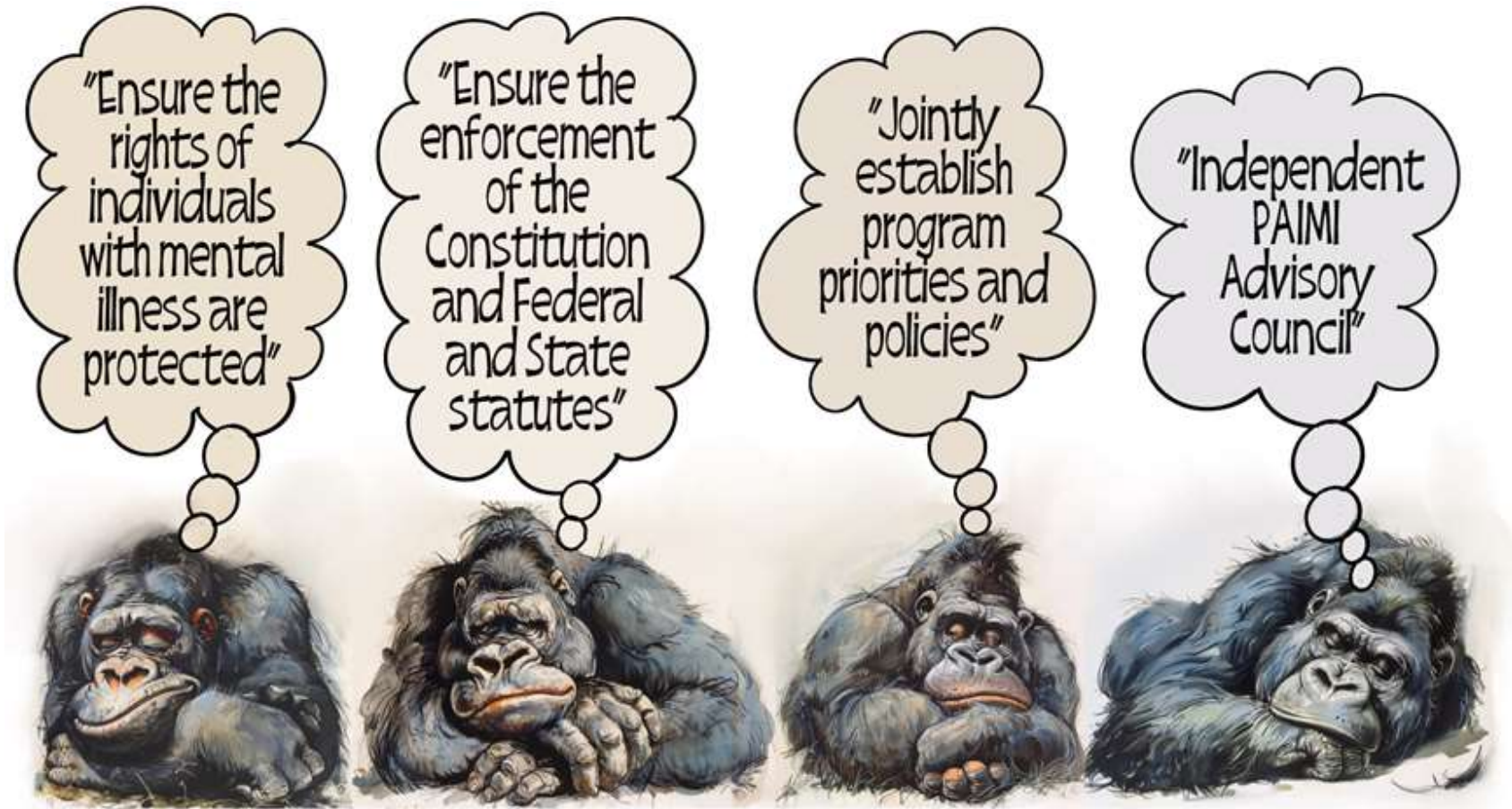


# PAIMI Advisory Council Empowerment Project



Sleeping Gorillas by Bob Parsons



# Purpose



To make protecting people's rights not to be psychiatrically confined or drugged (or electroshocked) against their will a high priority of Protection and Advocacy Agencies under the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act.



