

Dismiss Upon Civil Commitment with AOT

One alternative to
addressing the
competency
restoration crisis

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We believe in the right to
treatment for those with
severe mental illness

..in a system stacked
against them.

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What you need to know

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AOT – Quick Review

- ✓ Collaboration between civil court and mental health system
- ✓ AOT is involuntary (unlike MH Courts)
- ✓ Civil court order
- ✓ Least restrictive setting
- ✓ Full due process protections afforded
- ✓ Quicker return to community

- ✓ Needed treatment provided often using existing resources
- ✓ Adherence monitored
- ✓ Ability to intervene quickly
- ✓ Black robe effect - degree of judicial involvement varies by program and participant
- ✓ Participant and treatment system held accountable



Criteria

Meets criteria for civil commitment. [NM Stat § 43-1B-3 \(2021\)](#)

- 18+
- SMI diagnosis
- Lack of compliance with treatment
 - 2 hospitalizations/48 mo
 - Act of violence/48 mo
 - Detained 6 mo or more
- Unlikely to voluntarily participate in treatment
- AOT is least restrictive to prevent deterioration
- Will likely benefit from AOT



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How does AOT work?

- Petition is filed.
- Hearing is held in civil court.
- Due process rights are protected.
- Clear and convincing evidence standard is met.
- AOT is ordered.
- Person centered treatment plan developed.
- Needed services are provided.
- Adherence is monitored.
- Participant engages in treatment.
- Participant graduates.



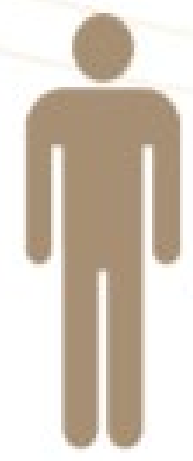
Consequences of non-adherence

- Frequency of periodic court check-ins.
- Time in program extended.
- Transported for evaluation.
- Rehospitalization, if needed.



Is AOT effective?

 **77%**
fewer experienced
psychiatric
hospitalization

 **74%**
fewer experienced
homelessness

 **83%**
fewer experienced
arrest

 **87%**
fewer experienced
incarceration

 **50%** cost savings in New York

 **40%** cost savings
in North Carolina

 **40%** cost savings
in Summit County, Ohio

 **\$1.81** saved for ever dollar spent
in Nevada County, California



Three Paths



Step Down:

Upon discharge from the hospital

Step Up:

Directly from the community to prevent hospitalization or incarceration

Step Over:

As diversion from jail, including as alternative to competency restoration



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Competency restoration crisis



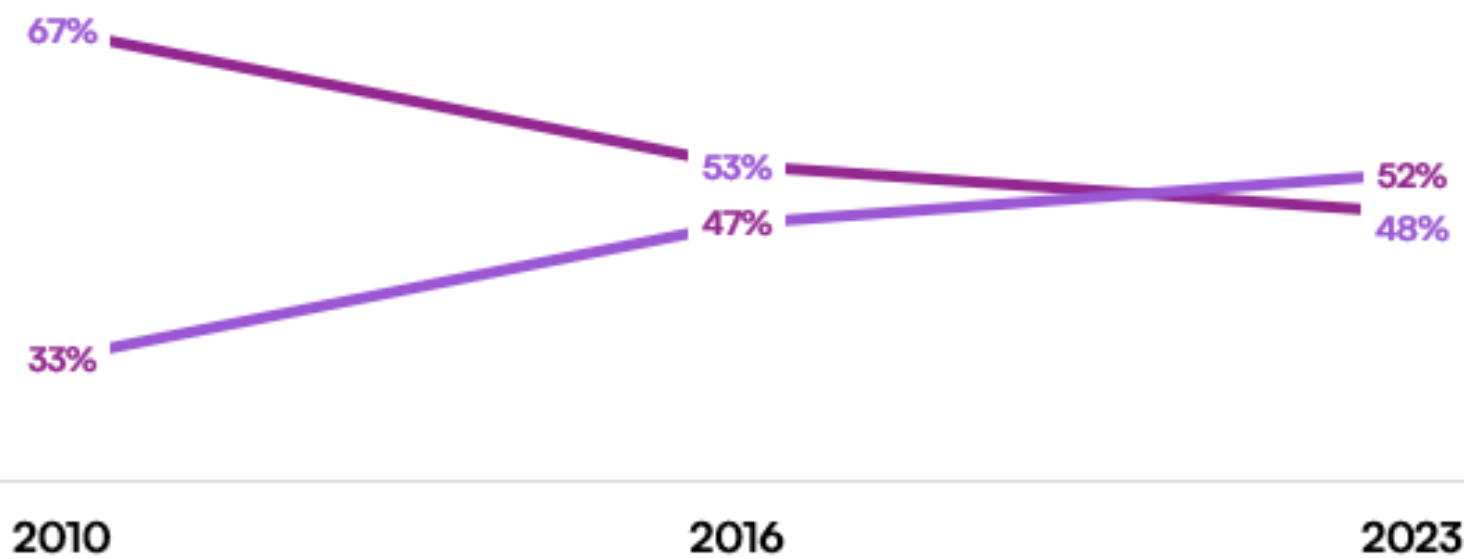
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OFFICE OF RESEARCH AND PUBLIC AFFAIRS
Research Report
January 2024

