a draft of use of force policy with a place holder for the appendix on use of force when officers are interacting with a person who has or is perceived to have a mental impairment because Jennifer felt that Appendix D shouldn't and couldn't be written in a vacuum.

[1] These notes include summaries of statements made during the meeting on 5/6/2021. The following statements are NOT direct quotes. To hear accurate and direct quotes from participants please view the recording of the meeting found here.

Also, Jennifer notes that in her experience she has found the process can be as informative as the final product. Additionally, it was important for her to consider process equity while soliciting feedback from stakeholders to ensure inclusivity, so she coordinated with CRG to develop a survey gaging stakeholder interest in developing the process.

Survey Results Overview- Megan Novak, Research Associate, CRG
On the survey we asked respondents if they would be interested in developing the feedback process, as well as if they were currently coordinating with law enforcement and how. The survey was sent to approximately 35 individuals representing 22 organizations- I say approximately because we did invite everyone who got the link to share it with others that they felt should be a part of this conversation.

There were 28 total responses. Most people indicated (22) that they or their organization would be interested in developing the process for soliciting input regarding the guideline (which is what this meeting is about today) as well as helping to develop the guidelines when the time comes. And then, we had a pretty evenly distributed response for how we should collect suggestions about process- everyone seemed to like the idea of incorporating most of the options- submissions by email, a large meeting to discuss, and a review of the drafted guidelines with the opportunity to give feedback. If you're interested in seeing the full results of the survey, you can find them here on the DPS modernization website.

Goals for the Meeting: Where Do We Go from Here? - Jennifer Morrison, DPS
A second draft of the use of force will be posted next week. The second draft still has placeholder for Appendix D. Law goes into effect on October 1, 2021 so there is a limited time frame. All policies need to be finished before the end June (preferably by June 15) so that curriculum can be developed. The hope for this meeting to identify a small working group to draft Appendix D and then that draft can be reviewed by anyone who is interested in providing feedback.

The small group will be responsible for drafting guidelines that can act as universal tips/practices for law enforcement officers (LEOs) in *ANY SITUATION*. This means it has to work for the officer in Burlington as well as an officer in a rural community. The goal is to provide more tools for officers that they can utilize in crisis situations regardless of the community resources available.

The Appendix D guidelines are not attempting to develop unfunded mandates or programs to be adopted by LEAs.

This is not to be a one size fits all approach to LE MH encounters. There are so many promising programs and practices being implemented and it would be nice to implement some of them in Vermont, but it's important to remember that this is the beginning of the process. We are constrained by time (the deadline set in the law) and format (must be a policy, not a mandate). The policy outlined in Appendix D will be one step towards better outcomes when officer's response to these situations.

Today's purpose has a finite mission- build appendix D. When that's done, Jennifer hopes that we can all capture the energy in the room and continue working together in taking next steps.

Speakers Comments

Some written comments and resources were provided by stakeholders prior to the meeting and can be found here.

Laurie Emerson

Some of my written comments focus on programs or different practices. But I do want to highlight a few things from my statement. NAMI is a non-profit, grassroots organization consisting of family members and advocates for mental illness. NAMI would typically like to involve their network in a process like this. From NAMI's perspective, VT needs to re-imagine crisis intervention for everyone- the community, officer, and individual. We want to resolve the crisis with little or no CJ involvement. Eliminate and reduce trauma for individuals and family members. How do we do this? Diverting away from LE and looking to community-based teams. I do want to caution about co-response… it would be better to get to a point where police are removed from the process. How do we get to a point where MH responders are primary? Once LEOs are involved it can easily result in a criminal charge for someone. We need to be calling MH first. If a situation escalates then call the police. Also, if LEOs do respond, we want a trained officer. It would be nice to also have mobile crisis teams available for dispatch.

