

State Mental Health Reforms that would Cut the Offloading of Mentally Ill to Criminal Justice

Reform civil commitment laws (<http://www.treatmentadvocacycenter.org/grading-the-states>)

- Civil commitment law should prevent dangerousness, not require it. Interpret the “dangerousness standard” more broadly than “imminently” dangerous. Amend civil commitment law to include “gravely disabled,” (model: Alaska, Connecticut) “substantial deterioration,” (model: Arizona) “lack of capacity,” and Wisconsin’s “Fifth Standard” in civil commitment standards.
- Amend law to specifically allow judges who are ruling on emergency and other civil commitments to consider at least three years of patient’s past history since that is the best predictor of future actions.
- Require involuntary treatment hearing to be held at same time as involuntary commitment hearing so we can treat those we commit.
- Amend emergency custody laws to allow for holds lasting up to 10 days (models: Louisiana, Rhode Island)
- Allow families and other responsible adults to petition for emergency custody and make criteria and process clear
- Create an easy path between AOT and inpatient commitment so they work seamlessly together.

Expand Use of Assisted Outpatient Treatment (AOT) <https://mentalillnesspolicy.org/wp-content/uploads/aotworks.pdf>

- Require all counties to have AOT programs and spell out process with specificity in legislation
- Screen all involuntarily committed patients and mentally ill prisoners prior to discharge and arrange for AOT, housing, clubhouses, and other services if needed. They are the most likely to recidivate if not provided treatment.
- Allow families to petition the court and educate families how to do it.
- Incentivize corrections to apply for AOT for mentally ill prisoners who are being released.
- Ensure initial AOT order can last a minimum of one year and allows six month renewals

Expand Hospital Capacity

- Vigorously fight Olmstead suits and refuse to sign Olmstead settlement agreements.
- Have legislature pass resolution calling on Congress to eliminate the Institutions for Mental Disease (IMD) exclusion which prevents Medicaid from reimbursing states for long-term hospitalization of seriously mentally ill adults.
- Have legislature pass resolution calling on the Governor to apply for (or amend existing) Medicaid waiver to allow state to use Medicaid funds for hospitalization (See CMS State Medicaid Directors Letter (SMD #18-011).
- Use Certificate of Need (CON), regulatory, and legislative policy to ensure adequate local inpatient and emergency room capacity

Focus Mental Health Department on Needs of the most Seriously Mentally Ill, rather than highest functioning.

- Require state mental health departments, their directors, and directors of local mental health programs to report on numbers and rates of homelessness, arrest, incarceration, violence and needless hospitalization of seriously mentally ill. Those are the most important metrics, yet are rarely measured and no mental health officials held accountable for reducing them.
- Encourage hospitals and programs to use long acting (30/90 day) injectable antipsychotics so patients police bring to hospitals, and those being discharged from jails and prisons don’t immediately deteriorate on discharge.
- Make sure electroconvulsive therapy (ECT) and clozapine are widely available and not restricted.
- Make the ability to sign HIPAA release forms a standard and routine part of admission to and discharge from all inpatient and outpatient programs so families can facilitate treatment for loved ones.
- Allocate housing to mental health courts.

Create group homes and congregate housing in addition to independent living options.

Open and expand clubhouse programs (<http://clubhouse-intl.org>)

For more information: Read “Insane Consequences: How the Mental Health Industry Fails the Mentally Ill (Prometheus) by DJ Jaffe or contact djjaffe@mentalillnesspolicy.org Visit mentalillnesspolicy.org, @MentalIllPolicy, <https://www.facebook.com/mentalillnesspolicyorg/>, <http://bit.ly/DJJaffeMentalIllnessTedTalk> (2/2019)