

DRAFT MOU NKHS and VSP

Purpose

This Memorandum of Understanding (MOU) is created to establish the ways Northeast Kingdom Human Services (NKHS) and the Vermont State Police (VSP) will collaborate (Note: use of the word 'collaborate' is intentional, stressing the importance of working together and relying on each party's strengths) amongst themselves and with other community stakeholders to optimize responses to and services for individuals who may be experiencing a mental health or substance use crisis. Through this collaboration NKHS and VSP strive to serve these individuals in a way that encourages safety, self-determination and healing, prevents unnecessary trauma and uses of force, and reasonably accommodates an individual's known disability and avoids causing the individual to suffer greater injury or indignity than non-disabled individuals. (Note: focusing first on the needs of the individual rather than on public safety, although that is a primary concern as well, is important to maintain mission fidelity).

In collaboration with other community members, NKHS and VSP will develop the ability to respond, when appropriate, with therapeutic and empowering responses to community members experiencing mental health or substance use problems. Particular emphasis will be placed on efforts to maintain community safety, deescalate crisis situations, avoid uses of force, and enable citizens to access supports and services instead of becoming subject to a criminal justice system.

These goals will be accomplished by creating a process whereby VSP and NKHS co-respond to situations where a person is possibly experiencing a mental health crisis or experiencing mental health issues related to substance use. (Note: use of term 'co-respond' intends equal notice and authority for response and that the use of the term 'possibly' experiencing a crisis intends the broadest type of calls benefit from this co-responder model). The co-responders will include a mental health clinician employed with NKHS and a VSP officer, both of whom are specifically trained to interact in a manner that will optimize the realization of the aforementioned purpose of this MOU. (Note: Specialized training for this unique collaboration needs to be developed to assure best practices are understood by all involved. This training should be informed by substantive input from impacted communities.)

This MOU sets forth guidelines and criteria for this co-responder program between NKHS and VSP.

The Mental Health Clinician in this position will have designated hours of availability. During times when the Clinician is not available, the 24/7 NKHS Crisis Team response will be contacted. Both the specially assigned Mental Health Clinicians and the NKHS Crisis Services staff are initiated in the same manner and provided with the same specialized training above. NKHS will be responsible for assuring sufficient staff capacity and training between Crisis Service staff and the designated Mental Health Clinicians so that NKHS response will be consistent despite staffing alternatives. (Note: because the Designated Agency will need to provide these services

when the specially assigned clinician is unavailable, having multiple clinicians as part of the program would be optimal.)

Goals:

The goal of this collaboration is to more effectively serve those in the community during a mental health or substance use crisis, avoiding unnecessary re-traumatization, criminalization and expensive involuntary custody situations and without violating the Americans with Disabilities Act (ADA). (Note: Important to emphasize the legal requirements applicable under the ADA and Vermont Fair Housing and Public Accommodations Act.) It is acknowledged that a police department violates the ADA when it fails “to reasonably accommodate a person’s disability in the course of investigation or arrest, causing the person to suffer greater injury or indignity in that process than other arrestees.”¹ It is also acknowledged that far too often people experiencing a mental health or substance use crisis in the community are harmed, dislocated from their supports and community, and even tragically killed by responding law enforcement officers who have limited tools and expertise to respond effectively. This collaboration aims to stop these occurrences by assuring adequate co-responding capacity and collaborative training, effectively providing the right resource at the right time.

The co-responders will work collaboratively with each other and other appropriate stakeholders and with the individual in crisis to ensure the safety of the community, deescalate the situation, and identify and implement services and supports appropriate to assist the individual in crisis. (Note: importance to emphasize working with the individual in crisis as well as family, friends and community resources other than police and mental health clinicians, eg peer supports, charities and healthcare providers when providing supportive responses to people in crisis in the community). These collaborative efforts to assist people experiencing mental health and substance use crisis in the community are aimed at de-escalating and resolving the immediate crisis and reducing future crisis circumstances for the person by assuring that the immediate contact with appropriate supports and services initiated by the Co-responders is continued with ongoing opportunities for the individual to avail themselves of alternative supports and services that meet the individual’s needs. NKHS will be responsible for providing oversight and analysis of the efforts to follow up with individualized services post-co-responder contact to help provide program quality improvement. (Note: data collection and analysis of the short, mid, and long-term impact of co-responder services and follow up is essential and should be built-in to any agreement.)

The VPS officers inform the Mental Health Clinician and others on safety concerns for all contacts with individuals in crisis. The Mental Health Clinician will work with VSP and the individual to ensure appropriate communication and mental health services are provided for

¹ *Sheehan v. City & Cty. of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014), rev’d in part, cert. dismissed in part *sub nom. Sheehan*, 135 S.Ct. 1765 (2015).

the individual in crisis. (Note: Understanding and implementing procedures that respect and capitalize on the co-responders' strengths is a crucial element of the specialized training.)

