

Protecting and Treating those Destabilized by Mental Illness: Beyond the Asylum and the Jail

A Symposium Offered by UC Berkeley School of Law and the Berkeley Center for
Criminal Justice, UCLA Semel Institute,
The Commonwealth Club of California, and The San Francisco Foundation

Berkeley and Los Angeles, May 27, 2008
www.MentalHealthLawSymposium.com

Four decades after the enactment of the Lanterman-Petris-Short Act (LPS) the goal of restoring lives and preventing unnecessary incarceration of those with mental illness remains incomplete. How do we move forward?

Please join us for a one-day Symposium on Emerging Pathways of Legal and Clinical Innovation video-conferenced between *the UC Berkeley School of Law, and the Semel Institute for Neuroscience and Human Behavior at UCLA. May 27, 2008.*

Introduction

Forty years ago, in 1967, the California legislature enacted the sweeping Lanterman-Petris-Short (LPS) law designed to revolutionize the objectives, means, and procedures through which the state (and private actors using its authority) can intervene to treat those destabilized by serious mental illness. The law, which bears the names of its leading legislative sponsors, came into effect in 1969 and largely became the template on which most other states transformed their approach. Its most visible achievement would be the massive shrinkage of state hospitalization of people with mental illness, but the changes it inspired in the criminal and civil governance of those with severe mental illness extended far beyond deinstitutionalization.

In the spring of 2008, four decades after that pivotal moment, we will gather a group of legal and clinical experts, some academics, some in practice, most who have devoted considerable effort to studying or reforming practice in California, including at Berkeley and UCLA, to discuss the legal and clinical innovations taking place today around interventions for those with severe mental illness and to assess what opportunities seem to be emerging to renew and reinvigorate the governance framework established by LPS.

Our goal is not to outline or debate a path forward, but rather to stimulate the kind of re-imagining of the possibilities for both treating and protecting the rights of those destabilized by mental illness that renewal and reinvigoration of LPS will require. In one fully packed day we aspire to document and begin to digest the recent record of innovation and insight from the practice field that could provide the intellectual and practical resources for that renewal. First among those is a strikingly broad consensus that those destabilized by severe mental illness too often find themselves in the worst possible legal and medical situation, subject to coercive state power in the form either of jail or prison sentences with none of the normative obligation to treat or the clinical

expertise to assess that the old custodial system provided.

The California lawmakers who enacted LPS outlined goals to change the way government administered, protected, and provided services to people with mental illness that would win broad support. The law was designed to “end the inappropriate, indefinite, and involuntary commitment of mentally disordered persons,” “protect public safety,” and “protect mentally disordered persons and developmentally disabled persons from criminal acts.”

Great moments of policy reframing inevitably produce a collective memory of what problems required the reform. These memories can harden into myths that block re-evaluation and further reform. LPS was enacted against abusive legal and clinical realities, including a broken state public hospital system, and broad judicial discretion to confine people in mental hospitals with little clinical guidance or legal protection. This background has changed radically from that time in ways both expected and unexpected. The shrinkage of the population committed to public hospitals was anticipated, but the dramatic increase in those destabilized by mental illness among the chronically homeless and in jails and prisons was an unanticipated result of the reform.

Virtually nobody anticipated in 1969 that most of the innovative efforts to integrate clinical and legal expertise under flexible and individualized judicial authority would take place inside the criminal justice process. Ironically, just as LPS was limiting the power of judges as mental health decision makers, the transformation of our nation’s courts and the legal culture toward individual rights was already under way. Furthermore, LPS itself helped crystallize strong legal advocacy movements. Among these was the development of the civil rights bar, including advocates for persons with mental illness and their families. It also often barred family members of those suffering from mentally ill from the process and at times has served as a barrier to treatment for the mentally ill. Recognizing these unintended results, invisible within the LPS framework, provides leverage for realizing new, better informed ways of ensuring protection and treatment for persons destabilized by severe mental illness at times when they lack the insight to protect themselves or others from harm.

