



New York State Senate & Assembly  
Joint Legislative Hearing on 2023 Executive Budget Proposal: Mental Hygiene  
February 16, 2023

Thank you for the opportunity to testify today. I'm Nadia Chait, the Senior Director of Policy & Advocacy at CASES. CASES serves over 9,000 New Yorkers annually, providing holistic support that includes mental health treatment, pretrial services, education, employment & career coaching, and care management. CASES is dedicated to serving people with serious mental illness and criminal-legal system involvement.

CASES' commends the Governor for recognizing that our mental health system needs significant, sustained investment to meet the needs of New Yorkers. The proposed budget will make a real difference in the lives of those we serve. We encourage the Legislature to include investment priorities and legislation that will build on the Governor's proposal to truly create a continuum of mental health care, and to decriminalize mental illness. There is a significant opportunity in this budget to reduce racial disparities in who has access to voluntary mental health treatment.

**CASES Recommends the Legislature:**

- 1. Support ACT Expansion & Target New ACT Teams to People with Criminal-Legal System Involvement**
- 2. Support the Expansion of Certified Community Behavioral Health Clinics (CCBHCs)**
- 3. Include the Treatment Not Jail Legislation in the Budget**
- 4. Support the Expansion of Residential Programs for People with Mental Illness**
- 5. Increase COLA to 8.5% to Address Workforce Challenges & Rising Costs**
- 6. Support the Expansion of Inpatient Bed Capacity**
- 7. Oppose Changes to Bail Reform**

**1. Target New ACT Teams to People with Criminal-Legal System Involvement**

*We recommend that at least two of the new ACT teams be Nathaniel ACT Alternative to Incarceration teams, and that an additional 5 of the new teams provide Forensic ACT services, with an additional investment of \$4.625 million.*

CASES currently operates 7 Assertive Community Treatment (ACT) teams. ACT provides a team-based intervention to help people with serious mental illness meet their goals, providing treatment and support. ACT can be a transformative program for our clients, reducing emergency department visits and hospitalizations and increasing community engagement. All of CASES ACT teams have at least one peer staff member. Although this is not required, we feel this is essential to success. We strongly support the proposal to increase access to ACT services statewide. Currently, people referred to ACT face wait times before they can access this essential service, as there is a waitlist. People should have access to ACT the moment they are referred, which this significant expansion will hopefully accomplish.

*ACT Teams for People with Criminal-Legal Involvement*

At CASES, we have built on the success of the traditional ACT teams by creating three specialty ACT teams that serve people with criminal-legal system involvement.

Nathaniel ACT: Our Nathaniel ACT (NACT) team is the only OMH-licensed Alternative to Incarceration program in the state. NACT serves people who 18 and over, face felony charges in New York or Kings County Supreme Court, have a serious mental illness and are facing at least one year of incarceration. Priority is given to individuals who are found incompetent after arrest. Referrals come from defense attorneys, prosecutors, judges, mental health treatment programs, OMH's Forensic Psychiatric Centers (Kirby & Mid-Hudson), NYC Correctional Health Services and the NYC Jails wards at Bellevue and Elmhurst Hospitals. NACT builds on the traditional ACT team model by adding a housing specialist, two criminal justice specialists, two intake clinicians, an additional peer specialist and an additional substance use specialist. This robust approach provides real success:

- 70% decrease in homelessness
- 70% decrease in recidivism
  - Of intakes who entered the program on a violent felony arrest, less than 5% have a new violent arrest after one year in the program
- 49% decrease in psychiatric hospitalization
- 225% increase in employment (from 4% to 13%)
- 100% increase in education activity (from 4% to 8%)

NACT tackles systemic discrimination and racism by providing treatment and housing instead of incarceration to people in need of care. NACT demographics are consistent with the population of people with serious mental illness in NYC's criminal-legal system: 65% of clients are Black. The expansion of ACT provides a real opportunity for the State to address the criminalization of mental illness by expanding access to NACT. Two additional NACT teams should be funded, in the Bronx and Brooklyn, serving 68 people each. NACT teams require additional funding of \$820,000 per team, compared to a traditional ACT team, which funds the additional staff positions. This will result in savings to the State, to the Medicaid program from reductions in hospitalizations, to the shelter system from reductions in shelter use, and to courts and prisons from reductions in criminal charges and incarceration.

