


A Strategic Approach to Mental Health System Change

International Society for Ethical Psychology & Psychiatry (ISEPP)
TRANSFORMING MAD SCIENCE AND REIMAGINING MENTAL HEALTH CARE
 Doubletree Culver City, CA November 13, 2014

James B. (Jim) Gottstein, Esq.




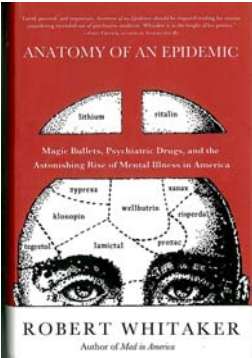
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Law Project for Psychiatric Rights (PsychRights®)


- Public Interest Law Firm
- Mission: Mount Strategic Litigation Campaign Against Forced Psychiatric Drugging and Electroshock.
- Drugging of Children & Youth a Priority
- I Am on Hiatus

2

Named 2010 best investigative journalism in book category by the Investigative Reporters and Editors Association

3

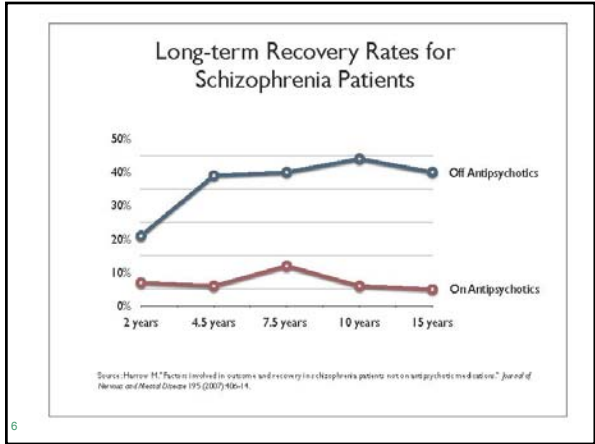
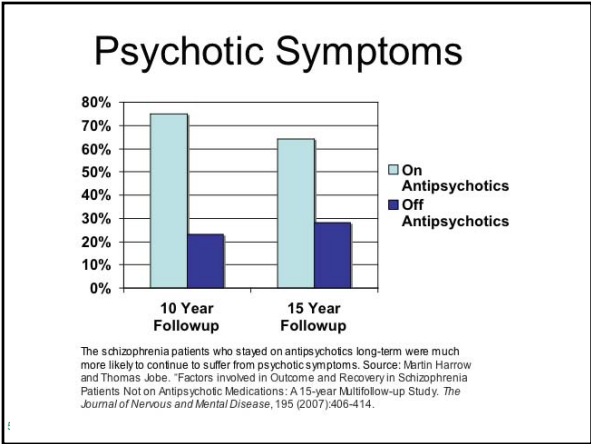


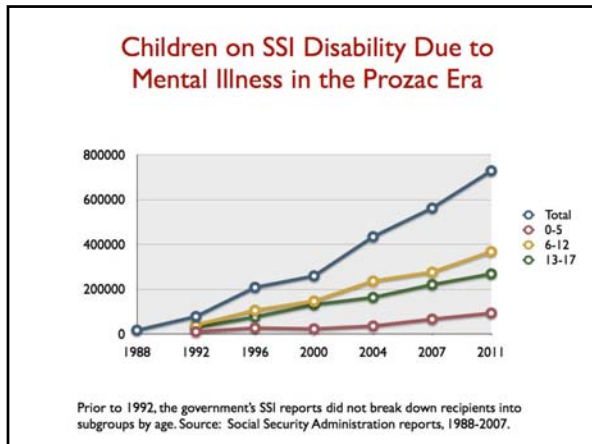
While Some People find the Drugs Helpful . . .

