

The Great Disappearin' Machine

Case Study One: Retarded and Dangerous



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“California has no fewer than nine involuntary commitment procedures that may apply to persons who have various mental problems and who pose a threat to their own welfare or to the safety of others. Some of these laws, including [Welfare and Institutions Code §] 6500, operate in a manner largely independent from the criminal justice system.”

– California Supreme Court Justice J. Baxter, *People v. Barrett*, 54 Cal. 4th 1081, 30 July 2012

If you have ever wondered what happens to people once they enter the system under an involuntary civil commitment, you might consider watching *One Flew Over the Cuckoo’s Nest* as a documentary – it’s far less fiction than it appears at first glance.

The differences between prisons and lockdown psych wards (now termed ‘forensic hospitals’ in the ever-shifting sands of mealy-mouthed obfuscation) are nominal. Having personally spent time in both, I can attest that prison is far less terrifying. And fewer people die there.

A common misconception, one even I held until I really started beating the bushes, is that you have to be stark raving mad in order to end up in a place where psychiatrists are elevated to godhood and nurses are permitted to forcibly inject ‘patients’ with powerful psychotropic drugs or strap them to a table in five-point restraints – imagine a straightjacket, but for your legs as well as your arms. The fifth ‘point’ is your head, by the way.

Yet being crazy really has nothing to do with ending up in a psych ward – after all, prisons are full of people who are stark raving mad, too. The people who populate forensic hospitals, by and large, are more often simply *inconvenient*.

Let’s talk about Christine Barrett. You don’t know who she is; that’s OK, nobody else does either. But since you and I still retain the vestiges of our humanity we are allowed to care about people we don’t

know, and the way the system so neatly erases them from existence can illuminate our understanding of the machine from which we are all struggling to break free.

“Christine Barrett is an adult who has long been diagnosed with mental retardation and other mental disorders, and who has lived in the community while being supported and supervised by others. Because of her increasingly violent behaviors, Barrett became the subject of this proceeding to civilly commit her as a mentally retarded person who is a danger to herself or others.”

– Justice J. Baxter

The proceeding in question was a petition for civil commitment under California Welfare and Institutions Code § 6500, a state law which permits ‘the involuntary institutionalization of adults with developmental disabilities deemed to be “mentally retarded and dangerous”.’

I am aware that it is offensive to call people ‘retarded,’ however this is the language in use by the California Code of Regulations and the California Supreme Court at the time this case was decided – 30 July 2012 – so I’m rolling with it. Literally everything about the way this went down offends me and the words are the least of it.

I stumbled onto Christine’s case while doing research for the Beyond the Ninth Wave journalism project, seeking subjects to interview about their experiences in prison or in forensic hospitals. Most people in psych wards are either convicts, or those who have been found not guilty by reason of insanity of some crime, or people who have served their time but have been deemed too much of a risk to let go – outrageous stories for other days. I had never heard of Welfare and Institutions Code § 6500.

Discovering that somebody could be locked up even if they didn’t commit a crime, especially a person who was developmentally disabled

Are you still dangerous? Being that you are in a state treatment facility, that’s implied.

Check.

See you next year. And the next. And the next.

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POSTSCRIPT:

Christine Barrett was involuntarily committed to the California Department of Developmental Services on 8 April 2009 for a period of one year. As of 30 July 2012 her appeals were exhausted and she was still enmeshed within the system, being recommitted year after year. Unlike a state convict, there is no public information regarding DDS ‘clients’ or even the facilities in which they are located. She has, for all intents and purposes, been disappeared.

I managed to track Christine to a place called California Psychiatric Transitions in Delhi, CA but so far as I know she is no longer there – mail addressed to her there comes back ‘return to sender,’ at any rate. California Psychiatric Transitions is a ‘private, secure psychiatric treatment facility contracted to provide services for the State of California’ – one of countless black sites sprinkled across the Golden State where *inconvenient* folks like Christine can be buried.

Judging by the allegations in the lawsuits against California Psychiatric Transitions that I’ve read, I’d prefer taking my chances with Jack in the Cuckoo’s Nest.

