



# Catalyst

Treatment Advocacy Center



Winter 2002

## Victory in California: Revision to 30-Year-Old Law Brings Hope

**On September 28, 2002, Governor Gray Davis signed Assembly Bill 1421, also known as Laura's Law. Treatment law reform has finally come to California.**

### BEHIND THE TIMES: 30-YEAR-OLD LAW, 30-YEAR-OLD SCIENCE

Named after a 19-year-old woman who lost her life because another's schizophrenia went untreated, Laura's Law modifies California's archaic Lanterman-Petris-Short Act (LPS) that governs when and how people with mental illnesses can be placed in psychiatric facilities. Passed in 1967, LPS served as a model for the restrictive treatment laws that spread to virtually every other state.

Passed before advancements in medicine proved that these illnesses were actual brain diseases, LPS codified the "danger to self or others" treatment

eligibility standard that ensures some bereft of rationality because of treatable illnesses are, by law, left without treatment. California and the states that followed her example soon reaped the tragic fruit of these new laws as people with severe mental illnesses who were denied treatment flooded jails and prisons, hospitals, and streets.

Listening to medical science and reacting to tragedies resulting from bad laws, legislatures in half of the states have since modified their statutes to allow people to be placed in treatment for reasons other than dangerousness. Four out of five states now also allow court-ordered care in the community. Yet, as if sacrosanct, California has seemed determined to hold onto its anachronistic assisted treatment scheme.

Now after a rousing and tenacious four-year advocacy campaign led by the California Treatment Advocacy Coalition together with the Treatment Advocacy Center, the grandfather of laws that deny treatment has become the infant of the ones reformed.

### ASSISTED OUTPATIENT TREATMENT; DANGEROUSNESS IS NOT REQUIRED

Fashioned by Assemblywoman Helen Thomson after New York's proven Kendra's Law, AB 1421 makes assisted outpatient treatment available in California. Assisted outpatient treatment is sustained and intensive mandated treatment in the community for those most overcome by the symptoms of severe mental illnesses. The treatment mechanism is used until a person is well enough to maintain his or her own treatment regimen. As a bridge to recovery, assisted outpatient treatment can stop the "revolving door" of repeated hospitalizations, jailings, and homelessness.

And eligibility for these new assisted outpatient treatment programs will not be predicated on dangerousness alone. The key requirements for an AB 1421 intervention are that a person:

- ◆ has either been hospitalized twice in the last three years or violent in the last four,
- ◆ is unlikely to survive safely in the community without supervision, and
- ◆ is likely to deteriorate to the inpatient standard without assisted outpatient treatment.

Californians can now access the same treatment mechanism that has helped thousands of New Yorkers under Kendra's Law. The main challenge remaining is that Laura's Law is not a statewide mandate. It is left to each county whether or not it will adopt and use assisted outpatient treatment.

So while there is still much work to do, today it is worth celebrating the greatest treatment law reform for more than three decades in the nation's most populous state. ☸

## Supporters Express Joy on California Victory!

I confess that I cried when I heard that the governor had signed AB 1421; both because it was too late to save my sister's life and in gratitude because other lives can be saved through passage of this legislation. Once again, thank you for all your heroic efforts on behalf of AB 1421.

Linda Brady  
Culver City

That is something we have been trying to accomplish for at least 20 years. Finally! I hope the state will make good use of it.

Dan Bornstein  
former president of APA

Thank you, for all of your hard work! As a mother of a mentally ill daughter who fights treatment and meds, you may one day save her life.

...THANK YOU!

Christine Featherstone  
Yorba Linda

Miracles do happen, I sometimes thought it would never happen. Congratulations all.

Pat Webdale  
mother of Kendra Webdale  
for whom New York's  
"Kendra's Law" was named

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**Catalyst**

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The Treatment Advocacy Center is a nonprofit organization dedicated to eliminating legal and clinical barriers to timely and humane treatment for the millions of Americans with severe brain diseases who are not receiving appropriate medical care.

Current federal and state policies hinder treatment for psychiatrically ill individuals who are most at risk for homelessness, arrest, or suicide. As a result an estimated 1.8 million individuals with schizophrenia and manic-depressive illness (bipolar disorder) are not being treated for their illness at any given time.

TAC serves as a catalyst to achieve proper balance in judicial, legislative and policy decisions that affect the lives of persons with serious mental illnesses.

Congratulations to all who worked so hard to put your beliefs into action and achieve the final positive results. You are to be commended for your continuous dedication to improving the lives of the mentally ill.

I'm proud to be in your company.

Tom Lawson

Center Manager

Long Beach Mental Health Center

Upon hospital discharge, where needed, follow-up managed care will make a difference in many as to whether they live or, indeed, die. Hopefully, 1421 has opened eyes, hearts, and minds so that life can be worth living for so many.

Paul Hartstein, M.D.

Long Beach

You don't know me, but I am a NAMI member who has been writing letters, faxing and cajoling my friends into calling politicians about AB 1421 for a few months. As a mom of an adult son with schizoaffective disorder, I have lived the nightmare that you have helped eradicate! I am so happy you have worked so hard to pass it!!! Thank you.