The symposium will be digitally recorded and made available on a website for video streaming and podcasting. Publicity for the website’s online content will increase access of the proceedings to a much broader audience of stakeholders, in hopes that this symposium will stimulate discussions of what kinds of renewal and reinvigoration efforts can most effectively leverage emerging forms of innovation, both legal and clinical, to better protect and serve people with mental illness.

Logistics: Four virtual panels with participants located at UC Berkeley (Wheeler Auditorium at Boalt Hall) or at UCLA (LJ West Auditorium at the UCLA Semel Institute) will be linked by videoconferencing facilities, and recorded for web streaming. Lunch will be provided participants at each site.

SYMPOSIUM AGENDA

Introduction and Welcome: Fred J. Martin, Jr., Visiting Scholar, Institute of Governmental Studies, UC Berkeley. (9:00 AM)

Panel 1: Rethinking the Governance of Protections for those with Severe Mental Illness: Why Now?

Has the criminalization of the chronically mentally ill affected the goals of LPS and similar legislation elsewhere?

(9:15 AM - 10:40 AM)

Dr. Peter Whybrow, Judson Braun Distinguished Professor and Executive Chair, Department of Psychiatry and Biobehavioral Sciences, and Physician-in-Chief of the Resnick Neuropsychiatric Hospital and Director of the Semel Institute for Neuroscience and Human Behavior at UCLA. Dr. Whybrow will describe serious mental illnesses and current interventions and treatment options.

Dr. Robert Paul Liberman, M.D., Distinguished Professor of Psychiatry Emeritus, UCLA Department of Psychiatry and Biobehavioral Sciences and Director UCLA Psychiatric Rehabilitation Program.

Pete Earley, author, “Crazy, A Father’s Search Through America’s Mental Health Madness,” a Pulitzer Prize finalist for general nonfiction in 2007.

Panel 2: Emerging Best Practices Inside Criminal Justice (10:40 AM - 12:00 PM)

What have been the consequences of criminalization of the mentally ill and how has this led to practice innovations?

Moderator: Jonathan Simon, J.D., PhD, Associate Dean, Jurisprudence and Social Policy Program, and Professor of Law; Faculty Co-Chair, Berkeley Center for Criminal Justice, University of California, Berkeley, Boalt Hall School of Law. His scholarship concerns the role of criminal justice and punishment in modern societies. He will address the governance of persons with mental illness within the criminal justice system, and in jails and prisons.

- Ursuala Castellano, PhD, Ohio State University
- The Honorable Stephen Manley, Mental Health Court, Santa Clara County
- The Honorable Mary Morgan, Behavioral Health Court, City and County of San Francisco.
- Dr. Robert Okin, Professor of Clinical Psychiatry, University of California, San Francisco; recently retired as Chief of Psychiatry, San Francisco General Hospital.

Lunch (served on premises 12:00 – 1:00 PM)

Keynote Address (1:00 - 2:00 PM)

Introduction: Jonathan Simon

Dr. Paul Applebaum, Elizabeth Dollard Professor of Psychiatry, Medicine and Law, Columbia University School of Medicine, New York City.

Panel 3: Obstacles to Innovation in the Civil Justice System (2:00-3:30 PM)

What are the obstacles to ensuring care and treatment and the imperatives for changing current practices. What available models best build effective clinical collaboration with civil judges?

Moderator, Dr. James Spar, Professor of Clinical Psychiatry, Department of Psychiatry and Biobehavioral Sciences, David Geffen School of Medicine at UCLA.

