REPORT

MULTI-FACETED GRASS-ROOTS EFFORTS TO BRING ABOUT MEANINGFUL CHANGE TO ALASKA'S MENTAL HEALTH PROGRAM

by

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with some updates to

March 3, 2006

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II. INTRODUCTION

The August 2, 2005 version of this Report has been updated on February 25, 2006 because there have been significant developments in that both Soteria-Alaska and CHOICES, Inc., have received some funding since then. Some other minor updates have occurred, such as to the *Wetherhorn* case description, but a comprehensive review and update has not yet been made.

A number of people both in and out of Alaska have heard of various efforts in Alaska which attempt to create alternatives to the current virtually exclusive reliance on medication for people diagnosed with serious mental illness and have asked for a description of these efforts. I have also been thinking for quite a while that I should put down in writing how the various pieces of things I, along with others, are working on in Alaska. This will not be entirely new to everyone because last year Jeff Jessee, the Executive Director of the Alaska Mental Health Authority (Trust Authority) called me into a meeting where he basically asked what the heck the idea was for four recently formed non-profits: CHOICES, Inc., Soteria-Alaska, Peer Properties and the Law Project for Psychiatric Rights (PsychRights®).[1] Thus, the basic vision was conveyed to the group of people at that meeting. Also, I have described it at Consumers Consortium meetings, where it has been met uniformly with great enthusiasm. I hope it will be helpful to have it laid out in writing.[2]

The four non-profits serve complementary roles in the effort to create alternatives to our mental health system's[3] virtually exclusive focus on the administration of psychiatric drugs for "treatment" of people diagnosed with serious mental illness. The drugs are of dubious, at best, over all effectiveness, are extremely harmful, and are at least halving the number of people who recover from a diagnosis of serious mental illness. Another way to put it is our system is creating large numbers of people[4] who become seriously and persistently mentally ill,[5] most of whom become permanent burdens on government financial resources. More importantly from my perspective, they lead much less satisfying, shorter, and less fulfilling lives than they otherwise could.

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[1] Due to sustainability problems, multiplicity of administrative departments, and human resources constraints, both the Trust and the Rasmuson Foundation, which is the largest private foundation in Alaska, are discouraging the proliferation of non-profits.

[2] This Report suffers from speaking to different audiences. For example, the section on Alaska isn't necessary for people in Alaska and the names are of no relevance to people outside of Alaska. Hopefully, it will be sufficient unto the day for all readers.

[3] Because of the way what we call the "mental health system" channels people into chronic mental illness, I think it is more fairly described as a mental illness, rather than a mental health system.

[4] At least doubling.

[5] Also known as "chronically mentally ill."

There is a huge debate over this assertion and it is not my purpose to engage in that debate here[6] because the efforts described here are to allow choice. I know many people who find the drugs helpful and some who feel they saved their lives. I think people who want the drugs should have access to them.[7] By the same token, those who do not want the drugs should be given the choice to decline them. And they should have support for this choice. Each of the four non-profits is designed to play a role in this, although one of them, Soteria-Alaska, could be rolled into CHOICES, Inc., depending on timing and funding.

The purpose of this Report then is to describe the strategy, history, progress to date and current prospects for this effort in Alaska[8] to improve the outcomes of people diagnosed with serious mental illness by making available alternatives to the coercive, substantially illegal, essentially exclusive, over-medication regime now in effect.[9]

It can not be over emphasized this effort is about honoring people's right to make choices about whether or not to take the risks associated with these drugs in the hope of achieving their perceived benefits, or to try something else.

The report is extensively footnoted for those who wish to explore the topics in greater depth, and a glossary is included to define unfamiliar terms and acronyms.

III. BACKGROUND

The underlying premise is the mental illness system's over-reliance on medication is at least doubling the number of people who become seriously and persistently mentally ill and causing great harm to a great number of people,[10] including death,[11] and that by offering various

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[6] However, there are references and links which demonstrate these are the facts.

[7] I do think the truth about them should be disclosed, though.

[8] I live in Alaska and as will be described below, it has some unique potential advantages, which makes it a good place to attempt to effect the type of meaningful change described here. The general ideas, however, can be used by people around the country (and to a certain extent, around the world) and I am also working with people around the country on various such efforts.

[9] The strategy is mine, but I think it is fair to say that many, if not most of the people in the C/S/X (see Glossary) community are very supportive and a substantial number of policy makers have expressed verbal (but not meaningful fiscal) support for various elements of what is laid out here.

[10] It would unacceptably increase the length of this Report to support this statement here, and readers are directed to the Scientific Research by Topic section of the PsychRights website, http://psychrights.org/Research/Digest/Researchbytopic.htm as well as its Suggested Reading webpage, http://psychrights.org/Market/storefront.htm, for such support. I have no doubt about the accuracy of the statement. If only one book is to be read on this topic, *Mad in America: Bad Medicine, Bad Science and the Enduring Mistreatment of the Mentally Ill*, by Robert Whitaker is recommended. *Toxic Psychiatry*, by Peter Breggin would be the next one.

[11] *See*, e.g., Prospective analysis of premature mortality in schizophrenia in relation to health service engagement: a 7.5-year study within an epidemiologically complete, homogeneous population in rural Ireland, *Psychiatry Research*, 117 (2003) 127–135, which can be found at http://psychrights.org/Research/Digest/NLPs/MM-PsychRes2003.pdf. This study concluded: "On long-term prospective evaluation, risk for death in schizophrenia was doubled on a background of enduring

alternatives to medication, many of which have been proven to work,[12] substantially better outcomes will result.[13] That the over-reliance on psychiatric drugs is not only worsening outcomes, but creating great harm, makes involuntary medication (Forced Drugging) particularly abhorrent. Legal proceedings in the US for involuntary commitment and medication are essentially a sham[14] and the lack of efficacy and the serious harm caused by the medications (and other treatments, such as electroshock) eliminate the justification for the prevailing paternalistic attitude that "we can't let these pesky rights get in the way of what we know is in the person's best interests."

If people's rights were actually honored, my sense is *at least* 90% of court orders for Forced Drugging would not occur.[15] However, it is recognized (a) that society will not tolerate just letting people go who come to the attention of authorities in a way that invokes the involuntary treatment mechanisms, and (b) such people often really can benefit from (and want) a safe, nurturing and helpful environment to get through their acute problems. Thus, even with respect to legal rights to be free from illegally imposed forced "treatment," it is absolutely essential that alternatives to the current, essentially medication only treatment regime must become available.

The four non-profits are designed to offer the choice to pursue a non-medication approach in four distinct functional areas: Acute Care, Community Based Services, Housing, and Honoring the Legal Right to Choose. As mentioned previously, acute and community based services could be performed by one agency. There would be a number of benefits to this, the most important perhaps being that people would not lose the community based support system they have when they need acute services and *vice versa*. In other words, they can continue working with the people whom they have grown to trust.

IV. ALASKA ATTRIBUTES

There are several attributes in Alaska that are fairly important in perhaps making it a more favorable place to accomplish the goals presented here than other places.

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engagement in psychiatric care with increasing provision of community-based services and introduction of second-generation antipsychotics." In other words the death rate doubled over the already elevated rate with the introduction of the so-called "atypical" neuroleptics, such as Zyprexa and Risperdal.

[12] *See*, e.g., the material at Effective Non-Drug Treatments, http://psychrights.org/Research/Digest/Effective/effective.htm.

[13] The current system essentially channels people into becoming permanently disabled and thus a permanent financial burden on government. One of the side benefits of the change envisioned here is a substantial number of people can get off, or never get on the welfare rolls, thus not only having much better lives, but decreasing the cost to government.

[14] *See*, http://psychrights.org/force_of_law.htm#Corruption.

[15] This is based on the premise that people may not constitutionally be Force Drugged unless it can be scientifically proven it is in their best interests and there is no less restrictive alternative that could be made available. Involuntary commitments are perhaps legally justified a greater percentage of the time under the current state of the law, but not therapeutically.

