

PAIMI Advisory Council Listening Session

May 29, 2024

Law Project for Psychiatric Rights (PsychRights)

Jim Gottstein

Beliefactory

Kristina (KK) Kapp



Mission:

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



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.

PAIMI Act

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 Act

42 U.S.C.A. § 10805(c)

- (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.

PAIMI Act

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.

Involuntary Commitment Permissible Under US Constitution When:

1. Confinement takes place pursuant to proper procedures and evidentiary standards,
 2. Finding of "dangerousness either to oneself 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.
5. *Sell v. United States*, 539 U.S. 166, 177-8, 123 S.Ct. 2174, 2183 (2003)
(Competence to Stand Trial Case).

REPORT
ON
IMPROVING
MENTAL HEALTH
OUTCOMES

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

September 2023

- Psychiatric Incarceration Massively Associated with Suicide

- Psychiatric Drugs Increase Harm to Self & Others
- Psychiatric Drugs Shortening Life Spans by 20-25 Years
- Psychiatric Drugs Reduce Recovery from Possible 80% to 5%
- Proven Effective, Safe & Non-Coercive Approaches

Rights Violations

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

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Involuntary Commitment and Forced
Psychiatric Drugging In the Trial Courts:
Rights Violations as a Matter of Course

James B. Gottstein

Alaska Law Review Article

- Available at:
- PsychRights.Org

Carpe Diem

Believe IT...

Become IT

Be IT ...

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