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Legal Advocacy and Addiction Recovery: An Interview with Paul Samuels

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Introduction

One of the central goals of the new recovery advocacy movement has been to change the cultural, political, legal, medical, and social environment in which people experiencing a substance use disorder could seek recovery from such problems. Achieving that goal involved a broad spectrum of strategies, but none more important than addressing areas of discrimination faced by people seeking and in recovery. No institution and no person have been more important in this effort than the Legal Action Center (LAC) and its Director and President Paul Samuels. The sustained contributions of Paul and the LAC staff to the larger recovery advocacy movement cannot be overstated. I recently (July 2016) had the opportunity to interview Paul Samuels about his life's mission and the work of the LAC. Please join us in this engaging conversation.

The Legal Action Center

Bill White: Paul, you have spent your whole career at the Legal Action Center. Could we start at the beginning with how the opportunity to work at the LAC arose?

Paul Samuels: Bill, thanks for the opportunity to talk about the work of the Legal Action Center. I have always felt very fortunate to have spent my entire legal career at LAC. You can call it serendipity—I take my wife's view that things happen for a reason. It was volunteer work during my first year of law school that led me to LAC. I worked with a law professor who, jointly with the local legal aid society, had won a lawsuit against the local jail for unconstitutionally substandard conditions. The client I spent the most time helping was diabetic but was not receiving his insulin or his special diet on a consistent basis. This was the kind of civil rights work I wanted to do when I decided to go to law school. Later my law professor connected me to Legal Action Center, where I worked first as a law student intern, and then as a staff attorney after I graduated.

Bill White: With all the areas of law that you could have explored, what drew you to advocacy related to AIDS, addiction, and criminal justice reform?

Paul Samuels: I decided to go to law school because I wanted to work on civil rights issues. I was interested in criminal justice from the beginning, both because of the many interesting and important issues it involves, including balancing the needs of public safety with the importance of protecting constitutional rights, and because of the racial injustice and discrimination so prevalent in the criminal justice system. I didn't know much about alcohol and drug addiction when I arrived at LAC, but I quickly became interested in protecting the rights and privacy of people in recovery or still suffering from what we now call substance use disorders.

Bill White: For those unfamiliar with the LAC, could you briefly describe its history and mission?

Paul Samuels: The Legal Action Center's mission is to fight discrimination against people with histories of addiction, HIV/AIDS, or criminal records, and to advocate for sound public policies in these areas. The Vera Institute of Justice established the Legal Action Center (LAC) in 1973 to break the cycle of addiction and crime and to advocate for the civil rights and privacy of people in recovery or still suffering from alcohol and drug addiction and people with criminal histories. When the HIV epidemic tore apart communities already affected by addiction and incarceration, we expanded our mission to help improve the lives of men and women trying to cope with these multiple crises.

Throughout the 1970s, LAC primarily pursued a litigation strategy, successfully challenging public and private employers for refusing to hire people in our constituencies. In the 1980s, we added civil legal services and expanded into public policy advocacy and research, opening a Washington, D.C. office in 1989. We established strong ties

with advocates; service providers; and policymakers from not just substance use but also mental health, health, labor, and justice agencies. We also began an education, training, and technical assistance program that annually trains and advises hundreds of criminal justice and health care providers and agencies.

In 2001, we created the National H.I.R.E. (Helping Individuals with criminal records Re-enter through Employment) Network. HIRE now serves as: 1) an advocate for change in public policy and employment practices; 2) a clearinghouse for information on the collateral consequences of incarceration; and 3) a convener, organizer, and adviser to local criminal justice advocates and organizations.

Over four decades, LAC's legal and policy projects have helped hundreds of thousands of men and women by expanding addiction treatment, fighting stigma and discrimination, and protecting privacy rights crucial to getting and staying in care. We have also broken down barriers that keep millions of people with criminal records from employment, housing, education, and other opportunities. Our work has helped to substantially increase alternatives to incarceration and achieve historic sentencing reforms as well as dozens of other policies that promote a public health approach to addiction, HIV/AIDS, and the criminal justice system.

Bill White: What are the core services/activities of the LAC?

