Modernizing New Jersey's Civil Commitment Law:

New Jersey's Current Community Service Programs are Unavailable to a Significant Number of Individuals with a Severe Mental Illness

Is assisted outpatient treatment constitutional?

No court in the United States has ever declared an assisted outpatient treatment (AOT) law to be unconstitutional. Forty-two states and the District of Columbia have already enacted AOT. Various provisions have been tested and found constitutional by state courts throughout the country**.** New York's courts, including the state's highest court, have repeatedly upheld AOT as constitutional. Standards much broader than those proposed in New Jersey have been upheld in states such as Hawaii, Wisconsin, and Washington.

Doesn't New Jersey already have outpatient programs set up?

All of New Jersey's current outpatient programs are voluntary. Thus, they cannot help those most in need of treatment – people with a severe mental illness who refuse treatment because they are unable to understand they are sick. This small segment of those with mental illnesses will not seek treatment and, in New Jersey, are left to deteriorate until they become so ill that they pose a danger to themselves or others. AOT provides effective treatment to these individuals, something that redirecting funds to the community is simply not designed to do.

How many people would AOT cover?

The most accurate indicator is experiences from other states – and New York has the best documented experience with AOT. As of March 2005, 3,908 individuals received treatment orders under Kendra's Law. An average of 62 individuals per month, or 747 individuals per year, have been ordered to maintain treatment under the program. Adjusting for population, New Jersey should have approximately 337 orders per year.

Hasn't New Jersey already addressed this problem by creating PACT teams?

With the closing of Marlboro Psychiatric Hospital in 1998 and the substantial investment in community mental health services of Redirection I & II, New Jersey was able to establish 31 PACT teams – at least one team in each county. Programs in Assertive Community Treatment (PACT) teams comprise the most progressive community service model and provide 24-hour, seven-day-a-week mobile treatment to the most severely ill individuals.

Unfortunately, unlike most other states that use PACT teams, New Jersey cannot require clients to take medication. PACT teams are powerless to help someone who refuses treatment. Yet, refusing clients remain with PACT, as it is designed to provide long-term care for its clients. Thus, under the current program, New Jersey citizens are paying for people to refuse the most expensive services the state has to offer. AOT is not an alternative to PACT teams; it is a change in the law that would drastically improve PACT teams' ability to provide treatment in the community.

New Jersey already has conditional release. Why should we enact a similar program?

AOT and conditional release are different programs, although both can expedite the recovery of someone in need of treatment. The main difference is timing. Conditional release can occur only after someone has already been admitted to a treatment facility. AOT serves as a preventative alternative to involuntary hospitalization, allowing someone who is in need to get treatment before they require inpatient care.

In addition, recent court cases have called into question the effectiveness of the already limited conditional release provisions. Under current judicial interpretation, individuals on conditional release may not be returned to a facility unless they meet the initial inpatient standard. Even if an individual has completely disregarded the conditions specified in his or her discharge plan, the court must still find that the individual is dangerous to himself, others, or property before recommitment may take place, just as with someone who is not on conditional release. The release conditions are essentially meaningless.

Isn't the real problem that there aren't enough services?

AOT seeks to help those individuals whose illness has rendered them incapable of understanding that they are ill. For this small subset of the most mentally ill, no amount of money spent on services will ever be enough to induce their compliance with treatment.

These individuals suffer from a condition known as anosognosia – literally "to not know a disease." Studies show approximately 50 percent of individuals with schizophrenia and 40 percent of individuals with bipolar disorder have some impaired ability to recognize their condition. For these individuals, the delusions (e.g. the woman across the street really is being paid by the CIA to spy on him/her) and the hallucinations (e.g. the voices really are instructions being sent by the President) are real – and no amount of voluntary services will suffice.

Why isn't the solution simply more voluntary programs?

The reality is that, for some individuals, voluntary treatment is simply impossible. Their illness has robbed them of the ability to understand their need for care. AOT allows loved ones and treatment providers to provide treatment to those who need care, until they reach the point that they are able to make rational decisions for themselves.

How will AOT address our current psychiatric hospital bed shortage?

AOT allows providers to ensure consistent treatment for individuals with a history of repeatedly stopping their treatment and requiring inpatient hospitalization. Under New Jersey's current system, providers cannot intervene for these individuals until they've deteriorated to the point that they again require hospitalization. Research shows that each time an individual is allowed to deteriorate in this manner, treatment is more difficult and expensive, and the prospects of a full recovery are reduced. AOT ensures that these individuals are not allowed to repeatedly deteriorate, without requiring expensive and ultimately ineffective hospitalizations.

AOT allows individuals who would otherwise be committed to an inpatient facility to receive treatment in the community – reducing treatment costs while limiting the upheaval inherent in an inpatient hospitalization. Every dollar saved by helping an individual to be an active member of society is a dollar that can be reinvested in other areas of psychiatric care in New Jersey.

Doesn't AOT put too much focus on violence by mentally ill persons? How would this program address the issue of stigma?

Violence is just one of many repercussions of New Jersey's outmoded treatment law, but it is one that resonates among the general public. Providing consistent treatment to individuals in need and preventing the tragedies that too often accompany nontreatment is the most cogent way to address stigma. The reality is that until New Jersey has a law that ensures treatment for the most ill, tragedies will continue to occur and continue to color society's perception of the most severely mentally ill.

But focusing solely on AOT's role in reducing violence is also a mistake. AOT has also been shown to reduce homelessness, incarceration, substance abuse, suicide and victimization – all very real consequences of untreated severe mental illness.

Does New Jersey have enough services available to ensure the success of AOT?

AOT legislation should include specific provisions mandating that courts may not order an individual into assisted outpatient treatment if the services are not available in the community.

But the services are available. Authoritative studies on the effectiveness of AOT published by Duke University showed that the service level required was three or more outpatient visits per month, with a mean of seven service events per month. Most counties in New Jersey will be able to provide this level of services to the limited number of individuals who would qualify for AOT.

New Jersey currently has over 31 PACT teams that far exceed the services standard utilized in the Duke studies. These teams are already tasked with serving a number of severely ill individuals who repeatedly

refuse the services offered to them. AOT would provide these teams with another tool to provide effective mental health treatment.

In addition, New Jersey currently provides a minimum of 18 months of Integrated Case Management Services to all consumers discharged from state and county hospitals. The state has recently expanded this program to include consumers coming out of short-term care facilities who have a history of two or more hospitalizations within a 12-month period; these services could be made more effective with the addition of a program shown to help ensure consistent treatment adherence.

Assisted outpatient treatment also saves resources that are currently wasted on ineffective treatment. AOT reduces hospitalizations, episodes of homelessness, incarceration, arrest, and victimization, and significantly improves medication compliance and participation in substance abuse treatment. These freed up resource monies can be used to fund other areas of the New Jersey mental health system, such as community services and voluntary treatment programs.