

Good afternoon. My name is Leslie Carpenter and I work for the Treatment Advocacy Center, a national non-profit organization devoted to eliminating barriers to treatment for those living with untreated severe mental illness. The Treatment Advocacy Center has a long history working to help people in Maine and we are supportive of the National Shattering Silence Coalition's Maine Chapter's positions.

An estimated 8.8 million adults in the United States live with a severe mental illness (SMI). Approximately half go untreated every year.ⁱ

The consequences of failing to care for the most severely ill are devastating and have significant implications for those with mental illness, their families and our communities. In Maine today, as in too many communities across the nation, those in need of mental illness care frequently only receive care once a crisis occurs that necessitates law enforcement involvement.

Though numbering somewhat fewer than 4 in every 100 adults in America, individuals with SMI account for no less than 1 in 10 calls for police service.ⁱⁱ Approximately one-third of individuals with SMI have their first contact with mental health treatment through a law enforcement encounter.ⁱⁱⁱ Officers report resorting to "mercy bookings" (using low-level misdemeanor charges) to get individuals in psychiatric crisis off the street and into treatment.^{iv}

As a result, the number of nonviolent defendants found to require competency restoration is skyrocketing. This has led to more state psychiatric beds set aside to serve this population and ever fewer beds available for those in psychiatric crisis who are not criminally involved.¹

The percentage of admissions in which the patient was criminally involved at all state hospitals increased from **7.6% in 1983** to **36% in 2012** and to approximately **58% in 2014**. Competency restoration cases make up the largest proportion of forensic patients.²

There are many potential approaches to reversing this worrying trend, and states and jurisdictions must be open to embracing a number of strategies simultaneously. One approach to consider is assisted outpatient treatment (AOT). AOT is a civil court procedure that helps ensure a person with severe mental illness receives treatment while being monitored in the community.

"Dismiss upon civil commitment with AOT" is a term used when referring to post arrest diversion to AOT. It is a tool in the toolbox for addressing a segment of

the ever-growing forensic population — those offenders with SMI who have a history of criminal legal involvement due to their lack of engagement in treatment, but who do not present a public safety risk. Efforts to restore these individuals in the past have been unsuccessful, so typically either their cases are dismissed, and they return to the community only to reoffend, or their charges are elevated to a more serious offense in the belief that they will receive needed treatment in jail or prison. **Dismiss upon civil commitment with AOT** is the practice by which criminal charges are dismissed prior to a competency determination or in lieu of competency restoration and held in abeyance while an application for civil commitment is filed in civil court. Once a civil commitment order has been issued, the individual is released to an AOT program for community treatment and monitoring, usually after a short period in the hospital for stabilization.

The advantage of this approach, is that it provides connection for the person with treatment providers in the community, for far longer than just “restoration to competence” and provides for a much higher level of adherence to treatment in the long term, and lower likelihood of cycling through the harmful and costly revolving doors of homelessness, hospitalizations and incarceration.

We encourage states to invest in services and programs that have been found to be most effective in providing treatment to people with the most severe mental illnesses like AOT, ACT Teams, Case Managers for intensive case management. In addition, supporting the active collaborations, coordination and education of those involved in the criminal legal system such as judges, prosecutors, and public defenders to work with the local mental health authorities and providers to divert as many people as possible and appropriate for AOT will both help to provide more effective treatment for those already intersecting with the criminal legal system and improve the long term outcomes for them, while also improving public safety.

AOT has been shown to be highly cost effective (reducing costs by 40-50%) and providing treatment also reduces risk of lawsuits for violating the constitutional rights of pretrial defendants, thus saving states millions of dollars in penalties.³

In 2010, this legislature made the decision to support AOT. Since then, it has been shown, both in practice and in study, to significantly improve the quality of life for some of your state’s most seriously ill, while simultaneously reducing the strains on your state’s psychiatric hospitals, jails and criminal legal system. We ask that

you stand by that commitment by ensuring that it is adequately funded so that all who can benefit from it, are able to do so.

¹Fuller, D. A., Sinclair, E. A., Geller, J., Quanbeck, C., & Snook, J. (2016). Going, going, gone: Trends and consequences of eliminating state hospital beds. Treatment Advocacy Center. https://www.treatmentadvocacycenter.org/reports_publications/going-going-gone-trends-and-consequences-of-eliminating-state-psychiatric-beds/

²Wik, A., Hollen, V., & Fisher, W. H. (2017). Forensic Patients in state psychiatric hospitals: 1999–2016. National Association of State Mental Health Program Directors.

³ Kois et al. A public health perspective; Douglas, A. (2019). Caging the incompetent: Why jail-based competency restoration programs violate the Americans with Disabilities Act under *Olmstead v. L.C.* Georgetown Journal of Legal Ethics, 32, 525–575. <https://www.law.georgetown.edu/legal-ethics-journal/wp-content/uploads/sites/24/2019/10/GT-GJLE190027.pdf>; Fuller et al. Emptying the ‘new asylums.’

ⁱ Treatment Advocacy Center. (2023) Our Impact: By the Numbers. https://www.treatmentadvocacycenter.org/reports_publications/our-impact-by-the-numbers.

ⁱⁱ Chappell, D. (Ed.). (2013). Policing and the mentally ill: International perspectives. Boca Raton, FL: CRC Press.

ⁱⁱⁱ Adelman, J. (2003). Study in blue and grey, police interventions with people with mental illness: A review of challenges and responses. Vancouver, BC: Canadian Mental Health Association, BC Division.

^{iv} Torrey, E. F., Stieber, J., Ezekiel, J., Wolfe, S. M., Sharfstein, J., Noble, J. H., & Flynn, L. M. (1998). Criminalizing the seriously mentally ill: The abuse of jails as mental hospitals. Washington, DC: DIANE Publishing.

For more extensive information, please refer to this document:

[Competency Restoration and AOT Handbook TAC Final Copy.pdf](#)
