

ASSISTED OUTPATIENT TREATMENT

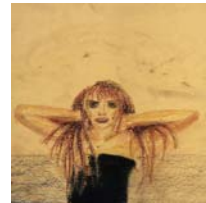
"A STEP IN THE RIGHT DIRECTION"

Judge Randy T. Rogers
Jonathan Stanley, J.D.
May 12, 2004

"But the voices...the voices told me to stab Mom in the heart," Jenny impassively recounted to the judge. Sitting in chairs positioned directly behind their daughter, her worried parents hoped the judge would understand that Jenny was not a bad person, but that she needed help they could not provide.

More than 10 years before, Jenny had been diagnosed with paranoid schizophrenia. Since then she had been taking medication prescribed by a psychiatrist and seeing a therapist on a fairly regular basis. But in the year before this civil commitment proceeding, Jenny took her medication sporadically and on 3 occasions was admitted to her local hospital's psychiatric ward. Each time she seemed to get better and was released after only a few days.

"I find that the respondent is a mentally ill person subject to hospitalization by court order," the judge delicately decreed, as Jenny's parents silently nodded their agreement. Jenny just stared straight ahead, lost in a world the others could not understand. "I further find that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization at the state mental hospital," the judge continued, "and upon discharge from the state hospital, respondent shall be committed to the local mental health board to receive assisted outpatient treatment."



"...the voices told me to stab Mom in the heart."



"...her worried parents hoped the judge would understand..."

Assisted Outpatient Treatment (AOT) is a form of court mandated outpatient treatment that allows a mentally ill person to be treated in a much less restrictive environment than a state hospital while still allowing judicial monitoring of the administration of the person's treatment plan.

A generation ago, civil commitments to state mental hospitals were best measured in months or years. Assisted outpatient treatment has helped change that expectation. Assisted outpatient treatment (AOT) is a form of court-mandated outpatient treatment that permits a mentally ill person to be treated in a much less restrictive environment than a state hospital while still allowing judicial monitoring of the administration of the person's treatment plan. AOT is an effective alternative to the out-dated "throw away the key" custom of mental health treatment.



This progressive method of treatment mandates that those with a demonstrated inability to maintain psychiatric treatment in the community receive and participate in sustained and intensive treatment until once again able to manage their own treatment regimen. For someone incapable of making informed medical decisions, a typical 6-month authorized placement in an AOT program could mean a safety net of intensive and caring treatment rather than a spiral into psychosis and the intense restriction of an involuntary hospitalization. And, conversely, the intensive supervised treatment of AOT becomes a bar to re-hospitalization and a bridge to stability for many released from inpatient psychiatric facilities.



As stressed by an American Psychiatric Association Task Force on assisted outpatient treatment:

*Any humane and comprehensive quality mental health treatment system must make provision for both inpatient and outpatient involuntary treatment for those severely and/or persistently mentally ill who can benefit from such approaches.*ⁱ



National
Alliance
For Mentally
Ill

NAMI's *Policy On Involuntary Commitment* similarly holds that “Court-ordered outpatient treatment should be considered as a less restrictive, more beneficial, and less costly treatment alternative to involuntary inpatient treatment.”ⁱⁱ Not surprisingly – since many tens of thousands of people with severe mental illness are jailed each year for lack of treatment – the use of AOT is promoted by correctional and law enforcement organizations like the **National Sheriffs’ Association**, which formally resolved to support “laws that allow a court to order treatment in the community for individuals who are in need of treatment but refuse it (also known as assisted outpatient treatment).”ⁱⁱⁱ



The effectiveness of court ordered outpatient treatment breeds such endorsements. A review of the available research literature on assisted outpatient treatment prompted the following conclusion in a resource document of the **American Psychiatric Association**:



...use of mandatory outpatient treatment is strongly and consistently associated with reduced rates of re-hospitalization, longer stays in the community, and increased treatment compliance among patients with severe and persistent mental illness.^{iv}

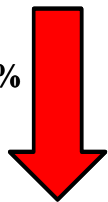


Indeed, more than fifteen published studies have examined outpatient commitment for statistically significant value in facilitating and improving the care of those most affected by the symptoms of mental illness. All but two of those have determined it an effective treatment mechanism. In most cases, researchers have pronounced it a remarkable one.