A. Small Population

Alaska has a very small population, which makes it easier for one person or a relatively small group of people to impact things. Policy makers are generally much more accessible than in most places. I have been involved in mental health policy development for a long time, know many of the key players, and have a certain amount of credibility and respect. As will be evident, however, while all of this may be true, the goals are still not easy to accomplish by any means.

B. Alaska Mental Health Trust Authority

A totally unique attribute of Alaska is the Trust Authority, which was created as a result of the settlement of litigation (Trust Settlement) over the state of Alaska stealing one million acres of land granted in trust for Alaska's mental health program (Trust).[16] The Trust now has about $300 million in cash corpus, makes some money off its land corpus, and spends about $20 million a year on what it considers innovative programs and to facilitate major initiatives, such as constructing a new state hospital. In addition to people diagnosed with mental illness, the Trust's beneficiaries include chronic alcoholics with psychosis, the mentally retarded and mentally defective, and people with Alzheimer's Disease and related dementias. The influence and ability of the Trust Authority to impact Alaska's mental health program far exceeds the relatively small amount of money it has to spend on it and should not be underestimated.[17]

C. Alaska Mental Health Board

Under the Trust Settlement, four state boards, each representing one of the four groups of Trust beneficiaries, provide recommendations to the Trust Authority regarding mental health program funding. The Alaska Mental Health Board provides recommendations with respect to people diagnosed with mental illness. The quality and influence of the Mental Health Board has waxed and waned over the years depending on its personnel and the political climate. At least one half of the members of the Alaska Mental Health Board must be people with a mental disorder or members of their family, which potentially gives excellent representation for Consumers' interests in policy development.[18] Appointments to the board are by the Governor, though, and are thus political to a greater or lesser extent.[19]

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[16] See, http://www.touchngo.com/lglcntr/spclint/mht.htm. I was one of the four plaintiffs' attorneys in that case. The Trust Settlement was valued at $1.1billion by the trial court and consisted of $200 million in cash and a little under 1 million acres of land, approximately half of which was mineral estate only, such as the oil and gas rights.

[17] Having said that, the current state Administration is generally disinterested in any outside input, which has diminished the Trust's influence since 2003.

[18] *See*, AS 47.30.662(b), which can be accessed at http://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter30/Section662.htm

[19] I was on the Mental Health Board from 1998 to 2004, but was not reappointed after I sued the State regarding the interpretation of the Trust Settlement. *See*, http://psychrights.org/States/Alaska/4bdSuit/4bdSuit.htm. Being re-appointed under the current administration was always unlikely because I was not of the right political party.

D. Consumers Consortium

In 2002, all of the Consumer run programs in the state got together and formed the "Consumers Consortium" to provide a united voice to policy makers.[20] *See*, http://akmhcweb.org/Announcements/2002rfr/consortiumproposals.htm for its initial set of proposals. It seems worth quoting its organizational statement:

> Consumers Consortium came together when disparate and exhausted consumer run organizations discovered their common problems and began looking for common solutions. The consortium has the assumption of commonness rather than the assumption of separation. We believe that it will be much easier for the MH system to respond effectively to us as a group, working together. In that spirit, we have come together to build a consensus around the mental health system in response to the Board's call for input into the budget building process.

From 2002 until 2005, the Consortium's members were able to reach a consensus on how available funds for Consumer run programs should be allocated. However, for the state fiscal year starting in July, 2005, funding was cut so much[21] this was no longer possible, which resulted in the more typical free-for-all competition process with winners and losers.

E. Ionia

In 1987, a group of what I think of as refugees from the mental illness system in Massachusetts founded the community and non-profit, Ionia, in Kasilof, Alaska. They pooled their resources and created a lifestyle that totally works for them.[22] They now have over 40 people living there, including many children. I don't think they have had a psychiatric crisis in well over ten years, perhaps not since the community was founded. They built their own log houses, eat a strict macrobiotic diet, growing and gathering much of their own food, and meet every morning for as long as it takes to work through any issues. A few years ago, they needed some grant funding to expand their agricultural operation and build a community building they call the "Longhouse." The grant application brought what they were doing to the attention of policy makers, and Ionia became an example of a group of people who, after being pronounced hopelessly and permanently mentally ill, created their own environment, and proved it is possible to recover from a diagnosis of serious mental illness and thrive.

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[20] A Consumer membership organization, Mental Health Advocates of Alaska (MHAAK), was formed in 2004/05 with the intent of representing Consumers (as contrasted with Consumer run programs) statewide to policy makers. It is too early to tell if it will attract enough members to legitimately claim such status.

[21] The Trust Authority doubled the amount of money it had previously allocated for what was called Consumer run programs, but expanded eligibility to include all four of its beneficiary groups in what it now calls its "Trust Beneficiary Group Initiative" or "TBGI."

[22] *See*, http://akmhcweb.org/recovery/ioniaadn.html and http://ionia.org/.

V. GENESIS OF EFFORT

While I have been involved in mental health policy in Alaska for quite a long time in various capacities[23] and had a pretty good sense of the failure of the mental illness system to truly help most people diagnosed with serious mental illness, this particular effort arose out of my reading *Mad in America* in late 2002. It is an excellent, very readable and enjoyable, yet extremely alarming book in that it revealed vast numbers of people are being greatly harmed by the current "treatment" paradigm.[24] Of course, there have actually been many books documenting the same thing, including Dr. Peter Breggin's seminal book *Toxic Psychiatry*. *Toxic Psychiatry* is also a compelling and well documented indictment of the current system, but I found it was when people read *Mad in America* that they really "got" on an almost visceral level the scientific and moral bankruptcy of the current system and the scope of the harm being done.

I was on the Alaska Mental Health Board at the time and sent every member of it, as well as every member of the Trust Authority, a copy of *Mad in America*, exhorting them to take action to improve the outcomes for people diagnosed with serious mental illness by providing alternatives to medication.[25] PsychRights brought Bob Whitaker, the author of *Mad in America*, to Anchorage in December 2002, to give a presentation to the Alaska Mental Health Board. While he was here, Whitaker also spoke to the Alaska Psychiatric Institute and to the state-wide organization of community mental health centers. The Mental Health Board's reaction was mostly positive, though with state personnel and NAMI-Alaska members on the Board tending to be negative. However, there was general agreement people ought to have the choice to pursue a non-medication approach. No such changes to Alaska's mental health program have occurred.

In the Spring of 2003, as chair of the Mental Health Board's Finance Committee, I convened a Budget Summit, which produced a report which can be found at http://akmhcweb.org/Docs/AMHB/2003BudgetSummitReport.pdf. This report was formally adopted by the whole board in August of 2003. A couple of quotes from it are:

> There were discussions of . . . whether it was clear enough from the data that the current reliance on psychiatric medications substantially increases chronicity. These and similar items are referred to the full Board/Planning Committee for further development and consideration. (p.1)
>
> The Mental Health System currently relies heavily on psychiatric medications. It is recommended that further research on how the use of these medications impact desired results should be conducted. (p.10)

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[23] A brief bio can be found at http://psychrights.org/about/Gottstein.htm.

[24] This is one of the reasons why I often put "treatment" in quotation marks. Another is the idea that if it isn't voluntary it isn't treatment.

[25] The transmittal to the members of the Alaska Mental Health Board can be found at http://psychrights.org/states/alaska/2002/MadInAmericatxtoMHBltr4Web.pdf. In March of 2003, I also transmitted a copy of *Mad in America* and other materials to the Commissioner of the Alaska Department of Health and Social Services exhorting him to address the situation. This transmittal letter can be found at http://psychrights.org/alaska/DMHDD/3-24-03jgtogilbertson.pdf.

I think it is fair to say there has been little, if any, follow-up on this, although I can't say for sure because I am no longer on the board. Much of this can be attributed to the animosity of the current administration to the Alaska Mental Health Board and to its attempts to enfeeble the board by reducing its funding and attempting to combine it with the Alaska Board on Alcoholism and Drug Abuse.[26]

To date, neither the Department nor the Trust Authority have taken any action to allow people to choose a non-medication approach,[27] and the four non-profit effort is designed to work within existing mechanisms to achieve this critical change.

