Grass Roots, Multi-Organizational Efforts in Support of Human Rights in Mental Illness

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SCHIZOPHRENIA and BIPOLAR DISORDER: SCIENTIFIC FACTS OR SCIENTIFIC DELUSIONS?
Implications for theory and treatment

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II. Purpose

This paper describes multi-organizational efforts on behalf of human rights in mental health by the International Center for the Study of Psychiatry (ICSPP), MindFreedom, formerly known as Support Coalition International and the Law Project for Psychiatric Rights (PsychRights) and proposes a framework for coordinating these efforts. By joint action tremendous synergy could be created. Therefore the purpose of this paper is to suggest these three key organizations coordinate their efforts through some sort of formal relationship.

III. The 2005 Action Conference For Human Rights in Mental Health

In the Spring of 2005, MindFreedom[1] held an Action Conference for Human Rights in Mental Health at the American University Washington College of Law, which was designed to set up an action agenda through the following "Tracks:"

- **International** Focus: Advocacy with The World Health Organization (WHO) as well as the United Nations (UN) especially related to the International Convention on the Rights of People with Disabilities. Facilitators: MindFreedom President, Celia Brown and MindFreedom Director, David Oaks.

- **US Congress/Federal Government** Focus: Planning actions to resist the unfair influence of the psychiatric drug industry on the US government. Facilitator: Dominick Riccio, PhD, Executive Director of the International Center for the Study of Psychiatry and Psychology (ICSPP).

- **Choices In Mental Health** Focus: Support humane alternatives to the traditional mental health system. Facilitator MindFreedom board member Janet Foner.

- **How The Law Can Help Fight Forced Treatment** Focus: Fight the increased use of force in the mental health system by combining the tools of the legal system and grassroots activism. Facilitator: attorney/survivor Jim Gottstein, President of PsychRights.

- **Public Education and the Media** Focus: Relationship between the media, science and grassroots actions for human rights in mental health. Facilitator: Laurie Ahern from Mental Disability Rights International (MDRI).

[1] MindFreedom describes itself as uniting 100 grassroots groups and thousands of members to win campaigns for human rights of people diagnosed with psychiatric disabilities. It is the most well-known such organization in the United States and was formally formed in 1988 out of a more informal group of such activists starting in the late 1960's -- early 1970's. *See*, http://mindfreedom.org/about.shtml.

- **Open Track** Focus: Provide an open space for any conference participants to raise topics, ideas or concerns not covered by other conference tracks, especially voices from neglected and marginalized groups. Facilitators: MindFreedom board member Al Galves and Jeffrey Wilson, author of *Irrational Medicine: The Antidepresant Crisis and How to Avoid Unnecessary Behavioral Drugs*.

Each of the Tracks produced an Action Agenda, with implementation plans. These can be found in the Action Conference's Final Report, which is available on line at http://psychrights.org/Education/2005ActionConference/FinalReport.pdf.

While the Action Conference was put on by MindFreedom, ICSPP and PsychRights, provided significant support. Most significantly, the leaders of each of these organizations agreed in principle that they should work together to achieve their mutual goal of fighting the great harm being done by current psychiatric practices.

The various Action Conference Tracks have been pursuing their action plans with varying degrees of vigor. However, no real follow-up on the idea of ICSPP, MindFreedom and PsychRights coordinating efforts has taken place, although there is a fair amount of communication and coordination between MindFreedom and PsychRights.

IV. Shared Beliefs and Goals

While ICSPP, MindFreedom and PsychRights have distinctly different foci, they share key beliefs and goals. Shared beliefs include that current psychiatric practices are harmful, largely ineffective -- even counterproductive -- and are based on junk science. Related to this is that the defective brain explanation of mental illness, such as that they are the result of "chemical imbalances" is completely unproven and almost certainly untrue. All three groups also believe huge harm is being done by current psychiatric practices and people should be told the truth about psychiatric interventions when making treatment choices. All three groups adamantly oppose forced or coerced psychiatric interventions.