Marlene Mahan

Santa Rosa

My husband and I, while at the NAMI California conference last week, both wrote letters of support for the bill, and certainly a lot of other participants wrote then, too. Even though our daughter with schizophrenia lives in Evanston, IL, we do what we can for the cause in the place where we live.

Betsy Harrell, Secretary

NAMI Humboldt, Arcata

Congratulations and thanks so much for your blood, sweat, and tears on achieving this victory. It will help save many people from years of futile attempts to get help for their mentally ill loved ones. You never gave up and it paid off!

Annette Kephart

Long Beach

OK, I've wiped my tears and am ready to celebrate myself. If we can get this passed in California, perhaps I can start the movement in Idaho where our son may potentially benefit from a similar law. I can't thank you all enough for your efforts to date.

Char Sinclair

Rancho Mirage

**"This legislation will help end  
the cycle of hospitalization,  
quitting treatment, and  
relapse. It plugs a huge hole  
in California's safety net,  
offering safety, support, and  
compassion."**

**— Gov. Davis, on signing  
AB 1421**

## **The Story Behind the California Victory: How Perseverance Led to Triumph**

*by Jon Stanley, Esq.*

In these days of soft money, cadres of industry-hired political guns, "locked" districts, and voter inattention, normal citizens with resolve can still make themselves heard.

Determined to make state laws promote rather than forbid treatment, the Treatment Advocacy Center (TAC) helped a few dozen advocates create the California Treatment Advocacy Coalition (CTAC) in 1999. With the guidance of coordinators Carla Jacobs (also a TAC board member), Randall Hagar, and Chuck Sosebee, the coalition grew to include hundreds of others in the crusade for treatment.

Thousands of CTAC letters and calls for reform have inundated the California Capitol over the last four years. While looking a CTAC member in the eye, nearly every legislator in California has had to explain - often more than once - his or her position on helping those rendered incapable of rational thought by severe mental illness. Any newspaper article or editorial touching on assisted treatment attracted an onslaught of CTAC responses, dozens of which made it to newsprint.

Yet while the verve of CTAC's members has been essential, most remarkable is their perseverance. For more than three years, the Treatment Advocacy Center and the CTAC faithful rallied behind the indomitable Assemblywoman Helen Thomson and her reform measures. Until the conclusion of the 2002 legislative

***Our Greatest Admiration and  
Appreciation to:***

***Assemblywoman Helen Thomson  
Who is Thankfully  
"One Stubborn Woman"***

***Life Has Too Few Heroines***

session, the path of that reform had been both uncertain and repeatedly discouraging.

The first reform bill, AB 1800, rolled through committees and then commandingly passed the Assembly in 2000 only to be relegated to a Senate backwater without ever being voted on — the victim of political maneuvering.

Assemblywoman Thomson next introduced AB 1421, modeling it on New York's Kendra's Law. In its original form, this legislation would have brought assisted outpatient treatment to California and established state-funded programs to facilitate its use. After sweeping through hearings in the Assembly without the tarnish of a single nay vote, AB 1421 passed on the floor of the lower house by an indisputable 65-1.

Then came the meltdown from the state's botched power deregulation and the seemingly instantaneous exhaustion of California's governmental coffers. *(continued on page 4)*

## **Why TAC Exists: To Make State Laws More Humane**

*by E. Fuller Torrey, M.D.*

The recent passage of legislation in California amending the Lanterman-Petris-Short (LPS) Act is a great victory for the people of California. The LPS Act was passed in 1967, just as I was beginning my psychiatric residency in California. The shortcomings of LPS were obvious almost immediately, since it then became very difficult to hospitalize individuals with severe psychiatric disorders who were potentially dangerous. By 1972, such individuals had started to overwhelm the county jails, and Dr. Marc

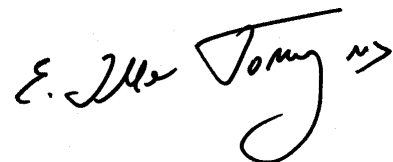
Abramson, one of my fellow residents, published a professional paper titled "The criminalization of mentally disordered behavior: Possible side-effect of a new mental health law" (Hospital and Community Psychiatry 23:101-105, 1972).

So, although the shortcomings of the LPS Act were clearly known shortly after it was passed, it has taken more than 30 years to amend it. Why has it taken so long? The main reason is because, until TAC was organized in 1997, there was no organization during those years that was willing to lobby for needed changes. Taking on the well-meaning but misguided civil libertarians, the antipsychiatry groups, Scientologists, and other groups

staunchly opposed to changing the LPS Act was not a task anyone else wanted, even though many said it needed to be done.

Assemblywoman Helen Thomson, a former psychiatric nurse who understood the need, deserves enormous credit for introducing the amendment and guiding it through the legislative process. But it would never have become law without the lobbying efforts of TAC at the state and national levels.

This is why TAC exists. And there is much more work to be done.





