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OFFICE@MENTALILLNESSPOLICY.ORG MENTALILLNESSPOLICY.ORG

Fact sheet: Assisted Outpatient Treatment Helps Persons of Color

"If PAIMI believes AOT is not applied in a racially neutral manner why have they never brought a suit to correct the disparity? The answer is, that the disparity does not exist." – Advocate for the seriously ill.

Summary: AOT offers multiple benefits to recipients, without negatives, and reduces police interactions. Independent research proves it is being applied in a racially neutral manner.

Background:

1. Independent research on Assisted Outpatient Treatment (AOT) shows that it is applied in a racially neutral manner.
2. Numerous studies show AOT results in lower rates of arrest, incarceration and interactions with police for all who are in the program.
3. As a result, AOT was endorsed by the Harlem Alliance on Mental Illness. Many of that groups members are enrolled in AOT.
4. AOT was also found to be racially neutral by New York's leading expert on AOT who is also a practicing African American psychiatrist with an expertise in multicultural issues.

Nonetheless, the trade association for Protection and Advocacy (P&A, PAIMI), the National Disability Rights Network (NDRN) is asserting that AOT is not applied in a racially neutral manner and that AOT increases, rather than decreases arrest, incarceration and police interactions. PAIMI persuaded several other organizations to sign on to their letter. **In spite of their claim that AOT violates the rights of people of color, PAIMI has never brought a suit to address the alleged disparity.** The claim is only raised by them when they want to stop legislation that would negatively affect PAIMI from passing.

This paper will show (a) AOT reduces police interactions and has other benefits, (b) is one of the only treatment programs ever to receive independent research showing no racial disparities, and (c) As such it has support from African Americans involved in administering the AOT program and African American families who have loved ones in the program.

A. Independent research shows AOT reduces police interactions for everyone in it.

The research on the efficacy of AOT is overwhelmingly positive and consistent in every jurisdiction that has used it including OH, NJ, NC, IA, AZ, CA, NY and others.[1] Almost no negatives have been reported. However, it is true that AOT somewhat diminishes the ability of programs to cherry-pick the highest functioning for admission. This accounts for the concern expressed by some within the mental health industry.

After formal review of the nationwide research, AOT was declared an "Evidence Based Practice" by SAMHSA[2], an "Effective Crime Prevention Program" by the Department of Justice[3]; and HHS's Agency for Healthcare Research and Quality said AOT "lead(s) to … a reduction in arrests and violent behavior."[4] After reviewing the nationwide research, AOT was endorsed by the National Alliance on Mental Illness.[5] The National Sheriff's Association,[6] and International Association of Chiefs of Police[7] have also endorsed AOT specifically because it reduces interactions with criminal justice. AOT provisions apply to a very small group. It is only available to those with serious mental illness who already accumulated multiple episodes of arrest, incarceration, hospitalization and

homeless due refusal or inability to comply with treatment that was offered to them. This group needs help the most. Many are in the public system. Raising the specter of racism to prevent them from receiving the care they need is disingenuous at best:

- In **Nevada County, California** The number of days incarcerated decreased 65.1%, number of days homeless decreased 61.9%; number of emergency interventions decreased 44.1%; number of days hospitalized decreased 46.7%;. "Receiving services under Laura's Law caused a reduction in *actual* hospital costs of $213,300 and a reduction in *actual* incarceration costs of $75,600[8] This is consistent with other research in that county.[9]
- In **Los Angeles, California,** AOT reduced incarceration 78%; reduced hospitalization 86%; and reduced hospitalization 77% even after discharge. It cut taxpayer costs 40%.[10]
- **Arizona** research found "71% [of AOT patients] . . . voluntarily maintained treatment contacts six months after their orders expired" compared with "almost no patients" who were not court-ordered to outpatient treatment."[11]
- **Iowa** researchers found "it appears as though outpatient commitment promotes treatment compliance in about 80% of patients… After commitment is terminated, about 3/4 of that group remain in treatment on a voluntary basis."[12]
- The **New Jersey** Violence Commission just reported, " "Outpatient commitment has proven to be a valuable tool in treating mental illness in the community and reducing inpatient hospitalization."[13]
- In **North Carolina**, AOT reduced the percentage of persons refusing medications to 30%, compared to 66% of patients not under AOT.[14]
- **Ohio** found "During the first 12 months of outpatient commitment, patients experienced significant reductions in visits to the psychiatric emergency service, hospital admissions, and lengths of stay compared with the 12 months before commitment."[15]

Research in NY found.[16]

