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STATE OF VERMONT
GENERAL ASSEMBLY
JOINT LEGISLATIVE JUSTICE
OVERSIGHT COMMITTEE

September 1, 2016

Hal Cohen, Secretary, Agency of Human Services
Lisa Menard, Commissioner, Department of Corrections
Frank Reed, Commissioner, Department of Mental Health
Monica Hutt, Commissioner, Department of Disabilities, Aging, and Independent Living
Judge Brian Grearson, Chief Superior Judge, Office of the Chief Superior Judge
A.J. Ruben, Supervising Attorney, Disability Rights Vermont
Karen Richards, Executive Director, Vermont Human Rights Commission
Matthew Valerio, Defender General, Defender General's Office
Seth Lipschutz, Supervising Attorney, Prisoners' Rights Office
Dave Bellini, Chair, DOC VSEA Bargaining Unit, VSEA
John Campbell, Executive Director, Department of State's Attorneys & Sheriffs
Julie Tessler, Executive Director, Vermont Care Partners

[Addresses omitted]

Dear Sirs and Madams:

The Joint Legislative Justice Oversight Committee met on Friday, July 29, and discussed the use of administrative segregation for inmates and detainees with mental illness. Many of you were present at this meeting; this letter is to follow up on that group discussion. It is the intent of the Justice Oversight Committee to establish a "Commission on Offenders with Mental Illness" to address the acute and complex set of issues arising from treating and housing offenders with mental illness within the correctional system. As you know, in March of this year the VT Human Rights Commission found there to be reasonable grounds to believe the Department of Corrections illegally discriminated against a complainant on the basis of his disability in violation of Vermont's Fair Housing and Public Accommodation Act. In accordance with 9 V.S.A. § 4554(e), the Commission must bring an action in Superior Court or dismiss the

proceedings within six months “if the case is not disposed of by informal means in a manner satisfactory to a majority of the Commission.” To avoid a federal court order mandating the state to address issues related to incarcerated inmates with mental illness, the Justice Oversight Committee urges the recipients of this letter or their designees to be a part of this Commission and its work. The Commission shall be specifically tasked with:

1. Gathering information regarding the incarcerated population with mental illness and other conditions that may require specialized intervention, including:
 - What percentage of Vermont’s incarcerated population has a mental illness? What percentage of those with a mental illness have a serious persistent mental illness? What percentage has a severe developmental disability? What percentage has a traumatic brain injury? What percentage has a mental illness, severe developmental disability, or traumatic brain injury with a co-occurring disorder, such as a substance abuse disorder?
 - What percentage of inmates with a mental illness, severe developmental disability, or traumatic brain injury have spent any length of time in segregation? What is the average length of stay in segregation for inmates identified as having a mental illness, developmental disability, or traumatic brain injury? How is their mental and physical health monitored? How and when are decisions made about returning the person to the general prison population?
 - What steps are taken to prepare people with mental illnesses (and any co-occurring disorders) for release from prison? How does their experience in segregation inform access to prison-based treatment, release decisions, conditions of release, and connections to community-based systems of care and housing?
2. Identifying how to divert more people with mental illnesses, severe developmental disabilities, and traumatic brain injuries away from the correctional system in a manner that is consistent with public safety, ensures appropriate community supports to the offender, and will reduce admissions to correctional facilities.
3. Identifying how to shorten the length of stay for people with mental illnesses, severe developmental disabilities, and traumatic brain injuries once incarcerated, while also providing sufficient reentry planning and reducing recidivism.
4. Identifying how best to finance the housing and treatment of offenders with mental illnesses, severe developmental disabilities, and traumatic brain injuries, including:
 - identifying the cost of employing and training staff of mental health care providers; and

- identifying initial start-up costs and increase in annual budget.
5. Developing best practices for identifying and meeting the needs of Vermonters with mental illnesses, severe developmental disabilities, and traumatic brain injuries who are incarcerated or detained in the correctional system.
 6. Considering whether and how to amend “serious functional impairment” and “mental condition or psychiatric disability or disorder” as defined in subdivisions 906(1) and 906(3) of Title 28, respectively.

The Justice Oversight Committee would like to hear a preliminary report on the findings made by the Commission by November 15, 2016.

Sincerely,

Richard Sears, Chair

Alice Emmons, Vice-Chair