AB 1421 was a new program with a price tag and no new programs would be funded in 2001. The bill was again not heard in a Senate committee. While AB 1421 was still technically alive because it had been introduced in the first year of a two-year legislative session, there was no chance of its passing in 2002. Everyone knew that the budget crisis would only worsen. There would not be any funding available for any mental health initiatives.

#### **ADVOCATES REFUSE TO RETREAT**

Advocates' hopes for reform had been repeatedly built and periodically shattered. And, as much as it should be, legislation to secure care for people with severe mental illnesses is not "sexy" to lawmakers. Not only had Assemblywoman Thomson made it her chief legislative goal for longer than made political sense, she also knew that the most powerful legislator in the state was squarely set against treatment law reform. By all rights, Thomson should have turned her efforts elsewhere and CTAC's impetus should have waned as the bill's supporters refused to waste their efforts tilting at windmills.

### **Thanks To Organizations Who Supported California Reform**

Advocates in California learned that the eminent common sense of getting treatment to those too sick to make rational decisions is an easy sell.

Seven of the state's ten largest newspapers backed AB 1421. Only one was opposed.

Eighty-seven organizations, professional associations, local governments, and governmental entities officially registered support of AB 1421 with the legislature, including some of the most politically influential in the state. A partial list:

**California Peace Officers' Association**  
**California State Sheriffs' Association**  
**Los Angeles County Police Chief's Association**  
**13 police departments**  
**5 county sheriff departments**  
**California Medical Association**  
**California Psychiatric Association**  
**California Association of Marriage and Family Therapists**  
**Union of American Physicians and Dentists**  
**The Diocese of Los Angeles**  
**Mayor of San Francisco (Willie Brown)**  
**Los Angeles County Board of Supervisors**  
**SPAN-California (Suicide Prevention Advocacy Network)**  
**National Alliance for the Mentally Ill**  
**National Alliance for the Mentally Ill, California**  
**30 Individual NAMI Chapters**

**Imagine a train wreck that scatters passengers across the landscape. Paramedics arrive and begin loading the injured onto stretchers.**

**But when anyone screams out in pain, "No! Don't touch me!" the medics nod compassionately and leave that person sprawled amid the rocks and cactuses.**

**A similar scene has been unfolding on the urban landscape for the last 40 years.**

**People with severe mental illness, tossed from state hospitals, have landed on public sidewalks and in wretched urban encampments.**

**And no one helps them because they say they don't want help.**

*— Los Angeles Times, April 14, 2002*

Instead, perseverance became treatment's savior. Ms. Thomson revamped AB 1421 into a proposal that could pass the cash-starved legislature, leaving it up to each county to decide whether or not to adopt and fund the assisted outpatient treatment programs authorized by the bill. And neither did CTAC waiver; both its membership and efforts were doubled.

#### **THIRD TIME THE CHARM?**

The modified AB 1421 had a harried path through the Senate. The legislation passed two committees with the exact number of necessary votes. Supporters anguished after the Health and Human Services Committee imposed amendments over the author's objection that gutted the bill, making it capable of reaching only those who met California's restrictive eligibility standard for inpatient commitment - those who could already be reached under the present law. After months of letters, calls, visits, and other scrambling by CTAC's members, the next committee amended the bill back to viability.

On finally reaching the Senate floor, AB 1421 passed 27-8. The next day, the Assembly concurred (72-4) with the Senate's amendments and the measure was sent to the governor. One month later - and a trepidation-producing two days before the expiration of his statutory period in which to sign legislation - Governor Gray Davis made AB 1421 a state law, saying, "This legislation will help end the cycle of hospitalization, quitting treatment, and relapse. It plugs a huge hole in California's safety net, offering safety, support, and compassion."

#### **GRASSROOTS SUPPORT MADE THE DIFFERENCE**

After nine committee votes, four floor votes, and the last

quest for a governor's signature, CTAC's crusaders had helped bring about the most significant reform of California's treatment law in more than three decades. The intensity of their endeavors can be gauged by the 1,015 support letters registered by one of the last committees considering the bill. Even in a state as big as California, that number is extraordinary for a mental health bill. It was also three times more than produced by the opposition.

CTAC and the Treatment Advocacy Center, of course, were not alone in working for this landmark legislation: NAMI-California was a stalwart partner, the support of law enforcement was as admirable and strong as it was invaluable, *The San Francisco Chronicle* and *Los Angeles Times* timed astounding support editorials for each and every precarious juncture, and - needless to say - the accolades for this success both start and end with Assemblywoman Helen Thomson. Yet without those hundreds of CTAC advocates pressuring legislators, reaching the press, and helping build the union of supporters behind the bill, AB 1421 would almost definitely not have passed. Only most obvious is that a single vote lost in either of two Senate committees this year would have meant death to the bill.

#### THE BATTLES CONTINUE

CTAC's focus has now shifted to getting each county to adopt assisted outpatient treatment. And when California's fiscal situation improves, the next goal will be to make AB 1421 state funded and available throughout California. AB 1421 is not the end of reform in California, but the members of CTAC have secured a beginning for the treatment of those most ill - a beginning that advocates in the state have sought for so long. <sup>CTA</sup>

### Voices in the Media for California Reform

"It is society's job to help those who cannot help themselves. Nobody knows this better than law enforcement officers. And nobody knows more than we do the dangers of facing down a person who has had a psychotic break, who is not rational, who may believe we are aliens or that we mean them harm."