The goals of the three organizations are completely compatible with each other. "ICSPP is concerned with the impact of mental health theories on public policy and the effects of therapeutic practices upon individual well-being, personal freedom, and family and community values."[2] "MindFreedom unites 100 grassroots groups and thousands of members to win campaigns for human rights of people diagnosed with psychiatric disabilities."[3] PsychRights "has a mission to bring fairness and reason into the administration of legal aspects of the mental health system, particularly unwarranted court ordered psychiatric drugging."[4]

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[2] Taken from ICSPP's website. http://icspp.org/.
[3] Taken from MindFreedom's website. http://mindfreedom.org/about.shtml.
[4] From PsychRights' website. http://psychrights.org.

Historically, ICSPP has considered itself an academic organization whose primary function has been to disseminate research about the truth regarding psychiatric practices through its annual conferences and its journal, *Ethical Human Psychology and Psychiatry: An International Journal of Critical Inquiry*. In the last couple of years, though, ICSPP has moved towards more directly impacting policy, including hiring a part-time lobbyist. MindFreedom has always been an activist organization, acting primarily through the "people power" of its grass roots strengths. PsychRights, formed just three years ago, has a direct focus on strategic litigation against the massive forced drugging in the United States, but also recognizes success can only be achieved by a concurrent change in public understanding and the availability of non-drug (and electroshock) alternatives.

A. Friends and Enemies of Carlotta[5]

One of the attributes of our effort is there is a range of beliefs people hold who can be considered on our side. For example, some people, probably even most in ICSPP, believe that psychiatric drugs (and electroshock) are always bad and should never be given. At the same time, there are people, such as Dr. Joseph Glenmullen and Dr. David Healy, who have written and spoken about[6] and exposed the great fraud regarding these drugs, yet still prescribe them under certain circumstances. Do we disassociate with them because of this. These types of differences in beliefs has led, particularly in the C/S/X community,[7] to divisions and rancor. Where might we draw the line(s)?

My view is that Dr. Healy is a great hero for what he has done and Dr. Glenmullen has done some hugely important work on the lack of efficacy and dangers of the Selective Serotonin Re-uptake Inhibitor (SSRI) "antidepressants."[8] Dr. Healy informs me even though he is presented with already sectioned (detained) patients, he does not force treatment on them and if someone (and their family) doesn't want treatment, he doesn't keep them. I don't know where Dr. Glenmullen stands on involuntary commitment and forced drugging (and electroshock), which is basically where I draw the line.

"Screening" is an issue where there is not unanimity on our side. My view is that it is being used as a Drugging Dragnet and I oppose it. Others, however, feel screening is not an inherently bad activity and finding kids who are having problems to help them is a good thing. Even the National Empowerment Center, the National Mental Health Consumer Self-Help Clearing House (Clearinghouse), and the Bazelon Center have

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[5] This is a reference to a theme in the Steve Martin movie *Dead Men Don't Wear Plaid* and is a no doubt weak attempt at humor regarding the necessity, yet difficulty, of identifying friends and enemies.

[6] Including at the 2004 ICSPP Conference.

[7] Consumers of mental health services/eX-patients/Survivors of psychiatry. For a discussion of this terminology see, http://psychiatrized.org/#Psychiatrized.

[8] I put "antidepressants" in quotes because it is totally unclear they actually have any real anti-depressant effect.

joined the "Campaign for Mental Health Reform," which calls for screening.[9] When pressed on this they all say the wording of the Campaign's support for screening does not support mandatory or universal screening. For example, Bazelon's Executive Director, Robert Bernstein, e-mailed me the following in response to my criticism:

> Recognizing that mental health is a component of overall health, the Bazelon Center encourages evaluation of mental health needs within the context of healthcare, in accordance with healthcare privacy protections and with the informed consent of the individual. The Center endorses such screening and assessments when they serve to inform the individual of risk factors and of the full array of applicable treatment and support options that will allow the individual to make meaningful choices. The Center does not endorse mandatory universal mental health screening.[10]

Dan Fisher of the National Empowerment Center and Joe Rogers of the Clearinghouse said similar things. The National Empowerment Center, the Clearinghouse and Bazelon all do good things.

