Inside California Healthcare: The Criminalization of the Mentally Ill

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Writer's Comment: *The purpose of this UWP 101 assigned essay was to explore a contested ground in California. The article was specifically written to potentially fit* Boom: A Journal of California. *In addition, the piece needed to demonstrate something significant about California and to reveal an "invisible" or "hidden" controversial phenomenon. I chose to focus on mental health in California, because of the recent media attention to crimes such as the Colorado movie shooting. I was interested to know how the mentally ill received care in our state and if the state is doing what it can to keep people healthy.*

Instructor's Comment: *During the fall months, I was simultaneously completing an article for* Boom *magazine's "Contested Ground" section and designing new curriculum for UWP 101. The former became the inspiration for the latter.* Boom*'s editors graciously agreed to publish the top submissions from the 50 students in my two sections. A "Contested Ground" essay must cover a lot of ground, establishing the history of every faction of the contest and giving each point of view a fair shake. Sari did a great job at this, tracking down interview subjects and wrangling federal, state, humanitarian and fiscally conservative concerns into the arena of her essay and showing us their uneasy interplay. In this course, students also served as editors as well as writers, writing rejection or acceptance letters for drafts, ranking final submissions. Sari's essay received the highest score out of all 50 students. It seems fitting that she should appear among the ranks of UCD's best student writers.*

—Laurie Glover, University Writing Program

Image 1: Entrance to Napa State Hospital[1]
"Our mental health hospitals, basically, are an extension of the criminal justice system"
(Ken Murch, the chief negotiator for the
California Association of Psychiatric Technicians).[2]

It has been two years since Donna Kay Gross, a psychiatric technician employed by Napa State Hospital, was strangled to death in the facility's fenced enclosure. Mentally ill patient Jess Massey, who was sentenced to the hospital by the court, committed the murder. The crime occurred at approximately 5:30 pm on Saturday, on a weekend, when security forces are reduced, making such crimes more likely.[3,4] Unfortunately, this type of violence occurs often in forensic hospitals, which cater to mentally disordered offenders. In fact, a Napa State employee admitted to me, "every time I go into work, I am taking a substantial risk."[5]

Napa State Hospital is a 138-year-old facility located in the midst of hundreds of acres of picturesque wine country. The facility was not originally built to house the criminally insane, many of whom have committed murder, but rather, as Napa State Dr. Patricia Tyler explains, "depressed grandmas."[6] Today, the hospital's primary patients suffer from schizophrenia and from mood, anxiety, and other personality disorders, illnesses that one of every seventeen Americans endures.[7,8]

The violence exhibited in Napa State Hospital, in many ways, is a result of the changes in the funding of mental healthcare in the United States and in California. What began as noble intentions to efficiently help the ill have led to poor health care options and dangerous environments in both state hospitals and in the community. In the mid 20th century, as society became more tolerant and sensitive towards mental illness, it began implementing healthcare reforms. The consequent changes in mental health laws and the discovery of antipsychotic drugs catalyzed a

transition from state-operated mental health systems to a decentralized system of community care. This shift has in turn caused a reallocation of health care funds and a change in patient population in both prisons and state-run hospitals. To better understand the current state of mental health systems and the reason behind Napa State Hospital's unsafe conditions, one must understand the history of the changing mental health policies.

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In the mid 1800s, Dorthea Dix took a stand to reform psychiatric history. By 1847, she had visited "300 county jails and 18 state prisons" to chronicle the treatment of mentally ill prisoners.[9] Dix's efforts led to the constructions of many new state hospitals.[10] At the time she began her work, there was approximately one public psychiatric bed available per every 5,000 people. By the mid 1900s, there was approximately one psychiatric bed available per every 300 people.[11] Beginning in the 1950s, however, the mental health facilities in California and across the nation experienced humanitarian-based changes. In 1957, the conditions of our mental health systems and the resources allocated to them were reevaluated through the Mental Health Study Act. The 1961 report that the Act commissioned indicated that the hospitals were overcrowded and were being used to quarantine the ill rather than help them. Consequently, in 1963, President Kennedy appealed to Congress to pass a series of acts aimed at moving the mentally ill out of these prolonged confining conditions to voluntary community mental health treatment centers.[12] Concurrent with the legislation that the Congress passed, California, a leader in mental health care at the time, passed the Short-Doyle Act to expand community-based mental health facilities even further.[13] Although the changes in legislature were executed with the best intent, the beds available in state hospitals are only a small number more than what existed before 1850.[14]

The Short-Doyle Act, created in response to the new tolerant perspective on mental illness, aimed at treating psychiatric patients close to home instead of in more efficient but distant state hospitals. This change in treatment location to community health centers allowed patients to maintain contact and receive support from close family, friends, and personal physicians. Community health care would also "permit more effective treatment in the early stages of the disorder [and] … allow closer liaison between various medical specialists."[15] To fund the proliferation of community health services, the state matched the funds,

dollar for dollar, of local governments wishing to establish health services. These services included inpatient and outpatient care and rehabilitative services in general hospitals.

