MAMH
Massachusetts Association for Mental Health

Danna E. Mauch, PhD
President and CEO

Ambassador (ret.) Barry B. White
Chairperson of MAMH Board of Directors

June 15, 2021

The Honorable James B. Eldridge
Chair, Joint Committee on the Judiciary
24 Beacon Street, Room 511-C
Boston, MA 02133

The Honorable Michael S. Day
Chair, Joint Committee on the Judiciary
24 Beacon Street, Room 136
Boston, MA 02133

RE: Testimony in opposition to H.1888/S.926, *An Act relative to strengthening the penalty for assault or assault and battery on an emergency medical technician, ambulance operator, ambulance attendant or health care provider*

Dear Chair Eldridge, Chair Day, and Honorable Members of the Joint Committee on the Judiciary:

On behalf of the Massachusetts Association for Mental Health (MAMH), thank you for leadership in the Commonwealth and for your strong attention to the needs of people with behavioral health conditions and their families. I am writing to respectfully submit this testimony in opposition to H.1888/S.926, *An Act relative to strengthening the penalty for assault or assault and battery on an emergency medical technician, ambulance operator, ambulance attendant or health care provider.*

Formed over a century ago, MAMH is dedicated to promoting mental health and preventing mental health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. This includes discrimination affecting not only people with mental health conditions, but also people who face unequal burdens and barriers to the protections and benefits of citizenship due to their race, ethnicity, gender identity, or disability status. MAMH has a demonstrated track record of furthering its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methodologies.

I urge you to vote no on H.1888/S.926, *An Act relative to strengthening the penalty for assault or assault and battery on an emergency medical technician, ambulance operator, ambulance attendant or health care provider* because these bills would serve to make the problem they seek to solve worse, not better, while also unnecessarily criminalizing people with behavioral health conditions and contributing to mass incarceration.

I write to you not only as a person who works to educate others about the conditions and needs affecting people at risk for or living with mental health and substance use conditions, but also as a family member, and a former government official who had responsibility for operating hospitals, treatment facilities, and emergency services.

People with behavioral health conditions have been underserved by our community-based behavioral health system of care, resulting in escalating symptoms that lead to crisis episodes. Crisis episodes, in turn, bring people into contact with police and EMS through 911 calls. Police and EMS are often not trained in how individuals dealing with behavioral health crisis episodes may present and how to deescalate when their traumatic stress, fear, anxiety, or disorientation may manifest in challenging behavior.

Police responding to 911 cause injury, trauma, and mass incarceration. One in four people killed by police in our country have a serious behavioral health condition, even though only one in 25 adults has such a condition. Thirty-six percent of men and 81% of women in Massachusetts prisons have a mental health condition. Once imprisoned, people with behavioral health conditions get very little treatment and their conditions often worsen, which in fact increases their likelihood to be arrested again in the future – there is a 68% re-arrest rate among this group.[1] So in fact, increasing criminal penalties only serves to make it more likely, not less likely, that these individuals end up interacting negatively with first responders again in the future. People in behavioral health crisis are at far higher risk of being harmed themselves when put in the situation of being arrested than they are to harm someone else.

In Massachusetts, as in much of the rest of the country, we are increasingly aware that police are usually not the right people to deal with behavioral health crises. One response has been for 911 to dispatch ambulances instead of police, thereby increasing the number of EMTs dealing with people in a behavioral health crisis. However, sending EMTs, who often have minimal training in behavioral health crisis response or de-escalation is a response that may put the responders and the individual in crisis in difficult position.

Nearly one in three people who go to an Emergency Department (ED) for a behavioral health crisis arrive by ambulance.[2] When an EMT responds to a person in a behavioral health crisis, they are often interacting with a person who has been traumatized and victimized by this very system before. Many people in a behavioral crisis have been mechanically restrained and transported to the hospital against their will by ambulance or by police cruiser in the past. When they arrive at the hospital, they are more likely than any other person in the ED to "board," or wait for an inpatient psychiatric bed at the hospital while locked in the ED against their will, often in restraints, for hours, days, or even weeks, and while not receiving any mental health treatment in the meantime.[3] Also, the person may have been subject in the past to an involuntary commitment (including possibly, and totally inappropriately, to a prison) due to substance use conditions. It is hardly surprising that many people in a behavioral health crisis are scared and skeptical of first responders and resistant to being restrained.

