

## Forced Psychiatric Drugging: A Misguided Atrocity

Hampshire College  
October 22, 2007

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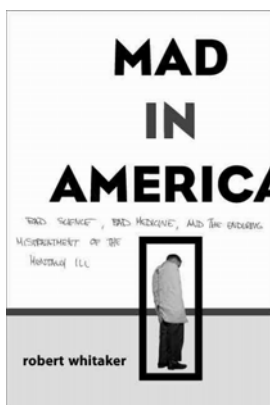
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## Law Project for Psychiatric Rights (PsychRights®)

- Public Interest, Tax Deductible, Law Firm
- Mission: To Mount a Strategic Litigation Campaign Against Forced Psychiatric Drugging and Electroshock.
- National in Scope
  - Nascent State Coordinator System
- Adopted Kid Drugging as Priority

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## While Some People find Psych Drugs Helpful . . .

- Psychiatric Drugs Causing Massive Amount of Harm
- At Least Two-Thirds of People Diagnosed with Serious Mental Illness Can Fully Recover Without Psychiatric Drugs
- Current System Does Not Allow Non Drug Choices
- Legal Right to Other Choices is Ignored
- Hugely and Unnecessarily Expensive
- Huge Unnecessary Human Toll

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## Harm Caused By Psychiatric Drugging (cont.)

- Life spans now decreased by 25 years.
- Greatly diminished quality of life
- Prevents Recovery/Increases Chronicity
- Six Fold Increase in Disability Rate Attributed to Mental Illness

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## Neuroleptics Increase Relapse Rates NIMH Withdrawal Studies

**Study:** Two drug-withdrawal studies over 24 weeks, 301 patients

Daily drug dosage at start of trial	Relapse Rate
Placebo	7 %
Less than 300 mg. of chlorpromazine	23%
300-500 mg.	54%
More than 500 mg.	65%

**Conclusion:** Relapse was found to be significantly related to the dose of the tranquilizing medication the patient was receiving before he was put on placebo—the higher the dose, the greater the probability of relapse.

*Hosp. Community Psychiatry 1971; 22:20-3*

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## Take Home Points on Neuroleptics

- People Should be Told the Truth About them
- People Should have Non-Drug Options
- Selective Use of Neuroleptics to Allow Those Who Can Recover Do So
- People Should Be Allowed Chance to Get Off Them

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## Children & Youth Drugging Emergency

- 9 out of 10 children referred to child psychiatrist received psychotropic drugs (JAACAP 2002)
- 1 of 10 teenage boys who visits a doctor leaves with a psychotropic drug prescription (Brandeis 2006)
- 2.5 million children are on neuroleptic drugs, most not even approved for children, the youngest being 18 months old (Vanderbilt 2006)
- 40-Fold Increase in Bi-Polar Diagnoses
- 60-80% of kids in State Custody Being Drugged

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## Children & Youth Drugging Emergency (cont.)

- Stimulants (Ritalin, Etc) Have Many Problems
  - Stunt Growth
  - Cardiovascular Disease
  - No Long-Term Academic Benefit
  - Lost Childhoods
  - Cause Psychosis, leading to more serious diagnoses
  - Etc.

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## Assault on Children & Youth

- Historically children & youth not diagnosed with serious mental illness
- Blaming Children & Youth for Failure of Adults in Their Lives
  - Boring, Irrelevant Schools
  - Acting Out From Stresses/Abuse
  - Dehumanizing, intolerant environment
- Blaming Kids for Being Kids
- Life-long labeling Something Wrong With Them

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## Legal Setting: Children & Youth

- Parents Forced to Give Children Drugs
  - Schools
  - Child Protective Services
- Illegal Off-Label Marketing
  - But recent FDA approvals for Adolescents
- What About the Rights of Children & Youth Themselves?

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## Legal Setting: Adults

**Right to Decline/Refuse Psychiatric Drugs Is Ignored as a Matter of Course in Legal Proceedings**

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## Other Choices: Work Better for Many

- Soteria
- Open Dialogue (Finland)
- Longitudinal Studies (Harding)
- Research cited at <http://psychrights.org/Research/Digest/Effective/effective.htm>

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## Finland Open Dialogue Approach: Five Year Study of Psychotic Patients

- 82% did not have any residual psychotic symptoms;
- 86% had returned to their studies or full-time jobs;
- only 14% were on disability; and
- 71% never took any antipsychotic medication.