Paul Samuels: To further our mission, LAC employs multiple advocacy approaches, including: state and federal policy advocacy, technical assistance, education and training, impact litigation, and direct legal services. All of those activities and services currently focus on three principal strategic priorities: 1) reforming the health care system to dramatically expand substance use, HIV/AIDS and mental health prevention, treatment, recovery, and rehabilitation, including in the criminal justice system; 2)

shifting criminal justice and drug policies from an incarceration and punishment focus to treatment and rehabilitation in order to decrease the number of people who are prosecuted and incarcerated and subjected to the collateral consequences of arrest and conviction; and 3) eliminating discrimination against our constituencies – especially in employment, education, housing, insurance, and health care – and protecting their privacy.

Each year our direct legal services program resolves over 2,500 civil legal cases for approximately 2,000 New Yorkers, helping individuals overcome employment, housing, and other forms of discrimination so they can build and re-build their lives. The different facets of our work reinforce each other. Our legal efforts, for example, keep staff abreast of the day-to-day hurdles individuals living with addiction histories, HIV, or criminal records face in trying to improve their lives. Our technical assistance and education programs open a window into the world of the service providers who spend their working days with these populations. Cumulatively, these on-the-ground efforts inform our public policy advocacy, helping us first identify, and then work to reshape the laws, regulations, and policies that keep so many Americans from living healthy and productive lives.

Bill White: How is the LAC funded and staffed?

Paul Samuels: LAC has diversified our funding over the years, so that now about a third comes from foundations and corporate support; another third from federal, state, and local government sources; and the rest from private giving and provision of training and technical assistance. I obviously am biased, but I think that LAC's passionate and dedicated staff, comprised of 28 full-time and 1 part-time employee in our New York City and Washington D.C. offices, is the best law and policy advocacy team in the business. Our staff is diverse in many respects. LAC has attorneys, other policy experts, and paralegals conducting legal and policy

advocacy, as well as administrative, finance, and fundraising staff. We come from all races. More than half are women. Many staff and board members share personal experiences with and family connections to our issues and those we serve: individuals in recovery from addiction, living with a criminal record, and living with HIV. It is critically important to us that we are grounded in our constituencies, since our role is to serve them, not to sit in an ivory tower and decide by ourselves what they need.

Bill White: You have always emphasized the importance of coalitions and partnerships in the work of the LAC. Could you describe some of the most important of those partnerships?

Paul Samuels: You are correct. We have always believed that in partnerships there is great power. A small advocacy organization like LAC could not accomplish nearly as much just working on our own. If there is a secret to LAC's success beyond our terrific staff, it is the multiple collaborations we nurture. We have helped organize coalitions, starting with the appropriations working group in Washington that brought the field's advocacy funding to a new level of unity in the 1980s, to helping found the State Associations of Addiction Services (SAAS) and now working with the National Council for Behavioral Health after its merger with SAAS. We also helped found and continue to staff the Coalition for Whole Health, which brought the substance use and mental health fields together to advocate for strong inclusion of substance use disorder and mental health in health care reform. In addition, we have formed strong partnerships with other leading substance use organizations, including recovery advocates, service providers, and state governments. We have followed the same strategy in our criminal justice advocacy, working in a number of coalitions and partnering with other leading advocacy and service organizations.

Our approach to advocacy also emphasizes close partnerships with

government officials and other policymakers. We meet regularly with the federal and state substance use agencies. I am honored to have been nominated by Governor Cuomo to chair New York State's new combined Behavioral Health Services Advisory Council. We believe we can accomplish more through all these close working relationships than we could on our own, or by taking a confrontational approach.

Bill White: What have been the most important accomplishments of the LAC in the addictions policy arena?

Paul Samuels: For more than four decades, LAC has worked to improve addiction policy for the tens of millions of individuals in need across the United States. I would list as our top achievements the following.

LAC played a leading role in establishing and protecting the first explicit civil rights for people in recovery from addiction. In the 1970s and 1980s LAC succeeded through both legislation and advocacy in ensuring that addiction is a covered disability in the federal Americans with Disabilities Act (ADA), Rehabilitation Act, and Fair Housing Act, so that people in recovery would enjoy the protections from discrimination in all those major civil rights laws. LAC then utilized the ADA to win important rulings to extend access to addiction treatment by challenging "NIMBY" (Not-In-My-Backyard) practices that make it difficult to locate new treatment programs. Our 1997 case, Innovative Health Systems v. City of White Plains, was the first federal case in the nation holding that the ADA prohibits municipalities from using zoning laws to exclude alcohol and drug treatment programs.