- 6-fold Increase in Mental Illness Disability Rate
- Cut the Recovery Rate At Least in Half
- Causing Massive Amount of Harm
- Life Spans Now 25 Years Shorter
- Hugely and Unnecessarily Expensive
- Huge Unnecessary Human Toll

Sources: Whitaker (2002 & 2010), NASMHPD (2006), Studies Posted on PsychRights.Org Scientific Research By Topic

4





Snatching Children Under Guise of "Child Medical Abuse"

- The American Academy of Pediatrics:
 - Definition: "Child receiving unnecessary and harmful or potentially harmful medical care at the instigation of a caregiver"
 - Stated Benefits:
 - Easier diagnosis to make
 - § More inclusive of less severe cases that still warrant some type of intervention
 - Justina Pelletier
 - Isaiah Rider

8

Stop the Abuse

- Not a confrontation but a notification of a new treatment plan.
- Focus on the positive—"Your child is not sick."
- "Now that we have a clear understanding of your child's health, any further health care-seeking behavior would be harmful and would constitute abuse."
- May need psychiatric care on standby.

© American Academy of Pediatrics, Visual Diagnosis of Child Abuse on CD-ROM, 3rd Edition

Questions for Mother

- Have you ever worried that your child might not be normal or that you might lose him?
- Are you considered a worrywart by your family or friends?
- If yes, ask mother how much of the child's symptoms result from her anxiety vs a medical problem.

© American Academy of Pediatrics, Visual Diagnosis of Child Abuse on CD-ROM, 3rd Edition

Treatment

3. State possible consequences.
 - Not making a threat but outlining a course of action.
 - Must be willing and ready to follow through.
4. Initiate action that leads to the consequences.
 - Child welfare referral.
 - Multidisciplinary team is essential at this point.

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People Diagnosed With Serious Mental Illness Can Recover

- Myth: Once a Schizophrenic always a schizophrenic.
 - Reality: **Half to two thirds of patients, including very chronic cases can recover.**
- Myth: Patients must be on Medication all their lives.
 - Reality: **A small percentage at most may need medication indefinitely.**

Empirical Correction of Seven Myths About Schizophrenia with Implications for Treatment (Harding 1994)

12

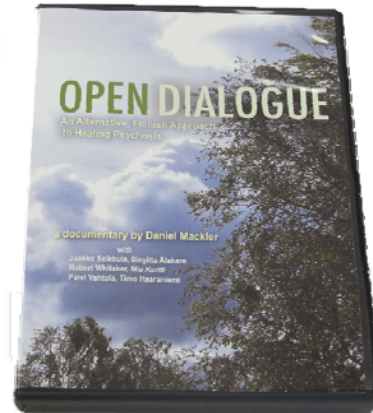


Solutions Are Many (Adults)

- o Hearing Voices Network Approach
 - Strange or Unusual Beliefs ("delusions")
- o Other Psychosocial Approaches
 - Soteria
 - Open Dialogue
 - Peer Directed



13



14

Outcomes with Selective Use Of Antipsychotics

Five-Year Outcomes for First-Episode Psychotic Patients in Finnish Western Lapland Treated with Open-Dialogue Therapy

Patients (N=75)	
Schizophrenia (N=30)	
Other psychotic disorders (N=45)	
Antipsychotic use	
Never exposed to antipsychotics	67%
Occasional use during five years	33%
Ongoing use at end of five years	20%
Psychotic symptoms	
Never relapsed during five years	67%
Asymptomatic at five-year followup	79%
Functional outcomes at five years	
Working or in school	73%
Unemployed	7%
On disability	20%

Source: Sorrikkula, J. "Five-year experience of first-episode nonaffective psychosis in open-dialogue approach." *Psychotherapy Research* 16 (2006):214-28.

15

Friday, May 17, 13



The Soteria Project

Study

First-episode schizophrenia patients treated conventionally in a hospital setting with drugs versus treatment in the Soteria House, which was staffed by non-professionals and involved no immediate use of antipsychotic medications. Results are from 1971-1983 cohorts, with 97 patients treated conventionally and 82 patients treated in Soteria House.