Karim Chapman

In my own personal experience, I always felt a disconnect between the culture of law enforcement and how they look at MH and deal with it. In my experience, it was viewed as a plague to them. They wanted to lock me away and force feed medication, so they didn't have to deal with me. There has been a lot of effort around the state to make changes. I still have questions, what are the trainings? I have seen in the past where LEOs approached a scene and within a minute they are firing a weapon. We need to get to place where within that split second, the officer has the training to rely on empathy and sympathy…to slow down and make a decision. I know officers who are sensitive to people being misunderstood… and some not… where does the blame go? Training? Law? I want to get to a place where we all have the same understanding. Officers need to be clear and not make choices that end lives and unnecessarily incarcerate people. There is still a lot of work needed to get it right.

Wilda White

First, I want to express gratitude for the attention paid to process equity and acknowledge that this meeting feels different then some of the others I've been a part of. I am grateful for that. I want to share by experience and also spend some time reviewing the killing of Phil Grenon.

Burlington has pretty good policies about how to handle a call. They didn't follow the majority of the policies in place when dealing with Phil. While reviewing other incidents, it became clear that they didn't follow policy then either. So I took a look more deeply and concluded that it was the attitudes of LEOs. It's not enough to create guidelines if we don't first address the implicit and explicit bias held by LEOS and unfortunately almost everyone. People with a psych history die 25 years earlier. They have the highest unemployment rate, are the butt of jokes…Words like "crazy" and "insane" are normalized. All of this goes into play when LEOs are face with the responsibility to respond to MH crisis and LEOs don't even realize the role this fear plays in their response. Oftentimes, the policies we have perpetuate this offensive language. State policies using language like "bizarre" and "weird" to describe what LEOs should be looking for to identify individuals experiencing MH crisis. This language isn't helpful- it demonizes and can actually cause LEOs to MISS people.

Let me tell you about one of my experiences with LEOs. I was walking on a bridge one night and was stopped by officers because they had received message that a person was going to jump, but they decided it wasn't her because she was black and black people don't kill themselves. It is important to address the implicit and explicit biases that everyone in society holds.

Also, we should pay particular attention to welfare checks. SO many people end up dead by police without even having done anything wrong. There is case law on use of force when handling a person who has committed no crime. It is evaluated in a different way than in a case were someone has committed a crime. We can't look to "best practices" because people who have lived experiences with psychosis are often excluded from conversations about what is the "best practice." Guidelines should pay attention to psychosis. There is misinformation about it, and it is an area that needs attention because LEOs need training from people with lived experiences. One guideline that would be helpful is that after an incident that there is a de-brief that includes people with lived experiences. Burlington did debrief but didn't include the right people, so they learned the wrong things. How to debrief, what questions to ask, and who should be included in the debrief should be outlined by the guidelines.

I am the minority on this because I have the opinion that we shouldn't remove LEOs from the response. I feel that it's not too much to ask officers to learn how to interact with people with MH conditions. This population makes up approximately 25% of the total population. Not too much to ask police to learn how to respect, engage with, and serve 25% of population. No medical degree needed. It just requires compassion. Saying LEOs shouldn't be involved perpetuates the idea that LE can't do it. Some LEOs internalize that perception and then they don't try to learn how to handle these situations. We are perpetuating the issue by suggestion the LEOs be removed from the response. Dealing with people with MH condition isn't beyond anyone.

I'll give you an example. In North Hampton, a LEO saw a guy engaging in a fight with someone he (the officer) couldn't see. Instead of telling the man that there was no one there, the LEO told the guy "you two break it up" and the fight stopped.

Zachary Hozid

I agree with most of what has been said. The heart of this is being in touch with humanity and interacting with others on a human-to-human level. VT has an advantage with small communities, and it will make it easier to build that human-to-human connection. The principles of patience and compassionate should be stressed. Another speaker mentioned the split-second moment before the use of force happens… I want to see a lot of Appendix D expressing what to do before you get to split second situations…pre-emptive policies. Officers are trained to get control of a situation rapidly and efficiently. Oftentimes that's not possible, so they need to learn to be okay with that. Safety should be main issue. Of course training needs to happen. Maybe we can borrow techniques from more therapeutic settings. For example, if you put hands on someone to get control of a situation, do it in a gentle way- avoid firearm use. There is a difference in the law regarding disabilities- this is an opportunity for LE to work with the individual to accommodate the disability. It's hard for me to say what is the right way to do things, because in my position I usually see the things that went wrong.