Increasing the criminal penalties for a person in this situation not only will foster further criminalization of people with behavioral health conditions, making them ever traumatized and symptomatic, but also will fail to deter future assaults. These individuals are often desperately struggling to protect themselves from what they perceive as an assault; raising the stakes from misdemeanor to felony does not change that calculus.

There are far better solutions:

- Investment in the behavioral health treatment that people truly need. We need to establish 988 as an alternative to 911 to handle people in behavioral health crisis with professionals who are actually trained to deal with this health condition. This could avoid sending first responders to deal with situations that are potentially harmful to them, and that they are not equipped to handle anyway. You can support 988 by supporting HB2081 filed by Representative Decker and SB1274 filed by Senator Cyr, *An Act to better coordinate suicide prevention services, behavioral health crisis care and emergency services through 988*

[1] https://www.mamh.org/assets/files/Middlesex-County-Restoration-Commission.pdf
[2] https://www.vera.org/downloads/publications/crisis-response-services-for-people-with-mental-illnesses-or-intellectual-and-developmental-disabilities.pdf
[3] https://www.mass.gov/news/hpc-issues-new-research-on-behavioral-health-related-emergency-department-boarding

implementation.

- We need a Restoration Center that could be a physical location equipped to provide crisis and urgent care services to people instead of waiting for weeks in EDs for a hospital bed, allowing people to go without treatment, getting sicker and sicker. You can support a pilot Restoration Center by supporting the Senate budget allocation of $1 million in EOHHS line item #4000-0300 and a Trust Fund in Senate budget Outside Section #19.

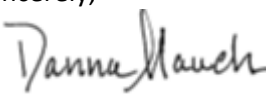
- We need to expand our Emergency Service Provider Mobile Crisis Intervention teams, who are our behavioral health first responder workforce but who only accept Medicaid and very few forms of commercial insurance, and respond far more slowly than an ambulance. If our Mobile Crisis Intervention could be the first ones to the scene, assaults on EMTs would go down dramatically. You can support expanding ESP services to non-Medicaid clients by supporting SB672 filed by Senator Friedman and HB1040 filed by Representative Balser, *An Act to require health care coverage for emergency psychiatric services*.

But don't just take my word for it. Look at the data. In Georgia, a program where 911 dispatchers sent mobile crisis intervention instead of EMS to behavioral health calls reduced the number of patients being arrested or restrained and improved care while saving money and resources.[4] In Tucson Arizona, 68% of mobile crisis intervention responses were resolved in the community without arrest or hospitalization.[5] The CAHOOTs model in Eugene, Oregon saved $3.7 million in ambulance ride costs in 2017, meaning fewer EMTs had to respond to behavioral health crisis calls.[6] This finding is replicated across mobile crisis intervention programs across the country and the world.[7] Restoration Centers have also been found to dramatically reduce arrest rates among people in behavioral health crisis.[8]

Being a first responder is an incredibly difficult job made even more challenging during COVID. These workers do not deserve to be put in harm's way in the first place, especially to deal with situations for which they are not trained. We should not be sending EMS to handle behavioral health crises. If we truly want to protect these valiant men and women who serve a critical role in our society, we would make the needed investments in 988, mobile crisis intervention, and Restoration Centers, not criminalize people for their mental health status. I urge you to vote no on HB1888/SB926 and instead support HB2081/SB1274, SB672/HB1040, the Senate budget version of line item 4000-0300, and Senate budget Outside Section 19.

Please do not hesitate to be in contact should you have any questions, would like additional information, or if MAMH can serve as a resource to your critical work at dannamauch@mamh.org.

Sincerely,



Danna Mauch, PhD
President and CEO

[4] https://www.vera.org/downloads/publications/crisis-response-services-for-people-with-mental-illnesses-or-intellectual-and-developmental-disabilities.pdf
[5] Sharp C, Mauch D. Massachusetts Association for Mental Health. *Criminal Justice Diversion: Creating a Behavioral Health Emergency Response System.* June 2021
[6] https://www.mentalhealthportland.org/wp-content/uploads/2019/05/2018CAHOOTSBROCHURE.pdf
[7] https://www.mamh.org/assets/files/Updated-Literature-and-Resource-Review_November-2019_vfinal.pdf
[8] https://www.mamh.org/assets/files/Middlesex-County-Restoration-Commission.pdf