Results

- o At end of six weeks, psychopathology reduced comparably in both groups.
- o At end of two years:
 - Soteria patients had better psychopathology scores
 - Soteria patients had fewer hospital readmissions
 - Soteria patients had higher occupational levels
 - Soteria patients were more often living independently or with peers

Antipsychotic Use in Soteria Patients

76% did not use antipsychotic drugs during first six weeks
42% did not use any antipsychotic during two-year study
Only 19 % regularly maintained on drugs during follow-up period

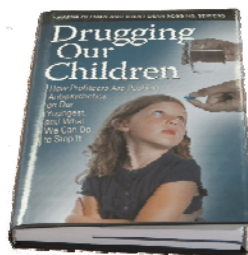
J Nerv Ment Dis 1999; 187:142-149
J Nerv Ment Dis 2003; 191: 219-229



Solutions Are Many (Children & Youth)



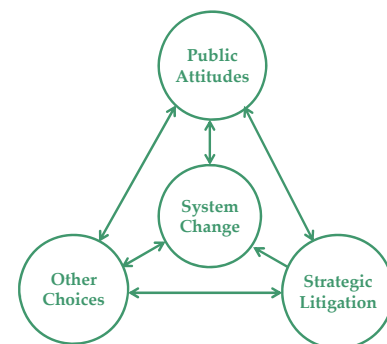
- o Module 8: Evidence-Based Psychosocial Interventions for Childhood Problems
 - Help Parents
 - Help Children & Youth
 - Be Successful
 - Deal with Their Problems



17



Transformation Triangle





Children Are Sympathetic Victims

- Justina Pelletier
- Isaiah Rider
- Ariana Godboldo
- Gabriel Myers
- Rebecca Riley







19



Strategic Litigation Goals

- Force System to Honor People's Rights
 - Change Path of Least Resistance
 - Substantially Reduce, If Not Eliminate Force
 - Compel Other Choices
- Public Education Potential




Hallmarks of Procedural Due Process

- Meaningful Notice, and
- Meaningful Opportunity to Be Heard,
- by a Neutral Decision Maker

Hamdi v. Rumsfeld (2004)
542 U.S. 507, 124 S.Ct. 2633

21



Constitutional Principles – Substantive Due Process

- To Justify Deprivation of Fundamental Rights Substantive Due Process Requires:
 - Compelling State Interest
 - Least Restrictive/Intrusive Alternative
- Involuntary Commitment is a deprivation of a fundamental right under both the US and Alaska Constitutions
- Forced Drugging is probably a deprivation of a fundamental right under US Constitution and is under the Alaska Constitution.

22



Involuntary Commitment Permissible Under US Constitution When:

1. Confinement takes place pursuant to proper procedures and evidentiary standards,
2. Finding of "dangerousness either to one's self or to others," and
3. Proof of dangerousness is "coupled ... with the proof of some additional factor, such as a 'mental illness' or 'mental abnormality.'

Kansas v. Crane, 534 U.S. 407, 409-10, 122 S.Ct. 867, 869 (2002).

- Being unable to take care of oneself can constitute danger to self if "incapable of surviving safely in freedom." *Cooper v. Oklahoma*, 517 U.S. 348, 116 S.Ct. 1373, 1383 (1996).

2



Forced Drugging under US Constitution: Sell

Court Must Conclude:

1. Important governmental interests are at stake,
2. Will significantly further those state interests - substantially unlikely to have side effects that will interfere significantly (with achieving state interest),
3. Necessary to further those interests. The court must find that any alternative, less intrusive treatments are unlikely to achieve substantially the same results, and
4. Medically appropriate, i.e., in the patient's best medical interest in light of his medical condition, considered on drug-by-drug basis.

Sell v. United States, 539 U.S. 166, 177-8, 123 S.Ct. 2174, 2183 (2003) (Competence to Stand Trial Case).

2



Forced Drugging Defense Package

- o Robert Whitaker & Grace Jackson, MD
 - Certified Copies Available from MindFreedom
- o Motion and Memorandum for Summary Judgment (Opposition to Forced Drugging)
- o Motion for Stay Pending Appeal
- o Certificate of Service

25



Most Drugging of Children & Youth in State Custody Unconstitutional

- o State obligated to protect children & youth in custody from harm.

Deshaney v. Winnebago County, 489 U.S. 189, 109 S.Ct. 998 (1989):

"[W]hen the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—e.g., food, clothing, shelter, medical care, and reasonable safety—it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause."

