

# Mandating Treatment: From the Hospital to the Community



---

John Monahan, Ph.D.  
University of Virginia School of Law



# Outpatient Commitment

---

- Judicial order to adhere to mental health treatment in the community
- Permitted in 42 states, not used in many states until recently
  
- New York State, 1999
- California, 2003
- Florida, 2005
- Michigan, 2005
- New Jersey 2005?



# Views of Outpatient Commitment

---

“Hitler justified incarcerating Jews on the grounds that their belief in Judaism was evidence of mental illness...Castro controls his people with psychiatrists...A government that allows [OPC] is not a government that values liberty and is only a step away from totalitarianism.”

— CA State Senator Ray Haynes



# Views of Outpatient Commitment

---

"Civil libertarians who take extreme views on [OPC] are both incompetent and inconsequential. Under the guise of civil liberties, they're inflicting cruel and unusual punishment on people despite the fact that society has science that can make a better way. It's cruelty; if we were doing it to animals, the ASPCA would be after us."

— U.S. Rep. Marge Roukema



# MacArthur Research Network on Mandated Community Treatment

---

Goal: to create a robust evidence base for developing effective policy and practice on whether, and how, to require certain people with mental disorder to adhere to treatment in the community



# From Outpatient Commitment to Mandated Community Treatment

---

- OPC ≠ watered-down form of commitment to a hospital
- OPC = one of several forms of “leverage” in which the social welfare or judicial system is used to gain adherence to MH treatment in the community



# Community ≠ Hospital

|                                | <b>Inpatient<br/>Commitment</b> | <b>Outpatient<br/>Commitment</b> |
|--------------------------------|---------------------------------|----------------------------------|
| <b>Housing</b>                 | Hospital                        | Housing agency                   |
| <b>Disability<br/>benefits</b> | Hospital                        | Welfare agency                   |
| <b>Order<br/>maintenance</b>   | Hospital                        | CJ system                        |
| <b>Treatment</b>               | Hospital                        | MH system                        |



# Mandated Community Treatment

---

## **SOCIAL WELFARE SYSTEM**

- LEVERAGE: MONEY  
*Representative payee*
- LEVERAGE: HOUSING  
*Subsidized housing*



## “Recipient Responsibilities” (2004)

---

“You are receiving benefits based on the mental health...problems that you have. The Social Security Administration *requires* that you be involved in mental health services and work with your program so that you will feel better. If you use your money for alcohol or drugs, you may lose your benefit.”



# Association for Rehabilitative Housing (NYC, 2004)

---

“The Association’s philosophy is that in order to treat your mental illness, it is important to be in psychiatric treatment... In fact, to be a client at the Association you *must* be involved in treatment... Please note that the type of program you attend is up to you. But wherever you choose to go, you *must* see a psychiatrist and take medications as they are prescribed.”



# Mandated Community Treatment

---

## JUDICIAL SYSTEM

- LEVERAGE: AVOIDANCE OF JAIL  
*Probation*  
*Mental health courts*
- LEVERAGE: AVOIDANCE OF HOSPITAL  
*Outpatient commitment*

# United States Code, Title 18, §3563



---

“The court may provide, as further conditions of a sentence of probation...that the defendant ... undergo available medical, psychiatric, or psychological treatment”

# Mandated Community Treatment

(Psychiatric Services, January 2005)

---

## Five Sites

- Durham, NC
  - Worcester, MA
  - Chicago, IL
  - Tampa, FL
  - San Francisco, CA
- 
- Overall N: 1,011
  - Refusal Rate: 6.8%



# Eligibility Criteria

---

- 18-65 years old
- English or Spanish-speaking
- Currently in outpatient treatment with a public MH service provider
- In treatment at least 6 months

# Prevalence of Mandated Community Treatment



| <b>Form of Leverage</b> | <b>% with Leverage</b> |
|-------------------------|------------------------|
| Obtaining Housing       | 32                     |
| Obtaining Money         | 12                     |
| Avoiding Jail           | 23                     |
| Avoiding Hospital       | 15                     |



# Experienced At Least 1 Type of Leverage

---

|                 |    |
|-----------------|----|
| ■ Overall       | 51 |
| ■ Durham        | 44 |
| ■ Worcester     | 55 |
| ■ Chicago       | 52 |
| ■ Tampa         | 48 |
| ■ San Francisco | 59 |



# Who is Leveraged?

---

- High functional impairments
- Many prior hospitalizations
- Long treatment history
- Co-occurring substance abuse (except housing)



# Conclusions

---

- Focusing the policy debate focusing on outpatient commitment is much too narrow
- Mandated treatment in the community is pervasive

# Q: Why Outpatient Commitment Now?

## A: Fear of Violence in the Community



---

“Laws change for a single reason, in reaction to highly publicized incidents of violence. People care about public safety. I am not saying it is right, I am saying this is the reality... So if you're changing [OPC] laws in your state, you have to understand that... You have to take the debate out of the mental health arena and put it in the criminal justice/public safety arena.”