## Kristina (KK) Kapp

*A human2human culture, restoring the heart back in humanity...*

- **Our Mission:**
- In a spirit of HUMAN 2 HUMAN understanding; sowing seeds of belief, watering with encouragement of empowerment individual strengths and beauty; cultivating connection and unity within the community.



**James B. (Jim) Gottstein, Esq.**

## **Mission:**

**Mount a Strategic Litigation Campaign  
Against Forced Psychiatric Drugging and  
Electroshock**

REPORT  
ON  
IMPROVING  
MENTAL HEALTH  
OUTCOMES

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James B. (Jim) Gottstein, Esq.; Peter C. Gøtzsche, MD;  
David Cohen, PhD; Chuck Ruby, PhD; Faith Myers

September 2023

Available at [PsychRights.org](https://PsychRights.org)

- Psychiatric Imprisonment Massively Associated with Suicide
- Psychiatric Drugs Increase Harm to Self & Others
- Psychiatric Drugs Shorten Life Spans by 20-25 Years
- Psychiatric Drugs Reduce Recovery Rate from Possible 80% to 5%
- Catastrophically diminish quality of life
- Proven Effective, Safe & Non-Coercive Approaches



# Rights Violations

- No More than 10% of Psychiatrically Imprisoned (involuntarily committed) Meet Commitment Criteria
- No One Can Ever Properly be Drugged Against Their Will under *Sell* Criteria
  - Best Interests
  - No Less Intrusive Alternatives

Report on Improving Mental Health Outcomes, p 17.

<https://psychrights.org/ReportOnImprovingMentalHealthOutcomes.pdf>



# 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).

# 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).



# PAIMI Act--Purposes

42 U.S.C.A. § 10801

(b) The purposes of this chapter are--

(1) to ensure that the rights of individuals with mental illness are protected; and

(2) to assist States to establish and operate a protection and advocacy system for individuals with mental illness which will--

(A) protect and advocate the rights of such individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes; and

(B) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.



# PAIMI Advisory Council

42 US § 10805(a)(6)(A)

PAIMI Advisory Council



“[The PAIMI Advisory Council] will advise [its Protection and Advocacy Agency] on policies and priorities to be carried out in protecting and advocating the rights of individuals with mental illness.”



# PAIMI Act—Advisory Council

## Membership

42 U.S.C. § 10805(a)(6)

### PAIMI Advisory Councils Shall Include:

- attorneys,
- mental health professionals,
- individuals from the public who are knowledgeable about mental illness,
- a provider of mental health services,
- individuals who have received or are receiving mental health services, and family members of such individuals, and

at least 60 percent the membership of which shall be comprised of individuals who have received or are receiving mental health services or who are family members of such individuals,

and

chaired by an individual who has received or is receiving mental health services or who is a family member of such an individual

# PAIMI Act—Developing Priorities

42 U.S.C. § 10805(c)



"Jointly establish program priorities and policies"

(2) The governing authority established under paragraph (1) shall--

(A) be responsible for the planning, design, implementation, and functioning of the system; and

(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.

# Regulations

## 42 C.F.R. § 51.22

(a) Each P&A system shall have a governing authority responsible for its planning, designing, implementing and functioning. It shall, jointly with the advisory council, annually establish program priorities and policies.

## 42 C.F.R. § 51.23

(a) Each P&A system shall establish an advisory council to:

- (1) Provide independent advice and recommendations to the system.
- (2) Work jointly with the governing authority in the development of policies and priorities.
- (3) Submit a section of the system's annual report as required under § 51.8.



# Regulations

(Cont.)