— *San Gabriel Valley Tribune*, California police chiefs Bernard K. Melekian and Joseph Santoro, June 2002

"If people overwhelmed by severe mental illness, like Abrams [who killed her 4-year-old daughter], were instead placed in mandated community treatment, they could get well enough to knowingly exercise and enjoy their civil rights. Meanwhile, our right to live in a safe and secure society would be protected."

— *Los Angeles Times*, Cindy Soto, January 2001

"My parents lived in sorrow and fear for their youngest child. They died without being able to get her the help she needs. Even

the late Assemblyman Frank Lanterman realized, after observing the unintended effects of the legislation he sponsored, that this law had come to 'prevent those who need care from receiving it.'"

— *Los Angeles Times*, Norah Schumacher, June 2000

"Had my sister-in-law been provided treatment under the criteria and structure proposed in AB 1800, the cost to the state might have been \$20,000. Instead, expenses for her trial and restricted hospitalization are close to \$2 million."

— *Los Angeles Times*, Carla Jacobs, July 2002

### Letters to TAC

I recently visited your web site [[www.psychlaws.org](http://www.psychlaws.org)] regarding mental health. I admire wholeheartedly yours and other's efforts to try and reform mental health issues in our government. I would love to join your organization even though I am only sixteen years of age. I am not sure of what I can do or benefit, but I would love to find out. My mother has been showing signs of the illness schizophrenia for seven years or more. It tears me up inside everyday that when I look into my mother's eyes, they aren't hers anymore. She is removed from all that she once knew about the world. She has turned into a recluse and produces accusations of espionage everyday. I would appreciate it greatly if you could help me in some way by informing me of the status of [California bill] AB1421. My life would be so completely wonderful if that bill becomes a reality. I could have my mother back in some form or another.

[name withheld because of age]

I want to thank you for helping me and working so hard to help people who can't help themselves. I was at my wits end and almost lost my son to mental illness and drugs. I wrote you a few years ago. You helped me figure out what to do... my son has been in treatment now for about three years. He is feeling much better. He was homeless for 4 years. Everyone, even the police told me to let him go and forget about him, as if a mother could ever forget her child. They said he was addicted to drugs and advised me to move out of the area. I knew there was something else going on, but didn't know anything about schizophrenia or bi-polar illness. One night I started searching the web and decided to see if there was a site that discussed mental illness and came upon your newsletter. This is where I found letters from parents with children suffering from schizophrenia, going through the same things I was going through with my children. I say children, because, I have an older boy who I'm sure has some sort of mental illness, but I can't reach him.... he lives on the fringes and I never know where he is from one day to the next. He calls me from time to time, but he's very distant and comes by rarely, maybe twice a year. But, at least my youngest son is getting the help he needs. It's very difficult for me, my kids are all I really have.... I can sleep now, and I take one day at a time....

Thank you for helping me, you probably saved my son's life.  
All the best, Barbara Phipps

**Based on New York's "Kendra's Law," AB 1421 achieves a delicate balance between a society's responsibility to protect the safety of its citizens and an individual's right to absolute freedom.** — *San Francisco Chronicle*, July 31, 2002

## California Comedian Thinks Severe Mental Illness Isn't Funny

Doug has performed with comedians like Bob Hope, Whoopi Goldberg, Gary Shandling, and Jerry Seinfeld; starred in the ABC series "A Fine Romance," and made audiences laugh on comedy shows on Showtime, MTV, A&E, and Comedy Central. A prolific comedy writer, he has written for Rodney Dangerfield, Jay Leno, and many others, and is working on his memoirs, "Blood On The Clown Suit."

Doug has been in recovery from drugs and alcohol since 1994 and has received much media attention for his successful battle with borderline personality disorder, known as the "Performer's Disease," which kept him offstage for almost three years. After landing in jail and then being homeless for more than a year, he and his wife Beth now spend much of their time in ongoing outreach to families coping with mental health issues. *eta*

**ON THE WEB:** Visit Doug's web site at <http://dougzilla.com>. Read his story online at [cnn.com/2000/HEALTH/08/29/newsstand.ferrari/index.html](http://cnn.com/2000/HEALTH/08/29/newsstand.ferrari/index.html). And check out Doug and Beth's advocacy site, *The Co-operative for Borderline Family Services* at [www.bpdco-op.org](http://www.bpdco-op.org).



**Doug Ferrari**

September 11, 2002

To Our First Lady Sharon Davis,

I'm Doug Ferrari. I'm a comedian and a comedy writer, so today I'm writing something really difficult for me: a request that you support AB 1421. My wife and best partner tells me you are very active in the area of mental health issues in our state. And that right now, many

of us are hoping the Governor will sign AB 1421, a bill for outpatient commitment.

