

# Position Statement on Involuntary Commitment

## Inpatient Commitment

The United States Supreme Court has termed involuntary civil commitment to a psychiatric hospital "a massive curtailment of liberty."<sup>1</sup> The court has also emphasized that "involuntary commitment to a mental hospital, like involuntary confinement of an individual for any reason, is a deprivation of liberty which the State cannot accomplish without due process of law."<sup>2</sup> Moreover, the court has found "no Constitutional basis for confining such persons involuntarily if they are dangerous to no one and can live safely in freedom."<sup>3</sup> "[T]he mere presence of mental illness," the court held, "does not disqualify a person from preferring his home to the comforts of an institution."<sup>4</sup>

***Opposing unnecessary coercion is a key focus of the Bazelon Center's work to protect the rights of people with mental illnesses.*** We believe that the vast majority of individuals with mental illnesses are better served by access to appropriate voluntary services in the community.

The Bazelon Center opposes involuntary inpatient civil commitment except in response to an emergency, and then only when based on a standard of imminent danger of significant physical harm to self or others and when there is no less restrictive alternative. Civil commitment requires a meaningful judicial process to protect the individual's rights.

## Outpatient Commitment

The Bazelon Center also opposes all involuntary *outpatient* commitment<sup>5</sup> as an infringement of an individual's constitutional rights. Outpatient commitment is especially problematic when based on:

- a prediction that an individual may become violent at an indefinite time in the future;
- supposed "lack of insight" on the part of the individual, which is often no more than disagreement with the treating professional;
- the potential for deterioration in the individual's condition or mental status without treatment;
- an assessment that the individual is "gravely disabled."

The above criteria are not meaningful. They cannot be accurately assessed on an individual basis, and are improperly rooted in speculation. Neither do they constitute imminent, significant physical harm to self or others—the only standard found constitutional by the Supreme Court. As a consequence, these are not legally permissible measures of the need for involuntary civil commitment—whether inpatient or outpatient—of any individual.

The Bazelon Center supports the right of each individual to fully participate in, and approve, a treatment plan and to decide which services to accept. The Bazelon Center encourages the articulation of treatment preferences in advance through the use of advance directives and/or a legally recognized health care agent.

Outpatient commitment is a dangerous formalization of coercion within the community mental health system. Such coercion undermines consumer confidence and causes many consumers to avoid contact with the mental health system altogether. Furthermore:

- Outpatient commitment is a simplistic response that cannot compensate for a lack of appropriate and effective services in the community. In fact, the enforcement demands of outpatient commitment will divert resources away from treatment.
- Data on outpatient commitment show it confers no additional benefit above access to effective community services. (In one of only two controlled studies, individuals given the option of

enhanced community services did just as well as those under commitment orders who had access to the same services.)<sup>6</sup>

- There are enormous practical problems in implementation of outpatient commitment, and potentially high costs for law enforcement.
- The threat of forced treatment, with medication that has harmful side effects, often deters individuals from voluntarily seeking treatment. At best, outpatient commitment undermines the therapeutic alliance between the provider and consumer of mental health services. Greater sensitivity is needed on the part of mental health professionals in working with consumers to find the most effective and acceptable treatment.

In short, outpatient commitment penalizes the individual for what is essentially a systems problem. Lack of appropriate and acceptable community mental health services is the issue.

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## Notes

<sup>1</sup> *Humphrey v. Cady*, 405 U.S. 504, 509 (1972).

<sup>2</sup> *Specht v. Patterson*, 386 U.S. 605, 608 (1967).

<sup>3</sup> *O'Connor v. Donaldson*, 422 U.S. 563, 574 (1975).

<sup>4</sup> *Id.*

<sup>5</sup> The term "outpatient commitment" when used in this document refers to procedures for (a) involuntary commitment to outpatient treatment and (2) hospital release conditioned on treatment compliance.

<sup>6</sup> For more information on this study, conducted by the Bellevue program in New York City, contact [Policy Research Associates](#), online. The findings of a North Carolina study confirmed the New York study in finding that overall outpatient commitment conferred no additional benefits for individuals receiving enhanced services. This study did, however, find that a small group of patients who were under commitment orders for six months or longer, and who also actually received more services, did better than those not under outpatient commitment.