If the Clinician is unable to be on scene, they will be available for phone consultation for both VSP support and to communicate with the individual(s) in crisis and to assure the person in crisis has the follow-up services as needed.

Roles and Responsibilities:

General Roles:

VSP dispatch: When a call comes in, dispatch will assess, and when appropriate will inquire as to, whether there is any mental health concern or substance use crisis. If there is a known or suspected mental health or substance use crisis, dispatch will refer the situation to the co-responders. VSP will be responsible for developing a procedure whereby this referral is made, confirmed and documented for further analysis. (Note: Data and analysis is crucial to ongoing development of this collaboration). The goal of the collaboration is for VSP Dispatch to simultaneously alert VSP and NKHS co-responders of each eligible call and that the co-responders will have an agreed upon procedure to a) communicate, b) arrive on scene, c) assess scene safety, d) determine who will lead the introduction to the person in crisis and with whom the co-responders will interact during that introduction and ongoing, and e) if other stakeholders or supports should be contacted or utilized. (Note: this process will be part of the specialized training with suggested elements provided below).

VSP Co-responders: plan and coordinate efforts and responses with the Mental Health Clinician co-responder; assess the scene for safety and coordinate with co-responder on responding to the scene in a safe manner; with the Mental Health Clinician co-responder taking the lead on developing an appropriate therapeutic response, address and respond to emergency safety crisis in as therapeutic manner as safety will allow; encourage effective communication between the Mental Health Clinician co-responder and the individual in crisis, and other stakeholders while maintaining scene safety.

NKHS Mental Health Clinician Co-responder: plan and coordinate efforts and responses with the VSP co-responder to ensure a therapeutic approach to the individual(s) in crisis in a safe manner; assess the situation and the individual; apply therapeutic crisis response interventions; facilitate appropriate follow-up options with the individual(s) in crisis.

Process:(Note: It is important to have a general process that is broad enough to allow for responding to each unique situation while still providing clear guidelines and roles)

VSP and NKHS co-responders will be involved in responding to any and all instances in which a known or suspected mental health or substance use crisis is involved. The fact that criminal conduct may be involved does not prevent the involvement of the NKHS Mental Health Clinician. Examples of situations eligible for the use of Co-responders include: 911 call to

dispatch, VSP non-emergent arrest plans, welfare checks, investigative interviews of subjects known to be in crisis or to have a significant mental health condition.

1. Dispatch or VSP officers responding to a scene or going to make an arrest will assess whether the situation involves an individual possibly experiencing a mental health or substance use crisis. If that is the case, VSP will contact the NKHS Mental Health Clinician co-responder. If the NKHS Mental Health Clinician co-responder is unavailable and VSP can wait, VSP will coordinate when the NKHS Mental Health Clinician co-responder is available. If VSP cannot wait for the NKHS Mental Health Clinician co-responder, VSP will contact NKHS Crisis Services. **(Note: It is important to utilize this program in all situations where it would be helpful. Important to get the clinician and law enforcement both informed of a situation at the earliest time possible.)**
2. Once VSP makes contact with either the NKHS Mental Health Clinician co-responder or NKHS Crisis Services, VSP will brief NKHS on the situation. VSP will inform NKHS of the name(s) of the individual(s) that might be in crisis and their date of birth, if known; the current nature of the scene; the reason for the call; the address and location of the scene.
3. NKHS, if time allows, will search their database to identify whether the individual(s) involved are current or former NKHS clients. If the individual(s) are current NKHS client, efforts will be made to contact the individual(s)' case manager to assist in the situation. If NKHS has knowledge of the person in crisis, the clinician will evaluate what can be shared with responding Troopers. When the clinician is evaluating the information to be shared, they will consider the nature of the emergency/crisis situation as it relates to current privacy laws, and they will continue to evaluate the information to be shared as the situation develops. The information provided may aid in the safety for all involved including the individual in crisis, as well as impact the type of response. NKHS staff will NOT provide protected client information about a subject to VSP without the client's consent or a supervisor-approved exception to HIPAA and other privacy laws.
4. NKHS will design a therapeutic planned response. NKHS' plan will involve strategies to avoid uses of force, re-traumatization and dislocation from the community and reasonably accommodates an individual's known disability consistent with the ADA. VSP will provide feedback on the plan to ensure safety of all involved. NKHS and VSP will collaborate to determine the actions and actors that will be utilized, and how, to implement the planned response, subject to the aforementioned goals of the collaboration and the plan.
 - a. It is acknowledged that adequate planning and preparation is highly effective in preventing situations where force is necessary.
5. If the scene is deemed to be unsafe for the NKHS clinician to be physically present, the co-responders will assess whether they can wait to respond or if VSP can secure the area safely to allow for the NKHS clinician to respond safely. If the scene cannot be made secure and safe for the NKHS clinician, VSP will devise a planned response with

