



Testimony of
Coalition for the Homeless

before the Fiscal Committees
of the NYS Legislature

NYS Executive Budget Proposal
For Mental Hygiene 2024

submitted by

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The Coalition for the Homeless (“Coalition”) respectfully submits this testimony to express our positions on several provisions of the Governor’s proposed budget relating to behavioral health. Founded in 1981, we are the court-appointed independent monitor of the New York City (“NYC”) Department of Homeless Services (“DHS”) shelter system for single adults, the city-appointed independent monitor of the shelter system for homeless families, and plaintiff in the historic *Callahan v. Carey* case that first guaranteed the legal Right to Shelter. As such, the opinions set forth below are informed by our more than 40 years of experience operating frontline programs for the most vulnerable individuals and defending the fundamental rights of those disproportionately impacted by the intersection of homelessness and mental health challenges.

Lack of Sufficient Resources

Without question, there is a devastating lack of mental health resources in New York. Of particular concern has been the loss of approximately 1,850 psychiatric beds between 2014 and 2022¹ – a loss from which we have yet to recover. This decline was primarily in non-State beds² and a result of the need for treatment beds for other health conditions during the COVID-19 pandemic. While some beds were restored in 2023, we have yet to return to 2014 levels and are far below the number of beds experts assert are required for a state with approximately 19.6 million residents.³

Involuntary Treatment

Despite this grim reality, in the wake of Jordan Neely's tragic murder last May, Governor Hochul and Mayor Adams have often displayed a deeply concerning indifference toward the lives of unhoused New Yorkers and the lack of affordable housing and effective patient-centered mental healthcare services for this population. Their initial failure to firmly condemn the murder of Mr. Neeley, coupled with their efforts to broaden the criteria for involuntarily removal of people from public spaces for transport to hospitals, not only fails to honor Jordan Neely's memory by perpetuating harmful stereotypes of those in need, but also fails to address the core deficiencies in the mental health and homeless services systems.

Such actions also reflect a fundamental disregard for the facts. Results from gold-standard randomized controlled trials, including one conducted at NYC’s Bellevue Hospital, do not support the notion that involuntary treatment yields better outcomes than voluntary treatment with the same services. In fact, “the research on court-ordered mental health treatment suggests that the two most salient factors in reducing recidivism and problematic behavior among people with severe mental illness appear to be enhanced services

¹ Reuven Blau, *NY Hospitals on Track to Miss Hochul’s Deadline to Reopen Psych Beds*, THE CITY, Mar. 23, 2023, <https://www.thecity.nyc/2023/03/23/hospitals-reopen-psych-beds-hochul-deadline/>.

² The New York State Office of Mental Health reports that between December 2014 and December 2022, the total number of State psychiatric beds declined from 3787 to 3298. See DECEMBER 2014 MONTHLY REPORT OMH FACILITY PERFORMANCE METRICS AND COMMUNITY SERVICE INVESTMENTS (2014), <https://omh.ny.gov/omhweb/transformation/docs/2014/december-2014-report.pdf> and DECEMBER 2022 MONTHLY REPORT OMH FACILITY PERFORMANCE METRICS AND COMMUNITY SERVICE INVESTMENTS (2022), <https://omh.ny.gov/omhweb/transformation/docs/2022/omh-report-dec-2022.pdf>.

³ U.S. CENSUS BUREAU, U.S. CENSUS QUICK FACTS, NEW YORK STATE (July 1, 2023) <https://www.census.gov/quickfacts/fact/table/NY/PST045223#PST045223>. According to some experts, state-run beds alone should total 50 per 100,000 residents, meaning there should be approximately 9,786 state run beds which is substantially higher than the 3,491 available as of December 2023. See Amanda D’Ambrosio, *New York ramps up capacity, but available psych beds still lacking, report finds*, CRAIN’S HEALTH PULSE, Jan. 29, 2024, <https://www.crainnewyork.com/health-pulse/new-york-ramps-capacity-available-psych-beds-still-lacking-report-finds>; see also DECEMBER 2023 MONTHLY REPORT OMH FACILITY PERFORMANCE METRICS AND COMMUNITY SERVICE INVESTMENTS (2023), <https://omh.ny.gov/omhweb/transformation/docs/2023/omh-monthly-report-dec-2023.pdf>.

and enhanced monitoring.”⁴ To say it differently, it’s the intensive services, not the court-ordered nature of involuntary treatment, that makes a difference.

