

# The Potential of PAIMI Advisory Councils

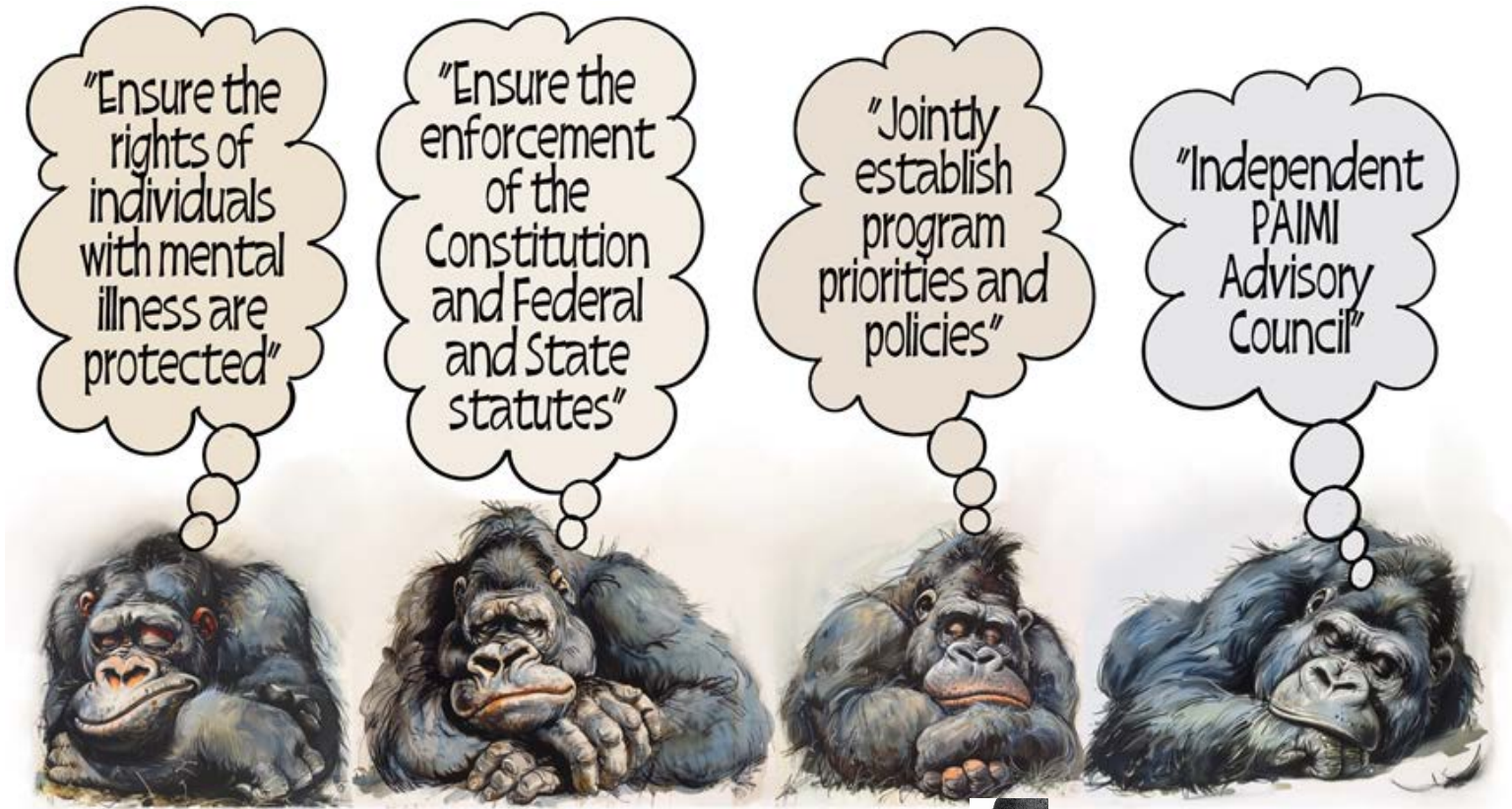
## SLEEPING 800 POUND GORILLAS?

### ISPS-US COMMUNITY CHAT

September 21, 2024

Kristina (KK) Kapp

James B (Jim) Gottstein, Esq.



Sleeping Gorillas by Bob Parsons





## 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

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

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



# 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).



# 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



# 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—Developing Priorities

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.

# 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.



# 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.



# 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 Advisory Council Empowerment Project General Meeting

November 20, 2024 6:30 PM Eastern Time

See, <https://psychrights.org/PAIMI/PAIMI.htm>

[Zoom Registration Link:](https://us02web.zoom.us/meeting/register/tZcuduGsrj4vGtfdy0E-iJN48zpxjrb3s0c6)

<https://us02web.zoom.us/meeting/register/tZcuduGsrj4vGtfdy0E-iJN48zpxjrb3s0c6>

For more information on the PsychRights PAIMI Advisory Council  
Empowerment Project, e-mail [PAIMI@PsychRights.org](mailto:PAIMI@PsychRights.org)



***Carpe Diem!***

**Join Your  
PAIMI Advisory  
Council**