Forensic ACT: CASES operates three Forensic ACT (FACT) teams, which provides traditional ACT services and close coordination with criminal justice agencies to help clients adhere to requirements (e.g., parole or probation supervision) and avoid further criminal-legal system involvement. Referrals to FACT come through the Single Point of Access (SPOA), coordinated by NYC Department of Health and Mental Hygiene. FACT builds on the traditional ACT team model by adding a housing specialist, a criminal justice specialist, an additional peer specialist and an additional substance use specialist.

This specialty model increases recovery and success for clients by integrating mental health and criminal-legal services. Here are some examples of the impact of FACT in clients' lives:

- “Without the FACT team’s services I wouldn’t have known where else to go for support. The people in the FACT team are lifesavers,” Stephen, Manhattan FACT participant
- “I didn’t want to get treatment or go to a group, but I like you guys. Y’all are always there for me. Y’all help me,” Kevin, Manhattan FACT participant

- “Sometimes I feel like I’m struggling by myself, but then the FACT team comes and shows me how much they care. You guys gave me hope,” José, Brooklyn FACT participant

FACT services are currently limited by the number of teams, leaving many people who need this service without it. Many of these clients are referred to our traditional ACT teams, but without the funding for additional staff, we are not able to provide the criminal-legal coordination and additional services. The Legislature should ensure that five of the new ACT teams are FACT teams, allowing 340 additional people to benefit from this model. FACT teams require **\$525,000** in additional funding compared to a traditional ACT team.

## **2. Support the Expansion of Certified Community Behavioral Health Clinics (CCBHCs)**

Mental health clinics are the bedrock of the public mental health system, designed to serve as the front door into treatment around the State. Clinics are failing, however, because the financial math simply does not work to provide the holistic, wraparound supports that clients need. At CASES, our Article 31 Clinic operates at an annual deficit of \$700,000, because of our commitment to provide the services and supports that help the people we serve to enter and maintain recovery. Our clients are not just a diagnosis on a piece of paper. They are human beings with complex needs, who are navigating multiple systems. CASES clinic specializes in serving people with criminal-legal system involvement. We are one of the only clinics with this specialization in the state, and the only one in Manhattan or the Bronx. CASES is committed to our clinic, but we are struggling to keep our doors open due to inadequate funding.

For two years, we had the funds we need – CASES was one of many organization in NYS awarded a SAMHSA grant to implement the CCBHC model. With these funds, we integrated mental health and substance use services, added case management and added peer support services. This provided a ‘one-stop shop’ where our clients could have all of their behavioral health needs met, with close coordination with the criminal-legal system. But then the grant ended, and now our clinic is operating at a deficit again. It is simply not sustainable for providers to finance core mental health services with grants. Permanent funding is essential. We urge the Legislature to support the expansion of the CCBHC demonstration, which will provide permanent CCBHC funding to 26 additional providers in New York. It is critical that these funds be targeted to providers like CASES, who serve distinct populations that are not well-served by the rest of the mental health system.

## **3. Include the Treatment Not Jail Act in the Budget (S.1976/A.1263)**

Treatment Not Jail should be included in the Budget this year. Treatment Not Jail will break the cycles of criminalization that harm people with mental illness and increase safety in our communities by providing the services and supports New Yorkers need. The Act will expand New York’s judicial diversion law to include people with mental health challenges and other disabilities. It expands eligibility by eliminating charge-based exclusions, and it would allow people to participate in treatment court without requiring a guilty plea, removing the coercive model of current treatment courts.

CASES is the supervised release provider for people who are awaiting trial in Manhattan. One in five participants have severe behavioral health needs, including both mental health and substance use needs. 89% of these individuals are people of color, showing clearly how the criminalization of people of color and people with mental illness combine to have very detrimental effects on

people of color with mental illness. These participants tend to have higher numbers of previous convictions, particularly misdemeanor convictions. These participants are not getting the help they need through the criminal-legal system. Incarceration traumatizes people and disconnects them from their community and the supports they need. Rikers Island is an inhumane institution that is unable to provide even basic mental health or substance use care. Of the 19 individuals who tragically died on Rikers last year, seven died from suicide and six died from overdose. People with mental health and substance use needs deserve treatment, not incarceration.

The Treatment Not Jail Act would shift our criminal-legal system away from a punitive approach to people with mental illness and toward one of healing and recovery. Instead of incarceration, people would have access to programs like Forensic ACT and the CASES mental health clinic, which provide the services and supports to access recovery and reduce criminal involvement. This is the way to create safety in our communities – not by removing and incarcerating people, but by caring for our community members and meeting their needs. We urge the Legislature to include the Treatment Not Jail Act and the necessary appropriations in the budget this year.