Beyond its lack of efficacy, other data raises serious concerns about involuntary treatment in New York. Most recently, an audit conducted by the State Comptroller’s office found glaring issues with the Office of Mental Health’s (“OMH”) implementation of Kendra’s Law – including frequent lapses in treatment and delays initiating assessments, in some cases by over two years.⁵ Additionally, the assessment process itself has raised Constitutional due process concerns, given that 95% of assessments since the law’s passage have led to involuntary commitments.⁶ Further, the involuntary commitment process reflects the same socioeconomic disparities found in other coercive systems, with significant overrepresentation of both Black people (44% of commitments vs. 23% of the NYC population)^{7,8} and people with prior experiences of being unhoused (26% of commitments vs. 1% of the NYC population).^{9,10} As it stands, in application it appears that this law’s primary impact is to forcibly remove low-income people with mental health issues from their communities, rather than serving mental health needs in any detectable way.

BUDGET RESPONSES

In light of the foregoing, we applaud the Governor’s focus on mental health as a general matter, recognizing the current deficiency of resources and protocols necessary to address community needs. In addition, we appreciate her recognizing the necessity of funding certain evidence-based solutions and ensuring the State updates the current Olmstead Plan to be more responsive to the needs of the people with disabilities who we serve. However, we are disappointed that the Governor continues to invoke fear-mongering tropes of mentally ill unhoused individuals being threats to safety¹¹ when, statistically speaking, mentally ill unhoused individuals are less likely to be perpetrators of violence¹² and far more likely, as with Jordan Neely, to be the victims of violent crime.¹³ As the ongoing severe and historic affordable housing crisis combined with a tattered and poorly functioning mental health system continue to *literally* leave thousands of needy New Yorkers out in the cold, the impact of such rhetoric serves no purpose but to further stigmatize unhoused individuals and undermine the very goals some of her policies otherwise seek to achieve.

⁴ M. Susan Ridgely, Randy Borum and John Petrila, *The Effectiveness of Involuntary Outpatient Treatment*, RAND CORP., 2001, at p. 27 available at https://www.rand.org/pubs/monograph_reports/MR1340.html.

⁵ OFFICE OF THE N. Y. STATE COMPTROLLER, OVERSIGHT OF KENDRA’S LAW – Report 2022-S-43 (Feb. 2024), available at <https://www.osc.ny.gov/state-agencies/audits/2024/02/08/oversight-kendras-law>.

⁶ OFFICE OF MENTAL HEALTH, PROGRAM STATISTICS: PETITIONS FILED (last visited Feb. 13, 2024).

⁷ OFFICE OF MENTAL HEALTH, CHARACTERISTICS OF RECIPIENTS: DEMOGRAPHICS – RACE/ETHNICITY DISTRIBUTION OF AOT RECIPIENTS (last visited Feb. 13, 2024).

⁸ U.S. CENSUS BUREAU, U.S. CENSUS QUICK FACTS, NEW YORK STATE (July 1, 2023)

<https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork/PST045222>.

⁹ OFFICE OF MENTAL HEALTH, CHARACTERISTICS OF RECIPIENTS: SIGNIFICANT EVENTS - LIFE TIME (last visited Feb. 13, 2024).

¹⁰ *Homelessness is a Shared Experience in New York City*, THE BOWERY MISSION (last visited Feb. 13, 2024), <https://www.bowery.org/homelessness/>.

¹¹ In the Forward to her State of the State policy book, the Governor states, “Mental health is also a serious issue. Troubled individuals commit violent acts, and too often we learn they fell through the cracks after being discharged from a hospital.” Gov. Kathy Hochul, STATE OF THE STATE 2024 – OUR NEW YORK, OUR FUTURE, at p.3. This invokes accounts of various incidents occurring on subways involving unhoused individuals. Even her remarks given on January 9 included a reference to Steven Hutcherson (also known as Esteban Esono-Asue) who stabbed two girls in Grand Central Station on Christmas Day. Gov. Kathy Hochul, 2024 State of the State Address (Jan. 9, 2024) (transcript available at <https://www.governor.ny.gov/news/video-audio-photos-remarks-prepared-governor-hochul-delivers-2024-state-state-address>).

¹² *Mental Health Myths and Facts*, U.S. DEPT. OF HEALTH & HUMAN SERVICES (Apr. 24, 2023), <https://www.mentalhealth.gov/basics/mental-health-myths-facts>.

¹³ Steve Berg, *The Disturbing Realities of Homelessness and Violence*, NAT’L ALL. TO END HOMELESSNESS, Jan. 24, 2022, <https://endhomelessness.org/blog/the-disturbing-realities-of-homelessness-and-violence/>.