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your bones then you’ve never had the opportunity to experience just how little help these bastions of apathy are capable of rendering. Virtually everyone sitting in prison or involuntarily committed to a forensic hospital had a public defender, if that might serve to clarify the dangers of this prospect.

The other clever – diabolical – maneuver the system pulled in Christine’s case concerned the actual requirements of § 6500:

‘No mentally retarded person may be committed to the California Department of Developmental Services unless he or she is a danger to themselves or others. . . . for mentally retarded persons under the treatment of a state hospital or other facility when the petition is filed, *proof of a recent overt act is not needed to find them to be a danger to themselves or others.*’

Meaning: the mere fact of having been placed under the care of a facility imputes dangerousness. Just by filing the petition, the Regional Center’s coordinator ensured Christine would be locked up in her ‘interim placement,’ which then served as a basis to prove she was dangerous, thus sealing her fate with a tidy circle of self-serving logic.

Finally, the petition asserts that it only commits the unfortunate target for a period of one year. One might ask why not ride it out? Do your time, as it were, even if it is manifestly unjust. One year is not a life sentence.

Oh, except it is, sucker. The law further provides: ‘an order of commitment expires automatically one year after it is made. Subsequent commitment for additional periods may be sought for persons who remain mentally retarded and dangerous. Recommitment procedures are the same as with the initial petition.’

Are you still retarded? Check. (And even if you say you aren’t, we’ll have to ask your lawyer.)

and therefore not in their ‘right mind,’ rang an alarm bell. When I realized this as a California Supreme Court ruling which set a precedent that could be applied to any future unfortunates who found themselves in similar dire straits, I smelled an uncommon stink. The more I dug into the scant details concerning the fate of Ms. Barrett, the more that stink grew downright sulfurous.

Christine has been virtually obliterated from existence, so the only narrative concerning her experiences comes from the official court record. One-sided as it mostly is, we can glean a lot by reading in between the lines.

Christine lived at home with her parents until 2001, when ‘because of physical assaults, verbal abuse, and noncompliance with her treatment plan’ she was placed in a group home [at age 18.] She remained there for five years, but she ‘repeatedly left the premises without proper notice or supervision, disrupting the community by “threatening people,” and acting in “inappropriate” and “self-destructive” ways.’ The same problems occurred inside the group home, ‘often triggering emergency response and psychiatric hospitalizations.’

Setting aside a few obvious red flags – a teenager’s ‘noncompliance’ with her ‘treatment plan,’ a psychobabblese way to say she didn’t take the pills they told her to and did things they’d forbidden her to do, for instance – we are already talking about a person whose young life has been overrun by meddlers and who is obviously struggling. Whatever her parents, doctors, caregivers, or others did right, wrong, did that they shouldn’t, didn’t do that they should, is immaterial because as soon as she’s of age Christine was removed from the only home she’s ever known and dumped in a halfway house with a bunch of strangers.

It’s hardly shocking that a teenager would want to do anything but remain locked up all day, but the vague language still leaves open the possibility that her behavior was, in fact, truly dangerous. We’ll need to run it all through a translator to shear away the bullshit:

‘Emergency response and psychiatric hospitalizations’ is just a fancy

way to say someone didn't like how she was behaving so they called the cops, wrestled her down, and took her to a psych ward for a shot of Thorazine in the ass and some time in isolation. None of that is conducive to promoting positive mental health outcomes, evidenced by the fact that it kept right on happening.

At some point the group home decided it could no longer deal with her – Christine had become *inconvenient*, so in 2006 she was moved into a condo owned by her parents 'with support staff [from the San Andreas Regional Center, the same "community-based nonprofit agency funded and regulated by the State of California to serve developmentally disabled people" that ran the group home] so she could live independently.'

Well, it didn't work out.

In January of 2009 the coordinator of the Regional Center, Betty Crane, requested that the Santa Clara district attorney file a petition 'on behalf of the People' to civilly commit Christine under Welfare and Institutions Code § 6500. Meaning: the person ultimately charged with her care, maintenance, and support, the person paid by the state to take care of her, contacted the top prosecutor in the county and requested they lock Christine up in a forensic hospital against her will.

Inconvenient.

