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In January, 1999,a once-promising young man named Andrew Goldstein pushed a woman named Kendra Webdale into the path of an oncoming subway train. The press found that Goldstein was mentally ill and had not been receiving treatments.

State officials addressed the public outcry that ensued by seizing on what they saw as a solution -- court-ordered mental health treatment.

“How many more innocent bystanders like Kendra Webdaleâ€¦must die before we do something?” Attorney General Eliot Spitzer asked .

Seven months after Kendra Webdale’s death, the state passed Kendra’s Law, which allows for forced treatment for people well enough to be living outside a hospital but with a history of being hospitalized or failing to comply with treatment. Under the law, someone (usually city health authorities) can petition the court to hold a hearing for such an individual, and if a judge finds the person meets certain criteria , that individual must follow a specific care plan for at least six months under threat of rehospitalization.

With the law set to expire June 30, Governor George Pataki has publicly endorsed making the law permanent, saying that the results "are clear -- Kendra’s Law works.”

Others disagree, arguing that the law needlessly and unfairly restricts a patient’s right to choose where and how to receive treatment. They also point to the irony of the case that led to the law -- Goldstein reportedly had sought out treatment but been denied care . They also point to a study
ordered by state legislators at the time that offered little evidence to indicate involuntary treatment succeeded more than voluntary care in helping patients avoid hospitalization or arrest.

Rarely, however, do objections to Kendra’s Law stem from the link between mental illness and violent crime implicit in the law.

Mental Illness and Violence

Stories like the murder of Webdale grab headlines and influence public opinion about people with mental illness, but scientific studies paint a more complex picture.

One oft-cited study suggested that people discharged from psychiatric hospitals were not more violent than average, unless they had a problem with drugs or alcohol. This is a big if: Former patients who had problems with drugs or alcohol were found to be five times more likely to act violently than a person without mental illness or substance abuse problems. And other studies have shown that many people with mental illness do struggle with drugs and alcohol.

A 2002 study identified three risk factors:

- having a substance abuse problem
- living in a violent neighborhood
- having been a victim of violence during childhood

The study concluded that, if each of these three factors is present, a person with a severe mental illness has a 30 percent likelihood of acting violently within a one year period. But without these factors, the likelihood of violence dropped to two percent.

Another study published in 1995 found that, in New York, among those with mental illness, homeless people had a rate of violent crime 40 times higher than people with a place to live.

It’s easy for Jonathan Stanley to understand how someone with a mental illness can become violent. He remembers when he was symptomatic.

“For me and I think of a lot of people with a paranoid ideation -- when you think people are out to get you -- there’s no doubt in my mind there is a correlation,” between violence and mental illness, Stanley said.

Stanley, who has bipolar disorder, is an assistant director with the Treatment Advocacy Center, a national group which advocates for court-ordered, community-based treatment. Currently, 42 states have some form of court-ordered treatment, often called “assisted outpatient treatment.” Kendra’s Law wasn’t the first such law, but it is “a model for the nation,” Stanley said, because “what it’s got is procedures, it’s very detailed out on how to be used.”

The group argues that someone with a severe mental illness may not realize they are sick and need treatment, making a court order necessary. Another group, the state chapter of the National Alliance for the Mentally Ill, also supports the law.

Since the 1998 New York study, at least one other study has been published that found court-ordered treatment reduces violence, although the idea remains controversial among researchers.

But as far as improving the outlook of patients, a report issued by the New York State Office of Mental Health found Kendra’s Law to be effective, although it did not try to sort out differences between people undergoing voluntary outpatient treatment and those under a court order.

The National Alliance for the Mentally Ill has issued a report (In PDF Format) that includes interviews with family members, many of whom praised the program. At an April State Assembly hearing, while some patients argued court orders were not necessary, some family members of people with mental illness reportedly praised the law.

“What Kendra’s Law does is it looks at a person and finds they are unable to survive safely in the community, and I always look at that to be more about their welfare than anything else,” Stanley said.

Kendra’s Law In Practice

A history of violence can be one of the criteria for applying Kendra's Law, and, according to the state report, about 15 percent of 2,745 people ordered to receive treatment under Kendra's Law had physically harmed someone in the 90 days prior to their court-order. After six months of the court-ordered treatment, commonly known as "assisted outpatient treatment," only eight percent had gone on to harm others. (According to the latest figures, a total of 3,766 people have received court ordered treatment, most in New York City.)

"The reality I think is that the people who become subject to these orders don't have a history of violence, significant violence," said Marvin Bernstein, director of Mental Hygiene Legal Services, First Judicial Department, which oversees mental health civil cases in the Bronx and Manhattan.

The population affected by the law has mainly been living in psychiatric hospitals, at least in New York City, where most of the court orders have been issued, according to Bernstein.

"Virtually no applications are made for people living in the community," Bernstein said, adding that most people in his district do not contest the orders, as they are eager to be released from the hospital. Cases in the Brooklyn and Queens, however, are contested more often, Bernstein said.

What Bernstein said he sees most are cases where the question is whether the person can take care of themselves, with any violent behavior "minor stuff that ordinarily wouldn't come before a criminal court."

"To me, the connection between the criminal justice system and people who might become involved with it except for Kendra's Law is not very clear."

After the initial court order, some find that they appreciate the program, Bernstein said. But others object to the intrusion of liberty, or the specifics of their treatment. After six months, another hearing takes place. Bernstein believes that "the courts tend to be fairly conservative: 'Why take a chance and change things?'" The average length of court-ordered treatment is 16 months, according to the state report.

Restricting Liberty

John Gresham, senior litigator for New York Lawyers for the Public Interest, finds many things wrong with the law, not the least of which is the intrusion on liberty.

“You are told, almost in all cases what medication to take,” Gresham said, no matter the side effects. “Your preferences be damned. “You lose confidentiality; you are in many cases told to go get therapy in a particular program, â€ Thou shalt get group therapy at xyz clinic,’ you can be told to attend a day treatment program, you can be told where to live -- in many cases assigned a roommate. So you lose a lot of significant freedom.”

Gresham describes these as results of Kendra’s Law, although the law does make some provisions that the patient should be consulted on what plan is ordered for them.

His organization has written a report outlining their objections to the law (In PDF Format) — noting that black people are five times more likely than white people to receive court-ordered treatment. Another group, the New York Association of Psychiatric Rehabilitation Services, has also opposed making the law permanent.

Gresham does not discount the role that media values and public attitudes towards the mentally ill play in getting laws like Kendra’s Law passed.

Whenever he hears about a violent crime, he says “I kind of hold my breath to see if the person was mentally ill, and invariably it gets bigger play if [the person] was.”

He says this feeds into the notion that people with mental illness are a danger to society, “even though, if most people stop and think about, the vast incidents of violence involve people nobody would characterize as mentally ill.

“One of its consequences is that people resist recognition that they have a mental illness because it's freighted with so much stigma in a way that’s different if someone is told they have kidney disease.

“It leads to policies that strip people with mental illness of really basic rights, which no one would tolerate for any other illness.” Â