LAC, with other advocates, played a leadership role in winning equal insurance coverage for addiction and mental health treatment in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, and then mandated coverage of substance use and mental health treatment at parity with other illnesses in the Affordable

Care Act. Passage of these laws marked a major breakthrough for people with substance use disorders, affirming their right to services they have needed from the very beginning. The next challenge is to make sure these laws are effectively enforced.

LAC's advocacy in New York State and nationally has achieved some major victories in expanding treatment options for people in the criminal justice system. In the 1990s and 2000s, LAC was one of the leaders of the advocacy movement which won the 2009 reform of New York State's draconian Rockefeller drug laws. We helped the Brooklyn District Attorney's office create the first Drug Treatment Alternative to Prison (DTAP) program and have successfully advocated at the federal and state level for expansion of alternatives to incarceration that enable people with addictions to go to treatment instead of prison.

LAC is proud to be one of the leading experts on, and defenders of, the confidentiality and privacy rights of people in addiction treatment. Our guide to the federal alcohol and drug confidentiality rules, *Confidentiality and Communication*, is a key resource for many of the country's treatment and prevention providers. We have trained thousands of individuals on these laws and work closely on confidentiality with provider associations and the Substance Abuse and Mental Health Service Administration.

Bill White: How have these changes occurred? Is there a model or overarching strategy used by LAC to achieve such changes?

Paul Samuels: We begin by keeping our ear to the ground, working with and listening closely to our constituencies so that we know the major problems they face and the solutions they need. Then we shape our advocacy strategies to achieve those solutions. As I discussed earlier, we believe that collaboration with as many advocates, experts, and policymakers as possible is a key to success. We also believe that utilizing the full range of tools at our disposal—not just public policy advocacy but also legal

assistance, education, training, and technical assistance—is the most effective way to advocate. Each can achieve significant progress, and together they complement and reinforce each other. And then there is the need to be doggedly persistent; change never comes easily, and our cause is probably more difficult than most because too many in our country still fail to understand that addiction is a disease and that people who have this disease deserve all the services and supports that people with any other illness receive.

Bill White: One of the advocacy activities you have been involved in is offering testimony before congressional, funding, and regulatory bodies. What have you learned about such processes and what advice would you offer other recovery advocates when they have similar opportunities?

Paul Samuels: While the prevailing attitude in our country these days is that money drives most, if not all, decision-making in the political arena, we have found that marshaling strong arguments supported by evidence can often have a real impact. I am not naïve; I know that money does have a lot of influence, but so do strong and righteous arguments for needed reforms. One of our major goals at LAC is to become a source of accurate and timely information for policymakers. Many of them, from elected officials to career staff, want to do the right thing but need expert assistance and information to help them decide what that is. Most policymakers are generalists; we advocates are the specialists who can provide the critical information necessary to push needed reforms forward. So I advise recovery advocates to provide useful information—including being honest about weaknesses or political vulnerabilities in our own arguments—and build strong relationships with people who have the power to help our cause.

Discrimination and Addiction Recovery

Bill White: Historically, what are some of the more important areas in which people in addiction recovery face discriminatory barriers?

Paul Samuels: Through the years LAC has received the most complaints from people in recovery about insurance and employment discrimination. Those individuals in recovery who picked up a criminal history while addicted face a number of additional significant barriers – many dating from the 1990s War on Drugs which, as far as I'm concerned, really became a war on drug users. Those discriminatory barriers span many of life's necessities: employment, housing, education, public benefits including food support, voting, drivers' licenses, etc.

Barriers to care include the grossly disparate coverage provided by commercial insurers, Medicaid and Medicare, for addiction prevention, treatment, and recovery supports. These disparities can be seen not only in easily-spotted treatment limitations, such as visit limits or disproportionate out-of-pocket costs, but also in medical management (“non-quantitative treatment limitations”, or NQTLs) such as provisions that individuals “fail first” at less intensive levels of care before being provided the services or medications they needed all along.

