

## **Civil Rights Coalition on Police Reform**

October 28, 2015

Honorable Fred Upton  
Chair House Energy and Commerce Committee  
United States House of Representatives  
2183 Rayburn House Office Building  
Washington, DC 20515

Honorable Frank Pallone  
Ranking Member House Energy and Commerce Committee  
United States House of Representatives  
237 Cannon House Office Building  
Washington, DC 20515

### **Re: Letter of concern from the Coalition on Police Reform on The Helping Families in Mental Health Crisis Act 2015 (H.R. 2646)**

The undersigned members of the Civil Rights [Coalition on Police Reform](#) convened by the Lawyers Committee write in regard to the Helping Families with Mental Health Crisis Act of 2015 (H.R. 2646). “The Civil Rights Coalition on Police Reform includes 37 national civil and human rights organizations that meet weekly to develop policy and legal strategies to address police brutality. The Coalition primarily seeks to reform policing tactics, while ensuring necessary accountability and creating better, more sustainable relationships between the community and police. It also seeks to enhance and coordinate our joint efforts to promote multifaceted police reform.” (Coalition Website)

We agree that there is an imperative need to update the current mental health services system, especially for communities of diverse backgrounds, but we have serious concerns with the provisions set forth in the Helping Families in Mental Health Crisis Act of 2015. We ask that you not support the movement of this bill until these concerns are addressed. The legislation will cause serious harm to many of the programs used in the community that provide support and services to people with psychiatric disabilities.

As stated above, this coalition primarily seeks to reform tactics, while ensuring necessary accountability and creating better, more sustainable relationships between the community and police. Much of this legislation will roll us back to outdated, biased and inappropriate treatment of people with a mental health diagnosis. There are a number of provisions in H.R. 2646 that we have concerns with and we would like to see removed and/or changed.

In Title I the legislation would create *an Assistant Secretary for Mental Health and Substance Use Disorders* with “ requirements on the Assistant Secretary that would include limiting grant funding to only those programs and activities that use evidence-based or emerging evidence-based best practices”. Enactment of these provisions would end innovative or newly created programs that usually obtain this research once they are established.

Title II of this legislation is *Grant Reform and Restructuring* and would “ establish new requirements for states to be eligible for the Community Mental Health Block Grant (MHBG)”. The title would require states, in order to receive MHBG funding as well as a 2% incentivizing increase, to have in effect a law that provides for involuntary outpatient treatment (commitment) that requires individuals to obtain outpatient mental health treatment or Assisted Outpatient Treatment (AOT laws) and laws that require a civil court to order involuntary inpatient or outpatient treatment for an individual if the court finds that an individual, as a result of mental illness, is a danger to self or others “is persistently or acutely disabled, or is gravely disabled and in need of treatment”.

This would require that in order for the state to obtain any MHBG grant funding it must have a law that provides for involuntary outpatient commitment (IOC). This type of treatment will bring law enforcement directly to the front door of many with psychiatric disabilities. This would have an adverse effect on the work being done to provide community based, peer-to-peer treatment. It also has the potential to increase the punishment and unfortunately violent encounters between police and people with mental illness.

There is evidenced based research in vast amounts, that proves people of color specifically African Americans have an excessively high interaction rate with behavioral health systems. A focus on hospitalization and forced treatment presents particular concerns for African Americans, who are overrepresented in both psychiatric hospitals as well as in forced outpatient treatment programs. (Department of Health and Human Services Report on Mental Health and Race) African Americans are also disproportionately subjected to forced outpatient treatment. In New York, one of the few states that actually implements forced outpatient treatment on a significant scale, civil rights advocates have expressed grave concerns about the fact that African Americans are approximately five times as likely as whites to be subject to forced outpatient treatment. (Beth Haroules – New York Civil Liberties Union - statement before The Assembly)

Many states have been moving away from this form of behavioral health services and implementing community treatment. This follows the spirit of the Affordable Care Act (ACA) by using community based services, peer-to-peer services, rapid response services and others. IOC is not effective and is obtrusive and invasive towards persons with disabilities’ rights and their lives. IOC has not been shown to prevent violence. Dr. Swanson of Duke University, told Behavioral Healthcare: “People who understand what outpatient commitment is would never say this is a

violence prevention strategy.” (Bazelon’s – IOC Myths & Facts)

Another part of Title II would affect a number of grant programs in the area of workforce development. One change would reduce the budget of the Minority Fellowship Program (MFP). Its budget would be reduced from \$10.669 million to \$6 million, which is approximately a \$5 million loss. This program provides important funding for individuals from underserved minority populations to obtain graduate degrees in mental health professions and is currently administered in SAMHSA.