## 42 C.F.R. § 51.23

(c) Each P&A system shall provide its advisory council with reports, materials and fiscal data to enable review of existing program policies, priorities and performance outcomes. Such submissions shall be made at least annually and shall report expenditures for the past two fiscal years, as well as projected expenses for the next fiscal year, identified by budget category (e.g., salary and wages, contract for services, administrative expenses) including the amount allotted for training of each the advisory council, governing board and staff.



## 42 CFR § 51.27 Training

A P&A system shall provide training for program staff, and may also provide training for contractors, governing board and advisory council members to enhance the development and implementation of effective protection and advocacy services for individuals with mental illness



# Public Comment

## 42 USCA § 10805

(a) A [Protection and Advocacy agency] shall -- . . .

(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the [Protection and Advocacy agency];

## 42 C.F.R. § 51.24

(b) Members of the public shall be given an opportunity, on an annual basis, to comment on the priorities established by, and the activities of, the P&A system. Procedures for public comment must provide for notice in a format accessible to individuals with mental illness, including such individuals who are in residential facilities, to family members and representatives of such individuals and to other individuals with disabilities. Procedures for public comment must provide for receipt of comments in writing or in person.



# PAIMI Act—Annual Report

42 U.S.C.A. § 10805(a)(7)

The section of the annual “report” describing the activities, accomplishments, and expenditures [under the PAIMI Act] during the most recently completed fiscal year [shall be] prepared by the advisory council that describes the activities of the council and its assessment of the operations [under the PAIMI Act]”



# Alabama Disabilities Advocacy Program

## PAIMI Program Priorities

### FY24



ADAP's PAIMI grant program (Protection and Advocacy for Individuals with Mental Illness) protects and advocates for the rights of Alabamians with Serious Mental Illness (adults) and Serious Emotional Disturbances (children) through activities to ensure the enforcement of the Constitution, and federal and state statutes. Annually, ADAP solicits input from persons with SMI/SED, their families, and other members of the disability community to identify priority issue areas on which we should focus. These priority issues frame the advocacy services that we undertake and to which we allocate ADAP's PAIMI resources. ADAP's PAIMI Advisory Council (PAC), required under the PAIMI Act of 1986, works jointly with ADAP's Governing Authority in the development of the agency's PAIMI program priorities. Our identified priorities for FY24 are:

#### **PRIORITY: SAFETY FROM ABUSE & NEGLECT**

Individuals with Serious Mental Illness (SMI) or Serious Emotional Disturbances (SED) will be free from abuse and neglect and live in healthier, safer, or otherwise improved facility or community settings.

#### **PRIORITY: COMMUNITY ACCESS**

Individuals with SMI or SED will have access to appropriate and individualized community-based services that will enhance their ability to live independently.

#### **PRIORITY: EMPLOYMENT**

Individuals with SMI or SED will have meaningful access to integrated employment and be paid at least minimum wage.

#### **PRIORITY: ALTERNATIVE DECISION-MAKING**

With needed supports, individuals with SMI or SED will be able to make everyday decisions about their lives, including matters related to where they live, how their money is managed, and their healthcare.

#### **PRIORITY: EDUCATION**

Youth with SED will be provided a free appropriate public education in their least restrictive environment to move them toward independent living and, depending on their individual goals, secondary schooling or employment upon graduation.



## Potential Language

Protect the rights of people to not be

1. psychiatrically confined, and/or
2. drugged or electroshocked against their will,

unless the constitutional, statutory, and judicial requirements for such massive deprivations of liberty exist, including the right to the least restrictive and least intrusive alternative, respectively.



# What's Next

## If on Council

- Push to Have Council Insist Priority Be Adopted
- Recruit Council Members
- Other?

## If Not on Council

- Apply for Council
- Recruit Council Members
- Advocate to Adopt Priority
- Other?

## PsychRights

- Host Monthly Meetings of This Group
- Talk With People
  - Advisory Council members
  - Potential Advisory Council members
- Attend Meetings
  - Advisory Council Meetings
  - Meetings with P&A
- Write letters Asserting Advisory Council Authority
- Negotiate with P&A
- Elevate



***Carpe Diem!***