26



Most Psychiatric Drugging of Children & Youth Is Medicaid Fraud

- o Medicaid coverage for outpatient drugs limited to "medically accepted indications"
 - Off-label covered only if "supported" by one of 3 specified compendia
 - See, "Medically Accepted Indications Chart for Children & Youth" <http://bit.ly/b50HrH>

27

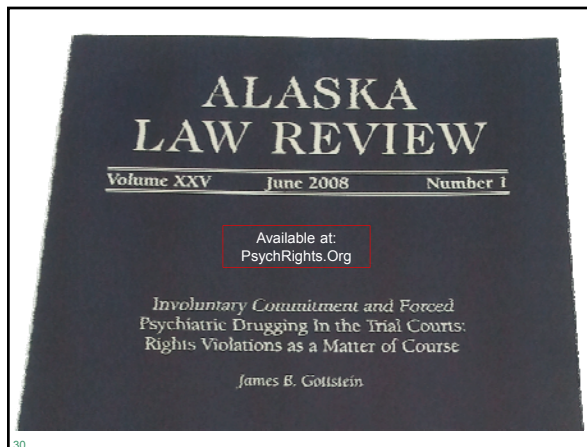


Medicaid Fraud Initiative

- 7th Circuit: Doctors cause false claims by writing Rxes not for medically accepted indication. *Ex rel Watson v. King-Vassel* (7th Cir.)
- 9th Circuit essentially ruled, if the government doesn't care, so why should we?
 - Non-precedential Ruling



29



30



Strategic Litigation Results in Alaska

- *Myers* (2006)
 - Best Interests
 - No Less Intrusive Alternative Available
- *Wetherhorn* (2007)
 - Unable to Survive Safely in Freedom
- *Wayne B.* (2008)
 - Procedural Protections Strictly Enforced

- *Bigley* (2009)
 - If Alternative to Drugging Feasible, Must Be Provided or Person Let Go
 - Failure to Provide Evidence Sufficiently In Advance Due Process Violation
 - Petition Must Include Detailed Allegations on Best Interests



Myers v. API

138 P.3d 238 (2006)

- To Be Constitutional Forced Drugging In Non-Emergency, State Must Prove by Clear & Convincing Evidence:
 - Drugging in Best Interests
 - No Less Intrusive Alternative Available
- Cannot Honestly Establish These Criteria

32



Bigley v. API

208 P. 3d 168 (2009)

- Available means Feasible
 - If Less Intrusive Alternative Feasible Have to Provide or Let Person Go
- Petition Must Provide:
 - facts underlying the petition, including the nature of and reasons for the proposed treatment
 - symptoms and diagnosis; the medication to be used; the method of administration; the likely dosage; possible side effects, risks and expected benefits; and the risks and benefits of alternative treatments and nontreatment.

33



PsychRights v. Alaska

(2010)

- Sought Injunction Against Drugging of Children & Youth by State Unless & Until
 - Evidence-based psychosocial interventions have been exhausted,
 - Rationally anticipated benefits of psychotropic drug treatment outweigh the risks,
 - The person or entity authorizing administration of the drug(s) is fully informed, and
 - Close monitoring of, and appropriate means of responding to, treatment emergent effects are in place.
- Dismissed for Lack of Standing (right to sue)
- Possible Federal Civil Rights Suit



Public Education in Alaska

- Robert Whitaker in 2002, 2007 & 2009
- Michael Perlin & Robert Whitaker in 2003
- Daniel Mackler Film Series in 2012
- Accept All Possible Speaking Invitations

Media Coverage

- *Myers* Case
- Feature Front Page Story in November 2005
- Zyprexa Papers local coverage
- Medicaid Fraud Case
- Local NBC Affiliate Series: Mind Over Meds
- Bret Bohn
- Others--Go to Person