There is plenty of public health evidence based research on the issues of race and healthcare. The decrease in funds for this program could have significant impacts on the lives of millions of people from diverse backgrounds who are unwilling to go to mental health professionals who are not representative of their community, “don’t look like them or have the same experience as them”. This large decrease in funding will reduce the number of fellows trained annually and significantly harm the ability of the program to create real change in mental health care for people of diverse backgrounds.

Title II would also cause serious harm to the budgets of multiple grant programs focused on suicide and trauma. The National Child Traumatic Stress Initiative (NCTSI), “improves treatment and services for children, adolescents, and families who have experienced traumatic events.” The legislation would decrease NCTSI’s budget by \$100,000 less than its FY 2015 budget and keep this number until FY 2018. This program works to assist children and youth exposed to violent and traumatic incidences around the country, including in our inner-cities.

H.R. 2646 also reauthorizes the Garret Lee Smith Act grant program for FY 2016 – FY 2020. Programs within this grant include the Suicide Prevention Technical Assistance Center grant program (SPTAC), the Youth Suicide Early Intervention and Prevention Strategies grant program (YSEIPS) and the Mental Health Substance Use Disorders Services on Campus (MHSUDSC) grant program. Each program’s budget would be significantly decreased causing less people to receive services. The SPTAC program would go from \$5.988 million to \$4.957 million; YSEIPS from \$35.427 million to \$29.738 million and MHSUDSC from \$6.488 million to \$4.975 million.

The language to reauthorize all the Garret Lee Smith Act grant programs also contains an abortion prohibition. The above three programs have this prohibition in current law, but this legislation would extend the prohibition to the Projects for Assistance in Transition from Homelessness (PATH) program. There is no abortion prohibition restriction in the current statute for the PATH program, but the Hyde restriction “that is included in the annual appropriations legislation would apply”. This legislation goes beyond the Hyde language as it also applies to the payment for abortion services and also to referring for abortion services.

Title IV of this legislation concerns protections under *the Health Insurance Portability and Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA)*. In this section, the legislation creates a new exception to the HIPAA privacy rule that reduces the privacy protections of confidential health information for persons with mental illness or developmental disabilities such as Autism with a co-occurring diagnosis, which is discriminatory. This new exception removes the HIPAA privacy protections which protects people's rights by making sure their providers do not disclose their treatment information to family members and/or caregivers. This would only be for people with serious mental illness and those with developmental disabilities with co-occurring diagnosis. Should this pass it can create a "slippery slope" as legislatures could try to do this for other diagnosis like HIV and AIDS, substance abuse or cancer, etc.

"With respect to a student who is 18 years of age or older, an educational agency or institution may disclose to the caregiver of the student, without regard to whether the student has explicitly provided consent to the agency or institution for the disclosure of the student's education record, the education record of such student . ." This provision would allow multiple medical professionals to be able to provide health information to caregivers. In some cases, these paraprofessionals described in this legislation have a very minimal and unsubstantiated connection to the student. They would have no need to the student's personal educational records. This could cause harm for the students future in various ways and defies many civil and human rights afforded to these students.

Title VIII of this legislation in Subtitle B, Sections 811 - 816 would, if passed, eliminate basic civil and human rights protections for those with mental illness and eradicate the ability for the entire Protection and Advocacy network to engage in advocacy to strengthen those important rights. The data shows that yearly, the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program positively impacts millions of individuals with psychiatric disabilities, their families, and the community. PAIMI staff routinely work with individuals, families, and the police to foster better understanding and relationships and the provisions in this bill would end this type of important work.

In closing, our work is a collaboration based on protecting the civil and human rights of the community. We urge you not to support this legislation and to move forward with mental health legislation that strengthens and improves many of the current programs working to change lives as well as protect the civil and human rights of persons with psychiatric disabilities.

We welcome the opportunity to speak with you about our concerns, please contact Dara Baldwin, Senior Public Policy Analyst, National Disability Rights Network (NDRN) at [dara.baldwin@ndrn.org](mailto:dara.baldwin@ndrn.org) or 202-408-9514 ext. 102.

Respectfully submitted:

African American Policy Forum  
Asian Pacific American Labor Alliance, AFL-CIO (APALA)  
Black Women's Roundtable  
Empowerment Temple AME Church  
Equity Matters  
Hands Up United  
National Association for the Advancement of Colored People (NAACP)  
National Action Network (NAN)  
National Bar Association (NBA)  
National Coalition on Black Civic Participation  
National Disability Rights Network (NDRN)  
National Urban League  
Parks & Crump Attorneys at Law  
Philip Randolph Institute  
Transformative Justice Coalition

Cc: House Energy and Commerce Health Subcommittee – Chair Representative  
Joe Pitts and Minority Leader Representative Gene Green