Joe Rogers, of the Clearinghouse, however has suggested there should be more Program for Assertive Community Treatment (PACT) teams in Pennsylvania, as set forth in the following exchange of e-mails:[11]

> From: Jim Gottstein
> To: Joe Rogers
> Sent: Fri, 05 Aug 2005
> Subject: Fwd: Re: [MF-USA] Rogers in favor of PACT expansion
>
> Hi Joe,
>
> You have been reported to be advocating for more PACT in PA. More specifically, you are alleged to have asked why there is only one PACT in Pennsylvania and stated there should be PACTs in every county in Pennsylvania during a panel discussion.
>
> What say ye?
> ==========

[9] Particularly disturbing is the "Campaign" includes the National Alliance for the Mentally Ill (NAMI) and Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD), two supposedly grass roots mental health organizations, but which have totally become proponents of more drugging and at least with respect to NAMI, forced "treatment." *See*, http://www.mhreform.org/partners.htm.
[10] May 16, 2005, e-mail from Robert Bernstein to Jim Gottstein.
[11] PACT basically is a coercive program mostly focused on making people in the community take psychiatric drugs. *See*, the first few links at http://akmhcweb.org/issues/pact/pact.htm for a description of PACT.

Date: Thu, 18 Aug 2005
From: Joe Rogers
Subject: Re: [MF-USA] Rogers in favor of PACT expansion

To: Jim Gottstein

I like the Village Model over the PACT more to it than just case management.

Joseph
==========
Date: Thu, 18 Aug 2005 14:24:42 -0800
To: Joe Rogers
From: Jim Gottstein
Subject: Re: [MF-USA] Rogers in favor of PACT expansion

Hi Joseph,

I interpret that as a yes; that you did/do advocate for more PACTs in Pennsylvania.

No response disputing this interpretation was received to this last e-mail. For me, this puts Mr. Rogers on the other side of the line.

The point is not to come down on Mr. Rogers, whom I actually hope to continue to share a cordial relationship and work with when possible, but to illustrate the principle that we should try to include as many potential allies as possible while at the same time being faithful to our core principles.[12]

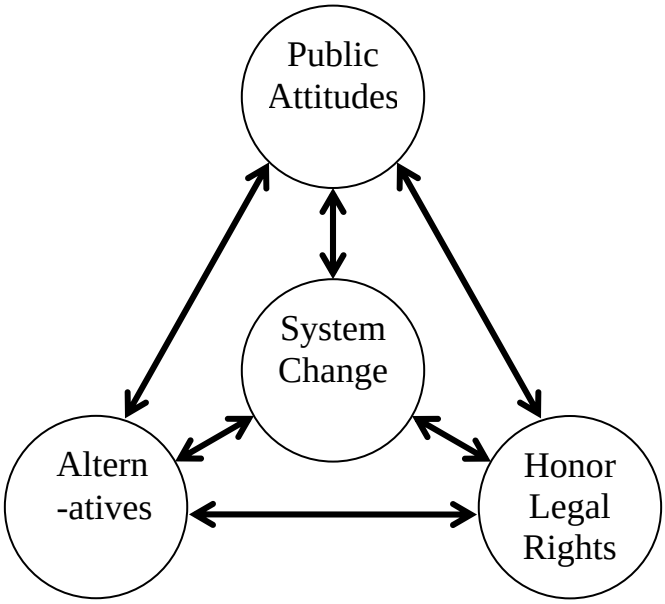
These principles can be described as Truth, Justice and the American Way. Truth obviously means bringing the truth out and acting on the truth. Justice simply means that we are dedicated to the principle that people are entitled to vindication of their legal rights. The American Way in my mind is that the government leaves people alone unless they are harming people and that people have a right to be weird.

V. Success Essentials: Alternatives, Public Opinion, Strategic Litigation.

In order to change the paradigm for responding to people exhibiting behavior that causes them to be labeled mentally ill and subjected to draconian control measures, it is suggested here that three elements must be addressed simultaneously: (1) Public Attitudes, (2) Availability of Alternatives, and (3) Enforcement of Rights. These three elements are interrelated in a number of ways.

[12] I wrote a discussion paper, which included more of a discussion of this for the Action Conference, which can be found at http://psychrights.org/education/2005ActionConference/DiscussionPaper.pdf.