I'm an entertainer and a comedy writer, not really an activist or even particularly a political person. But, I do have to manage my own serious mental health issues in California.

When I was out of my own control because of an illness I hardly understood, I didn't have the choice to go to a hospital. I was taken to jail because that is what the law required. I watched my wife and my family, even as out of it as I was, go through trauma after trauma, trying to help me, to keep us all safe. At one point, my wife just went under from the stress, and I spent a year on the street.

If "Laura's Law" had been in place, all of us would have had better, safer choices.

No one likes to be forced to do anything. And I know now, that sometimes I was so unaware of my self due to the illness, that everyone around me could have really used a law like this -- to protect me and also to protect themselves. The road to mental health can be a long one; most of us need help along the way.

I've been very lucky. I have a family committed to our mutual health. But many, many people are not as lucky as I am. Because in California there have been so few better choices, a lot of the people I met during a period of homelessness have either died, are in jail, or live somehow on the street.

I could be one of those people. I could be dead or in jail instead of doing benefit work for Health and Human Services in DC, or instead of doing fundraisers for clinics all over the country that need funding.

I ask you to support this bill. Most of the good people who have worked on it are among the formerly "lost." Sometimes we need our doctors, our families to help us when we can't help ourselves. Please consider putting us in outpatient treatment instead of on the street or in jail or in a morgue.

I thank you for your attention and hope you will consider helping us.

Sincerely,  
Doug and Beth Ferrari  
Santa Monica, CA

### KNOW A HIGH SCHOOL DEBATER?

Visit [www.psychlaws.org](http://www.psychlaws.org) for plenty of resources and materials on the 2002-2003 national c-x debate topic, "Resolved: That the United States federal government should substantially increase public health services for mental health care in the United States."

## Newspaper Editorials Make A Powerful Difference

Throughout the battle for reform of California's archaic treatment law, editorial staff of two major California papers fought in the trenches next to local advocates, writing powerful pieces timed to run before every key decision. *The San Francisco Chronicle* and *Los Angeles Times* published a total of more than 30 editorials focusing on the consequences of lack of treatment. These journalistic heavy-hitters made a true impact on their community, practicing civic journalism at its purest to use their platform to make a difference.

Their words were powerful. "...To leave an untreated person wandering the streets, scrounging for food, stalking doorways for shelter — tormented all the while by hallucinations — is not an acceptable definition of freedom," noted the *Chronicle*.

And they cut to the heart of the arguments against the bill with clear precision. "It is a symptom of this nation's goodness that it protects the rights and liberties of the mentally ill," noted the *Times*. "In this noble pursuit, we have granted some genuinely helpless individuals the liberty to harm themselves, and others, in never-ending cycles."

## Make Them Hear Your Voice!

Across California, regular people made their voices heard to their legislators and in the newspapers through letters like these. Those voices made the difference for passage. Do you see similar opportunities in your state? Pick up your pen or sit down at your computer and make sure your voice is heard. Your story is important. Let people hear it.

Remember these quick tips for effective letters, whether to your legislator or your local newspaper:

- ✍ **Keep it short**
- ✍ **Stay on point, try not to ramble**
- ✍ **Write from the heart and share your personal story**
- ✍ **Sign with your real name and full address**

**TAC ON THE WEB:** For more on effective letter-writing, see the Spring 2002 issue of *Catalyst*, available on the web at <http://www.psychlaws.org/JoinUs/Catalyst.htm>.

## Nominations For the Torrey Advocacy Commendation Award Deadline January 31, 2003

The TAC (Torrey Advocacy Commendation) Award was created to reward the courage and tenacity of those who selflessly advocate - despite criticism and opposition - for the right to treatment for those who are so severely disabled by severe mental illnesses that they do not recognize that they need treatment.

**REQUIREMENTS FOR NOMINEES:** Nominees will be recognized for their continued and long-term focus on advocacy. Nominees must be strong advocates - paid or unpaid - in the field of mental illness. Nominees' advocacy must be in support of securing humane and timely treatment for individuals suffering from the most severe mental illnesses and must support assisted treatment for those who do not recognize that they are ill. Nominees should have made a substantial difference for a community, whether local or national, in terms of advocacy, awareness, research, or legislation in this field.

**HOW TO SUBMIT A NOMINATION:** Write a 500-word essay detailing why the nominee should win the award. Nominations will be accepted from anyone, but people cannot nominate themselves. Nominations cannot be anonymous and must include full name and contact information of the nominator, who must also disclose any affiliations with the nominee. The nominee does not have to consent to being nominated or be informed of the nomination. There is no entry fee. Nominations must be postmarked by January 31, 2003, and sent via regular mail to The Treatment Advocacy Center, TAC Award Nominee, 3300 North Fairfax Drive, Suite 220, Arlington, VA, 22201.

The TAC award is presented at the sole discretion of the board of the Treatment Advocacy Center, who will determine the best administrative process for making the final decision. The board or a committee of the board will review all nominations that are determined by staff to meet the criteria and will select a winner. The board has the right to choose not to grant an award or, in the case of a particularly strong group of nominees, to select two awardees.

