

VERMONT LEGAL AID, INC.

POVERTY LAW PROJECT

264 NORTH WINOOSKI AVE.
BURLINGTON, VERMONT 05401
(802) 863-5620 (VOICE AND TTY)
FAX (802) 863-7152
(800) 747-5022

OFFICES:

BURLINGTON
RUTLAND
ST. JOHNSBURY

OFFICES:

MONTPELIER
SPRINGFIELD

VERMONT POVERTY LAW FELLOWSHIP

Mental Health and Housing

FIRST QUARTER REPORT

September 17, 2018 –December 31, 2018

I. Introduction

Jill's fellowship focuses on housing-related problems experienced by low-income clients with mental health concerns, ranging from eviction and access to subsidized housing, to the lack of supportive services that enable people to remain successfully housed, to reentry challenges related to housing.

Building on the experience of the previous fellows, Jill began her fellowship by speaking with a wide range of organizations and individuals involved at the intersection of mental health and housing, hearing their concerns and recommendations for change, and seeking suggestions for others she should contact. She also began representing individuals with legal problems which might become the focus of the fellowship. This approach—expanding contacts with stakeholders, exploring different legal problems and how best to solve them, and refining her understanding of the impact of mental health on the housing issues Vermonters face—will continue for the next few quarters. At that point, Jill will plan to identify one or more areas where the fellowship can have a sustained impact.

During the first quarter, approximately 25% of Jill's time was spent on individual client casework; approximately 25% of her time was spent on policy research and attending trainings; and approximately 50% of her time was spent communicating and meeting with stakeholders and partner agencies.

II. Community Consultations and Research

Focus Areas:

Legal Advocates Addressing Mental Health- and Housing-related Reentry

Jill has met or consulted with stakeholders at:

- Disability Rights Vermont (Statewide);
- Prisoner's Rights Office and Appellate Defenders at the Office of the Defender General (Statewide);

- ACLU Vermont (Statewide);
- Vermonters for Criminal Justice Reform (Statewide/Chittenden County);
- Each of Vermont Legal Aid's practice groups as well as colleagues at Legal Services Vermont (formerly Legal Services Law Line).

Affordable Housing and Supportive Services

Jill has met or consulted with stakeholders at:

- Burlington Housing Authority Housing Retention Team (Chittenden);
- Lund Vermont Residential Treatment (Chittenden);
- Homelessness Prevention Center (Rutland);
- Committee on Temporary Shelter (Chittenden);
- Mercy Connections (Chittenden);
- Vermont State Housing Authority (Statewide);
- NEK Community Action (Caledonia).

Hospital-based Mental Health System

Jill has met or consulted with stakeholders at:

- Vermont Psychiatric Survivors (Rutland);
- Brattleboro Retreat (Statewide/Windham);
- UVM Health Network (Chittenden).

Community-based Mental Health System

Jill has met or consulted with stakeholders at:

- Howard Center (Chittenden);
- National Alliance on Mental Illness Vermont (Statewide);
- Forensic Consultation and Counselling Services (Rutland);
- [scheduled] Washington County Mental Health (Washington);
- Rep. Anne Donahue, author of *Counterpoint* (Rutland).

Governments and the Judiciary

Jill has met with or consulted with stakeholders at:

- Judge Hoar and Laurie Canty re: the Rutland Title 18 Docket (Rutland);
- Judge Griffin, Kim Owens, Stephen VonSitas, Kiley Dixon re: the Treatment Dockets (Statewide/Chittenden);
- Human Rights Commission (Statewide);
- Secretariat of the Vermont Legislature (Statewide);
- Burlington Community Justice Center (Chittenden);
- Burlington Community Economic Development Office (Chittenden).

Participation in Trainings and Events

Housing

Jill gave an overview of her fellowship work at the HUD continuum of care for Chittenden County (the Chittenden County Homeless Alliance), attended by leaders of local city/state/federal/nonprofit housing and mental health providers and community action agencies. She also attended the HUD continuum of care for the balance of the state (the Vermont Coalition to End Homelessness), and led a focus group discussion at the local HUD continuum of care for Windsor and Windham counties in Brattleboro. She attended trainings and participated in stakeholder networking at the biennial Vermont Affordable Housing Conference hosted in Burlington. She also co-tabled at the Here to Help monthly community lunch for people experiencing homelessness, hosted by UVM Larner College of Medicine students.

Mental Health

Jill attended a community lunch with Howard Center staff hosted by Mercy Connections in Chittenden County. She also represented the fellowship and Vermont Legal Aid at the UVM Health Network community leader breakfast on mental health, connecting with providers and legislators following the presentation.

Judiciary

Jill observed Treatment Court docket proceedings in Chittenden County and connected with Judge Griffin, court staff, and the Howard Center providers who staff the Mental Health and Substance Use Disorder tracks.

III. Legal Assistance & Representation

Statistics

During the first quarter, Jill worked as counsel or co-counsel on 14 cases in which she provided advice, advocacy, and representation, all but one of which were opened this quarter.

Issue	No. of 1st Qtr Cases
Eviction – Private Housing	2
Eviction/Denial – Subsidized Housing	6
Benefits/Denial – Community Mental Health Services	1
Fair Housing Rights (non-eviction cases)	1
Rent Escrow/Tenant attorney-for-a-day program	4
Total	14

County	No. of 1st Qtr Cases
ADDISON	0
BENNINGTON	0
CALEDONIA	1
CHITTENDEN	6
ESSEX	0
FRANKLIN	0
GRAND ISLE	0
LAMOILLE	0
ORANGE	0
ORLEANS	0
RUTLAND	1
WASHINGTON	5
WINDHAM	0
WINDSOR	1
Total	14

Case Snapshot

Robert (pseudonym), age 56, is a person with co-occurring mental illness and substance use disorder who sought legal help from Vermont Legal Aid to save his subsidized tenancy. At issue was Robert’s challenge with maintaining hygiene, which is symptomatic of his mental health disabilities. Under fair housing laws, we believe he should be entitled to an augmented mental health treatment plan which could give Robert a second chance at becoming lease-compliant and preserving the first home he’s had in 20 years. Robert had some supports in place, but wanted access to Community Rehabilitation and Treatment (CRT), the most intensive-available, Medicaid-supported, community-setting mental health service in Vermont.