PREVENTION OVER PUNISHMENT

Finding the Right Balance
of Civil and Forensic State
Psychiatric Hospital Beds

Shanti Silver & Elizabeth Sinclair Hancq



— Percentage of beds occupied by civil patients — Percentage of beds occupied by forensic patients



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Consequences

Fewer state hospital beds for patients who are NOT criminally involved and who may be at risk of harm to self or others.

Patients wait in jail weeks, months or even years for beds to open in state hospitals.

Increased risk for victimization, additional charges, self-harm, suicide, and other negative outcomes.





State responses to crisis

- Prohibiting the placement of misdemeanants in state hospitals for competency restoration.
- Creating jail-based and community-based competency restoration programs.
- Dismissing charges immediately upon incompetent to stand trial finding.
- Passing laws to encourage dismiss upon civil commitment with AOT (FL, NV, OH, TX).



Stop the revolving door

Dismiss Upon Civil Commitment with AOT:

- Identify individuals who meet criteria
- Prosecutor dismisses criminal charges prior to or in lieu of competency restoration, with or without prejudice
- Petition is filed in civil court for civil commitment with AOT
- Upon stabilization (may require a short stay in the hospital), discharge to AOT
- Participant engages in treatment and civil commitment is dismissed or participant does not engage and prosecutor may choose to refile charges



Benefits of dismissal upon civil commitment with AOT

- Increases access to care
- Improves outcomes
- Longer period of follow-up
- Saves money



Who is a good candidate for dismissal upon civil commitment with AOT?

- ✓ Has been charged with a low-level offense
- ✓ Meets criteria for civil commitment/AOT
- ✓ Is unlikely to be restored to treatment within allowable time
- ✓ Does not present a public safety risk if treated
- ✓ Does not have a significant intellectual deficit
- ✓ Substance use disorder is not the primary diagnosis
- ✓ Needed treatment is available in the community
- ✓ Person is housed, housing options are available, or person's location is known
- ✓ Person does not take pleasure in being hospitalized
- ✓ Is not a candidate for mental health court



Pathway of dismissal upon civil commitment with AOT

All the following apply:

- Has SMI.
- Meets criteria for civil commitment/AOT.
- Unlikely to be restored to competency.
- Is not a public safety risk, if treated.

Hospitalization,
if needed.