**AWARDEES WILL BE FEATURED IN CATALYST, TAC'S QUARTERLY NEWSLETTER.**

These editorial writers brought light and understanding to an issue that is incredibly complex and fraught with misconceptions. The *Los Angeles Times* won a well-deserved Pulitzer Prize for their series of editorials on this issue. And a bigger prize went to both papers — the knowledge that their hard work will now save lives across the state. ☸



**TREATMENT ADVOCACY  
CENTER HONORARY  
ADVISORY COMMITTEE**

The Committee is composed of distinguished individuals who are devoted to improving the lives of individuals who suffer from severe mental illnesses. Each individual has made his or her own contributions to furthering that goal. We thank them for their work and for supporting our mission.

**HONORARY ADVISORY  
COMMITTEE**

**S. JAN BRAKEL, J.D.**  
VICE PRESIDENT  
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**JOHN DAVIS, M.D.**  
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**HONORABLE JIM McDERMOTT**  
HOUSE OF REPRESENTATIVES  
WASHINGTON

**HONORABLE LYNN RIVERS**  
HOUSE OF REPRESENTATIVES  
MICHIGAN

**HONORABLE TED STRICKLAND**  
HOUSE OF REPRESENTATIVES  
OHIO

**Uncivil Liberties: Far  
From Respecting Civil  
Liberties, Legal  
Obstacles to Treating  
the Mentally Ill Limit  
or Destroy the Liberty  
of the Person**

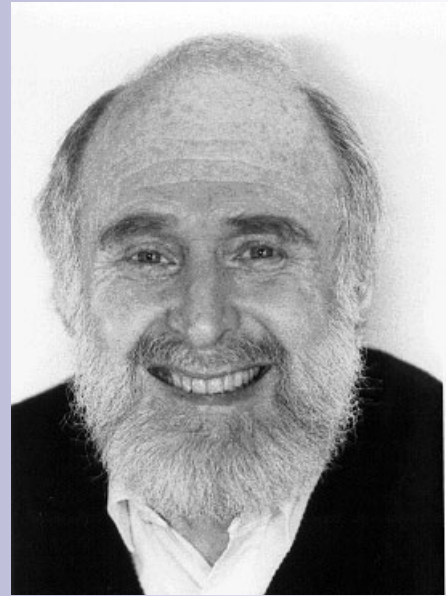
*By Herschel Hardin*

*Herschel Hardin is a Vancouver author and consultant. He was a member of the board of directors of the British Columbia Civil Liberties Association from 1965 to 1974 and has been involved in the defense of liberty and free speech through his work with Amnesty International. One of his children has schizophrenia.*

*This article was originally published almost 10 years ago in the Vancouver Sun. As with the other pieces we have published in this periodic historic series, its message today is as strong - or stronger - than when it first appeared.*

The public is growing increasingly confused by how we treat the mentally ill. More and more, the mentally ill are showing up in the streets, badly in need of help. Incidents of illness-driven violence are being reported regularly, incidents which common sense tells us could easily be avoided. And this is just the visible tip of the greater tragedy - of many more sufferers deteriorating in the shadows and often, committing suicide. People asked in perplexed astonishment: "Why don't we provide the treatment, when the need is so obvious?" Yet every such cry of anguish is met with the rejoinder that unrequested intervention is an infringement of civil liberties. This stops everything.

Civil Liberties, after all, are a fundamental part of our democratic society. The rhetoric and lobbying results in legislative obstacles to timely and adequate treatment, and the psychiatric community is cowed by the anti-treatment climate produced. Here is the Kafkaesque irony: Far from respecting civil liberties, legal obstacles to treatment limit or destroy the liberty of the person. The best example concerns schizophrenia.



*Herschel Hardin*

The most chronic and disabling of the major mental illnesses, schizophrenia involves a chemical imbalance in the brain, alleviated in most cases by medication. Symptoms can include confusion; inability to concentrate, to think abstractly, or to plan; thought disorder to the point of raving babble; delusions and hallucinations; and variations such as paranoia. Untreated, the disease is ravaging. Its victims cannot work or care for themselves. They may think they are other people — usually historical or cultural characters such as Jesus Christ or John Lennon — or otherwise lose their sense of identity. They find it hard or impossible to live with others, and they may become hostile and threatening. They can end up living in the most degraded, shocking circumstances, voiding in their own clothes, living in rooms overrun by rodents — or in the streets. They often deteriorate physically, losing weight and suffering corresponding malnutrition, rotting teeth and skin sores. They become particularly vulnerable to injury and abuse.

Tormented by voices, or in the grip of paranoia, they may commit suicide or violence upon others. Becoming suddenly threatening, or bearing a weapon because



of delusionally perceived need for self-protection, the innocent schizophrenic may be shot down by police. Depression from the illness, without adequate stability — often as the result of premature release — is also a factor in suicides. Such victims are prisoners of their illness. Their personalities are subsumed by their distorted thoughts. They cannot think for themselves and cannot exercise any meaningful liberty. The remedy is treatment — most essentially, medication. In most cases, this means involuntary treatment because people in the throes of their illness have little or no insight into their own condition. If you think you are Jesus Christ or an avenging angel, you are not likely to agree that you need to go to the hospital.