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*Psychotherapy Research*, 2006; 16(2):214-28.

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## Why: Fear and Absolution

- Fear
  - People Diagnosed with Serious Mental Illness no More Prone to Violence
- Absolution
  - By Accepting “Medical Model,” No one is Responsible
- Also Social Control?

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## Recovery: Jim Gottstein Definition

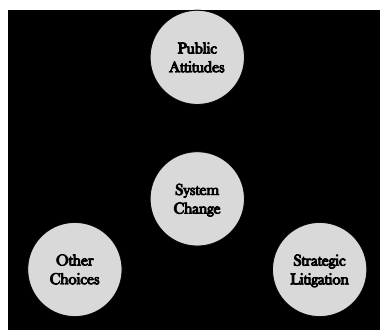
Getting past a diagnosis of mental illness to a point where a person enjoys meaningful activity, has relationships, and where psychiatric symptoms, if any, do not dominate or even play a major role in their life.

*Recovery: Responsibilities and Roadblocks*, by Jim Gottstein,  
<http://akmhweb.org/recovery/RecoveryResponsibilitiesRoadblocks.pdf>

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## Three-Pronged Strategy



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## Goals

- Substantially Increase Recovery Rate after diagnosis of Serious Mental Illness
- Substantially Reduce If Not Eliminate Force
- System Support of People's Non-Medication Choices
  - (In favor of non-system alternatives, but need to change system)

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## Strategic Litigation

- Force System to Honor People's Rights
- Change Path of Least Resistance
- Help Create Environment Supportive of Other Choices
- Public Education Potential

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## Hallmarks of Due Process

### Meaningful Notice and Meaningful Opportunity to Respond.

*Hamdi v. Rumsfeld*, 542 U.S. 507, 124 S.Ct. 2633, 2648-9 (2004)

**Why is this important to Involuntary Commitment & Forced Drugging?**

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## Constitutional Principles

- To Justify Deprivation of Fundamental Rights:
  - State Action Must Further Compelling State Interest
  - Must Be No Less Restrictive/Intrusive Alternative

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## When Involuntary Commitment Constitutionally Permissible

1. Confinement takes place pursuant to proper procedures and evidentiary standards,
  2. Finding of "dangerousness either to one's self or to others," and
    - Incapable of surviving safely in freedom. *Cooper v. Oklahoma*, 517 U.S. 348, 116 S.Ct. 1373, 1383 (1996).
  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).
- Must be by Clear & Convincing Proof. *Addington v. Texas*, 441 US 418 (1979).

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## 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. The specific kinds of drugs at issue may matter here as elsewhere. Different kinds of antipsychotic drugs may produce different side effects and enjoy different levels of success.

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

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## Massachusetts: The *Rogers* Case

- Very Good Case: Ct. Must Consider:
  1. Expressed preferences.
  2. Strength of religious convictions.
  3. Impact of family.
  4. The probability of adverse side effects.
  5. The prognosis without treatment.
  6. The prognosis with treatment.
  7. Any other factors which appear relevant.
- Has Become a "Rogers Orders" Assembly-Line

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## Failure of Lawyers Assigned to Effectively Represent Defendants Where System Most Broken

- Massachusetts Probably Has Best Lawyer Training Program in the Country and People Still Not Getting Sufficient Representation.
  - Defendant's Side Not Being Adequately Presented
  - Part of it is a Resource Issue

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## Importance of Effective Attorney

"Empirical surveys consistently demonstrate that the quality of counsel remains the single most important factor in the disposition of involuntary civil commitment cases." . . . Without such [adequate] counsel, it is likely that there will be no meaningful counterbalance to the hospital's "script," and the patient's articulated constitutional rights will evaporate.

