

Attorney General Letitia James' Public Hearing on Mental Health  
Wednesday, January 18<sup>th</sup> 2023  
Jessica Lowell Mason's Testimony

Like many of the witnesses who provided verbal testimony during today's public hearing on mental health, I would like to thank Attorney General James for holding this hearing and for providing a venue for everyone to have a voice in addressing problems within our mental healthcare system: in my five years of involvement with mental health advocacy in western New York, I have never been made aware of any kind of public hearing of this nature; it is a first in my experience, and I hope it sets a precedent for similar venues for open communication between the mental healthcare system and the community members affected by it. I'd like to introduce myself. My name is Jessica Lowell Mason. I am a mother of two teenagers, a co-founder of Madwomen in the Attic, a grassroots feminist mental health literacy organization that I run voluntarily and without compensation with my sister here in Buffalo, and a Ph.D. candidate in the Department of Global Gender and Sexuality Studies at the University at Buffalo. I study the testimonies of people affected by the mental healthcare system. I work with people affected by the mental healthcare system to bring together our stories, our voices, and our experiences in order to try to change public discourse around mental health, and to change minds, hearts, and policies where mental health is concerned. I work as a writing workshop facilitator and co-lead a workshop titled "Memoirs to (Re)Imagine Mental Healthcare," through the Herstory Writers Workshop out of Long Island, New York. I am also someone who identifies as a psychiatric survivor. What this means to me is that I have survived a system of harm, not a system of care.

I was institutionalized against my will and against the will of my family for the worst and longest ten days in a madhouse of my life, at the Erie County Medical Center in January 2017. I was institutionalized despite not actually being in a crisis. I was not in need of acute mental healthcare, and certainly not in need of acute mental health-harm, but I was thrust into a throng of psychiatric emergency room chaos anyway. I survived over twenty-six hours without food or sleep, sitting in a mess of agony and fecal matter and urine, like a caged animal at a neglected zoo full of fifty or more patients in an arena with only ten or so beds, in our very own Snake Pit of Buffalo, ECMC's CPEP. After being taken like a criminal in the back of a police car to the hospital, walked in by an armed officer and turned over to my captors, I was then stripped of my clothing and sense of belonging, and sent into a veritable pantheon of human sufferings, where I was exposed to masturbation, had food thrown at me, experienced a host of other abuses, and was given a dose of constant mental anguish by the Erie County Medical Center for what lasted ten days. I have spoken and written intensively about my time at ECMC, and will continue to do so all the days of my life—because I went into ECMC a person who believed I was a person, like any other, deserving of respect and care and kindness, and I came out feeling that I was no longer part of the human race. That was the "care" I received.

My family and I sought justice in the ways that we knew how, but I had never had a previous experience in the mental healthcare system and so we were all blind-sided. We did not have the financial resources to try to fight, and the stigma of the experience was so crushing to all of us, that my family was enveloped in shame and fearful of anyone knowing that their daughter had been institutionalized. I was forced out of employment because I was forced out of my life and incarcerated at ECMC— but what I lost was far more than a job. One of the most heinous parts about being institutionalized is that you lose your reputation, your good standing, and your ability to be seen as a competent autonomous human being or as a reliable narrator on

