UNITED VOICES AGAINST CARE COURT

Below are collective talking points that are repeated within letters voicing concern about the CARE Court framework. The CARE Court framework as presented by CalHHS was also reviewed in order to confirm the relevance and applicability of the talking points. They have been compiled for purposes of collective messaging.

Overview of Collective Talking Points:

1. CARE Court violates the principles of self-determination.
2. CARE Court criminalizes homelessness and will lead to the unnecessary re-institutionalization of people with disabilities.
3. Successful models of services for unhoused individuals with disabilities are voluntary and trauma informed.
4. Invest in a Housing Framework to appropriately fund affordable housing with voluntary wrap-around services, instead of funneling millions of dollars into coercive systems of care.
5. Prioritize housing placement.
6. CARE Court perpetuates institutional racism and worsens health disparities.
7. CARE Court is a costly, unproven proposal that will not end homelessness.
8. System lacks infrastructure with no guarantee of housing or voluntary services.

COLLECTIVE TALKING POINTS

(Detailed)

1. CARE Court violates the principles of self-determination.
   - Forced treatment will not address encampments, lack of accessible and voluntary services, and lack of housing for unhoused individuals
   - Violates individual’s right to self-determination and constitutional rights
   - Fails to build trust through outreach and engagement by trained mental health care professionals and peers with meaningful offers of service(s)
   - Creates an environment of individuals not voluntarily choosing care
     - Involuntary care can further traumatize and harm an individual particularly if it is not helpful to their recovery and engagement in services
     - Creates distrust for the system which further alienates unhoused individuals with disabilities from seeking treatment and assistance
   - Contemplates being under court order and court’s jurisdiction in perpetuity.
     - No clear determination on factors that would determine when the court’s order or jurisdiction would terminate

Dated: April 7, 2022
Confidential care and treatment would be treated as evidence to further deprive of the person with disabilities’ right to self-determination
Consequences may be conservatorship or jail – deprivation of legal rights and freedom

- Eliminate the right of self-determination and engage on their own terms
- The right to make one’s own decisions about care, treatment and medication is fundamental for all people, regardless of housing status or disability status
- The court should not have jurisdiction over confidential and HIPAA-protected clinical assessments, treatment plans and medications
- An advanced directive is put into place and the individual will be placed back into the plan in the event of a future crisis
  - No plan for voluntary future mental health care is provided for success completion of the program

2. CARE Court criminalizes homelessness and will lead to the unnecessary re-institutionalization of people with disabilities.

- Failure to comply with the referral process to CARE Court will increase arrests and institutionalization of homeless individuals with disabilities
- Increases stigma and discrimination against already marginalized population by providing a broad group to refer a person with disability to CARE Court
- Court is an intimidating place, where many individuals have experienced trauma, and does not promote healing
  - Homeless individuals prior court experiences may include eviction, criminal charge, child custody, divorce, domestic violence and prior involuntary mental health treatment
- The assignment of a public defender confirms an individual is treated as a criminal
- Failure to comply with the court order can result in a conservatorship or jail, which are both processes that deprive an individual of their rights and freedom
  - Medication may be provided in a long acting injection which once injected will not allow an individual to choose their own treatment
- Plan could come with a jail sentence of 1-2 years
- Conservatorship decisions should be made only in limited circumstances and at the exhaustion and extensive use of voluntary base services; and only under the advice of trained professionals, not by the court
  - Lacks explanation on how refusing treatment under the plan creates a nexus to conservatorship
  - Does the plan work in reverse, will conservators have the option to send an individual to CARE Court
- Under California law, a person who is “gravely disabled” and a danger to themselves or others, may have their rights to make decisions for themselves and their liberty taken away and given to a family member or representative of the state. CARE Court would greatly expand this power to take away personal autonomy. Under the current proposal, the court orders a person to comply with a “care plan,” thus removing their personal control over health and other
decisions. The penalty for failure to obey the court’s commands is presumptive placement in a conservatorship.

3. **Successful Models of Service for Unhoused Individuals with Disabilities are voluntary and trauma informed.**

- Appropriate outreach and engagement conducted by certified peers and/or behavioral care professionals with expertise in trauma informed care
- Trauma informed care with a holistic approach
- Being homeless is traumatic. Further many individuals experience additional trauma including being victims of personal violence, witnessing serious violence, and frequent encounters with police which are often unrelated to criminal activity and disproportionate for people of color
- Prioritize housing with voluntary services, and remove any administrative barriers
- Increase accessible housing units for housing individuals with disabilities
- Increase housing funds
- Harm Reduction Model of Recovery is best practice
- An individual’s needs are assessed on the basis of personal story/history, which also addresses social relations, from family to neighborhood
- In order to meet the needs of an individual, personal relations between care workers and individuals are considered central
- Services are evaluated in terms of personal routes to recovery and empowerment.
- Peer counseling from individuals with lived experiences and community engagement.
- Resources that are relevant to all populations and that are targeted towards underserved populations including youth, Veterans, older adults, LGQTIA+ people, Black, Indigenous and People of color
  - Community to be one of inclusion, freedom to exercise social rights and provide a support network

4. **Invest in a Housing Framework to appropriately fund affordable housing with voluntary wrap-around services, instead of funneling millions of dollars into coercive systems of care.**

- With consistent and adequate funding, housing and services provided through the existing community-based behavioral health system can achieve California’s goals of eradicating homelessness and meeting the needs of people with mental health disabilities. Such services include:
  - Large-scale financial investment in low-barrier, deeply affordable (15% of AMI or less), accessible housing for unhoused individuals with mental health disabilities, including operating subsidy;
  - Voluntary, trauma-informed, client-directed supportive services offered as wraparound to housing, such as:
• Intensive service program for unhoused individuals in developing a voluntary treatment program that focuses on wellness and recovery (e.g. Full Service Partnerships that adhere to the Assertive Community Treatment (ACT) model of care and/or Intensive Case Management);
• Community-based mobile crisis response as an alternative to 911/law enforcement; and/or
• Mental health and substance use services, under a harm reduction model of care, as appropriate to meet individual needs;
  ▪ Sustained outreach and engagement that connects people to housing to a variety of non-restrictive housing options, with the option of ongoing housing case management services;
  ▪ Early intervention, including providing services and accommodations before a person loses housing or experiences mental health crisis.