Perlin, "And My Best Friend, My Doctor/Won't Even Say What It Is I've Got": The Role And Significance Of Counsel In Right To Refuse Treatment Cases, 42 San Diego Law

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## Sanism & Pretextuality

Courts accept . . . testimonial dishonesty, . . . specifically where witnesses, especially expert witnesses, show a "high propensity to purposely distort their testimony in order to achieve desired ends." . . .

Experts frequently . . . and openly subvert statutory and case law criteria that impose rigorous behavioral standards as predicates for commitment . . .

This combination . . . helps define a system in which (1) dishonest testimony is often regularly (and unthinkingly) accepted; (2) statutory and case law standards are frequently subverted; and (3) insurmountable barriers are raised to insure that the allegedly "therapeutically correct" social end is met . . . In short, the mental disability law system often deprives individuals of liberty disingenuously and upon bases that have no relationship to case law or to statutes.

The ADA and Persons with Mental Disabilities: Can Sanist Attitudes Be Undone? October 22, 2007 by Michael L. Perlin, *Journal of Law and Health*, 1993/1994, 8 JLHEALTH 15, 33-34

## In Other Words . . .

**“If patient wasn’t crazy, She’d know this is good for her.”**  
**So we won’t let her pesky rights get in the way. (“dying with rights on”)**

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## Alaska

- Small Population = Easier Access to Policy Makers
- Alaska Mental Health Trust Authority (Trust) Unique
  - Committed to Innovation
  - Has Some Money
- Consumers Consortium
- Ionia

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## PsychRights in Alaska

- *Myers* (2006)
  - Best Interests
  - No Less Intrusive Alternative
- *Wetherhorn* (2007)
  - Unable to Survive Safely in Freedom
- *Bigley* (In Litigation)
  - State Must Pay for Less Intrusive Alternative (Trial Court)
  - Define Unable to Survive Safely in Freedom (Alaska Supreme Ct)

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### Constitutionality of Forced Drugging under Alaska Constitution: the *Myers* Case

- Right to be Free of Unwanted Psychiatric Drugging is a “Fundamental” Constitutional Right.
- When No Emergency Exists, Right May be Overriden Only When
  - Necessary to Advance a Compelling State Interest, and
  - Only if No Less Intrusive Alternative Available. *Bigley* case could test.
- Compelling State Interest in non-emergency is “Best Interest” of a person found incompetent to make own decision.

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### Public Education in Alaska

- Whitaker in 2002, 2003 & 2007
- Perlin in 2003
- Menn in 2007
- Numerous Newspaper & Some Broadcast Coverage
  - *Myers* Case
  - Feature Front Page Story in November 2005
  - Zyprexa Papers local coverage
- Accept All Speaking Invitations

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### Soteria-Alaska

- Non-coercive, Non-Drug option for Newly Diagnosed with Psychotic Disorder.
  - Be With, Not Do To
  - Expect Recovery
  - Let People Be “Delusional”
  - But Insist on Safety/Respect
- Replicate Original Soteria-House
  - 6-8 People
  - Two staff at all times.
- Opening in 2008

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### 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: Trust Formally Supports
  - Wanted State Participation in Funding
- 2007: Funded by Trust for 2008 Opening when didn't get in State Budget.

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**C**onsumers  
**H**aving  
**O**wnership  
**I**n  
**C**reating  
**E**ffective  
**S**ervices

- “Consumer” Run
- Non-coercive, Non-drug (& drug) Choices In Community
- Available for people in the system a long time
- Started Providing Services in July, 2007

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### Peer Properties

- Peer Run Housing
- Allows Non-drug Choice
- No “services,” but peer support principle
- One 4 bedroom House Owned & Operated
- Proven concept, but needs infrastructure support

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## Alaska Status

- Widespread Support for Non-Drug Choices
  - But Backlash May Be Developing as implications becoming clearer
- Soteria-Alaska Scheduled to Open in 2008
- CHOICES, Inc., just started up
- Least Restrictive/Intrusive Alternative Enshrined in Recent Supreme Court Decisions. *Bigley* case may test what that means.

