Psych Rights | Law Project for Psychiatric Rights

March 8, 2023

Alaska Court System
via e-mail to

Re: Proposed Plan for Remote and In-Person Hearings

Dear Alaska Court System:

This is to provide requested feedback to the Proposed Plan for Remote and In-Person Hearings (Proposal).

As I interpret the Proposal, all evidentiary hearings except for involuntary commitment and forced psychiatric drugging under AS 47.30 (Psychiatric Proceedings) would be presumptively closed. On February 16th, I wrote and asked if this interpretation was accurate and if so, what was the reasoning.[1] I have not heard back.

If Psychiatric Proceedings are to be presumptively remote, while other evidentiary hearings are to be presumptively in-person, it is disrespectful in the extreme to psychiatric respondents and the fundamental liberty interests involved. As noted 15 years ago,

> [T]hese "hearings" are conducted in a cramped conference room at API without the trappings of a legitimate legal proceeding. This leaves respondents feeling that they have not had their "day in court."[2]

For these matter to be presumptively remote when all other evidentiary hearings are in-person, exacerbates this problem.

It also denigrates the important liberty interests at stake. The Supreme Court has recognized involuntary commitment is a "massive curtailment of liberty,"[3] and psychiatric medication can be equated with the intrusiveness of electroshock and lobotomy.[4] Proceedings to deprive people of their physical liberty and to decline psychiatric drugs they don't want are just as worthy of in-person hearings as criminal trials and, it is respectfully suggested, more worthy than small claims hearings. In reality, these are high-stakes proceedings that are not treated as

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[1] See attachment 1.

[2] Gottstein, James B. (2008). "Involuntary Commitment and Forced Psychiatric Drugging in the Trial Courts: Rights Violations as a Matter of Course." *Alaska Law Review* 25(1): 51-106, 85. (https://scholarship.law.duke.edu/alr/vol25/iss1/3).

[3] *Wetherhorn v. Alaska Psychiatric Institute*, 156 P.3d 371, 375 (Alaska 2007).

[4] *Myers v. Alaska Psychiatric Institute*, 138 P.3d 238, 242 (Alaska 2006).

such by the Superior Court. Making Psychiatric Proceedings presumptively remote makes this worse. Attachment 2 documents the extreme negative consequences of the ubiquitous use of psychiatric drugs, especially the neuroleptics, misleadingly marketed as "antipsychotics." In a nutshell it reduces the recovery rate from a possible 80% to 5% and reduces lifespans by 20-25 years on average. Psychiatric respondents should have the opportunity to defend themselves in-person before the judge before such extreme deprivations are imposed.

The Proposal indicates relevant considerations include:

1) Maintaining the integrity of court operations;
2) Enhancing accessibility and access to justice;
3) Maximizing efficiency in scheduling and calendaring proceedings; and
4) Identifying the most appropriate method to hold a proceeding given the topic, typical or expected duration, and consequences of the outcome.

Considerations (1), (2) & (4) all heavily support in-person hearings for Psychiatric Proceedings. Maximizing efficiency in depriving people of their fundamental constitutional rights[5] does not seem a sufficient consideration to override these important liberty interests.

It is also quite possible having Psychiatric Proceedings presumptively remote while all other evidentiary hearings are presumptively in-person violates the anti-discrimination provisions of the Americans with Disabilities Act.[6]

For these reasons, I hope the Court System will include Psychiatric Proceedings as presumptively in-person.

Sincerely,

James B. (Jim) Gottstein, Esq.

[5] *See*, *Wetherhorn*, *supra.*, and *Myers*, *supra*.

[6] Public Law 101-336—July 26, 1990; 104 Stat. 327, as amended.