A controlled and randomized study conducted out of Duke University is the largest and best examination of assisted outpatient treatment. The findings of this pre-eminent study include that AOT for 6 months or more combined with routine outpatient services (3 or more outpatient visits per month) **decreased hospital admissions by 57%** and the average length of hospital stays by 20 days; reduced the incidence of violence by half; and **decreased victimization of those under court orders by 43%.**^v Among those with a history of multiple hospitalizations as well as prior arrests and/or violent behavior, the re-arrest rate of those in under AOT was about one-quarter that of the control group (12% v. 47%).^{vi}



**Decreased
Hospitalization – 57%
Decreased
Victimization - 43%**



The results of one of the nation's most used and perhaps best-known AOT programs, **Kendra's Law** in New York, give real-world validation to the Duke findings. The **New York State Office of Mental Health** reports that of those placed under an initial Kendra's Law order

- **63% fewer experienced hospitalization**
- **55% less homelessness**
- **75% fewer arrest, and**
- **69% less incarcerations.**^{vii}

Additionally, 45% fewer harmed themselves and 44% fewer harmed others.^{viii}

The legal foundation on which the assisted outpatient treatment process has been built has been validated by a number of court decisions. As it has long been conclusively settled that courts can be empowered to commit individuals overcome by psychiatric disorders to the more restrictive setting of a hospital, judicial orders requiring compliance with treatment in an outpatient setting are clearly permissible. What legal challenges there have been have instead focused on the progressive eligibility standards incorporated in most of the more recent AOT laws.

These criteria include considerations such as the need for treatment, the chances of deterioration absent it, the inability to function independently, and the capability of making informed medical decisions. Such standards have been upheld by the unanimous high courts of three states: Washington (1989), Wisconsin (2002) and New York (2004).^{ix} No significant challenge to an AOT law or its standard has succeeded despite the laws being in place in 41 states, in some of them for over two decades.

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“Jenny is doing better now than she has in the last 12 years.”



Progress involves moving forward. Assisted Outpatient Treatment is a step in the right direction.

Assisted outpatient treatment can be very effective. Jenny's stay in the state mental hospital was only temporary. Within 90 days she returned home to her family. Although her court case remains open, her inpatient treatment has given way to outpatient visits to see her doctor and therapist. Each month she is invited to attend a status review hearing and speak with the judge. If all continues to go well, her case may soon be dismissed.

Jenny's case is not unique, but her treatment plan is not "the way it used to be done." Just as the discovery of new medications has made mental health treatment more effective, progressive changes in the way courts and treatment professionals handle civil commitment cases can also make mental health treatment more effective. In Jenny's case AOT has worked. At her last status review hearing, Jenny smiled broadly as her mother told the judge, "**Jenny is doing better now than she has in the last 12 years.**"

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Assisted Outpatient Treatment is a step in
the right direction.**

End Notes

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- ⁱ APA Task Force, "A Vision for the Mental Health System" (April 2003).
- ⁱⁱ National Alliance for the Mentally Ill, Policy On Involuntary Commitment And Court Ordered Treatment (Approved by NAMI Board of Directors on October 7, 1995).
- ⁱⁱⁱ National Sheriffs' Association, Resolution 1999-69 (adopted by N.S.A. General Assembly on June 30, 1999).
- ^{iv} Subcomm. on Mandatory Outpatient Treatment, Am. Psychiatric Ass'n. *Mandatory Outpatient Treatment* 16 (1999).
- ^v Swartz, MS, Swanson, JW, Wagner, RH, et al: Can Involuntary Outpatient Commitment Reduce Hospital Recidivism? *American Journal of Psychiatry*, 156:1968-1975 (1999); Swanson, JW, Swartz, MS, Borum, R, et al: Involuntary Out-Patient Commitment and Reduction of Violent Behaviour In Persons With Severe Mental Illness. *British Journal of Psychiatry*, 176: 224-231 (2000); Hiday, VA, Swartz, MS, Swanson, JW, et al: Impact of Outpatient Commitment on Victimization of People With Severe Mental Illness. *American Journal of Psychiatry*, 159: 1403-1411 (2002).
- ^{vi} Swanson, JW, Borum, R, Swartz, MS, et al: Can Involuntary Outpatient Commitment Reduce Arrests Among Persons with Severe Mental Illness? *Criminal Justice and Behavior*, Vol. 28, No.2: 156-189 (2001).
- ^{vii} Memorandum from New York State Office of Mental Health to Jonathan Stanley, Treatment Advocacy Center (Nov. 4, 2003).
- ^{viii} New York State Office of Mental Health, *Kendra's Law: An Interim Report on the Status of Assisted Outpatient Treatment* 12 (January 2003) (available at http://www.omh.state.ny.us/omhweb/Kendra_web/interimreport/).
- ^{ix} *In re Detention of LaBelle*, 728 P.2d 138 (Washington Supreme Court 1986); *State of Wisconsin v. Dennis H.*, 647 N.W.2d 851 (Wisconsin Supreme Court 2002); *In re K. L.*, 806 N.E.2d 480 (New York Court of Appeals 2004).