Public attitudes are unlikely to change unless there are alternatives available.[13] Legal challenges can require that people be allowed to receive alternative treatment, but they need to be available. Legal challenges can also require that alternatives be created, but as a practical matter, there needs to be a mechanism for them to actually be created. Judges reflect the society in which they operate and unless and until there is a shift in public attitudes it is unlikely the trial courts will regularly insist forced "treatment"[14] only occur when the legal requirements are met.[15] The inter-relationships might be depicted as follows:



[13] The mental illness system is largely driven by the irrational fear that people diagnosed with mental illness tend to be more dangerous than the general population as a whole.
[14] I put "treatments" in quotes because as so perfectly described by Dr. Breggin in *Brain Disabling Treatments in Psychiatry: Drugs, Electroshock and the Role of the FDA*, what passes for standard treatment these days are medical interventions that disable functioning of the brain enough to dampen the troubling emotional expression to a level considered acceptable.
[15] I estimate that 90% of involuntary commitments are unwarranted under existing statutory and constitutional guidelines and suggest that court ordered drugging is never legal under applicable constitutional principles.

VI. Public Attitudes

In my mind, by far the most important element in attempting to stop the madness which is the mental illness system[16] is changing the public's perception regarding "mental illness" and current "treatments." There is an historic opportunity right now to make substantial inroads against the Psychopharmacology/Psychiatric hegemony[17] because of the revelations in the media regarding dangerous, ineffective drugs, but this must be seized or it will be lost. **A serious public education program must be mounted**.

A. An Effective Public Relations Campaign

In the main, perhaps unduplicated for any other issue, the power of the Psychopharmacology/Psychiatric Hegemony has so controlled the message that the media tends not to even acknowledge there is another side. For most issues, the media will present at least one spokesperson from each side. However, when the latest bogus breakthrough in mental illness research or "treatment" is announced, our side is not even presented. One might want to pass this off as Big Pharma advertising money infecting the news departments, but I think that is way too simplistic and perhaps even largely untrue.

In order to get our side presented, we need to have established relationships before stories break so they know who to call. An illustration of this is that David Oaks, the Executive Director of MindFreedom, was recently quoted in a recent, important Washington Post article about the NIH study finding "atypical" neuroleptics are neither more effective, nor safer than the older ones.[18] For years David was working on his relationship with Shankar Vedantam, the person who wrote the story, educating him to the issue, and the result was that when the story broke, David was one of the people Mr. Vedantam called.[19]

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[16] In light of the system basically creating massive numbers of people who become diagnosed as chronically mentally ill, I call it the mental illness system, rather than the mental health system.

[17] MindFreedom and ICSPP and kindred organizations such as especially the Alliance for Human Rights Protection (AHRP), http://ahrp.org/, have played a role in this, but are not the dominant influence they should be. PsychRights has also issued numerous press releases and contacted various media, but without great effect to date, other than in Alaska. By the way, anybody that isn't subscribed to Vera Sharav's AHRP listserv should do so. I know how much a burden being on listservs can be, but this one is a must.

[18] The article in which David was quoted was "New Antipsychotic Drugs Criticized: Federal Study Finds No Benefit Over Older, Cheaper Drug," *Washington Post*, Tuesday, September 20, 2005. The study, itself, can be found at http://psychrights.org/Research/Digest/NLPs/NEJoMAtypicalsnobetter.pdf.

[19] David's 30 years of work in the field has made him perhaps the most well-known spokesperson for the psychiatric survivor community, although maybe Judi Chamberlin, author of the groundbreaking book "On or Own" holds that title. Judi is on the MindFreedom Board of Directors.

We need to have an organized, ongoing and sustained public relations effort. There needs to be a person who is able to spend a considerable amount of their time devoted to organizing and coordinating this effort.[20] Absent unusual circumstances, *ie*., that the person has financial resources that allows him or her to work without compensation, the position will need to be funded. Public relations firms normally charge between $2,000 to $5,000 per month to do this kind of work and one doesn't get an entire person for this. However, I think we need to hire a person rather than a PR firm for various reasons, even though public relations firms have pre-existing relationships with the media.

I've mentioned establishing relationships so that the media will know who to call. As part of this we need a list of potential speakers. These folks are often referred to in the media as "talking heads." We also need to be promoting stories.

B. Potential Representatives

The following is a list of people, I believe would be good spokespeople for the major media outlets. It is by no means comprehensive and I apologize in advance to people I no doubt should have included. Also, I don't know everyone on the list well and there may be some people listed, who perhaps would serve the effort better in another capacity(ies). Very importantly, everyone can and should position themselves as spokespeople in their own communities.