VI. SPECIFIC EFFORTS: STATUS & PROSPECTS

A. Acute Care: Soteria-Alaska

Dr. Loren Mosher's Soteria-House project and study in the 1970's proved that people who are in acute psychiatric crisis, who would normally be hospitalized, can be at least as successfully treated and have better long term outcomes (lives) if they are allowed to get through their initial psychotic episode(s).[28] The Michigan State Psychotherapy study proves the same thing.[29] The Michigan study also shows that in the short term there are significant cost savings and the long-term cost savings are enormous.[30]

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[26] When the Administration discovered it could not do this without breaching the Trust Settlement, it accomplished much the same thing by forcing the Alaska Mental Health Board and the Alaska Board on Alcoholism and Drug Abuse to share staff and hold joint meetings and by refusing to appoint the person they selected as their joint Executive Director.

[27] While the Mental Health Board is charged with promulgating a mental health plan and making recommendations to the Trust, it has no operational authority and it controls no funding. In contrast, both the Department and the Trust Authority have the ability to implement a program that would allow a non-medication choice.

[28] *See*, "Soteria and Other Alternatives to Acute Psychiatric Hospitalization, A Personal and Professional Review," by Loren R. Mosher, M.D., The Journal of Nervous and Mental Disease, 187:142-149, 1999, which can be found at http://psychrights.org/Research/Digest/Effective/soteria.pdf and the other studies located at http://psychrights.org/Research/Digest/Effective/effective.htm. In addition, Dr. Mosher's book, *Soteria: Through Madness to Deliverance* (published posthumously) is an incredibly good book about Soteria and gives one the feeling of what Soteria House was like.

[29] *See*, The Michigan State Psychotherapy Project, by Bertrom P. Karon and Gary R. VandenBos, which can be found at http://psychrights.org/Research/Digest/Effective/MIPsychProj.pdf. Also, *see*, Psychotherapy of Schizophrenia: The Treatment of Choice (Jason Aronson, 1996), by Bertram P. Karon and Gary R. Vandenbos, which has the most complete description of the Michigan study.

[30] One of the things that happens is that people who get caught by the system are channeled onto SSI/SSDI/Medicaid as a way to get them basic living funds and medical insurance. However, as the Budget Summit Report points out, "the Medicaid/SSDI/SSI eligibility and funding mechanism is essentially a one way ticket to permanent disability and poverty." http://akmhcweb.org/Docs/AMHB/2003BudgetSummitReport.pdf, page 8. This approach is part and parcel of the erroneous view that people don't recover from serious mental illness, especially a diagnosis

Soteria-Alaska, Inc. was incorporated in January of 2003 as a vehicle to create a Soteria-like program in Alaska.[31] Shortly thereafter, Jerry Jenkins came to Alaska to be the Executive Director of Anchorage Community Mental Health Services (ACMHS), the largest community mental health center in the state, and he was (and continues to be) very supportive of people being given non-medication choices. The decision was made that it would be easier to try and develop a Soteria-like program through ACMHS, and therefore Soteria-Alaska, Inc., as a separate entity trying to do so was put on hold. However, as the 15 month deadline approached for filing for tax exempt status approached with no concrete progress towards ACMHS establishing a Soteria-like program, Soteria-Alaska filed its application for tax-exempt status in the spring of 2004 in order to be in a position to move forward, itself.[32]

In the summer of 2004, there was an indication of interest in Soteria-Alaska from at least one member of the Trust Authority, and it was suggested a proposal should be put together for presentation to the Alaska Mental Health Board for its recommendation. The Consumers Consortium had a modest amount of funding available for planning and an agreement was made with Dr. Aron Wolf for assistance in preparing such a proposal.[33] A proposal was prepared and submitted to the Alaska Mental Health Board, which recommended it for funding to the Trust.[34] The prospect of a Soteria-Alaska has generated a lot of interest and support from outside Alaska. For example, psychiatrists Ann- Louise Silver,[35] Peter Stastny,[36] Dan Dorman,[37] Luc Ciompi,[38]

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of schizophrenia. This means droves of people unnecessarily become permanent financial burdens on the government.

[31] Soteria-Alaska was not envisioned as necessarily being a Consumer run program, which is in contrast to CHOICES, Inc., described below.

[32] Probably the biggest concern with ACMHS implementing a Soteria-like program is whether it would remain faithful to Soteria precepts. As a traditional community mental health center, it has historically been very oriented toward requiring its clients to take medication, which is its corporate culture.

[33] Dr. Wolf has been Ionia's psychiatrist for many years, has been practicing psychiatry in Alaska since 1967, was the Regional Medical Director of Providence Health System, and holds a Masters of Medical Management Degree, which is the equivalent of a Masters of Business Administration for medical management. Especially exciting from our perspective is Dr. Wolf had experience at Chestnut Lodge in Maryland, which pioneered psychotherapeutic treatment of people diagnosed with serious mental illness. Dr. Wolf's CV can be found at http://choices-ak.org/grants/05TBGIOperating/AWolfCV.pdf.

[34] A copy of the proposal can be found at http://soteria-alaska.com/Soteria-Alaskawapdx.pdf. The initial business plan can be found at http://soteria-alaska.com/grants/05TBGI/SoteriaInitialBizPlan.pdf

[35] Dr. Silver practiced at Chestnut Lodge when it did not use medications and has written a number of articles about treating people with psychosis without drugs. For example, she has reported that when she first worked at Chestnut Lodge, her schizophrenic patients were not medicated. Later, all of her patients were medicated as a matter of policy. In the premedication days, she had patients who got romantically involved, got married, had children, and related to their spouses and children. None of her medicated patients ever formed a new relationship. *See*, http://psychrights.org/Articles/KaronMedication.htm.

[36] Dr. Stastny is a driving force behind the international effort to create more programs like Soteria-House through an organization known as International Network of Treatment Alternatives for Recovery (INTAR). *See*, http://www.intar.org/.

[37] Dr. Dorman has treated people diagnosed with serious mental illness without drugs for many years and is the author of the fantastic book, Dante's Cure. Dante's Cure is a compelling, true account of a young woman's descent into psychosis and then, through hard work, understanding and most importantly, having a psychiatrist willing to spend the time and have a true caring relationship, her journey back from madness into full recovery.

Nathaniel Lehrman,[39] and Grace Jackson,[40] all of whom have experience in treating people without drugs have indicated a willingness to help. Non-psychiatrists who have also indicated a willingness to help include Alma Menn, the administrator of the original Soteria-House project, John Bola, who collaborated with Dr. Mosher in a number of studies and papers and Judy Schreiber, Dr. Mosher's widow. In addition to myself, Eliza Eller of Ionia and Michele Turner currently comprise Soteria-Alaska's board of directors.

In September 2004, however, the Trust Authority declined to fund the proposal. The stated reason was the proposal needed more work. My view is it suffered from being seen as a late arriving proposal after available funding had already essentially been allocated elsewhere. Members of the Trust Authority did express support for Soteria-Alaska, suggesting it should apply for TBGI (Consumer run) funding even though Soteria-Alaska was not necessarily envisioned as a Consumer run program.[41]

However, when the TBGI Request for Proposals came out, there was insufficient funding available to get Soteria-Alaska off the ground. There was up to $15,000 in planning money available, which was applied for[42] as well as $150,000 in capital funding to get a start on acquiring a facility.[43] Neither the planning or capital grant applications were successful in this round of TBGI funding.

The Trust Authority does have what it calls its "Small Projects" grant program, which awards up to $10,000 for projects of direct benefit to its beneficiaries and Soteria-Alaska was awarded $10,000 in October of 2005 to continue. This enabled it to make another proposal to the Trust in January of 2006 and the Trust granted $78,000 to support further development of the Soteria-Alaska program in preparation for a full business plan presentation to the Trust in September 2006.[44] Thus, there is a very real prospect that Soteria-Alaska could be up and running during the fiscal year starting July 1, 2007.