• To be effective, all services must be:
  o Voluntary and provided through a well-informed model of care for an individual to self-determine best court of treatment;
  o Recovery-oriented, strength-based, and person-centered;
  o Culturally responsive and trauma-informed; and
  o Stakeholder-informed and responsive to community needs.

5. Prioritize Housing Placement
• Break down barriers to housing placement including terminating criminal history and credit history checks, and providing funds for security deposits or eliminating such deposits
• Provides the opportunity to achieve personal stability and a foundation from which decisions can be made about engaging in mental health treatment
• Permanent sustainable affordable housing unit and accessible supports offered voluntarily
• Does not solve homelessness, currently there is not enough housing for individuals that have housing navigators, case managers or in a homeless program such as a shelter or FSP

6. CARE Court perpetuates institutional racism and worsens health disparities.
• Medi-Cal considerations:
  o Unclear if Medi-Cal consumers that come under the CARE court’s jurisdiction will be prioritized over other Medi-Cal patients not in the program
  o Privately insured individual’s carriers may not accept CARE court mandates
Ineligible MediCal individuals not considered in plan regarding payments for care, will state mandate private insurance to pay.

- Due to a long and ongoing history of racial discrimination in housing, banking, employment, policing, land use and healthcare, who are Black experience homelessness at vastly disproportionate levels compared to the overall population of the state. A program to place unhoused people under state control through court-ordered “treatment,” will impact Black unhoused Californians disproportionately.

- For example, in Alameda County, DRC found that half of the homeless and jail populations are Black and that over half of the people psychiatrically institutionalized 10 or more are Black—even though Black residents make up only 11% of the County’s population. By adding yet another coercive system, CARE Court will cement the racial discrimination that already exists in California’s behavioral health and criminal justice systems.

- Our current health systems of care fail to provide culturally and linguistically competent care. CARE Court will exacerbate these health disparities under the directive of a court system. Targeting people with Schizophrenia and psychotic disorders will disproportionately impact Black, Indigenous, and other people of color, who are significantly more likely to be diagnosed with such conditions as compared to Euro-Americans.

- CARE Court’s focus on psychotic disorders will further this racial bias and disproportionately subject Black, Indigenous, and other people of color to coerced care.

- People of color must maintain the right to self-determine their health and the health of their communities.

7. **CARE Court is a costly, unproven proposal that will not end homelessness.**

- Counties will require state funding for state reimbursable mandates and Prop 30 (2012) impacted programs
- Re-directs resources to an already taxed systems including staff and funding
  - Additional resources will be required to adequately fund behavioral health staff and services
- Should not allow Mental Health Service Act funding to be used for coercive treatment
- Funding must include sustainable housing

8. **System Lacks Infrastructure with No Guarantee of Housing or Voluntary Services**

- No available identified or program to assess housing for unhoused individuals
- Behavioral health workforce is already in crisis with vacancies of 30%-40% or more
- The court is not prepared to support the plan: lacks facilities, staff, collecting filing fees and technology
• Public defender’s caseload is at capacity and resources for additional CARE court matters are non-existent
• Fails to consider individuals who are currently incarcerated, on probation or parole eligibility to the plan
• LPS conservatorships are currently understaffed and do not have capacity for placement
• CARE court is a means to address homelessness and unqualified/understaffed behavioral health staff and Supporters will overload the court system within appropriate referrals
• Level of assessment for individuals have not been identified nor has guidance for appropriate evaluations by behavioral health providers
• Treatment facilities are not in place or equipped to handle additional patients who do not have adequate housing, social, and financial supports
• Supporter’s responsibilities and qualifications are not defined:
  o Funding, agency employing, role with court/law enforcement/probation/parole, training and relationship with individual
• The advanced directive plan has not been developed
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B. Letter from: Heidi. L. Strunk, President & CEO Mental Health America of California, California Youth Empowerment Network, Sam Lewis, Executive Director, Anti-Recidivism Coalition, Courtney Hanson, Development & Communications Coordinator California Coalition for Women Prisoners, Christopher Martin, Policy Director, Housing California, Nan Roman, Chief Executive Officer, National Alliance to End Homelessness, Guyton Colantuono, NCPS Executive Director, Project Return Peer Support Network, Mark Salazar, MHA, President & CEO, Mental Health Association of San Francisco, Angela Chan, Chief of Policy, San Francisco Public Defender’s Office, Guyton Colantuomno, Statewide Directors, California Association of Peer Supporters Academy. “Comments and Recommendations Regarding Community Assistance Recovery and Empowerment CARE Court.” Received by Governor Gavin Newsom and Mark Ghaly, 23 March, 2022.

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E. Letter from: Le Ondra Clark Harvey, PhD., Chief Executive Officer, California Council of Community Behavioral Health Agencies, Tyler Rinde, Executive Director, California Association of Alcohol and Drug Addiction Program Executives, Chad Costello, CPRP, Executive Director, California Association of Social Rehabilitation Agencies, Christine Stoner-Mertz, LCSW, Chief Executive Officer, California Alliance of Child and Family
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