

Protocols for Evaluating Less Restrictive Placements and Supports For People with Intellectual / Developmental Disabilities Who Pose a Risk to Public Safety

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Purpose

Vermont supervises and supports people with intellectual/developmental disabilities who pose a risk to public safety, through its home and community based support services system. Services are intended to provide a structured, therapeutic environment for people in order for them to live safely and successfully in the community while minimizing their risk to public safety.

These protocols establish guidelines for Developmental Disabilities Service Agencies to follow when evaluating less restrictive supervision and placements for people with intellectual/developmental disabilities who pose a risk to public safety. The intent is to move people towards greater independence consistent with their needs and the needs of public safety.

Protocols

- 1.** For people receiving approved Public Safety Funding from the Department of Disabilities, Aging and Independent Living / Developmental Disabilities Services Division (DAIL/DDSD), the Developmental Disabilities Services Agency (Agency) will provide DAIL/DDSD with the information necessary to conduct Public Safety Risk Assessments (PSRA). This will include, but is not limited to: information about a person's offending history, victim profile, severity of offenses, current level of functioning, and participation in treatment. This information will be provided to DAIL using the specified PSRA worksheets and additional documents significant to the risk assessment process (i.e. psychological and/or psychosexual evaluations, affidavits, juvenile records, etc). In this first step, the Agency will submit the completed PSRA worksheets to the DDSD Public Safety Specialist within 90 days of the person being approved for public safety funding or placement on Act 248 if new funding is not being sought.
- 2.** The DDSD Public Safety Specialist will complete a DAIL PSRA in consultation with a person with an advanced degree in a mental health discipline, who is licensed or certified to practice in the State of Vermont with expertise in evaluating sexual/violent risk in a person with intellectual/developmental disabilities. This process will include fact verification by the information providing agency via a draft review to address ethical concerns regarding risk assessment standards and practice. This step should occur within 90 days of receiving the PSRA information/worksheets.
- 3.** A final copy of the completed PSRA will be forwarded to the Agency for their support provision use and the original will be retained by DAIL in paper and/or electronic form.
- 4.** Each person who poses a public safety risk will have a support team consisting of: an agency service coordinator, therapist (as clinically necessary), guardian (if appointed), psychiatrist (if engaged), DAIL Commissioner's representative (if person is under Act 248), and others as deemed appropriate. Whenever possible, conflicts regarding the structure and therapeutic supports for a person who poses a risk to public

safety should be resolved through consensus of the team. If consensus is not achieved the support team will choose a mutually agreed upon mediator (such as an agency staff member, public guardian, or other mutually chosen decider) to assist in prompt resolution of the barriers to consensus, if possible. If plan consensus cannot be achieved the individual, involved guardian(s) and agency will use the DAIL *Behavior Support Guidelines; For Support Workers Paid With Developmental Services Funds*, October, 2004, page 17, as a guide. This information can be found at:

http://ddsd.vermont.gov/sites/ddsd/files/documents/Behavior_Support_Guidelines10%272004.pdf

5. When a person receives approved public safety funding, they and their team must complete a comprehensive behavior support and/or community safety plan (CBSP/CSP), per the DAIL *Behavior Support Guidelines; For Support Workers Paid With Developmental Services Funds*, October, 2004. http://ddsd.vermont.gov/sites/ddsd/files/documents/Behavior_Support_Guidelines10%272004.pdf If an individual has a court order or corrections supervision restrictions, those conditions need to be reflected in the person's planning as appropriate. Initial plans must accompany the initial waiver eligibility packet forwarded to the Division at one month. Initial plans will be a basic plan, and a more robust person centered plan must be submitted to the DDS Public Safety Specialist for review after 6 months.
6. At least annually (at the time of a person's annual periodic review is a suggested time), the person's support team will complete the *Annual Evaluation of Less Restrictive Placement for People Receiving Support who Pose a Public Safety Risk* to reassess and re-determine the least restrictive supervision and placement for the person. They should take into account the DAIL Public Safety Risk Assessment, a structured assessment tool approved by DAIL (e.g., Sex Offender Treatment Intervention and Progress Scale (SOTIPS), etc.) and the following information:
 - a. Does the person continue to present a public safety risk with current supports?
 - b. Does the person continue to present a public safety risk if supports were reduced or removed?
 - c. Have there been any attempts to decrease the person's supervision in the past? If so, how did it go?
 - d. Are there other factors that relate to the person's need for specialized developmental disabilities services, such as medical, mental health, or developmental needs?
 - e. Does the person have an elopement history from any settings? If so, please explain.
 - f. What has been the time period since the person's last incident of inappropriate sexual and/or violent behavior?
 - g. Is the person's opportunity to reoffend changed based on proximity to victims?
 - h. What are the potential risks for the person associated with less restrictive supervision or placement-who, what and where?
 - i. Has there been an increase in the person's risk manageability? Please explain.
 - j. What would indicate that the person's risk is increasing in this new situation or placement?
 - k. What training for staff and the person would be needed to step down restrictive placement?
 - l. Does everyone agree with the proposed change(s)? (See 4. above)
 - m. Is there a current written plan for less restrictive supervision/ placement?
 - n. Was the existing plan modified based on this annual review?