Additional Treatment Beds

Provided they are not intended to serve as a means to facilitate increased involuntary commitment of unhoused people, we are glad to see funding for 200 new inpatient treatment beds, including 75 Transition to Home Unit beds for unhoused New Yorkers dealing with severe mental illness. However, as previously noted, these beds are a fraction of the resources needed, making it more critical that most, if not all, of them become available as soon as possible.

Recognizing that more beds will only be effective with fewer barriers to accessing, and transitioning from, care, we also applaud efforts to improve admission and discharge protocols in the form of the \$7 million allocation to expand surveillance and regulatory compliance activities coupled with forthcoming OMH/DOH regulations.

As we have previously noted, an effective client-centered care model requires access to permanent supportive housing as well as low-barrier shelter settings such as Safe Havens and stabilization beds that offer fewer restrictions, more privacy and better-quality services. Such accommodations should also be paired with adequate voluntary treatment services, including low-barrier options such as virtual care and street medicine. Yet, the Governor's budget fails to fund such alternatives for unhoused individuals, except with regard to operational support for existing facilities and certain initiatives for those who also are involved with the criminal justice system.

- **Operational Support Measures:**

- We support the Governor's allocation of \$43 million to increase stipends for over 170,000 OMH supported housing units, including scattered site rental units. This is necessary given rising rents, but it is just a small step towards ensuring the critical housing needed for unhoused New Yorkers dealing with mental health challenges.
- Similarly, enforcement of full behavioral health parity through measure Part AA will help ensure that commercial insurance providers are not underfunding State-licensed outpatient behavioral health services – something the Coalition strongly supports, given our previous work on Timothy's Law.

- **Criminal Justice Initiatives:**

The Governor's proposal funds two reentry initiatives, both of which could reverse the State's historic practice of discharging between 40 percent and 55 percent of those released from prison directly into DHS shelters. Certainly, we welcome proposals that humanely address the prison-to-shelter pipeline, but only to the extent it means more people are being discharged directly into permanent housing coupled with voluntary mental health treatment services.

- The first initiative provides \$4.3 million for 100 new transitional housing beds for formerly justice-involved individuals experiencing mental illness. While this measure is important to avoid discharge to shelter or the streets, it is yet again a temporary accommodation with no guarantee of permanent housing and ongoing care.
- The other allocates \$2.8 million for housing and reentry supports. It is unclear what specifically this proposal entails so we await more details as the budget process continues.

Engagement

There are numerous accounts of police encounters with mentally ill individuals that result in fatalities, critical injuries, or traumatization that escalates the situation and undermines patient health.¹⁴ Training officers in crisis intervention techniques, while both helpful in reducing such outcomes and non-objectionable as a general matter, does not guarantee that negative occurrences will be avoided. In fact, existing research has found that although police units who had undergone Crisis Intervention Team (“CIT”) training were more likely to engage in referral to mental health units and less likely to perform an arrest compared to their peers, there was still no measurable difference in the use of force between officers with CIT training and those without it.^{15,16} Such use of force was illustrated last year with the shooting of Raul de la Cruz six times by two officers, at least one of which had received CIT training.¹⁷

This being said, we do not object to the Governor’s proposal to provide \$186,000 for CIT training if not doing so means CIT teams receive less training. However, we strongly advocate for the use of appropriately trained multidisciplinary teams comprised of mental health professionals as first responders in lieu of law enforcement whenever there is a need to engage with mentally ill individuals.

Thank you for the opportunity to submit testimony. We look forward to working with the Legislature on the budget and other legislation to address the needs of those who are unhoused or precariously housed throughout the State.

¹⁴ Nazish Dholakia, *New York City’s New Mental Health Plan is Dangerous*, VERA (Jan. 24, 2023), <https://www.vera.org/news/new-york-citys-new-mental-health-plan-is-dangerous>.

¹⁵ Michael T. Compton et al., *The Police-Based Crisis Intervention Team (CIT) model: II. Effects on Level of Force and Resolution, Referral, and Arrest*, PSYCHIATRIC SERVICES (Oct. 15, 2014), <https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201300108>.

¹⁶ Amy N. Kerr, Melissa Morabito, and Amy C. Watson, *Police Encounters, Mental Illness and Injury: An Exploratory Investigation*, NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION (Jan. 1, 2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2991059/>.

¹⁷ Hurubie Meko & Brittany Kriegstein, *He Was Mentally Ill and Armed. The Police Shot Him Within 28 Seconds*, N.Y. TIMES (Mar. 30, 2023), <https://www.nytimes.com/2023/03/30/nyregion/nypd-shooting-mental-health.html#:~:text=A%20desperate%20call%20for%20help,after%20being%20shot%20Sunday%20morning>.