Laura Ziegler

I think it would be better if it were someone without weapons responding. It's important to acknowledge that police engage with victims and witnesses who have pysch needs as well, not just those in crisis situations. Also those with mental health needs are disproportionately crime victims and should be given respect.

I didn't see anyone from the recovery community on the list, maybe it would be helpful to solicit feedback from them because sometimes MH and SUD go hand in hand.

Help has to exist in order to direct people to it. I don't like the perception that just because someone has mental health concerns, that the immediate thought is to call the MH folks. Having mental health impairment doesn't equate to *needing* or *wanting* mental health care.

Also, people with psych issues have increased physical vulnerability because of the prescription medications they take, so they are more at risk of suffering negative effects from tasers and certain restraints.

I want to draw attention to Section G in the draft use of force policy to note that disability is not listed there. Some of this conversation isn't a separate thing to the side but should be incorporated in the main body of the Use of Force policy. For Example, the section that talks about restraint should note that some people might be more vulnerable to certain methods.

I am troubled by language use in the constraint section. It was changed to "directly" which seems too narrow. There are other ways to die from asphyxiation without having direct contact to the throat- pressure on the stomach or being left in certain position can suffocate someone too. Language from the UK where they talked about time limits might be useful, but the description of what is prohibited in the use of force guidelines is too limited. Hogtieing should be limited- people say it doesn't happen anymore, but I know of someone who was hogtied on the way to the hospital. This should be explicitly forbidden. Also, it could be useful to include that LEOs have to follow manufacturer's instructions- I know of an officer who grabbed a person by the head and sprayed them again, but manufacturer says don't spray too closely.

I encourage more outreach to people who have had the experience. Also, see if it is possible to get the use of force reports from DPS and make those reports available at cost, rather than with inflated price tag.

Questions

Q: Is anyone here Law Enforcement? (Karim Chapman)

Jen: Yes. LEOs will get a chance to review guidelines once drafted. I want the first draft to come from people who have lived experiences or are professionals in this field instead of starting with business as usual and then trying to influence that plan. I want to start from a blank slate and then address any concerns LEOs might have related to what happens in the field. I want the appendix to read like a person who may be encountering the police speaking directly to the LEO.

Karim: Great. I wanted to make sure LEOs would be involved in the conversation at some point. There has been lots of conversation in the CJ Reform Council. A lot of officers agree that things need to change.

Q: The conversation got me thinking about people with autism disorder and how there have been cases involving police encounters with these individuals that don't have great outcomes. Is that a piece of these guidelines? (Dillion Burns)

Jen: I was expecting this question. If we included all the guidelines recommended (i.e., interactions with autistic persons, school aged kids during school and outside of school) this policy would never be completed. I thought about it and concluded that if those policies were housed under the use of force policy, then it implies that guidelines are only for those situations involving use of force. Those topics should be in their own policy and will hopefully be projects for me in the future. This is just the start. Currently we have approximately 80 LEAs that each have own policy manual. The goal is to move towards statewide policies- consistency in the future.

Additional Comments/Discussion

Jack McCullough: Majority of people I represent have been taken to the hospital involuntarily. I am not sure but off the top of my head I think police in Washington County are only involved in 30% of crisis calls. I think it would be useful to review stats from community mental health centers to see what the prevalence of police involvement actually is in each jurisdiction. The data I have access to only capture those who are taken to the hospital. It could also be useful to figure out what percentage of the time are people transported to the hospital v the percentage that are not. I am nor sure if that data is collected.