Psychiatrists/MDs	Ph.D.s		Survivors*	Attorneys
Peter Breggin	David Cohen	Al Galves	David Oaks	Michael Perlin
Grace Jackson	Bert Karon	Paula Caplan	Judi Chamberlin	Jim Gottstein*
David Healy	Ron Bassman*	Rich Shulman	Celia Brown	Susan Stefan
Joseph Glenmullen,	Bruce Levine	Sarah Edmonds	Laurie Ahern	William Brooks
Dan Fisher*	Larry Simon	Gail Hornstein	Darby Penny	Tom Behrendt
Dan Dorman	Al Siebert*	John Breeding	Pat Deegan	Kim Darrow
Kurt Langsten	Ann Blake Tracy	John Read	Bill Stewart	Dennis Feld
Ann Louise Silver	Barry Duncan	Cloe Madanes	Pat Risser	Maureen Gest
Stuart Shipko	Dominick Riccio	Edward Albee	Francesca Allan	
Ron Leifer	Jonathon Leo	Courtenay Harding	Krista Erickson	
Nat Lehrman	Jay Joseph	David Antonuccio	Linda Andre	
Larry Plumlee	Diane Kern	Dathan Paterno	Oryx Cohen	
Thomas Szasz	Keith Hoeller	Toby Watson	Catherine Penney	
Fred Baughman	Tomi Gomory		Will Hall	
Karen Effrem				
Stefan Kruszewski?				

*People in other categories who are also self-identified survivors, are designated with an asterisk. I may have missed some.

[20] Personally, I think such a PR person is a higher priority than a lobbyist.

C. Promoting and Making Stories

In addition to establishing relationships, and in fact also a way to establish relationships, is to pitch, promote and make stories. The 2003 Fast for Freedom in Mental Health put on by MindFreedom was an example of making a story.[21] The most significant coverage it received was in the Washington Post and the LA Times Magazine, but there were a number of other stories and op ed pieces.[22] The Hunger Strike was incredibly successful in one way, which was the brave fasters actually got the American Psychiatric Association to admit they had no evidence for their claims that mental illness is a biologically based brain defect.[23] Ultimately, though, the Hunger Strike should have garnered much more media and the reason it didn't was that the prior relationship building had not been done.[24] MindFreedom, though has a demonstrated ability to bring people out to demonstrate and make news. This is huge asset.

VII. Alternatives

There simply needs to be more alternative programs and we have to get them going. In the Report on Multi-Faceted Grass-Roots Efforts To Bring About Meaningful Change To Alaska's Mental Health Program,[25] I describe the coordinated effort to bring alternatives into existence in Alaska, including how litigation fits into the picture. The jury is still out on whether or to what extent these efforts might come to fruition, but it may serve as a springboard for thinking about ways to promote alternatives in other locales.

Ultimately, in order to be successful, alternatives need to be funded by the public system. One argument in its favor that should be attractive to government (but has not heretofore been) is the current system is breaking the bank. As Whitaker has shown, the disability rate for mental illness has increased six-fold since the introduction of Thorazine.[26] Making so many people permanently disabled and financially supported by the government, rather than working and supporting the government, is not only a huge human tragedy, but is also a massive unnecessary governmental expense.

One of the simplest, but very important things that should be done is to compile a readily accessible, accurate, list of existing alternatives and efforts to get them going. I have seen lists of alternatives, but then I hear that this program or that is really not a true alternative. It would be extremely helpful for there to be a description of each such

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[21] *See*, http://mindfreedom.org/mindfreedom/hungerstrike.shtml.
[22] *See*, http://www.mindfreedom.org/mindfreedom/hungerstrike22.shtml.
[23] *See*, http://mindfreedom.org/mindfreedom/hungerstrike1.shtml.
[24] This is not a criticism at all. From my perspective the Hunger Strike was wildly successful.
[25] *See*, http://akmhcweb.org/News/AKEfforts.pdf.
[26] *See*, Anatomy of an Epidemic: Psychiatric Drugs and the Astonishing Rise of Mental Illness in America, which is available at http://psychrights.org/Articles/EHPPPsychDrugEpidemic(Whitaker).pdf.