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[38] Dr. Ciompi has run Soteria-Berne in Switzerland for a long time.

[39] Dr. Lehrman is the former Clinical Director, Kingsboro Psychiatric Center, Brooklyn, NY and has published extensively on successful non-medication treatment. *See*, e.g., The Rational Organization of Care for Disabling Psychosis -"If I Were Commissioner," which can be accessed at http://akmhcweb.org/articles/iflehrmancommissioner.htm. Dr. Lehrman identifies having the same person involved in both the community and acute settings as being extremely important.

[40] Dr. Jackson was described by Dr. Mosher as the most knowledgeable person he knew of about the actual effects of psychiatric drugs. Her book definitive book on the topic, *Rethinking Psychiatric Drugs: A Guide to Informed Consent* has just been published.

[41] It does, however, currently qualify as a Consumer run program because a majority of its board of directors are Consumers.

[42] *See*, http://soteria-alaska.com/grants/05TBGI/SoteriaOperating.htm for this operating grant application.

[43] *See*, http://soteria-alaska.com/grants/05TBGI/SoteriaCapital.htm for this capital grant application.

[44] The planning proposal funded by the Trust can be found at http://soteria-alaska.com/grants/FY06-07PreDev/TrustFinanceCmtee4Feb7-806.pdf.

B. Community Based Services: CHOICES, Inc.

CHOICES, Inc., which stands for Consumers Having Ownership In Creating Effective Services (hereafter referred to as CHOICES), was formed at the same time as Soteria-Alaska to provide an alternative to the drug-only treatment modality in the community. It has been envisioned as a Consumer run program. On its website, CHOICES describes its program as follows:[45]

Consumers	CHOICES, Inc., was formed to provide alternatives in the community to the current medication dominated mental health system. Tax exempt status was received on March 15, 2005, and CHOICES is now able begin operations.
Having	CHOICES is what is known as a Consumer Run program, where "consumer" means someone who has been labeled with a serious mental illness and is a past or present recipient of mental health services. More specifically, Article III, §2, of the Bylaws requires, "at least 2/3rds of the members of the Board of Directors shall be a past or present recipient of mental health services of such a nature that inpatient care may have been necessary."
Ownership	
IN	The philosophy behind CHOICES is reflected in both its name and the words which create the acronym CHOICES -- **C**onsumers **H**aving **O**wnership **I**n **C**reating **E**ffective **S**ervices -- which is people having options of their own creation and choosing.
Creating	CHOICES anticipates three primary modes of operation. The first is to provide people the types of services or other resources they **choose** to help them recover. The second is to develop and provide, to the extent possible, the types of community mental health services described by Loren Mosher and Lorenzo Burti in Chapter 9 of their excellent book, Community Mental Health: A Practical Guide. The third is to be a conduit for "pass-through" grants to other Consumer Run programs that do not have tax exempt status or the administrative wherewithal to do so themselves.
Effective	
Services	

To reiterate, there are three basic components to the CHOICES program as currently envisioned:

(1) Helping people (and parents of younger children) get what they want.

(2) Providing the types of services Loren Mosher describes in Chapter 9 of his and Lorenzo Burti's excellent book, Community Mental Health: A Practical Guide, which can be found at http://choices-ak.org/grants/05TBGIOperating/Ch9.pdf (9 Megabytes).

(3) Being a conduit for pass-through grants for consumer run programs that have not obtained 501(c)(3) status.

It is not envisioned that Soteria-Alaska would provide community services, but there are scenarios where CHOICES could/would run a Soteria-like program. In other words, if

[45] *See*, http://choices-ak.org/.

CHOICES is able to commence operations and moves to a position to accomplish it, it could establish a Soteria-like program as part of its programming. As mentioned above, this would have the major advantage of more easily allowing people to retain the support people they have come to trust, even when they move between acute and non-acute situations.[46]

Key people include Dr. Aron Wolf, George Stone and Andrea Schmook. Dr. Wolf's experience has been described above and he has agreed to act as medical director until someone else can be found. George Stone is a Licensed Marriage and Family Therapist with fabulous skills in solving problems involving children and keeping them in their homes.[47] Andrea Schmook has tremendous, successful experience with consumer run programs and is currently working on ACMHS' consumer driven section.[48] Mr. Jenkins and she have agreed that Ms. Schmook could serve as CHOICES' initial executive director on a part-time basis. In addition to myself, Eliza Eller of Ionia and Michele Turner currently comprise CHOICES' board of directors.

CHOICES is designed to access current financing mechanisms, such as Medicaid, which would make it self-sustaining. In order to obtain start-up working capital, CHOICES applied for $150,000 in TBGI funding for FY 06 (July 1, 2005, to June 30, 2006) and $75,000 in FY 07, at which point it was projected to be self-sustaining.[49] A companion capital grant in the amount of $25,000 for computers, furniture, phones, etc., was also submitted.[50] CHOICES' application score tied with that of NAMI-Alaska's, at the point where the allocated funding ran out. However, NAMI-Alaska was funded rather than CHOICES because NAMI-Alaska had existing funding.

CHOICES subsequently applied for a $150,000 grant to provide Independent Case Management and Flexible Support Services[51] and was notified it would receive the grant in late January, 2006. As of this writing, the paperwork for that grant is in the process of being signed. It is hoped that this grant will be the start to allow CHOICES to become a self-sustaining part of Alaska's mental health system.

CHOICES has also facilitated four "pass-through" grant applications, two of which have been approved for funding. The two approved for funding are Recovery Center of Alaska's (RECA) request to start providing WRAP (Wellness Recovery Action Plan) training,[52] and the

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[46] It should be pointed out here, however, that the goal and expectation is that people will recover and come to rely on the mental health system much less, if at all.
[47] Mr. Stone's bio can be found at http://choices-ak.org/grants/05TBGIOperating/GStoneBio.pdf and his CV at http://choices-ak.org/grants/05TBGIOperating/Gscv.pdf.
[48] Ms. Schmook's resume can be found at http://choices-ak.org/grants/05TBGIOperating/ASchmookResume-9-24-04.pdf.
[49] This grant application can be found at http://choices-ak.org/grants/05TBGIOperating/CHOICESOperating.htm.
[50] This grant application can be found at http://choices-ak.org/grants/05TBGIOperating/CHOICESCapital.htm.
[51] Both Independent Case Management and Flexible Support Services were in the Consumers Consortium 2002 package of budget proposals (http://akmhcweb.org/Announcements/2002rfr/casemanagement.pdf and http://akmhcweb.org/Announcements/2002rfr/flexible.pdf).
[52] *See*, http://copelandcenter.com/whatiswrap.html.

Consumers Consortium grant to fund their meetings and Meta Services training for peer specialists.[53] The two pass-through grant applications that did not get funding were RECA's Small Project Grant application to train WRAP trainers and MHAAK's operating application.

C. Housing: Peer Properties

Peer Properties, Inc., was formed by myself and Katsumi Kenaston to provide housing for people diagnosed or diagnosable with serious mental illness and homeless, at risk of homelessness or in a bad living situation. Peer Properties does not provide services, but operates on the peer support principle. The peer support principle is relationships based upon shared experiences and values, and characterized by reciprocity, mutuality, and mutual acceptance and respect. The helper's principle, a corollary of the peer principle, is that working for the recovery of others facilitates personal recovery.

It has long been recognized that being homeless or in a bad living situation contributes to psychiatric symptoms and prevents recovery.[54] It has more recently been recognized that linking housing to services can be counterproductive. There is a rather pervasive policy of community mental health centers requiring "compliance" with medication and/or utilizing certain services as a condition to receiving and/or being allowed to remain in housing. Peer Properties neither encourages nor discourages the use of psychiatric medications; instead, it supports its tenants' choices in the matter.