Barriers to employment, housing, education, public benefits, voting etc. also continue to be a problem for people in recovery with a criminal record. The American Bar Association has catalogued over 40,000 legal barriers for individuals with criminal records; some of the harshest are focused on people with drug-related convictions. These include: the inability to obtain or return to public housing, denial of voting rights and access to public benefits such as food stamps, and impediments to education and employment. Together, these obstacles make it even more difficult for individuals to attain or maintain recovery.

Bill White: What progress has been made to date in addressing these barriers?

Paul Samuels: The passage of the Wellstone Domenici Mental Health Parity and Addiction Equity Act and the Affordable Care Act's strong mandated coverage of addiction treatment at parity were enormous victories that provide the best opportunity in our nation's history to greatly expand the number of people who receive life-saving addiction care. But we are far from finished, with much parity enforcement work remaining. We have also made significant progress in rolling back discriminatory barriers based on criminal histories, though we still have a long way to go. In recent years, the United States Attorney General's Reentry Task Force achieved major successes in reducing some employment, education, and housing barriers, among others. Two-thirds of the states have now opted out completely or modified the federal lifetime ban on food stamps for people with certain drug convictions. Many states and localities have adopted laws to "ban the box" so that employers cannot ask about criminal histories until they have made clear they want to hire the applicant. They have also passed laws to seal arrests that did not lead to conviction.

Bill White: People in medication-assisted treatment and recovery face particular forms of stigma and discrimination—even within the addiction treatment community. What progress are we making, if any, in reducing such recovery barriers?

Paul Samuels: We have come a long way in reducing discrimination against people in medication-assisted treatment and recovery, yet we still have a long way to go. One of LAC's first litigation and policy campaigns succeeded in establishing that people in MAT cannot be denied employment unless their addiction history would prevent them from doing that job. Faces and Voices of Recovery and other recovery advocacy organizations have made great progress in

educating many people inside our field, as well as outside, that there are many paths to recovery and that MAT is one of them. But a lot of discrimination and prejudice against people in MAT remains. There are still many people who cannot obtain MAT despite its proven efficacy and clinicians' determination that MAT is the right treatment for them. We also are very disturbed by the large number of criminal justice and child welfare professionals who are irrationally biased against MAT and will not allow people who need it to receive it.

Bill White: What do you see as the most important next steps in removing these barriers?

Paul Samuels: Education and advocacy, carrot and stick. Education for health care professionals—including in our own field—as well as those in other systems, such as criminal justice and child welfare, that MAT is an evidence-based practice and that people who need it have both a legal and a moral right to receive it. Advocacy to require that people who need MAT can receive it. The federal government recently took a huge step forward by prohibiting federally-funded drug courts from banning MAT across the board. This enormously important reform should be a model for the country.

Bill White: How can people in recovery and local recovery advocacy organizations help in this process?

Paul Samuels: I strongly believe that in every movement, including ours, people directly affected—individuals and families—are the most important advocates. The personal experiences and depth of understanding of people in recovery and their loved ones empower them to explain and persuade more effectively than anyone else. People in recovery are the ones facing discriminatory barriers, so their personal stories about the hardships and damage caused by those barriers are critical to knocking them down. As a result, while LAC and other advocates can play important

roles in advocacy to eliminate discriminatory barriers and advance civil rights, people in recovery and local recovery advocacy organizations need to be in the vanguard, leading the way.

State of the Recovery Advocacy Movement

Bill White: You played an important role in the early rise of the new recovery advocacy movement in the U.S. What recollections do you have about the Alliance Project, the St. Paul Recovery Summit, and the creation of Faces and Voices of Recovery?

Paul Samuels: It was a very exciting time and an important watershed in our field's history. The Johnson Institute brought the field together to discuss how we could be more collaborative. I chaired a committee to discuss how we could become more unified and effective in our legislative and public policy advocacy. Johnny Allen was a member of that committee and famously told us all that our field's modus operandi to that point was the circular firing squad—circling our wagons and firing inward—and that it was time to work together. The Committee unanimously agreed that we should form a campaign that anyone in the field could join to advocate for better substance use public policies. We couldn't come up with a name, so we decided to call ourselves simply "The Alliance," since we were aligning everyone (plus several of us were Star Wars fans and "The Alliance" symbolized the good guys fighting the evil Empire).