program with enough investigation to know what is really happening. The following are some of the current alternatives and efforts to get more going:

- INTAR[27]
- Action Conference[28]
- Alaska -- Soteria-Alaska, CHOICES, Peer Properties[29]
- Arizona -- Meta Services[30]
- California -- Golden State Psychological Health Center[31]
- Illinois -- Associated Psychological Health Services[32]
- Massachusetts -- Freedom Center -- Soteria-New England, Zuzu's Place[33]
- New Hampshire -- The Cypress Center[34]
- Washington -- Ani'sahoni Consulting (Dr. David Walker)[35]
- Wisconsin -- Associated Psychological Health Services[36]

One thing that is noteworthy about this list is how many of them are being undertaken by ICSPP members.

VIII. The Role of Litigation

Currently, locking people up and forcibly drugging them is by far the easiest way for "the system" to deal with disturbing people who can be labeled mentally ill. Dr. Loren Mosher made the point this should be a rare and extremely hard thing to do as a matter of therapeutic principles.[37] However, under existing statutes and constitutional principles, involuntary commitment, and particularly forced drugging, should be extremely difficult to obtain, but the opposite is true. Involuntary commitment and forced drugging is "the path of least resistance" and strategic litigation can serve to make it a much harder path to take, resulting in "incentives" for the government to find other ways to deal with disturbed and disturbing people.

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[27] *See*, http://intar.org/
[28] *See*, Choices Track at http://psychrights.org/Education/2005ActionConference/FinalReport.pdf
[29] http://akmhcweb.org/News/AKEfforts.pdf.
[30] *See*, http://metaservices.com/. They have done a lot of very interesting things, although at this point a lot of their clients are medicated.
[31] *See*, http://www.gsphc.net/.
[32] *See*, http://www.abcmedsfree.com/.
[33] *See*, http://www.freedom-center.org/.
[34] *See*, http://psychrights.org/States/NewHampshire/NewHampshire.htm.
[35] *See*, http://www.anisahoni.com/about/.
[36] *See*, http://www.abcmedsfree.com/.
[37] *See*, eg., Dr. Mosher's testimony in *Myers v. Alaska Psychiatric Institute*, which can be found at http://psychrights.org/States/Alaska/CaseOne/30-Day/3-5and10-03transcript.txt. Dr. Mosher's testimony starts at page 169.

Litigation as a means for changing systems is a proven strategy. The civil rights litigation by Thurgood Marshall and the NAACP in the 1950's and '60's overturning segregation is a classic example. However, just as posited here, one of the reasons the legal effort was successful was the change in public attitudes. Public awareness through the demonstrations, pictures of lynchings, and police brutality were a key part of this.

A. The Illegal Involuntary Mental Illness System

Involuntary "treatment" in the United States largely operates illegally in that court orders for forced treatment are obtained without actual compliance with statutory and constitutional requirements. For example, forced "treatment" is not legal if a less restrictive or intrusive alternative could be utilized.[38]

People are locked up under judicial findings of dangerousness and force drugged based on it being in their best interests without any legitimate scientific evidence of either dangerousness or the drugs being in a person's best interests. As Professor Michael Perlin has noted:

> [C]ourts 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.[39]

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[38] *See*, e.g., *Sell v. United States*, 539 U.S. 166, 181, 123 S.Ct. 2174, 2185 (2003).
[39] *The ADA and Persons with Mental Disabilities: Can Sanist Attitudes Be Undone,?* Journal of Law and Health, 1993/1994, 8 JLHEALTH 15, 33-34.

Testifying psychiatrists lie,[40] the trial (but not appellate) courts don't care, and lawyers assigned to represent defendants in these cases, are "woefully inadequate--disinterested, uninformed, roleless, and often hostile. A model of "paternalism/best interests" is substituted for a traditional legal advocacy position, and this substitution is rarely questioned."[41] In other words, counsel appointed to represent psychiatric defendants are, more often than not, actually working for the other side, or barely put up even a token defense, which amounts to the same thing.[42]

No one in the legal system is taking psychiatric defendants' rights seriously, including the lawyer appointed to represent the person. There are two reasons for this: The first is the belief that "if this person wasn't crazy, she'd know this is good for her." The second is the system is driven by irrational fear. All the evidence shows people who end up with psychiatric labels are no more likely to be dangerous than the general population and that medications increase the overall relapse rate, yet society's response has been to lock people up, and whether locked up or not, force them to take these drugs.[43]