- AOT in NY reduces arrest and incarceration in the 70-80% range. [17, 18]
- AOT in NY reduces homelessness, hospitalization.[19]
- 81% of people in AOT in NY say AOT helped them get well and stay well. The research shows far from driving people from care, or causing stigma, consumers in AOT perceived less stigma than those who were not.[20]
- AOT in NY reduces suicidal behavior.[21]
- AOT in NY reduces the cost to taxpayers by 60% in rural areas and 50% in urban by replacing the use of expensive jails and hospitals with community services.[22]
- The savings generated by AOT allow states to expand their mental health services which benefits everyone.[23]

(B) Independent, peer-reviewed research found that AOT is applied in a racially neutral manner

The claim of lack of racial neutrality was used twice by PAIMI. The first time dates back to when the New York PAIMI program (NY Lawyers in the Public Interest) wanted to stop New York from making AOT (Kendra's Law) permanent. They used their PAIMI funds to create a faux internal study purporting to suggest that Kendra's Law was not being applied in a racially neutral matter.[24] They widely distributed the study and some, including the ACLU relied on it in their testimony. PAIMI now uses the ACLU testimony to support their own contentions. The NYS legislature was appropriately concerned about the claim, so spent taxpayer money for a peer reviewed independent study, "Racial Disparities In Involuntary Outpatient Commitment: Are They Real?" [25] The independent study found "no evidence of racial bias" and readily identified the statistical tricks used in the PAIMI-funded faux study.[26] Nonetheless, nationwide PAIMIs still use faux-study to convince legislators to oppose AOT, while hiding the fact, an independent study exists that was published in a peer review publication that proved the internally generated faux study false.[27] That alone is a reason to rein PAIMI in. The independent study declared:

- "We find no evidence that the AOT Program is disproportionately selecting African Americans for court orders, nor is there evidence of a disproportionate effect on other minority populations. Our interviews with key stakeholders across the state corroborate these findings."
- "Parallel analyses for Hispanics and other minority populations show this same pattern and no appreciable racial disparities are evident in selection of these groups for AOT."

- "Defining the target population as public-system clients with multiple hospitalizations, the rate of application to white and black clients approaches parity."

Recent, publicly available demographic data further confirms AOT is continuing to be applied in a racially neutral manner roughly consistent with the *number of people of color living in the counties who are using public sector services*. Following are the most recent statistics. (Source: NYS OMH Racial Demographics, Oct. 2015.) [28]

Region	White	Black	Hispanic	Asian	Other
Central	94%	2%	4%		1%
Hudson River	84%	6%	10%	0%	0%
Long Island	79%	11%	10%	0%	
NYC	32%	25%	41%	2%	0%
Western	80%	13%	6%		0%
Statewide	**49%**	**19%**	**30%**	**1%**	**0%**

(C) African Americans involved in administering the AOT program and African American families who have loved ones in the program, support AOT.

The Harlem Chapter of the National Alliance on Mental Illness (NAMI/Harlem), made up almost entirely of African Americans, wrote to Representatives Tim Murphy, Eddie Bernice Johnson, G.K. Butterfield, and Charlie Rangel urging the AOT provisions of HR2646 be included in any final legislation.

> "AOT dramatically reduces homelessness, arrest, hospitalization and incarceration of the seriously ill. A 2009 study found it is one of the few community programs that does not discriminate based on race. **Our members in the New York version of AOT (Kendra's Law) receive case management, housing, medication maintenance and other important services they would otherwise not be able to avail themselves of.**" (NAMI/Harlem)[29]

Dr. Stephanie Le Melle is perhaps the leading authority on the impact of Kendra's Law on minority communities. She is the Co-Director of Public Psychiatry Education at New York State Psychiatric Institute. She has been a member of the Mac Arthur Foundation's Network on Mandated Community Treatment, is a senior AOT administrator and is Vice President of the American Association of Community Psychiatrists. She is a psychiatrist and African American New Yorker intimately familiar with Kendra's Law. She told a SAMHSA forum that any racial bias within the mental health system--of which there may be a lot--is not taking place within the Kendra's Law program.[30]

The anti-treatment activities of PAIMI were studiously documented in "Lawyers Who Break the Law: What Congress Can Do to Prevent Mental Health Patient Advocates from Violating Federal Legislation" published in the *Oregon Law Review*.[31] SAMHSA's 2011 investigation of PAIMI found PAIMI has a long history of using federal funds to mislead legislators on AOT:[32]

- "collaborat[ing] with…a consumer advocacy organization to block passage of a proposed expansion of an outpatient commitment law."
- "PAIMIs reported joining other advocates in activities such as: Ad hoc partnerships focused on specific issues (e.g., opposing outpatient commitment)."
- "At the state level, PAIMIs have been involved in systemic issues including outpatient civil commitment."
- "A number of PAIMIs worked to prevent the enactment of state laws creating outpatient commitment

systems."

Conclusion: AOT offers multiple benefits to recipients, without negatives, and reduces police interactions. There is no evidence of it being applied other than in a racially neutral manner.