(See the Addendum to this protocol. <http://ddsd.vermont.gov/sites/ddsd/files/documents/less-restrictive.pdf>)

The treatment team will complete a structured assessment tool (e.g. SOTIPS) and may request the assistance of the DDS Public Safety Specialist in reassessing and re-determining the least restrictive supervision and placement for the person. Training on the SOTIPS and VOTIPS tools for Agencies' staff will be provided through DAIL.

7. The following examples of less restrictive supervision and placements should be considered during the annual assessment and for future program planning goals:
 - a. Electronic technology (e.g., Care Trak Bracelets, alarms and motion detectors)
 - b. Covert supervision

- c. Reducing staff supervision
 - i. Number of staff
 - ii. “Eyes-On” versus arm’s length supervision
 - iii. Unsupervised time at home or in the community
 - d. Increased independent living situations
 - iv. Mother-in-law apartments
 - v. Contracted roommates
- 8.** The support team will develop a written plan outlining the steps for a person to move to less restrictive supervision and a placement when appropriate. This shall be incorporated into the CBSP/CSP.
- 9.** When requested by DAIL/DDSD, agencies must provide documentation of completed annual reviews within 10 business days of a request, unless otherwise negotiated by the agency with DAIL. Specific treatment intervention progress scale reports (SOTIPS, etc.) are not required to be submitted to the Division, but must be maintained in the agency file and made available upon request.
- 10.** To assure that the DAIL PSRAs remain relevant, they will be updated every 5 years. DAIL will initiate the process by requesting agencies to review the PSRA for the people they serve and inform DAIL of any changes (e.g., new incidents of sexual offenses or inappropriate sexual behavior, violent behavior, or risk factors). If indicated, the DAIL Public Safety Specialist and a contracted expert will re-score the appropriate risk assessment instrument (e.g., VASOR-2 or VRAG) and update the DAIL PSRA. Revised assessments will be returned to the agency and retained by DAIL, as is the current procedure.
- 11.** DAIL will continue to maintain a Public Safety Group list of individuals who have received State System of Care Plan (SSOCP) public safety priority funding, have been placed on Act 248 and/or have been nominated by their respective service agencies to have behaviors which pose a risk to the safety of the public. Agencies can access information on this list through members of the DAIL/DDSD team. The persons on this list will require a less restrictive evaluation at least annually. (See **6.** above)
- 12.** Agencies may request that a person be removed from the Public Safety Group list through the following steps:
- a. The Agency will notify the DDSD Public Safety Specialist or appropriate DDSD team member that the Agency would like to have the person removed from the list because the Agency believes that the person no longer poses a significant public safety risk. Additionally, there may be times when members of the Division request that an Agency consider making the request to remove a person as well. If the Agency concurs, they will request a removal review.
 - b. The Division will then review the previous 5 years for critical incident reports, media stories, PSRA’s, etc. to determine if there is evidence to support removing the individual from the list.
 - c. If the Division concurs that the person has reduced their risk to the public in such a manner as to no longer pose a significant risk, the DDSD Public Safety Specialist will notify the respective Agency DS Director and make a note in the current Public Safety Group list of when the person was removed.
 - d. If the Division does not concur, then the DDSD Public Safety Specialist will report this finding to the respective Agency DS Director and cite the concerning evidence. This person will not be removed from the list.
 - e. Agencies are encouraged to make such removal requests at least 1 month prior to the person’s annual evaluation due date, so that the Division may have appropriate time to investigate and return a decision.

Please contact the DAIL/DDSD Public Safety Specialist or members of the DDSD team with any questions.