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[40] "It would probably be difficult to find any American Psychiatrist working with the mentally ill who has not, at a minimum, exaggerated the dangerousness of a mentally ill person's behavior to obtain a judicial order for commitment." Torrey, E. Fuller. 1997. *Out of the Shadows: Confronting America's Mental Illness Crisis*, New York: John Wiley and Sons, page 152. Dr. Torrey goes on to say this lying to the courts is a good thing. Of course, lying in court is perjury. Dr. Torrey also quotes Psychiatrist Paul Applebaum as saying when "confronted with psychotic persons who might well benefit from treatment, and who would certainly suffer without it, mental health professionals and judges alike were reluctant to comply with the law," noting that in "'the dominance of the commonsense model,' the laws are sometimes simply disregarded."

[41] 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 Review 735, 738 (2005)

[42] This is a violation of professional ethics. For example, the Comment to the Model Rules of Professional Conduct for attorneys, Rule 1.3, includes, "A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf."

[43] "Kendra's Law" in New York is a classic example of this. There a person who had been denied numerous attempts to obtain mental health services pushed Kendra in front of a moving subway and when he was grabbed, said "now maybe I will get some help." The response was to pass an outpatient commitment law requiring people to take psychiatric drugs or be locked up in the hospital. This is a characterization, but what New York's high court ruled was that it subjected people to "heightened scrutiny" for involuntary commitment if they didn't comply. *See, In the Matter of K.L.*, http://psychrights.org/States/NewYork/KL.pdf.

I estimate 10% or less of involuntary commitments are justified based on the law and don't believe forced drugging is ever legally justified under the cases.[44] This means there is a tremendous opportunity for positive change.

B. Legal Representation: This Is Where the Legal System is Broken.

> *The track record of lawyers representing persons with mental disabilities has ranged from indifferent to wretched; in one famous survey, lawyers were so bad that a patient had a better chance of being released at a commitment hearing if he appeared pro se.*[45]

If only 10% of involuntary commitments are legally supportable and no forced drugging (or electroshock), why is it that these court orders are obtained as easily as popcorn at the circus? The single most important place where the legal system is broken is the failure of appointed counsel to effectively represent their clients. Thus, one of the key strategic areas of litigation is to establish the right to effective legal representation.[46] This is the key element in making involuntary commitment and forced drugging more difficult, *i.e.*, making it not the path of least resistance and therefore providing an environment in which alternatives become a more attractive choice for policy makers.[47]

A final word about the importance of this forced psychiatry issue. While it is true that many, even maybe most, people in the system are not under court orders at any given time, it is my view that the forced psychiatry system is what starts a tremendous number of people on the road to permanent disability. Of course, coercion to take the drugs is pervasive outside of court orders too, but again I see the legal coercion as a key element.

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[44] *Sell*, which is a case involving when the government is constitutionally allowed to force drug someone to make them competent to stand trial, also clearly holds that it must be shown the forced drugging will work for whatever purpose it is invoked. In the civil context, it means it must be proven to be in the person's best interests. I don't think this can ever truthfully be shown.

[45] 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 Review 735, 743 (2005)

[46] I have a case in the Alaska Supreme Court right now, *Wetherhorn v. Alaska Psychiatric Institute*, No. S-11939, in which this is the key issue. The typical sham nature of these proceedings is starkly illustrated in this case. Information on this case is available at http://psychrights.org/States/Alaska/CaseFour.htm. The opening brief is currently due October 12th, and will be available online when it is filed.

[47] In *In re: K.G.F.*, which can be found at http://www.lawlibrary.state.mt.us/dscgi/ds.py/Get/File-11399/00-144.htm, the Montana Supreme Court came out with a very good set of rules for such representation. However, the practice in Montana is just as dismal as ever. *See*, documents available at http://psychrights.org/States/Montana/Montana.htm, where I wrote the Montana Supreme Court about this after being accused of the unauthorized practice of law in Montana (I'm not licensed there) because I advocated for a patient at Montana State Hospital.