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[1] Research on AOT also available at http://mentalillnesspolicy.org/national-studies/aotworks.pdf

[2] SAMHSA National Registry of Evidence based Practices and Programs (NREPP) 2015

[3] Department of Justice. "Crime solutions: assisted outpatient treatment." Crime Solutions.gov. 2012.

[4] Agency for Healthcare Research and Quality U.S. Department of Health and Human Services Management Strategies To Reduce Psychiatric Readmissions May 2015

[5] NAMI Policy on Involuntary and Court Ordered Treatment (1995)

[6] National Sheriff's Association endorsement at http://mentalillnesspolicy.org/crimjust/National-Sheriffs-Association.html

[7] IACP 2014 endorsement at http://mentalillnesspolicy.org/crimjust/iacpadoptsaot.pdf

[8] Michael Heggarty, Behavioral Health Director, Nevada County. "The Nevada County Experience," Nov. 15, 2011).

[9] "Laura's Law has provided life-saving services to individuals suffering from mental illness and kept many from the trauma and brain damage associated with involuntary commitments to mental health facilities under W & I Code, Section 5150, and the jail commits and tragedies associated with untreated mental health crisis." Source: Thomas M. Anderson, Presiding Judge of the Superior Court California, County of Nevada, Letter to Bill Campbell, Chair of Orange County Board of Supervisors, September 28, 1911

[10] County of Los Angeles. "Outpatient Treatment Program Outcomes Report" April 1, 2010 – December 31, 2010. And Michael D. Antonovich, Los Angeles County Fifth District Supervisor, Los Angeles Daily News, December 12, 2011.

[11] Robert Van Putten, Jose Santiago, Michael Berren. "Involuntary outpatient commitment in Arizona: a retrospective study." Hospital and Community Psychiatry 39, no. 9 (1988): 953–958.

[12] Barbara Rohland. "The role of outpatient commitment in the management of persons with schizophrenia." Iowa Consortium for Mental Health Services, Training and Research, 1998.

[13] Report on the Study Commission on Violence, October 2015. The legislatively mandated report is at http://mentalillnesspolicy.org/states/newjersey/commission-on-violence-endorses-AOT.pdf

[14] Virginia Hiday, and Teresa Scheid-Cook. "The North Carolina experience with outpatient commitment: a critical appraisal." International Journal of Law and Psychiatry 10, no. 3 (1987): 215–232.

[15] Mark Munetz, Thomas Grande, Jeffrey Kleist, Gregory Peterson. "The effectiveness of outpatient civil commitment." Psychiatric Services 47, no. 11 (1996): 1251–1253.

[16] Summary of Kendra's Law research available at http://mentalillnesspolicy.org/kendras-law/research/kendras-law-studies.html

[17] Bruce G. Link, et al. Ph.D. Arrest Outcomes Associated With Outpatient Commitment in New York State Psychiatric Services May 2011

[18] New York State Office of Mental Health. Kendra's Law: Final Report on the Status of Assisted Outpatient Treatment. Report to Legislature, Albany: New York State, 2005, 60.

[19] Marvin Swartz, Christine Wilder, Jeffrey Swanson, Richard Van Dorn, Pamela Clark Robbins, Henry Steadman, Lorna Moser, Allison Gilbert, John Monahan. "Assessing outcomes for consumers in New York's assisted outpatient treatment program." Psychiatric Services 61, no. 10 (2010): 976–981.

[20] "Effectiveness and outcomes of assisted outpatient treatment in New York State." Jo Phelan, Marilyn Sinkewicz, Dorothy Castille, Steven Huz, Bruce Link. Psychiatric Services 61, no. 2 (2010): 137–143.

[21] "Effectiveness and outcomes of assisted outpatient treatment in New York State." Jo Phelan, Marilyn Sinkewicz, Dorothy Castille, Steven Huz, Bruce Link. *Psychiatric Services* 61, no. 2 (2010): 137–143.

[22] "The cost of assisted outpatient treatment: can it save states money?" Jeffrey Swanson, Richard Van Dorn, Marvin Swartz, Pamela Clark Robbins, Henry Steadman, Thomas McGuire, John Monahan. American Journal of Psychiatry 170 (2013): 1423–1432.

[23] Robbing Peter to Pay Paul: Did New York State's Outpatient Commitment Program Crowd Out Voluntary Service Recipients? Jeffrey Swanson, et al. Psychiatric Services, October 2010

[24] A recounting of the efforts is described at http://mentalillnesspolicy.org/kendras-law/research/no-racial-disparities-kendras-law.html

[25] "Racial Disparities In Involuntary Outpatient Commitment: Are They Real?" Jeffrey Swanson, Marvin Swartz, Richard A. Van Dorn, John Monahan, Thomas G. McGuire, Henry J. Steadman, and Pamela Clark Robbins. Published in Health Affairs, Vol 28. Issue 3. Page 816. Available at http://mentalillnesspolicy.org/kendras-law/research/no-racial-disparities-kendras-law.pdf

[26] Basically, PAIMI compared the racial makeup of NYC AOT enrollees, where AOT is used and where there is a robust African American community, with the racial makeup of citizens in the rest of the state, where AOT was not used at the time and the penetration of African Americans is less. They also failed to take into consideration who was using public services. This was intentional as the purpose of the report was to stop NY from making the program permanent.