#### **4. Support the Expansion of Residential Programs for People with Mental Illness**

CASES served over 1,500 New Yorkers last year who live with mental illness. The majority were experiencing or had previous experience of homelessness. We have housing specialists on many of our ACT and Intensive Mobile Treatment teams, who work with our clients to help them access housing. Unfortunately, there simply isn't enough housing. We strongly support the Governor's proposal to invest in creating hundreds of new units for people with serious mental illness.

*We recommend that some of the transitional beds be set-aside specifically to serve individuals who are re-entering from prison and jails.* Our Forensic Homeless Intensive Case Management program, which is funded by OMH, helps individuals returning to NYC from state prisons who will be living in the shelter system. We work with these clients to help them secure housing and develop independent living skills. It is very hard to find appropriate housing for these clients. These individuals also often need transitional housing to provide robust supports and help them gain the ability to live independently. Many are not ready to live in supportive housing, although they will need supportive housing after a transitional period. These individuals may have gone to prison before cell phones were common and when the internet was much less essential to daily life. They are often overwhelmed by navigating the subway system and using MetroCards or OMNY. Although they are homeless, they do not meet the criteria for "chronic homelessness" due to their incarceration. Transitional housing specifically for these individuals would be instrumental in meeting their reentry needs and supporting their return to the community.

#### **5. Increase COLA to 8.5% to Address Workforce Challenges & Rising Costs**

CASES appreciates that Governor Hochul included a 2.5% COLA in her budget proposal. However, this is simply not enough. Last year's COLA of 5.4% was the first time in years that the human services COLA was fully fund. Providers have lost millions of dollars as the inflation eroded our contract funding and Medicaid rates. The behavioral health workforce was stretched well beyond its breaking point by the pandemic. We have dozens of vacancies and struggle to recruit new staff, as many individuals have left the field for higher salaries doing different work. 2.5% simply isn't enough. We urge the Legislature to fund an 8.5% COLA, tied to the CPI, and to ensure that future COLAs are also tied to CPI. This will ensure that the robust investments proposed by the Governor this year continue to succeed in years to come. Without a COLA, we

will continue to see service dollars erode, threatening the ability of CASES and providers like us to offer mental health services.

## **6. Support the Expansion of Inpatient Bed Capacity**

At CASES, we know that most of our clients live very well in the community when they have the services they need. Some clients, however, sometimes need a higher level of care, including an inpatient psychiatric stay. Unfortunately, it is currently very difficult to access inpatient care, as many hospitals have failed to bring beds back online after pandemic changes. CASES supports the Governor's proposal to ensure that hospitals comply with their operating certificates. This is essential to providing the full continuum of behavioral health care. We also urge the Legislature to work with the Governor to improve discharge planning, which is often inadequate. When our clients are in the hospital, CASES staff go to the hospital to meet the client's care team and to provide contact information and care coordination. Unfortunately, these efforts often fail when the hospital does not follow up with the CASES staff member. We are often not notified when a client is being discharged from the hospital, and do not have the opportunity to work with the hospital on the discharge plan. This negatively impacts care coordination and increases the likelihood of a readmission.

## **7. Oppose the Proposed Changes to Bail Eligibility**

CASES strongly opposes the Governor's proposal to remove the least restrictive standard when judges are making bail decisions. As highlighted throughout our testimony, many individuals with criminal charges have unmet mental health needs. These individuals do not need incarceration, they need care in the community. When our clients are incarcerated, it disrupts their treatment and harms their community ties. Incarcerating people before when their guilt has yet to be determined should be done only when absolutely essential. Data from our pretrial program shows that these changes are not needed: 86% of our clients make their court appearances successfully, without having a warrant issued for failure to appear. Individuals in Pretrial Services are also unlikely to be re-arrested: 85% of our Pretrial clients are not re-arrested for a felony (and 93% are not re-arrested for a violent felony) in their first year in the program.

Additionally, people with bail-eligible charges who are enrolled in supervised release have even better overall outcomes in the program than people facing less serious charges. These individuals should be able to stay in their community while they await trial. They will return to court, and they will not be rearrested. The proposed changes will not make our communities safer. We urge the Legislature to reject the proposed changes.

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