In 1965, two years after the passing of the Short-Doyle Act, Medicaid was adopted into law, shifting the financial coverage of mental illness treatments even more dramatically. The change of money allocation was seen to favor community care over state hospitals like Napa. Medicaid funded community-based health centers but not State Mental Hospitals. In addition to being funded by Medicaid, community health centers were also funded by the federal Community Mental Health Program. This change in funding encouraged the movement of patients from state hospitals to community health centers where the federal government covered half the cost instead of the state paying the full cost of state hospitals.[16]

These acts, along with the implementation of Medicaid, led to the closing or deinstitutionalization of seven California state hospitals.[17,18] In fact, during this period of closure, the number of available hospital beds decreased 87% from 558,239 in 1955 to 71,619 in 1994.[19] Although state funding increased for community-based services, and despite the initial success of the community mental health centers, the state of California failed to use the money previously allocated to state hospitals to improve these community services.[20]

In addition to the lack of funding and poor money distribution, Ronald Reagan signed the Lanterman-Petris-Short Act into law in 1967. This law purported that the only scenario in which the mentally ill could be contained in a hospital would be through psychological evaluation and criminal sentencing, as was the case with Jess Massey.[21] Through changing hospital commitments, the Act lead to further deinstitutionalization of state hospitals and the proliferation of the problem. Although community health centers sought to integrate the mentally ill into society, they instead let the ill out on the streets, often with nowhere to go.[22] Therefore, unless the patients were also criminals, the state hospitals had no reason to keep people hospitalized or help them even if necessary. Although this law seems insensitive to the needs of the sick, at the time it was believed that the invention of the first antipsychotic drug, chlorpromazine, commonly known as Thorazine, would help the ill become healthy or at least "normal." If people were prescribed these drugs, then the need for these state mental institutions would decrease and so would state spending.[23]

A few problems arose with the Lanterman-Petris-Short Act that have

helped create the crisis we see today, including unsafe mental health hospitals and insufficient care of the mentally ill. First, there was no way to ensure that the newly released mentally ill would receive the medication and rehabilitation services necessary for them to live successfully in their communities. Secondly, even if they received medication, there was no guarantee they would take the medication not only because they are unstable and they need to be responsible to take medication consistently and correctly but also because they do not enjoy the side effects. Lastly, due to the closing and consolidation of mental hospitals, there were not enough beds available for new mentally ill patients. With the rise of these problems and shift from state hospitals to community health centers, many patients wound up in adult homes or homeless in large cities without the care they required."[24]

Funding and health care service deficits led California to enact several pieces of legislation in the 1980's. One of these, the Bronzan-Majonnier Act (1985), aimed to identify the flaws in the health service system, especially the criminalization of the mentally ill. It further aimed to combine treatment and rehabilitation in flexible services.[25] Despite these reforms, many counties still lacked the financial resources to deal with the mentally ill.

In 1991, in response to the fragile state of community mental health, the lack of financial resources and the $15 billion state budget deficit that would result in mental health cuts, California passed the Bronzan-McCorquodale Act, which came to be known as "Realignment." Realignment changed the way in which all community mental health systems, state hospital services for civil commitments, and mental health services for those in "Institutions for Mental Disease" would receive funding.[26] The new "realigned" revenues flow directly to the counties and are no longer allocated to the State General fund and thus are no longer subject to the annual state budget process. The money distributed to counties on a monthly basis comes from two sources: the state sales tax and state vehicle registration fees.[27] Realignment has generally provided counties with the advantages of a stable source of funding, fiscal flexibility (i.e. ability to roll over funds to enable long term projects), the ability to serve clients appropriately, and lower restrictive placement costs. Despite these benefits, the "Realignment" has proven to be flawed: mental health is still insufficiently funded. It has not kept pace with population or cost of treatment growth and it is also vulnerable to economic recessions.[28]

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The shift in mental health focus from the state to the community level and the deinstitutionalization of state hospitals has packed the prison system with the mentally ill. According to a Los Angeles County jail psychiatrist, "We run the largest mental health facility in the county." Former Sacramento County Sheriff Glenn Craig similarly claims to have operated the "second largest mental health facility in the county" (the first being the county mental health center).[29] The U.S Department of Justice reported in 2003 that in the preceding decade, 40 mental health hospitals closed while 400 new prisons were established.[30]