The district attorney filed the petition, the same as an indictment would be filed against a criminal. The petition alleged that Christine was 'a mentally retarded adult who lived in a private residence with staff assistance,' and that she was a danger to herself or others. On this basis alone the court was asked to hold an evidentiary hearing and to commit Christine to the custody of the California State Department of Developmental Services [DDS] for a period of one year.

The evidence the petition relied upon was 'assessments, evaluations, reports, and other documents' provided by the Regional Center and

placement and treatment options over the long term.' The court imagined that in the intervening three months either the Regional Center or the Department of Developmental Services secure treatment facility would conduct a full evaluation of her psychiatric history and prepare a plan to help her cope with the issues which had necessitated her commitment in the first place.

None of that happened. No record exists of any July 2009 hearing or any other trial proceeding after 8 April. However, she did appeal her commitment order on the grounds that the trial court violated her rights of due process and equal protection under the law when they failed to advise her that she had the right to a trial by jury (rather than to have the matter decided by just a judge), and that they failed to obtain her consent to waive that right.

The appellate court denied her appeal, and the California Supreme Court upheld that denial with an astounding demonstration of just how thoroughly an *inconvenient* person like Christine Barrett can be screwed by the system:

The California Supreme Court concluded that 'such people [the subjects of a hearing to determine whether they are mentally retarded and dangerous under § 6500] are not in a position to personally assert or waive the right to a jury trial, to sufficiently comprehend the jury trial advisement, or to override the views of counsel on the subject. Sole control over such tactical and procedural decisions rests with counsel, whether or not the client has been consulted or objects.'

In other words, someone even alleged to be mentally retarded and dangerous does not even need to be advised of their rights, let alone be permitted to assert them. In really other words, merely being accused of being retarded makes you so retarded you couldn't even assert your rights, so don't bother even telling you what they are or asking for your input.

No, leave it all to the court appointed public defender to be the sole custodian of that person's fate. If such a notion doesn't put a chill in

mention of anything Christine did genuinely harming anyone or herself – ‘scratches’ and ‘assaults’ resulting from her thrashing about when staff tries to restrain her aside.

Dr. Thomas nevertheless recommended Christine be committed to ‘a particular secure treatment facility’ – serendipitously enough, the same one in which she was already being held for her ‘interim placement.’ Then the prosecution rested.

Christine’s counsel called only one witness to testify on her behalf and refute all the allegations Dr. Thomas made: Christine herself. In response to her public defender’s questioning, she testified that she didn’t like her current placement because she couldn’t go on outings, but the people were nice and the food was good, she liked her medication because it calmed her, and she denied being mentally disordered.

Perry Mason declined to call Christine’s parents or other family, any of her current or former doctors or nurses, anyone who had ever been even peripherally involved in the care she’d been receiving her entire life, or even anyone who had ever known her. Instead he simply asked if she liked the food, then rested his case. *Bravo*.

The trial court found that Christine was ‘mentally retarded and dangerous under § 6500, and that the danger she posed to herself or others was based on, and caused by, her mental retardation.’ Thus she was committed to the DDS for one year beginning that day – 8 April 2009.

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Then Christine Barret entered California’s Great Disappearin’ Machine.

A follow up hearing was scheduled for July 2009 to ‘review the complex nature of [Christine’s] diagnosed disorders and ensure the best

DDS, which were filed in the form of a confidential exhibit. In other words, the people who had control of her life worked with the state department in charge of their funding in order to transfer her from one agency to the other by giving a bunch of their internal documents to the prosecutor facilitating the transfer. Then they all claimed the documents were her private medical records so on one else would be allowed to scrutinize what they’d written about her.

Most of what we know about Christine comes from the doctor’s testimony: she was 27 years old at the time [2009], and her IQ was in the 40s or 50s, what Dr. Thomas classified as ‘moderate retardation.’ Based on school records and psych reports ‘from her early life, before she became a client of the [Regional] Center in 2001,’ she had been diagnosed with various other mental disorders over the years, including ‘autism, bipolar disorder, schizophrenia, and schizoaffective disorder.’