Anti-treatment advocates insist that involuntary committal should be limited to cases of imminent physical danger -- instances where a person is going to do bodily harm to himself or to somebody else. But the establishment of such "dangerousness" usually comes too late -- a psychotic break or loss of control, leading to violence, happens suddenly. And all the while, the victim suffers the ravages of the illness itself, the degradation of life, the tragic loss of individual potential. The anti-treatment advocates say: "If that's how people want to live (babbling on a street corner, in rags), or if they wish to take their own lives, they should be allowed to exercise their free will. To interfere -- with involuntary committal -- is to deny them their civil liberties." Whether or not anti-treatment advocates actually voice such

opinions, they seem content to sacrifice a few lives here and there to uphold an abstract doctrine. Their intent, if noble, has a chilly, Stalinist justification -- the odd tragedy along the way is warranted to ensure the greater good. The notion that this doctrine is misapplied escapes them. They merely deny the nature of the illness.

***"How can such degradation and death — so much inhumanity — be justified in the name of civil liberties? It cannot."***

Health Minister Elizabeth Cull appears to have fallen into the trap of this juxtaposition. She has talked about balancing the need for treatment and civil liberties, as if they were opposites. It is with such a misconceptualization that anti-treatment lobbyists promote legislation loaded with administrative and judicial obstacles to involuntary committal.

The result, inadvertently for Cull, Attorney-General Colin Gabelmann (as regards guardianship legislation) and the government, will be a certain number of illness-caused suicides every year, just as surely as if those people were lined up annually in front of a firing squad. Add to that the broader ravages of the illness, and keep in mind the manic depressives who also have a high suicide rate. A doubly ironic downstream effect: the

inappropriate use of criminal prosecution against the mentally ill, and the attendant cruelty of committal to jails and prisons rather than hospitals. B.C. Corrections once estimated that almost one third of adult offenders and close to half of the young offenders in the provincial correction system have a diagnosable mental disorder.

Clinical evidence has now indicated that allowing schizophrenia to progress to a psychotic break lowers the possible level of future recovery, and subsequent psychotic breaks lower that level further — in other words, the cost of withholding treatment is permanent damage.

Meanwhile, bureaucratic road-blocks, such as time consuming judicial hearings, are passed off under the cloak of "due process" - as if the illness were a crime with which one is being charged and hospitalization for treatment is punishment. Such cumbersome restraints ignore the existing adequate safeguards - the requirement for two independent assessments and a review panel to check against over-long stays. How can such degradation and death — so much inhumanity — be justified in the name of civil liberties? It cannot. The opposition to involuntary committal and treatment betrays profound misunderstanding of the principle of civil liberties. Medication can free victims from their illness — free them from the Bastille of their psychosis — and restore their dignity, their free will and the meaningful exercise of their liberties. <sup>ap</sup>

***"If you think you are Jesus Christ or an avenging angel, you are not likely to agree that you need to go to the hospital."***

## Treating Patients Who Lack Insight Into Their Illness

By Carl Ziegler

Probably the biggest road hazard in getting treatment for people with mental illnesses is the clinical condition anosognosia, which is lack of insight or recognition of a mental illness. When someone lacks insight into their illness, they will naturally refuse treatment since they believe they are not ill, and under certain conditions they might not be able to be helped under involuntary treatment.

Although some may claim that using lack of insight unfairly singles out mentally ill people for involuntary treatment, that same standard has already been used for years in other medical fields to treat people.

Consider these two situations, one involving a person in need of medical treatment, and the other a person in need of mental health treatment.

In one case, an elderly woman living alone is brought to the hospital because she is living in unsatisfactory conditions, which includes gangrene to both feet brought on by frostbite. The gangrene has

caused an infection, and without the amputation of both her feet she will die. The woman is intelligent, lucid, communicative and articulate, but does not believe that her feet are gangrenous, rather that they are black because of soot or dirt, and does not believe the seriousness of her infection and refuses any treatment.

In the other case, a man is involuntarily committed to a hospital. He suffers from chronic schizophrenia, is catatonic, hallucinating, delusional and withdrawn, unable to care for himself, and in the words of his psychiatrist, "was totally out of it." This man refuses any medication, which exacerbates his condition, making him confused and disoriented.

These two situations are what the courts faced in *State v. Northern* 563 S.W. 2d 197 (Tenn. App. 1978) and *In re J.S.C.* 812 S.W.2d 92 (Tex. App. 1991).

In *Northern*, Mrs. Mary Northern's doctors sought a court order to allow them to amputate her feet. In order to allow the amputation, the state had to prove that Mrs. Northern was in imminent danger of death and lacked the capacity to consent to treatment.<sup>1</sup> In *In re J.S.C.*, the patient challenged his involuntary admission,

arguing that he did not meet the standard for involuntary commitment. To meet the standard, the state had to prove that as a result of a mental illness, the patient would, if not treated, continue to suffer severe and abnormal mental, emotional, or physical distress; would continue to experience deterioration of his ability to function independently; and was unable to make a rational and informed choice as to whether or not to submit to treatment.