An estimated 10-15% of those who enter either the local criminal justice system or state correctional system are mentally ill. Once the mentally ill enter the criminal system, they fall through the cracks, due to a paucity of resources. As Marcus Nieto mentions in his analysis of the criminal system, "Local correctional systems do not engage in long range strategic planning on how to best identify and serve the mentally ill offender at the local level."[31] In addition to the lack of planning, only state jails are licensed to have correctional treatment beds for mentally ill inmates and not county jails. Also, even if the mentally ill receive help through prescriptive medication, they have the right to refuse the drugs. Once mentally ill offenders are released from either local or state criminal justice systems, there are insufficient aftercare treatments and services for them. A 1991 study conducted in Los Angeles estimated that "90% of the mentally ill offenders receiving mental health services in the county jail were repeat offenders."[32] The help they initially receive does little to change their behavior or prevent them from reentering the criminal system.

Some of these mentally ill end up in forensic state hospitals such as Napa State Hospital. Napa, however, was not always dedicated to a criminally ill population. In fact, their change in patients directly resulted from deinstitutionalization. To avoid closure due to the rapid pace of deinstitutionalization, Napa State converted in the early '90s to primarily serving a population sent to the hospital by the justice system. These people are either incompetent to stand trial, are not guilty by reason of insanity, or have already been convicted but have failed to comply with their parole terms, resulting in their hospitalization.

Due to the changing structure, Napa State Hospital now serves 80%

forensic cases. This change has severely threatened the safety of the state workers and patients. In fact, a Napa State Social Worker confided in me that she has never seen the safety conditions so bad in her 23 years at the hospital. In 1998, to help improve the safety of patients and the overall Napa community, an electric fence was put in place to separate the mentally ill criminals from everyone else. These criminals stay within the fenced area for a maximum of three years, during which they undergo rehabilitative treatment. If they are found to still be ill by the end of the three-year period, they are moved outside the fenced area where they stay until deemed healthy. According to the Murphy Conservatorship, these people cannot be kept indefinitely without their case being reviewed every year.[33]

The fenced-in area does not seem to provide enough security for patients and workers. One of the main issues is that the hospital cannot afford enough guards or police officers to work within the fenced area. As a social worker commented to me, "We need more police in the units." After the death of Donna Kay Gross, a nurse told ABC news that having police in the units "makes a huge difference when they walk through." However, these officers are not permanently stationed inside these units. Interim director Dolly Matteucchi explains, "It has been [this] way ever since Napa State Hospital became a forensics hospital in the early 1990's." She further divulges that at Napa State hospital, police were not "part of the living environment, 24 hours, seven days a week." Since the murder, in late 2010, Matteucchi "has asked for 20 more officers who'll be assigned to [forensic] units." Instead of one staff member, two members also now escort patients outside the units. This, however, creates the issue of taking away staff from inside the units. The nurse mentions that when several workers left to escort patients, "it resulted in one employee and one psychiatrist on the unit, for at least an hour with 20 patients."[36]

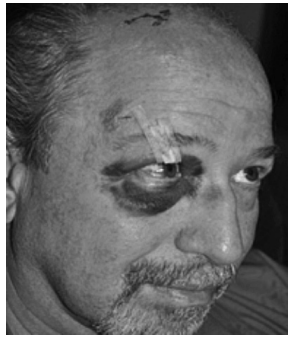

Image 2: Dr. Richard Frishman, Napa State psychiatrist, photographed after patient-inflicted injury. [34]

Since 2010, Napa State has seen some major improvements such as a new alarm device that state workers wear. These devices, when activated, use a global positioning system to identify the exact

location of the employee. In addition to this device, thirteen hospital police officers and twelve new psych technicians have also been hired. While improvements have been made, psych tech Linda Monahan told ABC7 that there are still "way too many assaults" (see fig. 1).[37] Hospital employee unions would like to see officers armed with more than a baton and pepper spray; however, Matteucchi comments that there is no move to equip them. These unions would also like to see specialty units for the violently ill.[38]

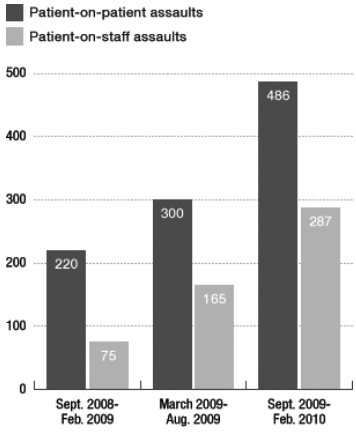

Figure 1: The rise of patient assaults from Sep. 2008 to Feb. 2010.[35]