— D. J. Jaffe, Treatment Advocacy Center

# **Assisted Outpatient Treatment Through Kendra's Law**



**A NAMI New York State  
White Paper**



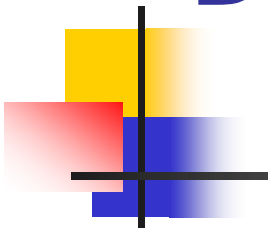


# Petition of Benjamin Franklin to the Pennsylvania Assembly, 1751

---

“The number of persons distempered in mind and deprived of their rational faculties has increased greatly in this province. Some of them going at large are a terror to their neighbors, who are daily apprehensive of the violences they may commit.”

# DSM-IV Vignette: Schizophrenia



NAME is a RACE/ETHNICITY, MAN/WOMAN, who has completed EDUCATION. Up until a year ago, life was pretty okay for NAME. But then, things started to change. He/She thought that people around him/her were making disapproving comments, and talking behind his/her back. NAME was convinced that people were spying on him/her and that they could hear what s/he was thinking. NAME lost his/her drive to participate in his/her usual work and family activities and retreated to his/her home, eventually spending most of his/her day in his/her room. NAME became so preoccupied with what s/he was thinking that s/he skipped meals and stopped bathing regularly. At night, when everyone else was sleeping, s/he was walking back and forth in his/her room. NAME was hearing voices even though no one else was around. These voices told him/her what to do and what to think. S/he has been living this way for six months.



“How likely is it [John/Mary] would do something violent to other people?”

---

% very/somewhat likely

- Schizophrenia: 61
- Major depression: 34
- Drug dependence: 87



“Do you think that people like  
[John/Mary] should be forced by law...

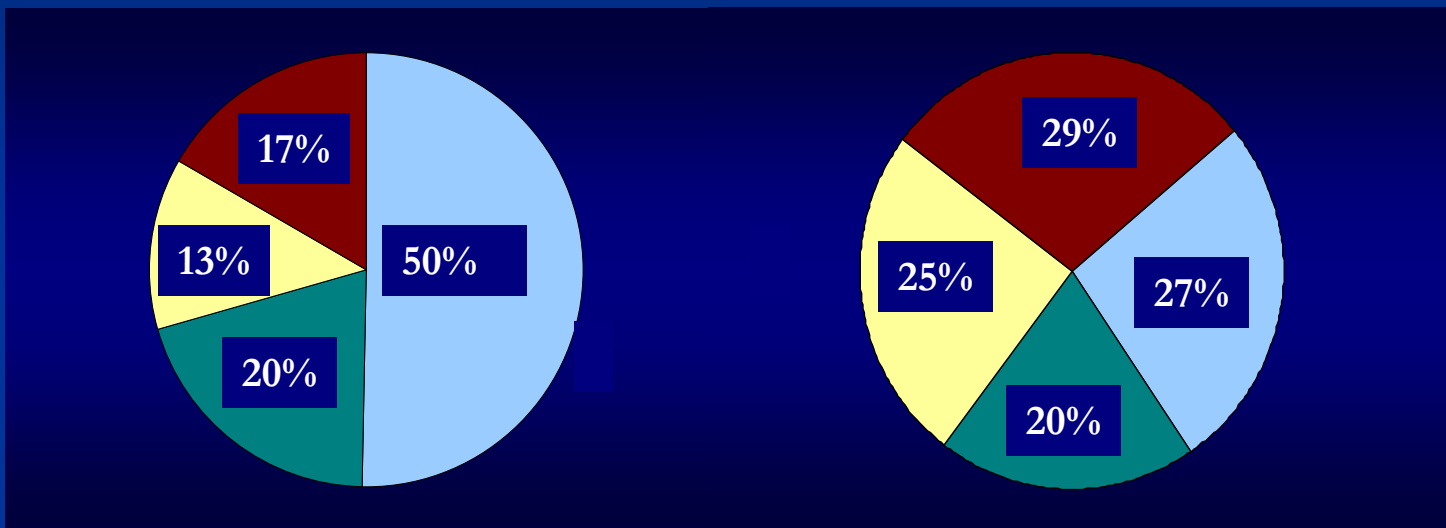
|               | to get treatment at a clinic or<br>from a doctor?” (% yes) |
|---------------|--|
| Schizophrenia | 49   |
| Depression    | 22   |
| Drug          | 67   |



“Do you think that people like  
[John/Mary] should be forced by law...

|               | to get treatment... if he or she is dangerous to others?” (% yes) |
|---------------|---|
| Schizophrenia | 49 → 95   |
| Depression    | 22 → 94   |
| Drug          | 67 → 96   |

