

# Outpatient Treatment in Alameda County

*Summarized by Thomas T. Thomas*

## First Para

Our January 2019 speakers were **Penny Bernhisel**, award-winning Program Manager of the In-Home Outreach Team (IHOT) and the Assisted Outpatient Treatment (AOT) programs for Alameda County Behavioral Health Care Services, and **Francesca Tenenbaum**, Director of Patients' Rights Advocates for the Mental Health Association of Alameda County. Bernhisel is a social worker having broad experience with those living with serious mental illness and received the Mental Health Achievement Award in 2017 for outstanding contributions to the field. Tenenbaum regularly joins her in training law enforcement and clinicians for the IHOT/AOT programs and issues around involuntary holds under Welfare & Institutions Code 5150, particularly about the definition of "gravely disabled."

IHOT<sup>1</sup> provides intensive outreach and engagement, mental health screening, and in-home engagement for individuals with a history of hospitalizations or law enforcement encounters, and who are not currently engaged in services. AOT, based on a recovery-centered model, is an intensive community support service for the seriously mentally ill who are at great risk for hospitalization. Both are relatively new evidence-based practices offered by Alameda County with funding under the Mental Health Services Act. Both programs are also the result of sustained family advocacy—for AOT, over a two-year period—and are relative newcomers to the county.

## In-Home Outreach Team

IHOT is currently practiced only in Alameda and San Diego counties. It links individuals to the vast array of support programs in Alameda County, trying to avoid unnecessary hospitalizations and reduce interactions with the criminal justice system.

The IHOT mobile team includes a clinical leader/manager, licensed eligible case manager, two peer specialists, and a family advocate. The team does not provide treatment but tries to engage people who are otherwise reluctant to seek outpatient mental health services. The county currently has four such teams, each serving up to



*PENNY BERNHISEL*

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<sup>1</sup> This program is distinct from the Homeless Outreach Team (HOT) as practiced in San Diego and in the City of Berkeley for the past year. HOT collaborates with police and seeks self-referrals on the streets and in homeless camps, while IHOT waits to get a referral before approaching an individual.

25 individuals, for a total program census of about 100 people.

The criteria for outreach are that the individual have a serious mental illness, be reluctant or resistant to accepting outpatient services, and be eligible for or receive Medi-Cal benefits. If the individual is a Transition Age Youth on his or her parent's medical insurance, the team can help with the transition to Medi-Cal. The individual should be at least 18 years of age with no upper age limit, although the county has a Geriatric Assessment and Response Team for individuals 65 and older.

The team does not directly solicit referrals from individuals with mental illness but will take referrals from anyone—family members, store owners, police officers, anyone involved with the individual—and then go wherever the client is located. While IHOT will receive information and referrals from the police, the team will not report back to them for reasons of confidentiality. The IHOT team will stay involved with the individual for three to six months after he or she is engaged with services.

The team does not provide support for families. But if a family member thinks an individual is heading for a 5150 situation, Bernhisel said, they can be proactive and contact IHOT—or the [Mental Health Association](#) or the [Family Education and Resource Center](#). There is also a form, [AB 1424](#), which lets the family legally communicate with mental health clinicians about the medical history of a person under an involuntary hold.

### **Assisted Outpatient Treatment**

The IHOT team is the first stop on the way to Assisted Outpatient Treatment (AOT). This program is an outgrowth of Laura's Law, referring to a murder in Nevada County, and is modeled on Kendra's Law in New York State. The intention is to keep both an individual with severe mental illness and the community safe by preventing people from deteriorating to the point that they need to be involuntarily committed. In its implementation in Alameda County, the court has ruled that the county can provide services but cannot order medication.

AOT is a civil court process, not criminal. It is also not a conservatorship; so the individual maintains his or her rights. The judge supervising treatment gets a report every 60 days. The county can provide services for six months and then, if the patient is still treatment resistant, renew for up to two more six-month periods after that. However, the program has not been in existence long enough to test 18 months of resistance to treatment.

To be eligible for AOT, an individual must meet all nine criteria in the Welfare & Institutions Code: (1) Be 18 years of age or older. (2) Suffer from a defined mental illness. (3) Be unlikely to survive safely in the community without supervision. (4) Have a history of lack of compliance with treatment, so that the person's mental illness has factored in either (a) receiving two or more hospitalizations in the past three years, or (b) committing serious and violent acts of harm toward self or others in the past four years. (5) Have been offered a treatment plan and continues to fail to engage in treatment. (6) Is substantially deteriorating. (7) Participation in AOT would be the least restrictive placement necessary. (8) Participation in AOT would prevent a relapse or deterioration likely to result in grave disability or serious harm to self or others. (9) Would benefit from assisted outpatient treatment.

On that last point, about benefitting from treatment, Bernhisel noted that while the mental illness may include dual diagnosis with substance abuse, AOT is not a criminal process and not suitable to someone whose drug use is unlikely to respond to treatment.

Because the AOT law has “no teeth,” Bernhisel said, “You need to have a trauma-based approach. All behavior is in the context of trauma.” She spoke instead of the “black robe effect,” meaning the implied power of a court and a judge to gain the client’s respect and eventual adherence. Bernhisel described the current judge in charge of Alameda County’s AOT Court as practical, down-to-earth, and caring about the individuals whose cases she oversees.

The AOT program has a current census of 21 individuals and a capacity of 30. In the program’s history, only four individuals have left—meaning they disappeared from treatment for six months or more.

### **W&I Code 5150 and the Definition of “Gravely Disabled”**

To be placed under an involuntary hold in California, an individual must be processed according to the Welfare & Institutions Code 5150. This part of the law allows an individual who is a danger to self or others or gravely disabled to be held for 72 hours pending a hearing, then held for 14 days after that, and if judged appropriate after a further hearing, held for another 14 days.



FRANCESCA TENENBAUM

Most “5150s” in Alameda County are issued by the police, but some counties use clinicians, and Francesca Tenenbaum would like a change to that model. She is also working with local police on how to write a good 5150, so that patients arriving at a crowded facility like the John George Psychiatric Pavilion—when their bodies are full of adrenaline and their mental state is at its sharpest—are not “triaged away” when they actually need care.

Under the law, “gravely disabled” is a complex criteria, she said. The technical meaning is that a person is not able to provide for basic personal needs such as food, shelter, and clothing. But in reality, it means that the person cannot *safely* care for him- or herself. For instance, some people have the awareness to take good food from the dumpster at a grocery store, while someone gravely disabled might not distinguish food from non-food material.

“Under the law,” she said, “if a person can survive because of family assistance, then they can only become ‘gravely disabled’ if the family kicks them out of the house. But if the person has deteriorated to the point that you cannot keep them going, then you have to say you can’t keep them alive. The key word is ‘safely.’”

Even in a family situation, a person with paranoia or delusions might reject the food the family offers. Or a person with diabetes might try to exist on an all-sugar diet, or drink excessive amounts of water and risk death through electrolyte imbalance.

As to advice for families in this situation, Tenenbaum advised them to fill out Form AB 1424 and not give up. “Persistence pays off,” she said.