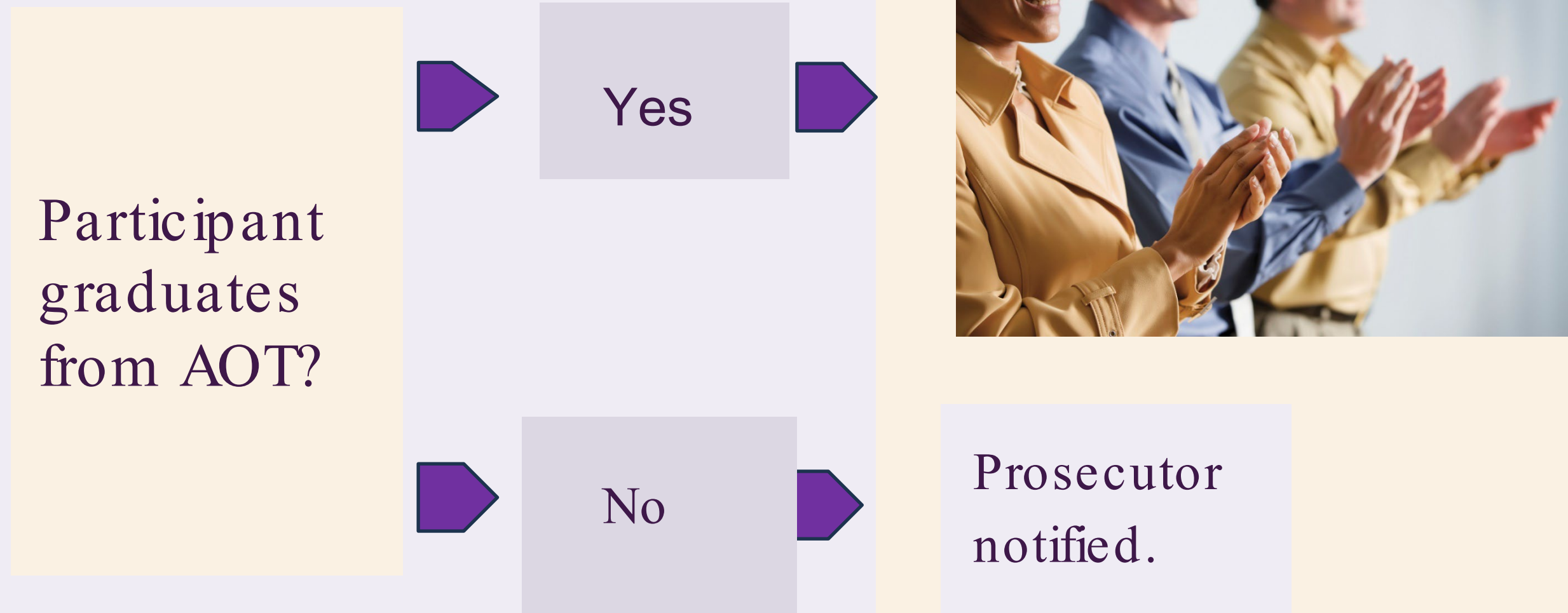
Prosecutor
willing to
dismiss upon
civil
commitment
with AOT.

Petition for
civil
commitment
with AOT
filed by
prosecutor,
court,
hospital, or
mental health
system.

Civil
commitment
with AOT is
ordered.
Criminal case
is dismissed.



Pathway of dismissal upon civil commitment with AOT



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Other pathways:

Prosecutor unwilling to dismiss. Competency evaluation ordered.



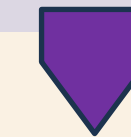
Found not competent to stand trial. Prosecutor willing to dismiss upon civil commitment with AOT.

OR

Prosecutor unwilling to dismiss. Competency evaluation ordered.



Found not competent to stand trial. Competency restoration is ordered.



Competency is not attained.