Jim Gottstein

From: Jim Gottstein <jim.gottstein@psychrights.org>
Sent: Thursday, February 16, 2023 8:38 PM
To: remotecourthearings@akcourts.gov
Cc: jim.gottstein@psychrights.org
Subject: Presumptive Remote Hearing Proposal

Hello,

I just looked at the Presumptive Remote Hearings Proposal and if I am interpreting it correctly evidentiary hearings under AS 47.30 involving involuntary commitment and forced drugging would be presumptively remote. I hope this is an oversight because it looks to me that all other evidentiary hearings would be presumptively in-person. If so, please let me know and correct the proposal immediately. If not, please provide me with the reasoning behind it so I may take that into account in my comments.

Sincerely,

James B. (Jim) Gottstein, Esq.
President/CEO

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The Law Project for Psychiatric Rights is a public interest law firm whose mission is to mount a strategic litigation campaign against forced psychiatric drugging and electroshock. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Due to the massive psychiatric drugging of children and youth, PsychRights has made attacking this problem a priority. Children are virtually always forced to take these drugs because it is the adults in their lives who are making the decision. This is an unfolding national tragedy of immense proportions. PsychRights is seeking sufficient funding to increase its impact. See, Getting to the Next Level.

Atachment 1

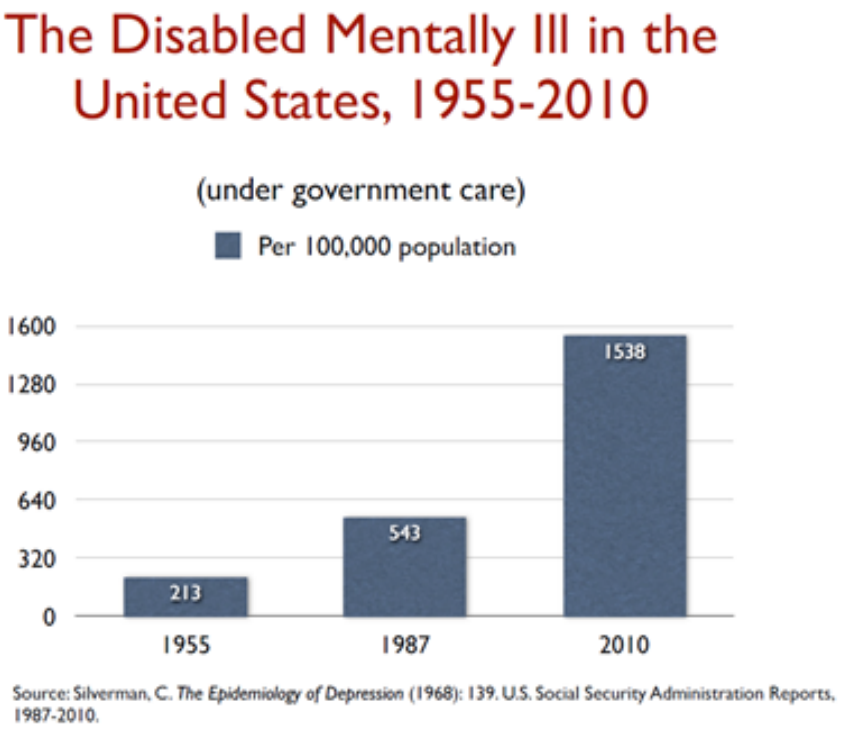
International Peer Respite/Soteria Summit

https://www.peerrespite-soteria.org/

Why We Need Different Approaches

It is fairly universally accepted that America's mental health system is a failure. At great public expense, our current mental health system's ubiquitous deployment of psychiatric drugs, including forcing them into unwilling patients, dramatically worsens outcomes and suffering.

