

# About the Bazelon Center for Mental Health Law

- ▶ Mission: To protect and advance the civil rights of adults and children with mental health and developmental disabilities.
- ▶ <https://www.bazelon.org/>
- ▶ Follow us on:
  - ▶ LinkedIn: <https://www.linkedin.com/company/the-bazelon-center-for-mental-health-law/>
  - ▶ Facebook: <https://www.facebook.com/bazeloncenter>
  - ▶ Instagram: <https://www.instagram.com/bazeloncenter>
  - ▶ X (Twitter): <https://twitter.com/bazeloncenter>



# *Johnson v. Grants Pass*

## Mental Health Amicus Brief

Submitted by the [Bazelon Center for Mental Health Law](#), [American Psychiatric Association](#), [National Alliance on Mental Illness](#), [National Association for Rural Mental Health](#), and [National Association of Social Workers](#), the brief made two main points:

1. Arresting or fining people experiencing homelessness for trying to survive **disproportionately impacts and harms** people with mental health disabilities; and
2. **Community-based housing and mental health services are far more effective** than criminal enforcement in addressing homelessness for people with mental health disabilities

[Read the mental health amicus brief \(PDF\)](#)

# Disproportionate Impact

***Myth busting:*** *Most people experiencing homelessness do not have a mental health condition. Homelessness is more frequently triggered by economic factors e.g., job loss, debt. ([American Psychiatric Association](#))*

- ▶ December 2023: HUD estimates **653,100** Americans are homeless
- ▶ January 2023: SAMHSA estimates **more than 20%** of people experiencing homelessness currently has a “serious mental illness,” compared with **5.6%** of the general population
- ▶ June 2023: **27%** of Californians experiencing homelessness had been hospitalized for a mental health condition, with **more than half** of those hospitalizations occurring prior to their first instance of homelessness

# Disproportionate Harm

**Physical Harm and Death:** People with mental health disabilities are:

- **12 times** more likely to experience police use of force;
- **16 times** more likely to be killed by law enforcement

**Unnecessary Arrest and Incarceration:**

- ▶ Jail systems are now among the **largest providers of mental health care** in the United States
- ▶ Once in jail, people with serious mental illness can remain incarcerated **twice as long or longer** as others and most **don't receive mental health treatment**
- ▶ Upon release with a criminal record, people are more likely to be **unemployed, homeless, and rearrested**

# Solutions Exist

Community-based housing and mental health services are **far more effective**. Examples include:

- Supportive housing
- Assertive community treatment
- Mobile crisis services
- Supported employment
- Peer support services

Alternative interventions are also **cost-effective** for communities. Supportive housing is:

- **One quarter** the cost of incarceration, and
- **One tenth** the cost of psychiatric hospitalization

# Additional Concerning Trends

- **Federal and State:** Efforts to increase federal funding for institutions
- **State and Local:** Lowered barriers to involuntary commitment
- **State and Local:** Post-*Grants Pass* directives

# Efforts to Increase Institutionalization

Background: Since 1965, Medicaid has not authorized federal reimbursement for services provided to individuals ages 21-64 in an “institution for mental disease” (IMD).

Congress’ intent: encourage state investment in community-based services, rather than institutions.

- Congress: Calls to weaken or repeal the “IMD Rule”
- States: 1115 Waiver applications to get Medicaid reimbursement for IMDs
- Calls for “more beds”

# Responses to Efforts to Increase Institutionalization

## 1. We tried it before and **it did not work**

- Demonstration Program Final Evaluations found:
  - No decrease in ER admissions or lengths of stay;
  - No decrease in hospital admissions or lengths of stay;
  - No improvement in access to care;
  - No cost savings to communities.

## 2. Even short stays in IMDs are **harmful**

- Illinois Court Monitor found “no evidence of active treatment” and significantly higher critical incidents including sexual assault, abuse, neglect, and death

## 3. Any weakening of the IMD rule is **inconsistent with federal civil rights laws**

- ADA Integration Mandate; *Olmstead v. L.C.* (Lois Curtis)



# Efforts to Lower Barriers to Involuntary Commitment

- Nationwide
  - Cicero Institute Model Legislation, section G
  - State Level Homelessness Criminalization
- California: CARE Court & SB 43 in Plain Language (DRC)
- New York City: Mayor's Directive on Mental Health Involuntary Removals

# Responses to Efforts to Lower Barriers to Involuntary Commitment

## **Advocate in Your Local Community:**

- What Communities Need to Know About the Criminalization of Homelessness (National Alliance to End Homelessness)

## **Combating Punitive State Bills and Laws:**

- Emerging Strategies to Combat State-Level Punitive Bills (NAEH)
- Housing Not Handcuffs Toolboxes (NHLC)

## **Advocating for What Works:**

- Tell your elected officials to fund housing and solve homelessness (NHLC)
- Increase Accessible Housing (The Kelsey)

## **Media & Messaging Guidance:** Housing Narrative Lab

- Everyone Needs a Safe Place to Sleep: Message Guidance Executive Summary
- Abbreviated Field Guide for Narrative Change

# Example: *Post-Grants Pass* Directive and Local Responses

California: [Governor's post-Grants Pass Executive Order](#)

- Whereas, post-Grants Pass, “**there is no longer any barrier** to local governments ... **to address encampments** with both urgency and humanity, or excuse for not doing so”

Local Responses

- San Francisco: [Journey Home Executive Directive](#)
- [Los Angeles Won't Comply](#): won't use jails as makeshift shelters
- [San Jose Won't Enforce](#), but mayor says need inpatient treatment beds

# Thank You

Monica Porter Gilbert

Policy & Legal Advocacy Attorney

[monicag@bazelon.org](mailto:monicag@bazelon.org)