C. The Requirement of Alternatives.

As mentioned above, under the *Sell* case, it is unconstitutional to force drug someone if a less restrictive alternative could be made available.

> The Supreme Court's decisions in Washington v. Harper, Riggins v. Nevada, and, most recently, Sell v. United States, make it clear that: a qualified right to refuse medication is located in the Fourteenth Amendment's Due Process Clause; the pervasiveness of side effects is a key factor in the determination of the scope of the right; the state bears a considerable burden in medicating a patient over objection, and the "least restrictive alternative" mode of analysis must be applied to right to refuse cases.[48]

(emphasis added). This least restrictive alternative requirement applies whether or not the government chooses to fund such an alternative. In other words, if a less restrictive alternative could be made available, it is unconstitutional to force someone to be force drugged. Thus, cases pushing this point can be a huge catalyst for change. Appeals are almost certainly going to have to be involved.

D. The Necessity of Alternatives

Realistically though, judges are going to be very reluctant to just deny involuntary commitments and forced drugging orders without an alternative being available. Thus, even for the legal strategy there needs to be alternatives available. Of course, alternatives are necessary even without consideration of the forced "treatment" system.

IX. Organization

As suggested in the beginning, I believe ICSPP, MindFreedom and PsychRights should formally coordinate their efforts. Each have unique as well as complementary, valuable and essential roles to play and by coordinating they should be more effective. For example, ICSPP has talking heads with impressive letters after their names, have people who offer alternatives and more who want to, and has members who could testify as expert witnesses in court cases.[49] The following chart describes the relative contributions each organization can make in various areas.

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[48] 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 Review 735 (2005)

[49] I haven't really discussed this previously, but one of the other reasons why psychiatric defendants almost always lose is they don't have anyone with the proper credentials, which besides Lloyd Ross, normally needs to be a psychiatrist to combat their psychiatrist.

	ICSPP	MindFreedom	PsychRights
Talking Heads	XXXXX	XX	X
Alternatives	XXXXX	XX	XXX
Expert Witnesses	XXX		
People Power	XX	XXXXXX	X
Make News	X	XXXXXX	XXX
Legal Resources			XXX
Educating Attorneys	XXXXX	XXXXX	XXXXX

There are also a number of other organizations that are natural allies that might also be interesting in working on a coordinated effort to a greater or lesser extent. Some of these are:

- Other MindFreedom Sponsor Organizations[50]
- Alliance for Human Rights Protection (AHRP).[51]
- NARPA[52]
- Freedom Center[53]
- New York -- Alliance Empowerment Coalition
- Florida Peer Network, Inc.[54]
- California -- Coalition Advocating for Rights Empowerment and Services (CARES)[55]
- Wisconsin -- Friends and Families of Psychiatric Survivors of Wisconsin[56]
- ISPS??[57]
- Others??

A. Finances

Neither of the organizations have any budget surplus, but their leaders discussed at the Action Conference the possibility of contributing funding to the effort as well as

[50] *See*, http://mindfreedom.org/links.shtml#SPONSOR.
[51] *See*, http://ahrp.org/. AHRP has historically determined that operating independently is the way to maximize its effectiveness, but ICSPP and PsychRights (and presumably MindFreedom) have good relationships with it even if a formal relationship may not be in the cards.
[52] *See*, http://narpa.org/. Full disclosure requires that I note I am a member of NARPA's board of directors. NARPA has, like ICSPP, has historically focused on its education program, primarily its excellent conferences. However, it is considering whether a more activist role might be appropriate for it.
[53] *See*, http://freedom-center.org/.
[54] *See*, http://psychrights.org/States/Florida/FloridaPeerNetwork.pdf.
[55] *See*, http://psychrights.org/States/California/CARESMHSA-InvoluntaryTx.pdf
[56] *See*, http://repeal_51.tripod.com/.
[57] ISPS stands for the International Society for the Psychological Treatment of Schizophrenia and Other Psychoses, which seems like a natural. However, surprinsingly, it is unclear, at best, that its United States membership at least is aligned with ICSPP, MindFreedom and PsychRights

joint fundraising. My own view is that hiring a public education coordinator is the highest priority.

B. Structure

A logical structure would be a committee composed of a representative from each organization. The key, though, is to devote substantial effort to such coordination. I believe the dividend would be substantial if implemented seriously.