None of these reports were put on record, nor were the clinicians who threw such a wide variety of spaghetti strands at the wall of Christine’s childhood self brought in to testify. Christine’s counsel, appointed by the state because her parents apparently didn’t find it worth the trouble to hire one for her, voiced no objections and allowed the prosecutor’s axeman to weave his narrative unopposed.

Dr. Thomas continued, opining that ‘because of the cognitive deficits associated with mental retardation, [Christine] has serious difficulty controlling her behavior and is a “danger to herself or others.”’ That danger rested on two main factors, he claimed, the ‘incapacity to understand the complexity of her disorder,’ and ‘volatile and violent history as set forth in “incident reports” compiled by the Regional Center.’

The same Regional Center he worked for. The same Regional Center the coordinator who initiated the commitment proceedings worked for. The same Regional Center which prepared the documents from which he cited his evidence. The same Regional Center which had been solely responsible for Christine’s welfare and supervision for at this point nine years, her entire adult life.

Yet still her public defender challenged nothing and raised no concerns of conflicts of interest, allowing hearsay and speculation to be transmuted into truth. If it were a boxing match, that's what's known as taking a dive.

From Dr. Thomas's testimony we can at least catch a glimpse of what Christine's 'dangerous, violent, volatile' behavior consisted of. He cited Regional Center reports documenting 30 'incidents' during the 18 months she lived at her parents' condo, and characterized a typical 'incident' as a time when Christine 'grew agitated about personal matters and responded by assault, property damage, or self abuse.'

For example: '[Christine] was once obsessing about her hair color, then became upset when she found out her mother was coming for a visit. She broke a chair and other furnishings, and was restrained by staff when she showed aggression towards her mother. [Christine] locked herself in the bathroom but became docile when the police arrived and took her for a psychiatric evaluation.'

The horror! I wonder who was more traumatized, the mother who got yelled at by the daughter she knows is unwell, or the girl being gaffled up by the police and hauled off to the psych ward – again – when she has had a lifetime of psychological intervention. What more possible 'evaluation' need be performed? And why the police, when she already has Regional Center staff restraining her? But her lawyer asked no such question, nor did anyone else.

Dr. Thomas further testified that 'the furnishings and pictures and all kinds of things had to be removed from her apartment just to keep her safe.' Such a stark, sterile environment brings to mind the image of a barren prison cell, one she could neither be alone within nor leave unsupervised. Yet this was all done so she might 'live independently' – like a dog chained up in a backyard.

Later that same month: '[Christine] was crying in her bedroom when she suddenly emerged and punched holes in the walls. She threw a glass bowl at a window, breaking the window on the second try.'

Is this really 'dangerous' behavior? It's not like she's driving drunk down the street or waving a gun around. This is the equivalent of a temper tantrum by a distressed individual who has never been free, nor been taught any coping skills whatsoever. And 30 such 'incidents' in 18 months equates to about one bad day every couple weeks – that's few enough to be inconsequential in the aggregate.

Absent from the testimony of Dr. Thomas is any mention of precipitating events and aggravating factors, attempts to de-escalate, or any explanation as to why the Regional Center staff was so ill equipped to deal with Christine's 'outbursts' that they had to continually call in the police to traumatize her further and haul her away for psychiatric hospitalizations despite being fully aware that she was developmentally disabled, not psychotic.

More: 'In December of 2008 [Christine] refused to leave home for a mental health appointment. She threatened to harm staff, destroyed furnishing, and purposely scratched her [own] face to make it bleed.' This 'episode' too triggered a 911 call and an admission to a psych ward for forcible medication.

Finally, the two 'incidents' which led to the petition for her commitment: '[Christine] came home upset after attending church with her parents. She assaulted staff and was hospitalized for emergency psychiatric care.' No further details were given by Dr. Thomas, but again her inability to express her distress in a socially acceptable way is met with an extreme overreaction and ends in her being injected with sedatives and locked up.

'Later that month [Christine] cursed and angrily announced she had changed her name. She threatened to harm the staff with a knife, then entered the bathroom and scratched her [own] arm.'

That was apparently the last straw, though no mention is made of how this woman who is imprisoned in her condo with no furniture and no pictures was permitted to get her hands on a knife. Despite the dramatic rendition by the prosecution's ham, nowhere in the records is there any