the matter of your own life. We cannot speak about this system as though it is one of care and as though it is one that saves lives when, for too many of us, it is actually one that harms and takes away our sense of self and our quality of life, and stifles our future. Like many others, I had to make mental healthcare my new life in order to survive having been forced into its system. But fortunately for me, my fight for justice within our mental healthcare system is part of my fight for social justice for all marginalized people. Before trying to file a lawsuit against ECMC, I voiced my complaints by filing a formal complaint with the hospital, detailing the conditions I experienced and witnessed. In response to my complaint, I received a letter from an ECMC administrator, dismissing my concerns and saying that the conditions I experienced, particularly at CPEP, could not be helped, given shortages in staffing over weekends. I sought justice for myself but ECMC's power was insurmountable, in my case: the case I filed against ECMC and its doctors, for medical malpractice, was thrown out by the same judge who oversaw my mental health trial. Judge Emilio Colaiacovo dismissed my case and ability to have a trial, my ability to even fight for justice, on account of a late filing date—he accepted ECMC's argument that their quick staffing turnaround would mean that, after a year, they would no longer have adequate staff and staff records to defend themselves. How can anyone reeling from institutional trauma who is not financially well-off or an inheritor of familial wealth expect to be able to pursue justice against multi-million-dollar government institutions when the policies, laws, and statutes of limitation are designed to discourage or sabotage their pursuit of justice? The relationship between a hospital and a judge should not be co-conspiratorial, but sadly, too often that is the case. I did not have the financial resources to try to take my case to a higher court, and now the statute of limitations has passed and, because of it, it appears that I may never be able to pursue legal justice against ECMC, but the greater project of the restoration of my person continues nevertheless.

We have other ways of surviving outside of a system that harms us: we have our voices, our stories, and we have each other. We have the community we make together, in which we can challenge injustice and distribute and deal with power differently. I may have run into a wall when trying to fight the system that harmed me, but by speaking out, my hope is to raise awareness so that others can fight for themselves and know that they are not alone. My hope is that more law schools will focus on mental health law: because we matter and the laws that affect our bodies matter. My hope is that the state will invest more in its mental health legal services so that the services institutionalized people receive will be less laughable and more adequate. I envision a future with mental health law centers and with more law students who will care about changing and reshaping mental health laws in ways that recognize cognitive liberty. I envision an Americans with Psychiatric Disabilities Act to help us gain legal standing in the fight for our right to access care and shelter, without having to lose our liberty or be force-drugged, and our right to humane treatment. And I pray for a shift away from our current me-first society in which people participate in corrupt systems in order to attain their own monetary, career, and reputational survival, as they stand by silently and complacently while those of us with less power and influence are dismissed, alienated, exiled, or stamped out entirely. There is no mental healthcare system without care, but it is important that we remember that **care is an action, not just a feeling**. I hope that the words in this written testimony will be a call to caring action so that we don't have to be survivors of care but instead can receive with dignity and respect the loving care and belonging that every person on this earth, whether psychiatrically disabled or behaviorally different or neurodivergent, should be accorded.

One of the factors that has, across decades, contributed to what we are now naming a “mental health crisis” is that there is a failure on the part of powerbrokers and practitioners within mental healthcare to acknowledge the history of psychiatry’s systemic violences against marginalized communities, which very much have mirrored and perpetuated social injustices and violences and harm against marginalized communities, more largely, historically in the United States. When we dismiss histories of violence as if they are unconnected to our present moment, we are likely to fall into the complacent continuation of those violences—and, based on the testimonies provided at today’s hearing, it is clear that the harm and violence of psychiatry’s past are reverberating in mental healthcare system failures in the present. Acknowledgment of histories of harm is only one part of restorative justice practices and the reformation of our mental healthcare system, but it is a foundational part that will inevitably affect the policies that are signed into law today and in the future, and the paradigms that are used in the training of care workers and that become part of common parlance. A review of our local mental healthcare system should include a review of its history, as well as a review of the laws and policies that inform the institutional and clinical practices that are not meeting the needs of our entire community in an equitable way or that are exacerbating the suffering of those most directly impacted by them.