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## National Effort

- Person or Group to Serve as Coordinator for Each Locale
- Legal Resources
- Expert Witness Resources (but see written testimony tactic)
- Identify and Pursue Legal Attack Points
  - Local Knowledge Essential
- Should be combined with Public Education and Promotion of Other Choices


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## Two Potential Tactics

- Written Testimony (Affidavits)
  - Probably Has to Be Non-Jury
  - Whitaker (Available)
  - Bassman (Available)
- Subpoena Suppressed Drug Info
  - Hidden Studies
  - Marketing Docs to Docs
- Must Pursue Appeals!!! Etc.


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## Sister Organizations

- National Association for Rights Protection and Advocacy (NARPA)
- MindFreedom
- ICSP

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## NARPA National Association for Rights Protection & Advocacy

- Psychiatric Survivors & Mental Health Lawyers
- 25 Years
- Terrific Conferences
- Truly National in Scope
- Adopted Kid Drugging as Priority

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## MindFreedom

- Activists, especially current and former victims of forced psychiatry.
- “Unites 100 sponsor and affiliate grassroots groups with thousands of individual members to win human rights and alternatives for people labeled with psychiatric disabilities.”
- Adopted Kid Drugging as Priority

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## ICSPP International Center for the Study of Psychology & Psychiatry

- Mainly Practitioners Who Know Current Practices are Harmful and Counterproductive
- Founded by Dr. Breggin to Advance Science
- Journal: *Ethical Human Psychology & Psychiatry*
- Becoming More Activist
- Adopted Kid Drugging as Priority; Focus of just held 2007 Conference.

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## AHRP Alliance for Human Research Protection

- Independent, but Shared Values
- Influential Info-emails
- Also focuses on rights abuses in medical research

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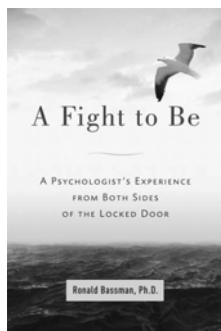
## Public Education Nationally

- Zyprexa Papers
  - Front Page New York Times Articles
  - New York Times Editorial Calling for Congressional Investigation
  - Not focused on Forced Psychiatry, but created relationships with reporters and visibility
  - PharmaLive Article
  - Blogs
- Secret Study Subpoenas
  - Mainly Internet Exposure So Far, but Some Print Interest

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## A Couple of Great New Books



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(Ex-)users and survivors of psychiatry, therapists, psychiatrists, social scientists, lawyers and relatives report about their alternative work, their objectives and successes, their individual and collective experiences. The book highlights alternatives beyond psychiatry, current possibilities of self-help for individuals experiencing madness, and strategies toward implementing humane treatment.

These are the main questions addressed by the 61 authors from all continents:

- What helps me if I go mad?
- How can I find trustworthy help for a relative or a friend in need?
- How can I protect myself from coercive treatment?
- As a family member or friend, how can I help?
- What should I do if I can no longer bear to work in the mental health field?
- What are the alternatives to psychiatry?
- How can I get involved in creating alternatives?
- Assuming psychiatry would be abolished, what do you propose instead?

Peter Stastny  
Peter Lehmann (eds.)

### Alternatives Beyond Psychiatry

Preface by Robert Whitaker

www.peter-lehmann-publishing.com

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## Suggested Reading

- *Mad in America: Bad Science, Bad Medicine and the Enduring Mistreatment of the Mentally Ill* (2001) by Robert Whitaker
- *Alternatives Beyond Psychiatry*, Peter Lehman & Peter Stastny, MD, Editors (2007).
- *A Fight to Be: A Psychologist's Experience from Both Sides of the Locked Door*, Ronald Bassman, Ph.D. (2007)
- *The Hidden Prejudice: Mental Disability on Trial*, (2000) by Michael L. Perlin
- *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* (1997) by Peter Breggin, MD.
- *Community Mental Health: A Practical Guide* (1994) by Loren Mosher and Lorenzo Burti
- *Soteria: Through Madness to Deliverance*, by Loren Mosher and Voyce Hendrix with Deborah Fort (2004)
- *Psychotherapy of Schizophrenia: The Treatment of Choice* (Jason Aronson, 1996), by Bertram P. Karon and Gary R. Vandenbos

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## Q & A

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