- Dr. Mace Beckson, Director of Psychiatric Care Unit, Los Angeles County.
- Dr. Rod Shaner, Los Angeles County, Department of Mental Health.
- Dr. Bob Weinstock, Professor, Department of Psychiatry and Biobehavioral Sciences, Department of Psychiatry, UCLA.
- Judge Harold E. Shabo, retired Supervising Judge of the Mental Health Departments of the Superior Court of Los Angeles

Panel 4: Going Beyond LPS: Envisioning A New Health Centered Paradigm (3:30 - 5:00 PM)

Creating a new system to prevent the criminalization of those destabilized by mental illness.

Moderator: John Diaz, Editorial Page Editor of the *San Francisco Chronicle*

- Carla Jacobs, founding and current Board Member of Treatment Advocacy Center, Volunteer Executive Director of Planned Life Assistance Network, former Board Member of National Alliance for the Mentally Ill.
- Stephen Rosenbaum, J.D., M.P.P., Staff Attorney, Protection & Advocacy, Inc. (soon to be renamed Disability Rights California); Lecturer, UC Berkeley, School of Law and Stanford University Law School.
- Kiyomi Burchill, Legislative Aide, Office of State Senator Darrell Steinberg
- Richard Vagnozzi, Deputy District Attorney, County of Los Angeles

Continuing Education Accreditation



Category I Continuing Medical Education (CME)

The Semel Institute at UCLA is accredited by the Institute of Medical Quality and the California Medical Association to provide continuing medical education for physicians. The Semel Institute at UCLA takes responsibility for the content, quality, and scientific integrity of this CME activity.

**SEMEL
INSTITUTE**
UCLA



The Semel Institute at UCLA designates this educational activity for a maximum of 7 hours of Category I credit toward the California Medical Association's Certification in Continuing Medical Education and the AMA's Physician Recognition Award. Each physician should claim only those hours of credit that he/she actually spent in the educational activity. This credit may also be applied to the CMA Certification in Continuing Medical Education.

Mandatory Continuing Education for Psychologists (MCEP)

Due to regulatory changes made by MCEP, psychologists may now receive CME certificates for their continuing education credit.

Social Workers and MFCCs/MFTs

The Semel Institute at UCLA is an accredited provider for continuing education credits for LCSWs and MFCCs/MFTs (provider number PCE378). This course meets the qualifications for 7 hours of continuing education credit as required by the California Board of Behavioral Sciences.

MCLE Credit



Boalt Hall School of Law, University of California, Berkeley is a State Bar of California approved MCLE provider (provider number 2442) and has approved this program for 7 hours of MCLE credit.

We wish to acknowledge the generous financial and logistic support of this program by

*UC Berkeley Boalt Hall School of Law
Semel Institute for Neuroscience and Human Behavior at UCLA
The Commonwealth Club of California
UC Berkeley Institute of Governmental Studies
The San Francisco Foundation*

Planning Committee

Chair Fred J. Martin, Jr.
 Visiting Scholar
 Institute of Governmental Studies
 University of California, Berkeley

The San Francisco Foundation
Carol Lamont
Program Officer, Community Development

The Commonwealth Club of California
Gloria C. Duffy, Ph.D., M.Phil., M.A.
President and CEO

University of California, Berkeley
Jonathan Simon, J.D., Ph.D.
Associate Dean, Jurisprudence and Social Policy Program, and Professor
Boalt Hall School of Law

Stephen A. Rosenbaum, J.D.
Lecturer, Boalt Hall School of Law and Stanford University Law School
Staff Attorney, Disability Rights California

University of California, San Francisco
Robert L. Okin, M.D.
Professor of Clinical Psychiatry
Former Chief of Psychiatry, San Francisco General Hospital

University of California, Los Angeles
Ian A. Cook, M.D.
Associate Director, Semel Institute Office of Professional & Community Education
Associate Professor-in-Residence of Psychiatry & Biobehavioral Sciences

James E. Spar, M.D.
Professor of Clinical Psychiatry

The Planning Committee gives its sincere thanks for their tireless efforts to Ms. Gloria Bruce of the San Francisco Foundation and Ms. Lisa Weber of the UCLA Semel Institute.