Under the leadership of Jeff Blodgett, the Alliance worked very effectively. The St. Paul Recovery Summit was a huge success and inspirational for all of us who attended. The memory of seeing recovery advocates come together from all over the country to lay plans for creating a strong movement still brings chills of excitement down my spine. Two of our greatest champions, Jim Ramstad and Senator Paul Wellstone—whom we miss so very, very much and who later was the House lead and co-sponsor with Patrick Kennedy of the landmark Mental

Health Parity and Addiction Equity Act—both inspired and challenged the convening. The creation of Faces and Voice of Recovery was so exciting. It was not just a much better name than the Alliance; more importantly, it was structured as an organization of the recovery community, by the recovery community and for the recovery community.

Bill White: What do you think have been the most important achievements of this movement to date?

Paul Samuels: The recovery community has made a significant contribution to changing our nation's view of, and conversation about, addiction and recovery. The messaging Faces and Voices developed to educate the country about the reality of long-term recovery and its multiple benefits to individuals, families, and all of society has been enormously beneficial. The recovery community's advocacy has borne fruit at the federal level—most notably with the creation and funding of recovery support communities—and at the state and local levels. Huge marches for recovery across the country, Facing Addiction's well attended rally and concert on the iconic site of the Capital Mall, and meetings large and small in so many of our nation's communities have all contributed mightily to greater understanding that addiction is a disease that can be prevented and treated successfully and that recovery is possible and real.

Bill White: How would you characterize the current state of the recovery advocacy movement in the U.S.?

Paul Samuels: The energy, passion, and commitment of tens of thousands of recovery advocates across the country are truly inspiring. Huge numbers of people turn out, and when they do, people in power listen. The messages the recovery movement has developed, informed by first class public opinion research, are right on target. The building blocks are all there for major success.

Bill White: What do you think are the most important challenges and opportunities facing this movement?

Paul Samuels: The biggest challenge in our field has always been obtaining the size and magnitude of resources necessary to adequately address a disease which currently afflicts 23 million Americans. It still is. It is a nut we need to figure out how to crack. The time has never been better, and the opportunities never greater, because of the work that has already been done plus the much greater attention that the horrible heroin/opioid epidemic sweeping the country has attracted.

Career-to-Date Reflections

Bill White: As you look back on your 25+ year involvement with LAC, what would you say have been your biggest challenges?

Paul Samuels: Battling the prejudice and discrimination against everyone related to the disease of addiction: the people who are in recovery or still suffering from it, their families and even their service providers. Battling the ignorance about everything related to the disease of addiction, including even that it is a disease. Winning the attention and support of people in power to adopt the reforms our nation needs to combat addiction much more effectively, and of people to support our cause with however much money and time they can afford.

Bill White: What are the greatest rewards you have experienced from this work?

Paul Samuels: Every day I am blessed with the opportunity to get up in the morning and go to work with the most amazing people in the world, both at LAC and in our wonderful field. Working closely with terrific people all over the country who are so energized and dedicated to making the world a better place for individuals and families who have achieved recovery or are still working toward it is both an honor and a pleasure. Every step

forward we are able to make in improving our nation's laws, policies, and practices toward addiction is so rewarding because there are so many people to help.

Bill White: Do you have a bucket list of things you hope to achieve before your work at LAC is completed?

Paul Samuels: Help move our country to the point where—utilizing the tools in major legislation like the ACA and parity law, as well as additional resources from all levels of government and commercial insurance—many millions more Americans receive the addiction treatment they need.

Eliminate the remaining discriminatory barriers facing people with criminal histories so that most people with criminal histories can have the opportunities they need to lead productive and satisfying lives. Transform the criminal justice system from its current primary focus on punishment and incarceration to a primary focus on treatment and recovery, with everyone enrolled in public or private insurance and diverted to the care they need.

Bill White: What guidance would you offer other lawyers and paralegals considering this special niche of advocacy work?

Paul Samuels: Go for it!! The work is not easy, and winning is very hard, but the journey can't be beaten. You will get to do cutting edge and fascinating work that will benefit huge numbers of your fellow Americans, while meeting some of the best people anywhere on the planet.

Bill White: Paul, thank you for your willingness to share your experience and your ideas with us. And thank you for all you and LAC have done for people seeking and in recovery.

Paul Samuels: Thank you, Bill, for this opportunity, and even more for your wisdom and leadership. You are not only a leader of the recovery advocacy movement, you are

an inspiration to all of us who work on this cause.

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