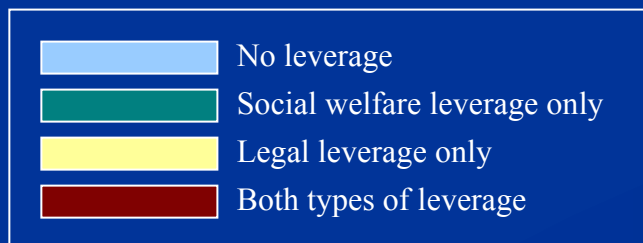
# TYPES OF LEVERAGE BY HISTORY OF VIOLENCE (%)



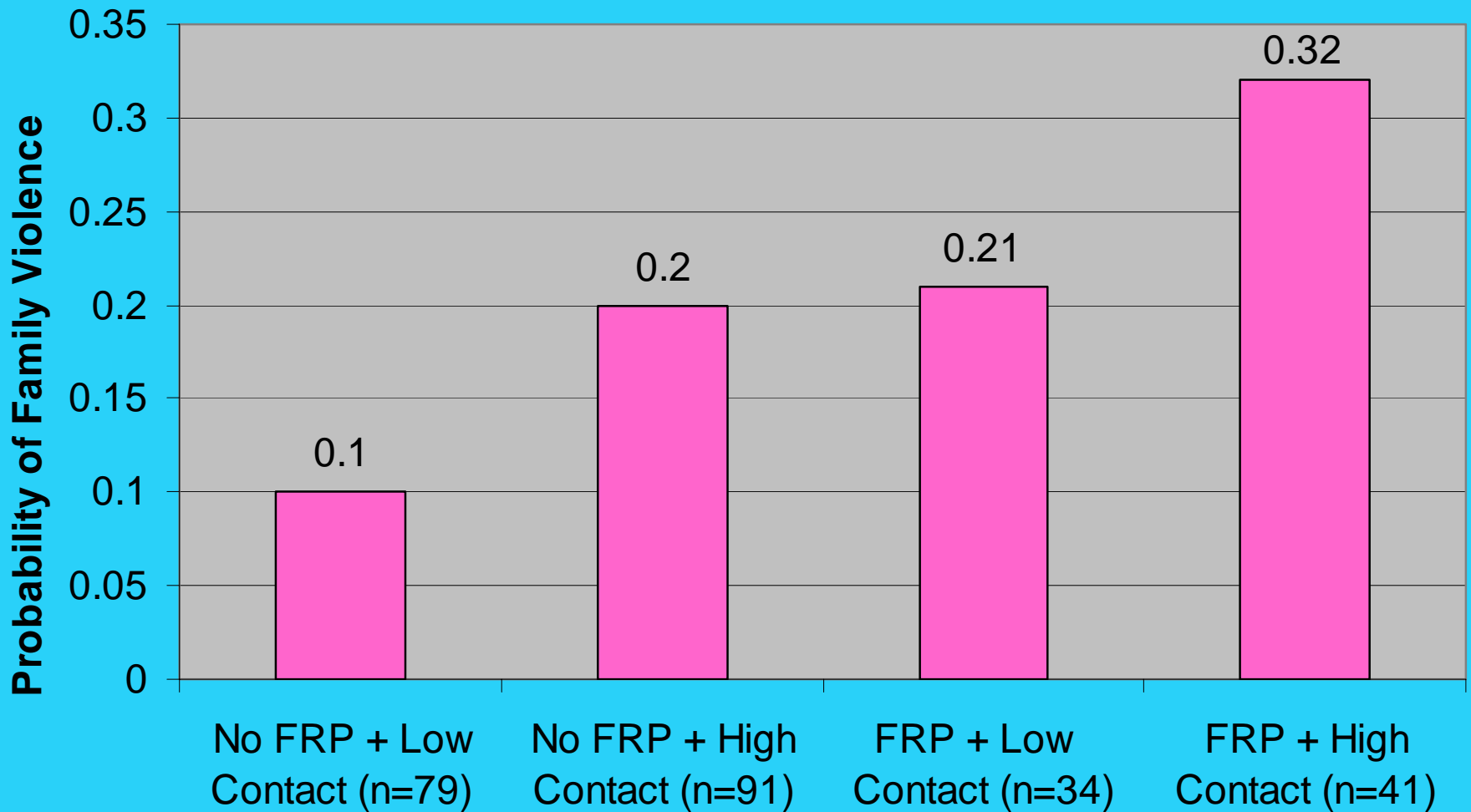
No violent behavior

Violence

## Legend



# Violence and Repayees



# “Principle of Reciprocity”

## Scottish Mental Health Act (2005)

---

“Where society imposes an obligation on an individual to comply with a programme of treatment and care, it should impose a parallel obligation on the health and social care authorities to provide safe and appropriate services, including ongoing care following discharge from compulsion.”



# More Information

---

- Email: [jmonahan@virginia.edu](mailto:jmonahan@virginia.edu)
- Data available at:  
<http://macarthur.virginia.edu>