In *Northern*, the court ordered treatment, but in *In re J.S.C.*, the court refused to allow the patient to remain hospitalized. In both cases the patients had no insight into their illness, they refused treatment and would face deteriorating conditions without treatment. In Mrs. Northern's case, she would die; in J.S.C.'s case, he would not be able to take care of himself outside the hospital.

For the court in *Northern*, the fact that Mrs. Northern had no insight into her illness was the mitigating factor in allowing her to be treated, even though she was generally competent in all other regards. The court stated,

"respondent is an intelligent, lucid, communicative and articulate individual who does not accept the fact of the serious condition of her feet and is unwilling to discuss the seriousness of such condition or its fatal potentiality. That, because of her inability or unwillingness to recognize the actual condition of her feet which is clearly observable by her, she is incompetent to make a rational decision as to the amputation of her feet."<sup>2</sup>

Most individuals with severe mental illnesses, besides their lack of insight into their illness, appear intelligent, lucid, and articulate. Because of this, many courts, including the one in *J.S.C.*, are unwilling to order treatment for people who need it because they appear otherwise competent to make decisions. However, it is rarely a person's general competency that should be at issue, but rather whether they have anosognosia and cannot make a rational decision regarding their treatment.

Lacking insight into any type of illness can have severe consequences. For Mrs. Northern, it meant that she

### ANOSOGNOSIA

"Anosognosia" is a neurological deficit that impairs someone's insight into their disease. People with anosognosia don't believe they are sick. Studies indicate that approximately half of all those with schizophrenia and manic depression also have moderate to severe anosognosia. This condition is also commonly found in patients with other types of brain disorders such as Alzheimer's disease or stroke.

Studies show that anosognosia is the single most important factor in failure to receive treatment. A recent study by Kessler et al. included interviews with individuals with severe mental illnesses to ascertain why they were not receiving treatment. (Kessler RC et al. "The prevalence and correlates of untreated serious mental illness." *Health Services Research* 36:987-1007, 2001.) The majority—55 percent—denied that they had any problem. In comparison, stigma

and dissatisfaction with services have been found to be relatively unimportant factors in an individual's decision to seek treatment.

Poor insight is associated with:

- ✱ Poorer medical compliance;
- ✱ Poorer psychosocial functioning;
- ✱ Poorer prognosis;
- ✱ Increased relapses and hospitalizations; and
- ✱ Poorer overall treatment outcomes.

A number of recent studies have shown that the longer individuals with serious brain disorders go untreated, the more uncertain their prospects for long-term recovery become. For instance, one 2000 study from Italy stated, "the best predictor of the long-term outcome in schizophrenia appears to be the interval between the onset of schizophrenia and the initiation of the antipsychotic treatment."

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would have allowed herself to die, even though she had told her doctors that she wanted to live, but just could not accept the condition of her feet. For J.S.C., lack of insight meant he refused to take his medication, which caused him to be unstable, confused, disoriented and helpless. So while one court allowed an otherwise lucid woman's feet to be amputated because of her lack of insight into her illness, another refused to commit a helpless mentally ill man for 90 days of needed treatment.

It turns logic on its head to suppose Mrs. Northern's amputation is somehow a more justified curtailment of liberty than J.S.C.'s commitment. If a person, no matter what the condition, is suffering, and does not realize that they are, it should be our duty as a society to make sure they get the treatment they need. <sup>27</sup>

<sup>1</sup>The relevant statutory provision for protective services has since been updated to a less restrictive standard. Tennessee now allows protective services if it is

necessary to prevent imminent danger of irreparable physical or mental harm, or both, and/or the cessation of life; and the person lacks capacity to consent to protective services. TENN CODE ANN. § 71-6-107 (2001).

<sup>2</sup>*State v. Northern*, 563 S.W.2d 197, 205 (Tenn. App. 1978).

*Carl Ziegler is a student at Seton Hall University School of Law and was an intern with the Treatment Advocacy Center.*

## CONGRATULATIONS!

The Treatment Advocacy Center is pleased to announce the winners of the Student Writing Competition on Emerging Issues in Mental Illness Law sponsored by George Mason University Law School:

1st Prize: Ms. Chris Kempner, University of Hawaii, William S. Richardson School of Law, "Civil Commitment of the Severely Mentally Ill Under State Parens Patriae Power: Providing Humane Conditions of Life for Citizens Unable to Protect Themselves."

2nd Prize: Mr. Gregory Miller, Temple University School of Law, "The Constitutional Grounds of Assisted Outpatient Treatment."

TAC wants to thank all of the students who submitted papers for the competition. We are particularly grateful to the individuals who judged the papers — the Honorable James Cayce, King County (Washington) Superior Court Judge; Joan Marie Davoli, Acting Director, George Mason University Law and Psychiatry Center; and Jonathan Stanley, Assistant Director, Treatment Advocacy Center.





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