Dillion Burns: Yes, it is. Agencies adopted a new emergency form that collects that information. It could be a reporting requirement for Act 29 or 79.

Wilda White: I want to say something about LEOs and mental health providers working together. I know lawyers for people who are planning to bring lawsuits against LEOs, and I have had the chance to look at a lot of body cam recordings. This means I've had the opportunity to see how the mental health workers act when they are working with LEOs. I haven't noticed any special expertise that they [MH workers] bring. They act just like the police. They stay at a distant… seem afraid. I have never seen one ask to take the handcuffs off or offer any other suggestions. It might be useful to have a guideline for how they can better work together. People seem to think that by putting them together the LEOs will be influenced by the MH workers, but it seems like the MH workers are becoming more like police.

Karen Gennette: CRG staff did a review of statewide policies related to LE and MH and there were not a lot of policies in the US related to LE interactions. She thinks we are on the cusp of something. Wants people to think about what the intended outcomes are we are looking for? What do you want that interaction to look like? And what do we want the outcome to be?

Wilda White: Yes, we want people to be alive, but we also want to reduce harm. The whole community is harmed when there is a bad interaction. I want people who interact with police to feel good about their interactions with police. People making calls to the police don't want to feel that they did something wrong. Ask the question, "How can I help you?" I have experience witnessing terrible things done by the police. I have a hard time getting those images out of my head. Trauma can be a cycle and I would like people not to have to live with horrible mental images.

Susan Lemere: I can't speak to policy, but I can speak to the role of MH providers working with LEOs. I have gone to the scene with police, and I've been called to the scene afterwards. Sometimes people want to

engage with MH and sometimes people don't. One of the things I really try to do is give people contact information for myself and for their local community resources. I ask for permission to follow up with people and I've also had people call her afterwards. I don't feel like a police officer. It is worth mentioning that I used to be a crisis clinician who did not work with police prior to my current position. I appreciate being able to go to situations that I wasn't comfortable going to before. Also, there are situations where MH is needed, and police are not. I went to a situation where police ended up leaving and I stayed… so that is on option too. I think co-response is a model that can work, but in order for it to work MH workers need to know they may not be wanted in certain situations or that they may not be the right person for people.

Karim Chapman: Listening to Susan made me think- at one point growing up in NYC, there were different LE units, then they merged to one unit, the NYPD. I grew up with officers that knew my family. There was a relationship that was there, but things changed after the police were combined into one unit. This goes back to Wilda's point about humanity. This is about treating someone the way you'd treat a member of your community.

Ann Cummings: I agree with Karim. Officers act better towards people they know, but how are we going to write that into a policy? Bias comes into play here too- LEOs don't always recognize people with MH issues as part of their community.

Laura Ziegler: Not only are people with mental health impairment treated poorly by LEOs when they are a suspect, they are sometime treated poorly when they are the victim. They often miss out on police protection. I used to live in a building in NYC that was perceived as a place were homeless/people with mental health issues people lived, as a shelter, but it was just a regular apartment. One night after I moved, I got a call from a tenet about another tenet who tried to stab her death. My friend who called was able to drive the attacker off. When the police responded, instead of taking him to a precinct, they took him to psych ward which let him out the next morning. The LEOs didn't even take her (victim's) name because it was treated as a conflict between two children instead. The victim eventually pushed further for CJ help, but by the time she had her day in court it was seen as a he-said, she-said case because the evidence was gone (the LEOs never collected any evidence). There's a big issue here. Perps know you're a "free lunch."

Selection of Small Group to Draft Guidelines

A small group volunteered to help develop the process for soliciting feedback. The group members are:

- Wilda White
- Rachel Lawler
- Tammy Boudah
- Susan Lemere
- Karim Chapman

The first small group meeting will be Monday 5/10, 9 to 10:30.

Parting Thoughts

Appendix D has to be relevant and attainable for a police officer in urban and rural settings. All types of officers. Whatever is built, has to be something that leaves a VT LEO in a better position to achieve desired outcomes.