In 2004, Peer Properties received a capital grant of approximately $190,000 from the Trust, which combined with a $25,000 grant from the Rasmuson Foundation enabled the purchase of a four bedroom house.[55] After some initial difficulties, four women now share the house and it is operating very well, although finances are very tight.

In 2004, Peer Properties was also awarded a pre-development grant to apply for a Special Needs Housing Grant (SNHG). Peer Properties teamed up with a very sophisticated and experienced developer, the Venture Development Group, and submitted an application under the SNHG program as well as for Low Income Housing Tax Credits. Peer Properties was awarded both a SNHG Grant and tax credits to build an 11 unit apartment building, including one for a resident manager (called "Peer One"), aimed at housing people who repeatedly cycle through the Alaska Department of Corrections and the Alaska Psychiatric Institute (API).

Peer Properties is currently operated entirely by volunteers: co-founder Katsumi Kenaston and its board of directors, Andrea Schmook,[56] Mel Henry,[57] Barry Creighton and

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[53] Meta Services in Phoenix, Arizona has done some exciting work and achieved fabulous results with its peer specialist employment project to the point where half of its employees are peers. *See*, http://metaservices.com/. They are now providing training in other locations.

[54] In the *Myers* case described below, Dr. Mosher testified (by affidavit), that "Without adequate housing, mental health 'treatment' is mostly a waste of time and money." *See*, http://psychrights.org/States/Alaska/CaseOne/30-Day/ExhibitRLRMosherAff.htm, emphasis in original.

[55] *See*, http://peerproperties.org/Properties/outside.jpg

[56] Ms. Schmook's resume can be found at http://choices-ak.org/grants/05TBGIOperating/ASchmookResume-9-24-04.pdf.

[57] Dr. Henry's Resume can be found at http://peerproperties.org/grants/O5TBGI/MHenryResume.pdf.

myself. It was always assumed paid staff was going to be necessary if the SNHG grant was awarded,[58] but as we have gotten further into the project, it has become apparent there is nowhere near enough money from rent to cover the necessary infrastructure costs.[59] Operating a tax credit project is very complicated, with extreme penalties for any deviation from strict compliance. The tax credit investor Peer Properties is talking with is requiring a co-general partner and an Executive Director.

Having recognized the insufficiency of operating revenue to fund necessary aspects of the Peer One project, Peer Properties applied for $150,000 in TBGI funds for both FY 2006 and 07.[60] The grant was not awarded. Peer Properties also applied for $150,000 in capital funding as a start on acquiring another property which was unsuccessful as well.[61] However, AHFC and the Trust, recognizing the necessity of covering the operating costs did agree by late August or September to provide "Project Based" Section 8 Vouchers, which meant Peer Properties could rely on receiving enough money for those units to pay their operating expenses. However, by this time ran out on realistically being able to fulfill the requirements of the Low Income Housing Tax Credit element and the project was abandoned and the tax credits returned to AHFC so someone else could use them.

In the final analysis, the Peer One Project proved too complicated and/or ambitious for Peer Properties' organizational capacity at that time and it is no doubt a good thing that the project was abandoned rather than have it built and become a failure. Such a failure would certainly have been a black eye for Peer Properties and also a blow to Consumer run programs in Alaska, generally. Many people worked with good faith on the project and no one should be blamed that it was not completed. Nor should people cease working on providing housing for the very challenging population it was intended to serve. Peer Properties is willing to increase the housing it is providing, but only if there is sufficient capacity and operating support.

D. Legal: Law Project for Psychiatric Rights (PsychRights)[62]

PsychRights is a non-profit, tax exempt, 501(c)(3), public interest law firm whose mission is to bring fairness and reason into the administration of legal aspects of the mental health system, particularly unwarranted court ordered psychiatric drugging. Its purpose is to promote and implement a legal campaign in support of psychiatric rights and against unwarranted court ordered psychiatric medication akin to what Thurgood Marshall and the NAACP mounted in the 40's and 50's on behalf of African American civil rights. When one has a situation such as exists now in the mental illness system where entrenched and well-financed interests support an illegal system, litigation may very well be the only path to reform.

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[58] This was reinforced in January, 2005, at an invitation-only seminar co-sponsored by the Trust Authority and the Rasmuson Foundation regarding the reality of managing a capital project.
[59] This could be substantially alleviated if the Peer One project were to receive project based Housing and Urban Development "Section 8" rental subsidies.
[60] This grant application can be found at http://peerproperties.org/grants/O5TBGI/PeerPropertiesOperating.htm.
[61] This grant application can be found at http://peerproperties.org/grants/O5TBGI/PeerPropertiesCapital.htm.
[62] Since this Report is about Alaska efforts, PsychRights' efforts in other states is not covered.

In addition to myself, Don Roberts and Chris Cyphers serve on its board of directors.[63] I donate all my services *pro bono publico*.

(1) Development

Prior to reading *Mad in America*, while I had a general sense of what was happening with Forced Drugging, I didn't feel I had anything in particular to contribute. In addition to *Mad in America* being a great book, to me it was a litigation roadmap for marshalling the scientific evidence against Forced Drugging. It turned out the NARPA conference that November, 2002, included as keynote speakers: (1) Bob Whitaker, the author of *Mad in America*, (2) Loren Mosher, M.D., of Soteria House fame, and (3) Professor Michael Perlin, the author of "the" treatise on mental health disability law and over 150 legal articles on the subject.

I wrote the articles Unwarranted Court Ordered Medication: A Call to Action,[64] and Psychiatry: Force of Law,[65] attended the November 2002, NARPA conference and arranged for an off-agenda presentation.[66] There I met Mr. Whitaker, Dr. Mosher and Michael Perlin. Mentioned above is bringing Bob Whitaker to Alaska in December, 2002. I also asked him to send me all of the articles cited in *Mad in America*. These articles were scanned and posted on the Internet to make them more accessible and particularly so other attorneys could download them and attach them as exhibits when fighting Forced Drugging cases.[67]

(2) Finances

PsychRights has a general policy against taking government funding because it is felt one can not seriously challenge what the government is doing with its money. This has certainly proven to be true with respect to other government funded attorneys in the arena. However, because of the unique nature of the Trust Authority, $5,000 in funding has been accepted from it to help present a seminar on Mental Health Disability Law in September of 2003 by Professor Perlin and Robert Whitaker[68] and a $10,000 Small Project grant for representation expenses, such as filing fees, deposition costs, expert witness fees, etc. Otherwise, PsychRights is entirely sustained by private donations.[69] PsychRights submitted a TBGI systems change grant application to fund one attorney and assistant, which was not awarded.[70]

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[63] Bios of the board of directors and other key personnel can be found at http://psychrights.org/about.htm.
[64] http://psychrights.org/calltoaction.htm.
[65] http://psychrights.org/force_of_law.htm.
[66] PsychRights provided a number of free copies of *Mad in America* to people who could not afford to purchase it, which helped with attendance.
[67] http://psychrights.org/Research/Digest/Chronicity/NeurolepticResearch.htm
[68] *See*, http://psychrights.org/Education/ak03CLE/Brochure.htm.
[69] Regular financial statements may be found at http://psychrights.org/about.htm#financial.
[70] The operating grant application can be found at http://psychrights.org/grants/05tbgi/PsychRightsOperating.htm and the companion capital grant application at http://psychrights.org/grants/05tbgi/PsychRightsCapital.htm.

(3) The Role of Litigation for System Change

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. In Alaska, in addition to the Mental Health Trust Lands litigation, we have had the Molly Hootch case for rural education and the Cleary case for prison administration. In situations such as currently exists with our mental illness system, where governmental policies are supported by large economic interests, litigation is often the most effective and quite possibly the only way to eliminate the abuses. It is certainly true here that almost three years of efforts to persuade policymakers to redress the situation have failed to result in any meaningful (i.e., financial) support.