the advice of the NKHS Clinician to effectively respond to the individual in crisis and avoid uses of force (if possible) and provide the individual with appropriate treatment options. If the scene is not secure, the NKHS Clinician will be available by phone to communicate with the individual(s) in crisis to the extent possible and VSP will enable and encourage communication between the individual(s) in crisis and the NKHS clinician.

6. When the crisis situation is resolved, the NKHS clinician will communicate, when time permits, the steps/plans that were made with the person in crisis to the VSP Officer directly responsible for the case. Provision of this information is subject to HIPAA and other privacy laws, and consent from the individual can be sought to allow sharing of additional information between NKHS and VSP.
 - a. In situations where the NKHS Clinician was not available or not taking the lead at the scene with the individual, VSP will communicate, as time allows, the same information to NKHS and NKHS and VSP will collaborate on how to follow up with the individual(s) in crisis.

Non-crisis communication

A caller who is having mental health concerns or concerns about someone else and there are no immediate safety factors. If such a call is during hours of availability NKHS Crisis Services, VSP will connect the caller with NKHS Crisis Services. If it is during hours where NKHS Crisis Services are unavailable, VSP dispatch will refer the individual to NKHS Crisis Services

Conflicts of Opinion: Law enforcement will take lead on safety and mental health clinician will take lead on therapy and communication. But communication and planning will help avoid conflicts. (Note: Law enforcement will take lead on safety and mental health clinician will take lead on therapy and communication. But communication and planning will help avoid conflicts.)

If there is a disagreement about a clinical course of action (unrelated to safety concerns) NKHS will have the final decision. If the clinical course of action proposed creates safety concerns, VSP will advise on safety concerns and may alter the plan in order to maintain safety.

If there is a disagreement between the clinician and VSP regarding safety concern about the scene or transport, VSP at the scene will have the final decision. If necessary, supervisors from VSP and NKHS can also be accessed to assist in resolution.

To the extent possible, safety concerns and clinical decisions will be planned prior to initiating contact with individuals in crisis at the scene.

Initial or post scene issues and termination

The VSP Station Commander and the Team Leader of the NKHS Program will be made aware of problems or conflicts so that communication can be made for effective resolution between both organizations.

Either entity shall have the right to terminate the MOU. This is done by providing as much notice as possible to the other entity with consideration for the reason for termination of the MOU.

If the MOU is terminated by either entity, steps shall be taken to ensure that prior agreed upon commitments, or items in progress, will be fulfilled.

Review and evaluation It will be helpful to have a chance for the agencies and other stakeholders to meet periodically do assess and evaluate the program and discuss improvements.

There shall be a Review and Advisory Committee created that shall be comprised of NKHS, VSP, a representative from a peer-support mental health organization , and Disability Rights Vermont. The purpose of the Review and Advisory Committee will be to review and assess how the program is working and make suggestions for improving the program. The Committee will also amend and develop policies regarding the program as deemed necessary. The Committee will meet every three (3) months.

The Committee shall create a method of collecting quantitative and qualitative data to measure the effectiveness of the program and provide feedback on how to improve services. The Committee may collaborate with outside experts or universities on this effort, specifically to involve students who may work in related fields after graduation.

Training/Orientation

There will be an orientation among NKHS staff, including the NKHS clinician in this position, and VSP officers and dispatch. The orientation will be conducted jointly by NKHS and VSP. The orientation will be to educate NKHS and VSP about the goals and procedures of this program. Both organizations will be briefed on the policies and procedures of the other and plans will be made on how best to collaborate and serve the public.

The NKHS will receive training from VSP on how to assess safety concerns and remain safe in a crisis situation. VSP officers will receive training from the NKHS Clinician on how best to support the Clinician in deescalating situations and taking preventative actions to avoid uses of force.

NKHS will provide education to VSP on identifying and appropriately responding to people experiencing a mental health crisis.

Terms:

This Agreement shall be effective as of the date of the last signature by the parties hereto and will remain in effect until terminated by either party. This Agreement may be terminated at any time when either party provides 30 days written notice to the other. Any modification shall be made by agreement of the parties and shall be memorialized in writing. This Agreement may be terminated for cause immediately without written notice.

Authorization: The signing of this MOU is not a formal undertaking. It indicates that the signatories will strive to reach the stated objectives in the MOU, to the best of their ability.

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