Since the introduction of the so-called miracle drug Thorazine in the mid-1950's the disability rate of people diagnosed with serious mental illness has increased more than seven-fold.[1]

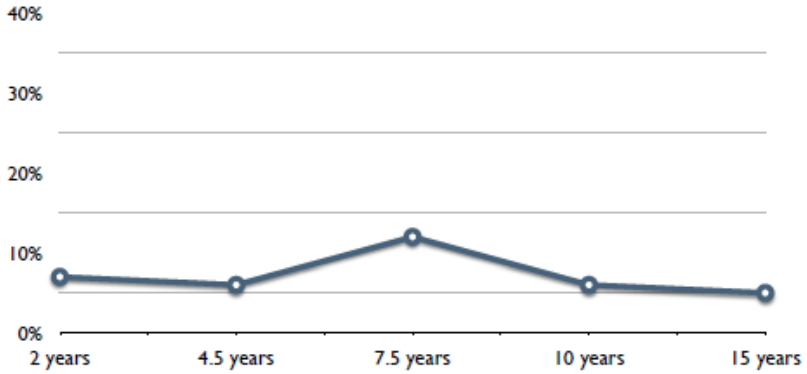


[1] The charts are from talks given by award winning journalist, Robert Whitaker, author of *Anatomy of an Epidemic* and *Mad in America*, including his July 16, 2021, talk to the Soteria Network in the UK, "Soteria Past, Present, and Future: The Evidence For This Model of Care," available on YouTube at https://youtu.be/UXe2dgBF70w. This one hour talk is highly recommended.

We now see a recovery rate of only 5% for those people who are maintained on neuroleptics.[2]

Long-term Recovery Rates for Schizophrenia Patients on Antipsychotics

(Martin Harrow's study)



Source: Harrow M. "Factors involved in outcome and recovery in schizophrenia patients not on antipsychotic medications." *Journal of Nervous and Mental Disease* 195 (2007):406-14.

This is far worse than anything seen before the advent of the neuroleptics in the mid-1950's.

Outcomes in Select Studies from Pre-Antipsychotic Era

(Patients diagnosed as insane, schizophrenic or psychotic)

Study	Time	Good Outcome*
York Retreat	1796-1811	70%
Worcester Asylum	1833-1846	65%
Pennsylvania Hospital	1841-1882	45% to 70%
Warren State Hospital	1946-1950	73%
Delaware Hospital	1948-1950	70%
Boston Psychopathic Hospital	1947-1952	76%
Norway	1948-1952	63%
California FEP study	1956 (no neuroleptics)	88%

* Good outcome = discharge from hospital, or living in community at end of study period

[2] Marketed as "antipsychotics" even though they don't have anti-psychotic effects for most.

It has been shown, however, that if we try to avoid the use of neuroleptics when people experience their first break from consensus reality a nearly 80% recovery rate can be achieved. The below chart shows results from the "Open Dialogue" program in Northern Finland in which they avoid the use of neuroleptics if possible.

Open Dialogue in Northern Finland

(Results for First-Episode Patients at Five Years)

Patients (N = 75)	
Schizophrenia (N = 30)	
Other psychotic disorders (N = 45)	
Antipsychotic Use	
Never exposed to antipsychotics	67%
Occasional use during five years	33%
Ongoing use at end of five years	20%
Psychotic Symptoms	
Never relapsed during five years	67%
Asymptomatic at five-year followup	79%
Functional Outcomes at Five Years	
Working or in school	73%
Unemployed	7%
On disability	20%

Source: J. Seikkula. "Five-year experiences of first-episode nonaffective psychosis in open-dialogue approach." Psychotherapy Research 16 (2006): 214-28.

Similar results were achieved during the Soteria-House study in the 1970's conducted by Loren Mosher, MD, who was Chief of Schizophrenia Research at the National Institute of Mental Health (NIMH) at the time.

Soteria-House Study

First-episode schizophrenia patients treated conventionally in a hospital setting with drugs versus treatment in the Soteria House.

Results:

At end of six weeks, psychopathology reduced comparably in both groups.