The Introduction mentions that Forced "Treatment" proceedings are essentially a sham. This is well known to those involved. Psychiatrists, with the full understanding and tacit permission of the trial judges, regularly lie in court[71] to obtain involuntary commitment and forced medication orders:

> [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.[72]

The psychiatric profession explicitly acknowledges psychiatrists regularly lie to the courts in order to obtain forced treatment orders. E. Fuller Torrey, M.D., one of the most outspoken proponents of involuntary psychiatric "treatment" says:

> 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.73

Dr. Torrey goes on to say this lying to the courts is a good thing. Dr. Torrey also quotes psychiatrist Paul Applebaum as saying when "confronted with psychotic persons who might well

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[71] This is perjury, a crime.

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

[73] Torrey, E. Fuller. 1997. *Out of the Shadows: Confronting America's Mental Illness Crisis*. New York: John Wiley and Sons. 152.

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."[74]

It is also well known that:

> Traditionally, lawyers assigned to represent state hospital patients have failed miserably in their mission.[75]

The sham nature of Forced "Treatment" proceedings, supported by the meretricious and overwhelming financial juggernaut of the pharmaceutical industry, has resulted in Forced Drugging being by far the "path of least resistance."[76] In the *Myers* case described below, Dr. Loren Mosher testified by affidavit that as a therapeutic principle, "Involuntary treatment should be difficult to implement and used only in the direst of circumstances".[77] PsychRights' goal is to accomplish this therapeutic goal by making Forced "Treatment" more trouble than the more helpful alternatives that are currently eschewed. In that way, PsychRights hopes to create an environment in which these more helpful, more humane alternatives can flourish.

Of course, to the extent the system recognizes people have the right to decline medication[78] and provides the choices to which they are entitled before they can legally be forced to take these drugs, litigation would/will not be necessary. In the absence of this, however, there has been some litigation already undertaken and other contemplated.

(4) Undertaken Litigation

(a) Myers -- Forced Drugging

The first case, *Myers*, now waiting for decision from the Alaska Supreme Court, directly challenges Forced Drugging as currently practiced.[79] There, the trial court, after receiving

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[74] In other words, "we can't let people's rights get in the way of us doing to them what we know is good for them."

[75] *Competency, Deinstitutionalization, and Homelessness: A Story of Marginalization*, Michael L. Perlin, Houston Law Review, 28 Hous. L. Rev. 63 (1991).

[76] While court ordered involuntary psychiatric drugging is the most dramatic, coercion to take these harmful drugs is pervasive. As mentioned before, people are told they will not get or will lose their housing if they don't "comply." Other services will be denied. People will be "violated" on parole (i.e., sent back to prison to complete their sentences) if they do not comply. Children are taken away from their parents if they are not given drugs. Children are taken away from parents if the parent(s) don't take the drugs and then they are taken away because the parent takes the drugs and becomes too mentally ill. And, of course, all of the current financing systems are primarily for medications.

[77] *See*, http://psychrights.org/States/Alaska/CaseOne/30-Day/ExhibitRLRMosherAff.htm.

[78] One normally sees this phrased as the right to "refuse" medication, but I find that a misleading and pejorative term that assumes exercising the right is a bad thing. People have the right to decline a medication recommendation and it should be phrased that way, in my view.

[79] See, http://psychrights.org/States/Alaska/CaseOne.htm for more information on this case, including the briefs and transcripts of some of the hearings. A video of the oral argument before the Alaska Supreme Court is also available upon request.

testimony from Dr. Loren Mosher and Grace Jackson, as well as the State's psychiatrists, found as a factual matter:

> [T]here is a real and viable debate among qualified experts in the psychiatric community regarding whether the standard of care for treating schizophrenic patients should be the administration of anti-psychotic medication

and

> [T]here is a viable debate in the psychiatric community regarding whether administration of this type of medication might actually cause damage to her or ultimately worsen her condition

yet ordered involuntary drugging because the relevant statute only requires a finding of incompetence to decline the medication.[80] We argue the Alaska and US constitutions require at least that there must be a finding the medication is in the person's best interest. More importantly for changing the system, we also argue involuntary medication can only be constitutionally administered if no less restrictive alternative could be offered. The state's failure to fund such an alternative is not a legal excuse. There is a lot of legal support for this position and we are hopeful the Alaska Supreme Court will rule in our favor. The point here is this legal effort, if successful, can be an important element in the creation of alternatives by not allowing people to be locked up and Force Drugged as easily as they are now. However, in order to accomplish that, people need at least a reasonable level of legal representation.

(b) Wetherhorn -- Ineffective Assistance of Counsel

The *Wetherhorn* appeal is primarily about ineffective assistance of counsel, although there are a few other issues in the case.[81] If people actually had vigorous representation, only a small fraction of those currently subjected to Forced "Treatment" would be “treated.” We are hoping to establish some minimum standards for the performance of counsel, and also that people are entitled to have an "expert witness" paid for, because without an "expert witness" to counter the state's "expert witness" (the psychiatrist), it is not a fair process. Even if we win on the issue that the constitution requires a best interests finding and no less restrictive alternative, without adequate representation and an expert witness, the hospital psychiatrist will just meretriciously testify it is in the person's best interest and there is no less restrictive alternative and that will be that. Other issues include the legally insufficient nature of the proceedings. We are also attempting to establish the right to attorneys fees in the event the State does not prevail on its petition(s) for involuntary commitment and/or forced drugging because if we can do so, it will encourage members of the private bar to take some of these cases and adequately represent their clients.

(c) Bavilla -- Forced Drugging in Prison

In the *Bavilla* case, which challenges the procedures for Forced Drugging in prison, the Alaska Department of Corrections admitted to facts constituting violations of the United States

[80] *See*, http://psychrights.org/States/Alaska/CaseOne/30-Day/Order.pdf, pages 8 and 13.
[81] More information on this case can be found at http://psychrights.org/States/Alaska/CaseFour.htm.

Constitution.[82] However, the trial court dismissed the case on sovereign immunity grounds, meaning we should have sued the Commissioner of the Department of Corrections, rather than the state. It is very unclear the judge was correct about this, but we had successfully prevented Ms. Bavilla's Forced Drugging up to that point, the prison was putting intense pressure on her in its attempt to "break" her, and Ms. Bavilla declined to file an appeal or recommence the case. However, at an opportune time when we have the resources and a client, we have the admissions of the State regarding their illegal procedures and can commence a new case challenging Forced Drugging in prison here.

(5) Prospective Litigation

We also have a number of prospective issues identified for system changing litigation.

(a) Kids in Custody/Out of State Placements

The state takes custody of a large number of children, and is paying for over 400 in out of state facilities.[83] Based on what is happening in other states, one can assume well over half are being subjected to psychiatric drugging. Polypharmacy, which has never been approved, is rampant with kids as well as adults and most of the drugs have never been approved for pediatric use. We know these drugs create structural changes in the brain,[84] but no one has any idea what these drugs are doing to the developing brains of our children. Whenever children are given drugs they are being Force Drugged because they have no choice. It is especially egregious that those responsible for the well-being of children are blaming the children and subjecting them to the horrors of psychiatric drugging. When the resources are available to litigate, an appropriate case to challenge child in custody drugging practices may present itself. For example, is it legal for the state to drug kids in its custody with drugs that are not approved for pediatric use?

(b) In-State Residential Treatment Centers

In addition to kids who are in out of state residential treatment centers, many children are drugged on inpatient units or other residential settings in Alaska. North Star here in Anchorage is notorious for heavily drugging kids and engaging in polypharmacy. An appropriate case to challenge such practices when the resources are available to do so may present itself at any time. For example, is it child abuse to medicate kids with drugs that are not approved for pediatric use in the way it is now done?

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[82] More information on this case can be found at http://psychrights.org/States/Alaska/CaseThree.htm.

[83] *See*, http://www.mhtrust.org/documents/BringtheKidsHome.pdf. The Trust has instituted a "Bring the Kids Home" initiative, but if that just means locking them up and drugging them in Alaska, rather than somewhere else, it is not a real solution.