Right now, our public local mental healthcare institutions are operating like secondary carceral systems: this is because the mental healthcare system and the criminal justice system have been collaborative, historically: people with mental health disabilities have been criminalized historically, and as long as we have law enforcement at the center of mental healthcare response and mental health laws that are carceral, this legacy will continue. Diversion away from this deeply embedded carceral model of mental healthcare and toward community care is key. There are advocates, activists, and scholars who are ready and willing to do and be part of this work, such as myself, but we do not have a venue for collaborating with policy-makers and law-makers. Buffalo was home to The Museum of disABILITY History, but the museum closed during the pandemic and only exists in virtual form now. The museum was a hub of activism for people with disabilities, a place where some of us were able to be validated and heard in our opposition of systems that have violated us and our rights. Which brings me to the crux of the matter: justice. We cannot have a mental healthcare system that provides care and love in our community without justice, and we cannot have mental health justice without having avenues and resources for people to pursue mental health justice through our legal system. The patient legal services that ECMC offers is a joke; not a funny one but a twisted and ironic one. When a person who needs care or who others believe needs care is put into a carceral situation in which they no longer have rights over their own body, they are inherently dehumanized. They need real legal services and advocates, not through the institution imprisoning them but from a separate faction that does not work in collusion with the doctors of the institution. The mental healthcare system is so foundationally reliant upon an imbalance of power that until that is addressed and new policies and committees are put in place to shift the balance, we have no hope for any real or meaningful change. Change needs to happen at all levels, addressing every part of the system, and this requires hiring teams to address different parts of the system.

At the top of this power system are judges, law enforcement officials, and psychiatrists, all who are granted nearly inordinate power with no real or meaningful checks in place to balance that power. There are some judges in Erie County who lack training in mental healthcare but who are assigned to be mental health judges, such as Emilio Colaiacovo, who presides over mental health court here in the county. I ask: how did Judge Colaiacovo become assigned to

mental health court, which only takes place one day a week? What party is in place to determine which judges are assigned to preside over mental health hearings and what party is in place to oversee their training and to ensure that they are fairly interpreting mental health law and treating people with mental health diagnoses as people? If they are purely ornamental and are in place to defer to the judgments of psychiatrists, whose authority is sacrosanct and never questioned, then what is their purpose except to further criminalize and stigmatize those who are subjected to a civil trial as part of their “treatment,” and their only possible means of advocating for themselves or insisting upon their autonomy or challenging psychiatric authority? And is the mental health legal representation, provided through the state, that individuals at local institutions are being provided good and fair representation, when judges, by default, work in collaboration with powerbrokers at institutions that are reliant upon the denial of basic rights from people who are institutionalized? What happens when you have both judges and psychiatric doctors who view people with mental health disabilities or labels in dehumanizing ways, as less than human? What happens when they have been given unlimited and unchecked power over the bodily freedoms of people with psychiatric disabilities? This is the system we are talking about; this is how it works, and it’s irresponsible of us not to acknowledge all of the contributors to a crisis in care that very much has to do with the criminalization and incarceration of people with psychiatric labels or disabilities, which is exacerbated for multiply marginalized people.

In addition to bringing to our attention the ways that our local institutional practices have exacerbated the suffering of people with psychiatric labels and disabilities, today’s public mental health hearing revealed a core contributor to the current manifestation of what is a centuries-long, in my opinion, crisis in care, and that is the failure for there to be a way for service administrators, practitioners, and those affected by care systems to sit down at the table together: as equals. Sadly, *not* sitting together at the table to communicate in discourse as equals, with everyone welcome at the table and given space to be heard and acknowledged, is something upon which the mental health system has relied since its earliest forms. It is not a one-time event, at which the motions of listening on the part of administrators of care are undergone and then ignored: it is an open and transparent conversation where all are welcome and heard that must continue in perpetuity. The breakdown in communication between those who meet at the interface of systems of care is caused by the distribution of power within systems. Because the problem is systemic, systemic analyses of power and its distribution are needed. Some of our community member-witnesses provided testimonies that speak to systemic inequalities, but I believe and hope that closer and more critical and honest analyses of the way power is operating within our local systems are integral to changing the system for the better so that it is able to serve the needs of communities. Having a venue for communication means having a venue for public accountability, and I truly thank you, Attorney General James, for providing that for us.