Alternatives Development in Alaska

- CHOICES, Inc. Opened in 2007
- Soteria-Alaska Opened in 2009



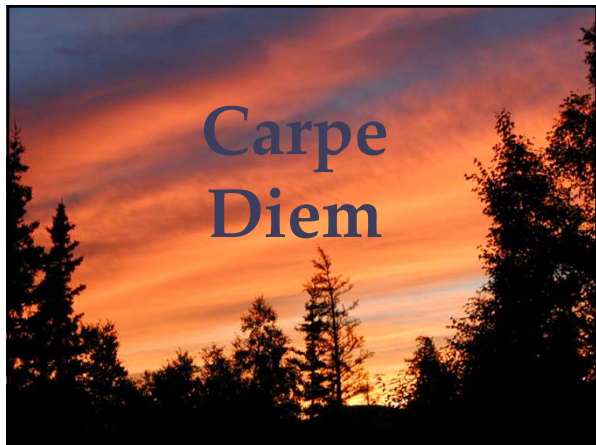
Opinion Shift—Soteria-Alaska

- 2002: Not Endorse -- Just Educational
- 2003: Implies Need Non-Drug Alternative
- 2004: Needs More Development
- 2005: Not If, But How
- 2006: Alaska Mental Health Trust Formally Supports Wants State Funding Participation
- 2007: Funded by Trust for 2008 Opening when didn't get in State Budget.
- 2009: Opened
- 2010: In State Budget



Current Alaska Status

- **Widespread Support for Non-Drug Choices (In Theory at Least)**
- **CHOICES' & Soteria-Alaska's Non-coercive Approach Reluctantly Accepted**
 - Recognized as Providing Valuable Service
 - But, Moving Away from Guiding Principles Because of Funding?
- **Least Restrictive/Intrusive Alternative Enshrined in Recent Alaska Supreme Court Decisions.**
 - Still a Long Way to Go/Needs Enforcement Litigation
 - PsychRights' Focus Shifted to Children & Youth



Carpe
Diem



Suggested Reading

- *Anatomy of an Epidemic*, by Robert Whitaker (2010).
- *Mad in America: Bad Science, Bad Medicine and the Enduring Mistreatment of the Mentally Ill*, by Robert Whitaker (2001).
- *Drugging Our Children: How Profiteers Are Pushing Antipsychotics on Our Youngest, and What We Can Do to Stop It*, Sharna Olfman and Brent Dean Robbins, Editors (2012)
- *Bipolar Children: Cutting-Edge controversy, Insights, and Research*, Sharna Olfman, Editor (2007).
- *Alternatives Beyond Psychiatry*, Peter Lehman & Peter Stastny, MD, Editors (2007).
- *Agnes's Jacket: A Psychologist's Search for the Meaning of Madness*, by Gail Hornstein, PhD, Rodale Books, 2009.
- *Drug Induced Dementia*, Grace E. Jackson, MD, Author House, 2009.
- *A Fight to Be: A Psychologist's Experience from Both Sides of the Locked Door*, Ronald Bassman, Ph.D. (2007)
- *Rethinking Psychiatric Drugs: A Guide to Informed Consent*, by Grace E. Jackson, MD, (2005)
- *Brain Disabling Treatments in Psychiatry: Drugs, Electroshock, and the Role of the FDA*, Ed. 2 (2008) by Peter Breggin, MD.

40



Suggested Reading (cont.)

- *Community Mental Health: A Practical Guide* (1994) by Loren Mosher and Lorenzo Burti
- *Soteria: Through Madness to Deliverance*, by Loren Mosher and Joyce Hendrix with Deborah Fort (2004)
- *Psychotherapy of Schizophrenia: The Treatment of Choice* (Jason Aronson, 1996), by Bertram P. Karon and Gary R. Vandenbos
- *Schizophrenia: A Scientific Delusion*, by Mary Boyle, Ph.D. (2002)
- *Let Them Eat Prozac*, by David Healy, MD. (2006).
- *Creating Mental Illness*, by Allan V. Horwitz (2002).
- *Commonsense Rebellion*, by Bruce E. Levine (2001)
- *Blaming the Brain: The Truth About Drugs and Mental Health*, by Elliot Valenstein (1998)
- *Escape From Psychiatry*, by Clover (1999)
- *How to Become a Schizophrenic: The Case Against Biological Psychiatry*, 3d Ed., by John Modrow (2003)
- Other books at <http://psychrights.org/Market/storefront.htm>

41