Robert had applied for such services at the state’s local designated agency before, between times spent addressing acute crises at the Brattleboro Retreat. He applied again in late 2018 after his current tenancy came under threat. Again he was denied for being too highly functional. This determination was made after only a brief telephone interview during which the designated agency asked him very vague and general questions such as, “How is your housing?” This summary denial raised serious due process concerns, including about the right for the opportunity to be heard. Jill was able to identify that the denial raised concerns over whether Robert and other similarly situated CRT applicants have full and meaningful access to their rights to an initial eligibility screening, an internal agency review hearing, and a Fair Hearing before the Human Services Board, pursuant the Health Care Administrative Rules for Vermont Medicaid-funded services.

Jill researched program rules, investigated Robert’s health and housing history, prepared evidence and briefing, prepared for the Fair Hearing, and advocated at the internal designated agency review hearing. In the course of the representation, she learned that in the past year alone, Robert had survived five psychiatric hospitalizations, a conviction and transit ban for trespassing

on the bus, and relapse. This all started in late 2017 at his granddaughter's baptism, where he saw his ex-spouse - whom he divorced 20 years ago, triggering his first mental health crisis.

Robert's review hearing before the designated agency proceeded more like an initial intake interview than a review, and again featured general questions such as, "How is your housing," to which Robert simply replied, "Fine." Perhaps it appeared this way, given his perspective of having previously experienced homelessness. Jill interjected to give Robert the chance to explain the actual circumstances, that rather than being "fine" he was currently facing eviction, and that the severity of his depression prevents him from maintaining his personal hygiene.

Neither Vermont Legal Aid, nor Disability Rights Vermont, have had the capacity to represent low-income Vermonters on these kinds of mental health service denial cases. But in this case, as a result of Jill's advocacy, Robert's appeal was granted and he was enrolled in CRT. He is now in recovery, and is working closely with a mental health practitioner to make his apartment a healthier and more sustainable place to live. With his eviction risk mitigated, his daughter reflects that he's the calmest and most clear-headed she's seen in a year. Jill is now exploring whether the trespassing conviction Robert received last year during his mental health crisis can be vacated, so Robert can regain access to public transit and affordably reach his supportive services appointments. Anecdotally, public transit bans are a common collateral consequence of mental illness-related convictions.

Mental health service denial appeals are just one of the many legal strategies Jill is exploring as she researches and works with partners to develop a bigger project on which to focus her fellowship.

IV. Conclusions

Takeaways from this quarter

Jill sees common themes emerging in her eviction defense case work, affirmative housing discrimination case work, mental health service eligibility case work, stakeholder consultations, and trainings.

Promoting access to non-hospital-based mental health services and supportive housing services creates the best outcomes for individuals with mental illness and for communities at large. It comports with the Americans with Disabilities Act's "integration mandate" requiring public entities to administer services to individuals with disabilities in the most integrated setting appropriate to their needs. That said, there is a recognized shortage in the availability of such services in Vermont, which may be contributing to the increase in Vermonters presenting at medical emergency departments for acute mental health crisis care.

Institutional biases against people with mental illness with co-occurring substance use disorder, and against people with conviction and eviction histories, restrict access to community-based mental health services, supportive housing services, and emergency medical care. People coming out of corrections or involuntary confinement have compounded barriers to getting and staying healthy and housed, including limited to no means to meaningfully search for and secure housing

from institutional settings, and limited to no means to meaningfully grieve the housing requirements imposed in order to be deemed eligible for release.

Anticipated work for next quarter

Jill began learning about the mental health and housing landscape by providing eviction defense representation for people with mental health disabilities, and is now expanding her practice to explore other legal issues which underlie Vermonters' housing problems. She'll continue working with key stakeholders, including meetings with *Housing First* provider Pathways Vermont, designated agency leaders around the state, long term care providers, and recommended contacts in relevant government agencies (including Mental Health and Corrections) to hear what issues they would recommend Jill brings into focus over the course of her fellowship.

Jill plans to co-counsel a few cases with the Mental Health Law Project for people facing involuntary commitment who are simultaneously facing eviction, and or for people being institutionalized beyond the period that was initially medically advised due to lack of housing. She plans to draw from these experiences ideas on how to improve referral pathways between psychiatric facilities around the state and legal service providers. She will investigate the potential benefit of hosting regular legal clinic hours at one or more of these facilities, at which she could provide screening and brief consultations on civil matters commonly faced by people with mental illness in contact with the legal system (e.g., housing, benefits, and expungements).

Jill also plans to work with Disability Rights Vermont and Legal Services Vermont (formerly Law Line) to set up regular referral pathways for more CRT eligibility appeals around the state. She is also reaching out to the Prisoner's Rights Office to co-counsel Department of Corrections grievances for individuals incarcerated beyond minimum sentences for reasons related to their lack of access to housing, mental health care, and housing search supports.

She is also investigating reports from southeast Vermont that there is a significant need for representation in SSI/SSDI eligibility Fair Hearing Appeals for people with mental health disabilities. If warranted, she may take on a few of these cases to assess how best to meet the level of need identified. She also plans to explore the issue of mental illness-related transit bans as a barrier preventing poor and low income Vermonters' access to health and housing supportive services.