At end of two years:

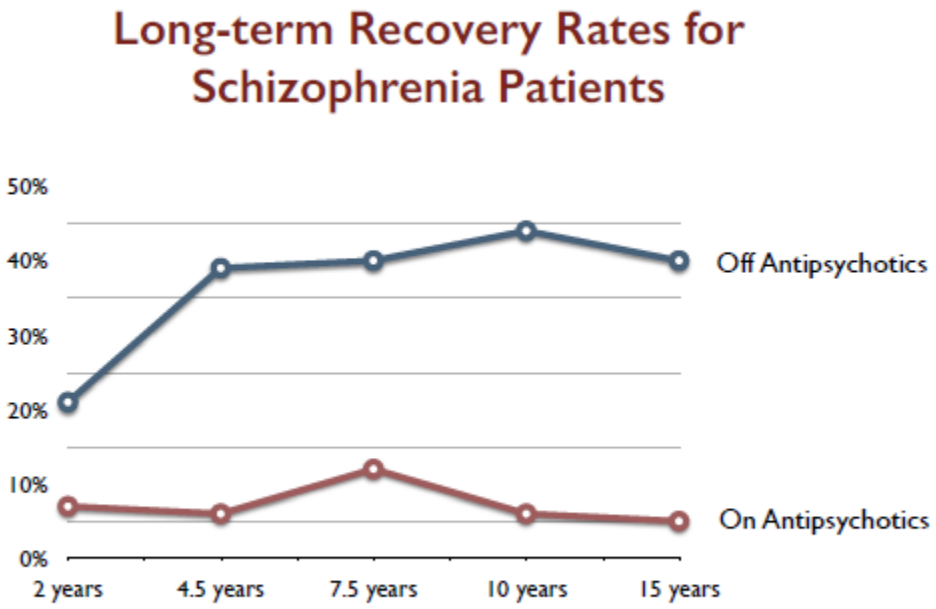
- Soteria patients had better psychopathology scores
- Soteria patients had fewer hospital readmissions
- Soteria patients had higher occupational levels
- Soteria patients were more often living independently or with peers

Antipsychotic Use in Soteria Patients:

- 76% did not use antipsychotic drugs during first six weeks
- 42% did not use any antipsychotic during two-year study
- Only 19 % regularly maintained on drugs during follow-up period

J Nerv Ment Dis 1999; 187:142-149
J Nerv Ment Dis 2003; 191: 219-229

What we find is the recovery rate of people who get off of neuroleptics after they have been on them for a while goes from 5% to 40%.



Source: Harrow M. "Factors involved in outcome and recovery in schizophrenia patients not on antipsychotic medications." *Journal of Nervous and Mental Disease* 195 (2007):406-14.

While this is 8 times better than staying on them (40% vs. 5%), it is half of what can be achieved by avoiding the use of neuroleptics in the first place as established by the Open Dialogue and Soteria House studies, both of which achieved close to an 80% recovery rate.[3] **This demonstrates the importance of avoiding the use of neuroleptics if at all possible.** In addition to their lives being so much better, allowing 16 times more people to recover not only saves a tremendous amount of treatment expense, it converts people who would otherwise be receiving life-long publicly paid services and transfer payments into productive, taxpaying citizens.[4]

In addition to dramatically reducing the recovery rate, the ubiquitous use of psychiatric drugs reduce the lifespan of people diagnosed with serious mental illness in the public mental illness system by 20-25 years.[5] We should and can do better.

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[3] While there might not be a 100% overlap between the 80% who recovered and the 80% who were not taking the neuroleptics long term, clearly minimizing the use of the neuroleptics produce dramatically better outcomes.

[4] The best book to understand the impact of psychiatric drugs in general, not just the neuroleptics, is *Anatomy of an Epidemic: Magic Bullets, Psychiatric Drugs, and the Astonishing Rise of Mental Illness in America*, by Robert Whitaker, from whose work the foregoing is largely drawn.

[5] See, various studies at http://psychrights.org/Research/Digest/NLPs/neuroleptics.htm and Morbidity and Mortality in People with Serious Mental Illness, by the National Association of State Mental Health Program Directors, October 2006.