[84] In fact most of the neuroimaging used by proponents of the drugs for the proposition that people with mental illness have brain differences really show the effects of the drugs. *See*, *e.g.*, Broken Brains or Flawed Studies? A Critical Review of ADHD Neuroimaging Research, by Jonathon Leo and David Cohen, *The Journal of Mind and Behavior*, Winter 2003, Volume 24, Number 1, pp 29-56, which can be accessed at http://psychrights.org/Research/Digest/NLPs/criticalreviewofadhd.pdf.

(c) Elder Drugging Abuses

It has become increasingly common around the country for the elderly to be so medicated they can't get out of bed. It is not unlikely that this occurs in Alaska also and an appropriate case may present itself when resources are available.

(d) Informed Consent

A choice to take psychiatric drugs is truly voluntary only if people are told the truth about the drugs. This is called informed consent. The truth, however, is uniformly withheld, which constitutes a lack of informed consent. Alaska has a relatively explicit statute on informed consent in an inpatient setting.[85] We have had a complaint against API drafted for over a year now waiting for a suitable plaintiff.[86]

(6) 42 USC 1983 Civil Rights Action(s)

Under the federal law, 42 USC §1983, it is illegal for anyone "acting under color of law" to deprive someone of their legal rights.[87] This law grants the right to injunctions and damages. In other words, API and its psychiatrists are liable for the way they violate the rights of their patients and an injunction against such violations should be available.[88] To the extent these illegal behaviors are not corrected through the other efforts outlined here, resort "Section 1983" in federal court to seek redress will be indicated.

(7) Strategy/Attorney Recruitment

The cases described above are designed to set precedent and consequently be system changing in that way. In addition to this, however, just having one serious representation of an API inmate[89] per week, or even per month will substantially increase demands on state resources to involuntarily commit and Force Drug its inmates. In other words, make Forced "Treatment" not necessarily the path of least resistance. Serious representations involve depositions of the psychiatrist(s) and other treating personnel as well as potentially other witnesses, filing motions, etc. I make it a practice to elect the hearing be held in a real courtroom under AS 47.30.735(b)[90] and, in my view, a jury trial should be demanded under AS 47.30.745(c)[91] for every 90-day commitment petition. The trials should last at least hours, if not days, rather than the

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[85] *See*, AS 47.30.837, which can be accessed at http://touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter30/Section837.htm.
[86] *See*, http://psychrights.org/States/Alaska/CaseTwo/draftInformedConsentComplaint.htm.
[87] This is a simplification and more information about "Section 1983" rights can be found at http://psychrights.org/Research/Legal/1983/1983.htm.
[88] Yesterday PsychRights filed a Reply re: Motion for Attorney's Fees, which detail such illegal deprivation of rights in that case. This can be found at http://psychrights.org/States/Alaska/CaseFour/AttysFees/attyFeeReply.pdf. It is apparent such violations of rights are pervasive at API.
[89] The American Heritage Dictionary, Fourth Edition, defines "inmate" as "A resident of a dwelling that houses a number of occupants, especially a person confined to an institution, such as a prison or hospital."
[90] *See*, http://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter30/Section735.htm.
[91] *See*, http://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter30/Section745.htm.

approximately 15 minutes they do now. Objections should be made to unfavorable Probate Master recommendations.[92] Requests for emergency stays against Forced Drugging should be made.[93] Appeals should be taken when appropriate.[94] In 2004, I met with the Public Defender and the Assistant Public Defenders who normally handle these cases. I gave them copies of *Mad in America* and informed them what I thought it took to adequately represent psychiatric defendants. It does not appear anything changed and when the opportunity arose, PsychRights appealed an involuntary commitment and Forced Drugging Order to try and obtain more than sham representation.[95]

I think it is fair to say the all-out, four month legal battle that was the *Myers* case at the trial court[96] has had at least a minor impact. I have gotten people out or stopped Forced Drugging with a phone call or an e-mail in a few situations since then by suggesting the person did not meet the legal criteria in a way that let the hospital know I would be getting involved in the case if they proceeded. If even a relatively small number of cases were vigorously defended, it could go a long way toward changing the "path of least resistance" to support choice.

There is, of course, a limit to what I can do by myself. If PsychRights' TBGI grant application to fund an attorney position, mentioned above,[97] had been approved, this could have been undertaken.[98]

(a) Alaska *Pro Bono* Program

The Alaska Bar Association has a program to recruit *pro bono* attorneys to represent indigent people or people who otherwise can not afford legal representation. We have established contact with the Alaska *Pro Bono* Program and are working with it to try to recruit attorneys.

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[92] Under Alaska Statutes, the State must go to the Superior Court for involuntary commitment and Forced Drugging Orders. However, under the Alaska Court Rules, they can be assigned to a "Master" to conduct the hearings. (*See*, Alaska Probate Rule 2 & 2(b)(2)(C), which can be accessed at http://www.state.ak.us/courts/prob.htm#2. The Master, however, has limited authority, which is primarily to make recommendations that have to be approved (or not) by a Superior Court judge. The recommendations can be objected to (*See*, Probate Rule (2)(e)&(f)). It appears these recommendations are virtually never, if ever, objected to by the Public Defenders.

[93] Under Alaska Probate Rule 2(b)(3)(D), a Master's Forced Drugging order is effective prior to approval by the Superior Court, but under Alaska Probate Rule 2(f)(2) a stay may be requested. I question whether it is proper to make a Forced Drugging recommendation effective without a proper Superior Court order and this is a possible subject of appeal.

[94] An example of the lack of representation provided by the Public Defenders office is they have never appealed any involuntary commitment or Forced Drugging order.

[95] *See*, http://psychrights.org/States/Alaska/CaseFour.htm.

[96] *See*, http://psychrights.org/States/Alaska/CaseOne.htm.

[97] The grant application can be found at http://psychrights.org/grants/05tbgi/PsychRightsOperating.htm.

[98] It is unsurprising, of course, that funding was not provided by the Trust, which is a State agency, to seriously challenge what the State is doing. In my view, of course, the Trust should support its Beneficiaries' rights being honored, and it has in the past made a modest grant to pay for representation costs (as opposed to legal services).

(b) Private Bar

In my view, psychiatrists and organizations who are harming people through their prescribing practices, including not telling the truth about the drugs, should be held accountable for such harm. The Internal Revenue Service does not consider damages cases (suing for money) to be a "charitable activity" appropriate for PsychRights and has indicated if I took such cases in my own law practice they would consider that I was using PsychRights' tax exempt status to further my own financial interests. In essence, I am prohibited from representing people in such cases. However, I can encourage and even assist other members of the private bar to do so. A member of the Alaska Academy of Trial Lawyers has been contacted about making a presentation to them regarding such opportunities.

(c) Attorney's Fees.

In the Wetherhorn case, which is an involuntary commitment and Forced Drugging case, we are asking for enhanced or full attorney's fees to try and establish that as a precedent as a way to discourage API's illegal practices and encourage other attorneys to take these cases.[99]

(8) Educational Programs

Part of PsychRights' program is to provide information and education to attorneys, mental health system personnel, and the public.

(a) Website

PsychRights' website is very deep with information, including posting full articles and studies for use by attorneys and other people. Its Scientific Research by Topic[100] and Articles[101] web pages are particularly replete with important information from accepted sources. There are many other sections of the website, which is hopefully organized in a user-friendly manner and includes a section with information about various states.[102]

(b) Mental Health Disability Law Conference

In September of 2003, with support from the Trust Authority, PsychRights brought up Robert Whitaker, author of *Mad in America*, and Professor Michael Perlin for a two day seminar on Mental Health Disability Law.[103] This seminar was well attended with a mix of mental health providers, mental health lawyers, judges and psychiatric survivors participating.