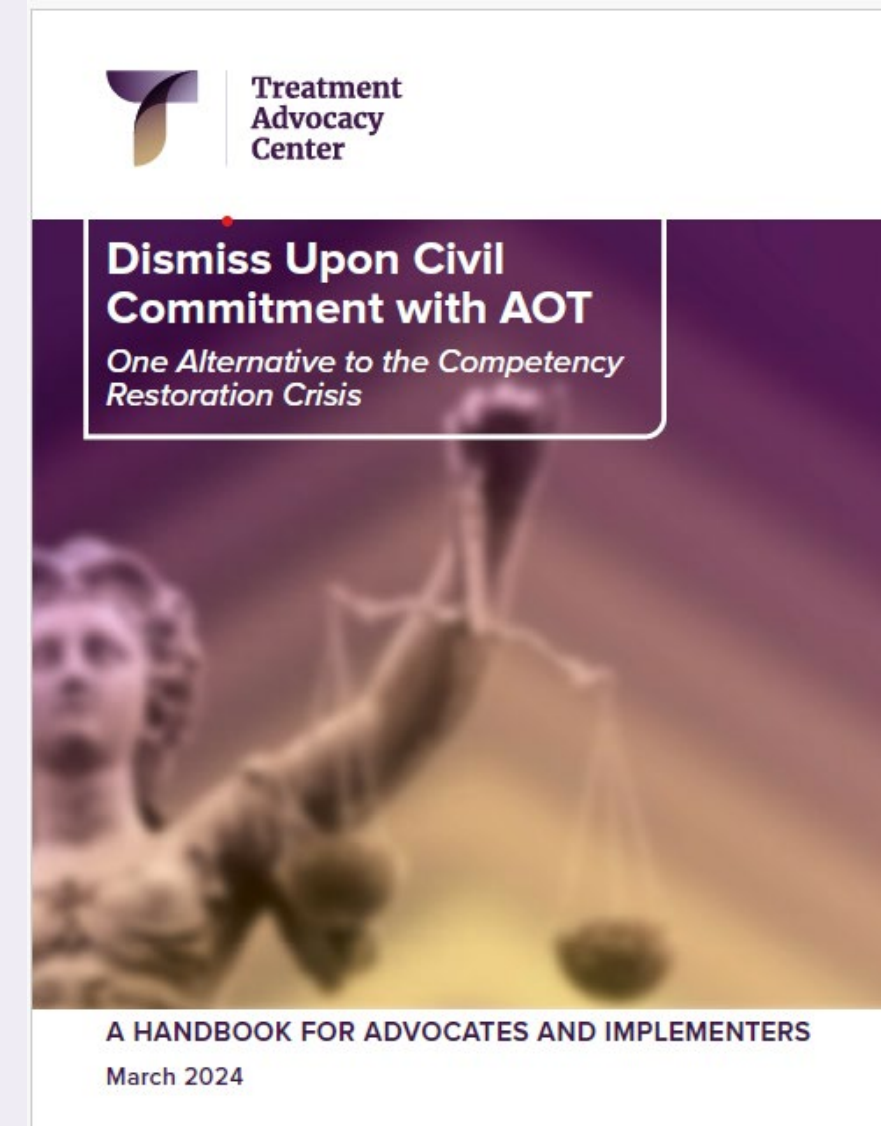
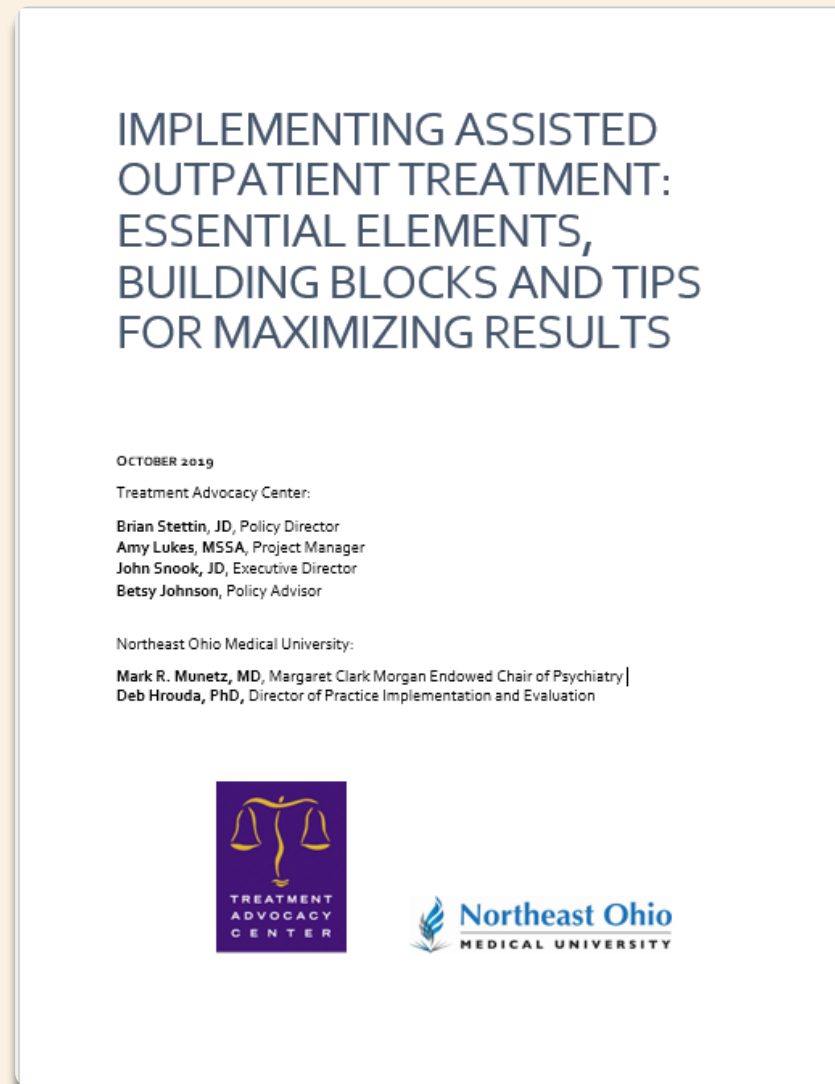


Case dismissed. Petition for civil commitment with AOT filed.



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Questions?



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Contact Us

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