[27] See letter from Democrat members of Congress to Chair and Ranking Member of House and Energy and Commerce Committee, 10/23/15 based on information provided by PAIMI and SAMHSA funded groups. Available at http://matsui.house.gov/uploads/Mental%20Health%20Letter%20to%20Upton%20and%20Pallone%2010.23.15.pdf

[28] The NYS Office of Mental Health data on success of AOT includes data on racial background of participants. It is available at http://bi.omh.ny.gov/aot/characteristics?p=demographics-race

[29] NAMI Harlem Letter of Endorsement available at http://murphy.house.gov/uploads/HarlemAMIEndorse2-1%20%282%29.pdf

[30] Forum took place December 2, 2013 at SAMHSA headquarters. SAMHSA has removed the recording from their website. http://services.choruscall.com/dataconf/productusers/samhsa/mediaframe/7394/indexr.html

[31] *Oregon Law Review* article available at http://mentalillnesspolicy.org/myths/mental-health-bar.pdf

[32] SAMHSA found problems at PAIMI which it oversees, but refuses to correct them. http://mentalillnesspolicy.org/myths/paimifails2011samhsaevaluation.html

National Alliance on Mental Illness Harlem
P.O. Box 102, New York, NY 10037-0102 917.548.2515 www.namiharlem.org

The Honorable Tim Murphy
U.S. Representative
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Eddie Bernice Johnson
U.S. Representative and Member of Congressional Black Caucus
2468 Rayburn House Office Building
Washington, DC 20515

July 15, 2015

Dear Representatives Murphy and Johnson:

On behalf of our members in Harlem and the Bronx, we join with the National Alliance on Mental Illness and Alliance for the Mentally Ill of New York State in support of HR-2646, *The Helping Families in Mental Health Crisis Act*. As a result of the broken mental health system, seriously mentally ill people of color who make up the majority of our membership are disproportionately homeless and represented in the criminal justice system. HR-2646 includes many provisions that will help our loved ones get access to evidence based mental illness care.

Increases Minority Mental Health Workforce
We are appreciative of the fact that HR 2646 authorizes fellowships to increase the number of culturally competent behavioral health professionals. There are a dearth of these throughout the country and in our own community. Care that is culturally competent is a key goal of our members.

Improves Research on Why Mentally Ill are Incarcerated Rather than Treated
In addition to funding mental health courts, your bill provides for the collection of information about why persons with mental illness are incarcerated. This research and analysis could be particularly valuable in generating better jail diversion practices.

Supports Assisted Outpatient Treatment for a Very Small Group of the Most Seriously Mentally Ill
AOT dramatically reduces homelessness, arrest, hospitalization and incarceration of the seriously ill. A 2009 study found it is one of the few community programs that does not discriminate based on race.[1] Our members in the New York version of AOT (Kendra's Law) receive case management, housing, medication maintenance and other important services they would otherwise not be able to avail themselves of.

Reforms HIPAA, so Parents are not Shut out of Care of Mentally Ill Loved Ones if Needed to Protect "health, safety and welfare."
Ameliorating the HIPAA Handcuffs that prevent parents from getting information about mentally ill loved ones is important to all families of the seriously ill who want to help. Your bill also clarifies doctors may receive information from families.

Increases Availability of Psychiatric Beds
If more psychiatric beds were available, police would be more likely to take someone they encounter to a hospital where they belong, rather than a jail where they don't. Your bill takes a small step to increase the number of beds by potentially slightly mitigating the impact of the IMD Exclusion, and eliminating the 180 day cap on Medicare reimbursement for hospital care.

Focuses Protection and Advocacy Programs on Preventing Abuse and Neglect
HR 2646 would focus the Protection and Advocacy program on what should be its most important mission: protecting people with mental illness from abuse and neglect, a problem that disproportionately affects people of color. Because of mission-creep, P&A has focused too much efforts on tangential issues, some of which are actually harmful to getting better care for people with serious mental illness.

Sincerely,

Claudia Powell
President
Cc: The Honorable Charles Rangel
The Honorable G.K. Butterfield

[1] Jeffrey Swanson, Marvin Swartz, Richard A. Van Dorn, John Monahan, Thomas G. McGuire, Henry J. Steadman, and Pamela Clark Robbins "Racial Disparities In Involuntary Outpatient Commitment: Are They Real?" Health Affairs. Vol. 28. No. 3. May, 2009