

Involuntary psychiatric commitment mustn't grow



Homeless Outreach personnel reach out to a person sleeping on a bench in the Manhattan subway system, Feb. 21, 2022, in New York.

As New Yorkers, we all want a public mental health system that is effective, just, and compassionate. Yet Gov. Hochul's proposal to expand Kendra's Law — a statute that mandates involuntary outpatient psychiatric commitment over a patient's objection — takes us further from that goal. Instead of doubling down on coercive policies, New York must chart a different course: one that focuses on expanding voluntary, community-based services rooted in dignity, equity, and compassion, and one that has been shown to be successful.

Kendra's Law, enacted in 1999, was a hasty and fear-driven response to a tragedy. It authorizes courts to mandate outpatient "treatment" — typically involving forced medication and other services for people with mental health diagnoses who have been hospitalized twice in the last three years

or have committed or threatened violence in the past four years. In practice, the law strips people of fundamental rights, subjects them to surveillance, and entangles them in the legal system without any guarantee of improved health outcomes.

Most critically, there is no evidence that involuntary treatment is more effective than voluntary care. In fact, at least one study shows no significant difference in hospitalization rates, quality of life, or public safety between those receiving court-ordered services and those who engage in services voluntarily. To the extent individuals benefit from a Kendra's Law order, it likely stems from the access to services which Kendra's Law affords and which are typically not available to those who are not under a Kendra's Law order. Access to services must not be permitted to depend on a court order.

Moreover, the implementation of Kendra's Law is rife with racial and geographic inequities. Black New Yorkers are more than twice as likely as their white peers to be placed under these orders. Hispanic/Latino residents are also disproportionately impacted. People in New York City — especially in communities of color — face far higher rates of involuntary commitment than those in wealthier, whiter upstate counties.

These disparities, of course, cannot be explained by the percentage of people of color in the population. They also cannot be explained by the percentage of people of color diagnosed with serious mental illness, nor can they be explained by need for the services. Rather, the inequities reflect systemic biases that compound existing racial injustices in health care, housing, and policing.

Kendra's Law doesn't fix the cracks in our mental health system; it exacerbates them. The law forces people to receive services over their objection, instead of investing in evidence-based services which have been proven to help people. Kendra's Law stigmatizes mental health concerns, contributes to mistrust of health care systems, disproportionately burdens communities of color, and often prioritizes compliance over healing.

We must stop looking towards coercion when our mental health system fails those most in need of support. Instead, we must look to change the system and ensure services are more available, more welcoming, and more responsive to individual needs.

This includes expanding investment in culturally-competent, community-based, and evidence-based services that move beyond "medication only" interventions. What we need are available individual and family counseling, residential crisis support programs, respite centers and crisis stabilization centers, and more services and programs that expand choice and alternative mental health recovery resources and that are driven by peers (those with lived mental health experience).

We must ensure these services are accessible without legal mandates. We must also take note of the fact that forced services lead to increased suicide rates. And above all, we must listen to those with lived experience, who consistently tell us that forced treatment is harmful and disempowering.

New York now faces a critical choice: reinforce an intervention rooted in surveillance, coercion, and racial bias — or expand voluntary options that are already in place and that prioritize trust and quality care, and are available when needed.

We urge our elected leaders to reject any expansion of Kendra's Law in this year's budget. There is simply no justification for expanding involuntary outpatient commitment without studies that definitively prove that involuntary treatment is more effective than voluntary treatment. And this is especially true given the fact that the Legislature has commissioned precisely such a study, and the fact that such a study is currently underway. At the very least, it is premature and fiscally imprudent to expand Kendra's Law while awaiting results from the study.

Now is the time to finally reimagine public mental health by investing in the voluntary, community-centered supports that New Yorkers deserve.

Hedigan is the CEO of [Community Access](#). Lowenkron is the director of disability justice at [New York Lawyers for the Public Interest](#).



NYPD officers wake up sleeping subway passengers on the A train, April 30, 2020. (John Minchillo/AP)