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[99] *See*, Reply Re: Motion for Attorney's Fees, which can be accessed at http://psychrights.org/States/Alaska/CaseFour/AttysFees/attyFeeReply.pdf.
[100] http://psychrights.org/Research/Digest/Researchbytopic.htm.
[101] http://psychrights.org/Articles/articles.htm.
[102] http://psychrights.org/States/States.htm.
[103] *See*, http://psychrights.org/Education/ak03CLE/Brochure.htm.

(c) Presentation on The Courts' Potential Role in Transforming Mental Health Care in Alaska

In April of 2005, I gave a presentation at the annual Alaska Consumer & Family Leadership Conference on the Courts' Potential Role in Transforming Mental Health Care, which tracks to some degree the material presented here.

VII. FINAL THOUGHTS, ACKNOWLEDGMENTS, AND PERSONAL NOTES

This Report seems far too much "me, me, me," "I did this" and "I did that" and I fear it doesn't adequately credit all of the other terrific people who have been tirelessly working on these issues and projects, such as Michele Turner, Katsumi Kenaston, Andrea Schmook, Barry and Cathy Creighton, Eliza and Ted Eller, George Stone, Dr. Aron Wolf, Mel Henry, Carl Ipock, Kelly Behen and Scot Wheat, Don Roberts, Esther Hopkins, Jamie Dakis, Roslyn Wetherhorn, Aleen Smith, Jerry Jenkins and Richard Rainery. I have no doubt failed to mention people that I should have.

I hope this Report conveys the urgency of addressing the situation. The scale of harm being done every day is enormous. Having become aware of this great harm, I am personally unwilling to stand by and am resolved to do everything I can to reduce, or better yet, eliminate it. Since policy makers have been totally unresponsive in any meaningful way, I don't feel I have had any choice but to sue over illegal aspects of our mental illness system. These gross violations of rights contribute greatly to the problem, because it is the initial involuntary commitment and Forced Drugging that channel so many people into lifelong disability, largely caused by the debilitating drugs they are authoritatively, but erroneously told they must take for the rest of their lives. The failure of the system to address the problem reminds me of the reaction of the Alaska State Legislature in the late 70's when we told them, their "redesignation" (theft) of Mental Health Trust Lands was illegal. Their response was essentially "We don't care if it is illegal -- sue us." We did. This situation is far more important.

Of course, litigation is not a goal, it is a means to achieve a goal -- the goal of honoring people's right to choose a non-medication alternative to drugs that so many find debilitating, harmful and counter-productive. Instead of litigation, it is greatly preferable to work cooperatively towards achieving this goal. CHOICES and Soteria-Alaska are directly aimed at achieving this goal with Peer Properties playing more of a supporting role. It is my fervent hope we can begin taking these enormously important actions sooner rather than later. The stakes are too high, the human toll too great, to fail to do so.

VIII. GLOSSARY

- "ACMHS" stands for Anchorage Community Mental Health Services, also known as Southcentral Counseling Center.

- "AHFC" stands for the Alaska Housing Finance Corporation.

- "Alaska Mental Health Board" is "the planning and coordinating agency for the purposes of federal and state laws relating to the mental health program of the state of Alaska. The purpose of the board is to assist the state in ensuring an integrated comprehensive mental health program." *See*, AS 47.30.661, which can be accessed at http://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter30/Section661.htm. The Alaska Mental Health Board is one of the four boards which provide funding recommendations to the Alaska Mental Health Trust Authority. *See*, AS 47.30.666, which can be accessed at http://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter30/Section666.htm.

- "Alaska Mental Health Trust Authority" *See* "Trust Authority" below.

- "API" stands for the Alaska Psychiatric Institute, which is the sole state psychiatric hospital.[104]

- "Beneficiaries" means the beneficiaries of the Mental Health Lands Trust, which include (1) the mentally ill, (2) the mentally defective and retarded, (3) chronic alcoholics suffering from psychoses, and (4) senile people who as a result of their senility suffer major mental illness.[105]

- "Budget Summit Report" is the report by the Budget Committee of the Alaska Mental Health Board, adopted by the full board in August of 2003. *See*, http://akmhcweb.org/Docs/AMHB/2003BudgetSummitReport.pdf.

- "Consumer" means someone who is or has received mental health services, normally after being diagnosed with a serious mental illness.

- "Consumers Consortium" is the statewide group consisting of all Consumer run programs in the state. *See*, http://akmhcweb.org/Announcements/2002rfr/consortiumproposals.htm for its initial set of proposals to the Alaska Mental Health Board.

- "Corpus" as employed herein is the principal amount of the Trust's endowment, as contrasted to the earnings or income. The corpus is not to be spent.

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[104] There are, however, some "designated beds" in other hospitals and psychiatric units at other hospitals in Anchorage, Fairbanks and Juneau.

[105] *See*, AS 47.30.056(b)&(c), which can be accessed at http://www.touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter30/Section056.htm. *See*, also http://mhtrust.org/index.cfm?section=about_trust&page=Beneficiaries.

- "C/S/X" stands for **C**onsumers of mental health services, **S**urvivors of Psychiatry and e**X**-psychiatric patients and refers to people who have received mental health treatment. There has never been a consensus on what term should be used. Other terms that have been used include "users," "recipients," "patients," and "psychiatrized." In Alaska, because of the Mental Health Lands Trust, they are often called "beneficiaries."

- "Department" means the Alaska Department of Health and Social Services.

- "Mental Health Board." *See* Alaska Mental Health Board.

- " Mental Health Lands Trust Litigation" refers to the 15 year long litigation over the state of Alaska's "redesignation" (theft) of the one million acres of land granted to it in trust for Alaska's mental health program. http://www.touchngo.com/lglcntr/spclint/mht.htm.

- "MHAAK" stands for Mental Health Advocates of Alaska, a new member organization for Consumers intended to have substantial statewide membership.

- "NAMI" stands for the National Association for the Mentally Ill, which touts itself as "the Nation's Voice on Mental Illness." NAMI was founded by parents of people diagnosed with serious mental illness, is heavily financed by the pharmaceutical industry and vigorously pushes for more Forced Drugging.

- "NAMI-Alaska" is the statewide Alaska affiliate of NAMI. A majority of its board is currently Consumers, which allows it to access funding for Consumer run programs. NAMI-Alaska, as most of NAMI's affiliates, does not understand the extent to which NAMI is controlled by pharmaceutical funding nor the extent to which NAMI pushes Forced Drugging.

- "NARPA" stands for National Association of Rights Protection and Advocacy. *See*, http://www.narpa.org/.

- "Polypharmacy" is defined as the use of several drugs or medicines together in the treatment of disease, suggesting indiscriminate, unscientific, or excessive prescription. *See*, http://classes.kumc.edu/som/amed900/polypharmcay/polypharmdrug.htm.

- "Rasmuson Foundation" is the largest private foundation in Alaska and has made a number of mental health related grants. *See*, http://rasmuson.org/.

- "RECA" stands for Recovery Education Center for Alaska, which was formed to teach Mary Ellen Copeland's WRAP (Wellness Recovery Action Plan) program in Alaska. *See*, http://copelandcenter.com/whatiswrap.html.

- "RFP" means Request for Proposal, which is a notice of opportunity to apply for a grant.

- "Section 8 Vouchers" are United States Department of Housing and Urban Development low income housing subsidies.

- "SNHG" stands for Special Needs Housing Grant, which is funded by the Trust Authority and administered by the Alaska Housing Finance Administration.

- "Trust Authority" stands for the Alaska Mental Health Trust Authority, which was created in the settlement of the litigation over the Alaska Mental Health Lands Trust. *See*, http://mhtrust.org/.

- "TBGI" stands for Trust Beneficiary Group Initiative, which is an expansion by the Trust Authority of eligibility for funding of Consumer run programs formerly restricted to beneficiaries classified as mentally ill.

- "Trust Settlement" refers to the settlement of the litigation over the state of Alaska "redesignating" (i.e., "stealing") the one million acres of land granted in trust to Alaska's mental health program by the federal government. *See*, http://www.touchngo.com/lglcntr/spclint/mht.htm.