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Massive cuts to mental health services ($587.4 million in California from 2009 to 2011) have the potential to make our communities unsafe (see fig. 2). While the mentally ill are not necessarily more dangerous than the rest of the population, the risk of them becoming violent increases when appropriate treatment and support are not available. The mentally ill may turn to self-medicating through alcohol or drugs. In fact, a social

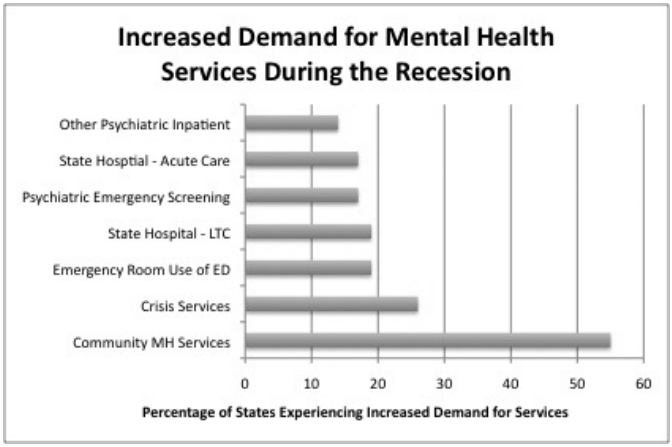

Figure 2: Demand for mental health services has increased while funds have decreased.[39]

worker from Napa State Hospital told me that many of her patients worsen as a result of their experimentations with methamphetamine. When the mentally ill do not receive help, they have difficulty staying in school. Lack of needed help among the mentally ill also leads to "suicides, homelessness, arrests, or incarceration."[40] Some violent events, such as the Sandy Hook and the Colorado movie theatre shootings, have been the result of poor aid to the mentally ill.[41] In fact, in a study conducted by the Secret Service's Assessment Center, "93% of assailants exhibited behavior that caused a school official, parent, or law enforcement officer to be concerned before the attack." It was also found that "34% of the assailants had a mental health evaluation prior to the attack."[42]

Despite the noble intentions behind the shift from state to community care, mentally ill patients are now worse off under state sponsorship, often having to fend for themselves. Sadly, the mentally ill population currently incarcerated is about the same as when Dorthea Dix began reforming the treatment of mentally ill in our country (see fig. 3).[44] Although there was no guarantee that state hospital patients could improve, many patients remained because of the financial support they would not receive elsewhere.[45] Now, we see many mentally ill on our streets because they lack affordable housing. As a Napa State Hospital social worker explained, "Unless the ill person has a case manager who can help him or her complete an SSI application (supplemental security

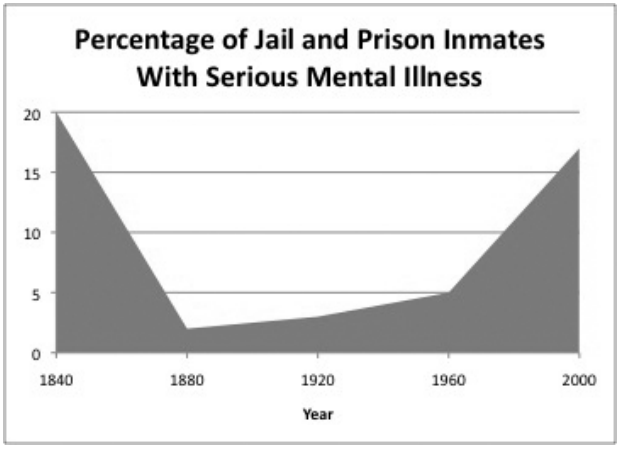

Figure 3: Rate of mentally ill prisoners is nearly the same as the 1840s.[43]

income), many have to wait sometimes 6-7 months before they can even get money."[46] Not only is the form very complicated, but if the person is approved he or she needs to have an address, which is hard to do when he or she is homeless.

Although there are places where the mentally ill can seek help, such as the community centers, diminished funding from budget cuts has resulted in a lack of staff. This not only can lead to inadequate services, but it also can delay the time it takes to accept a patient into the programs. Although Proposition 63, passed in 2004, increased taxes by 1% for those whose income is an "excess of $1 million," a Napa State Hospital social worker stated that she "sure does not see improvements from increased funds."[47] The mentally ill, with the difficulty of finding affordable housing and of getting in and receiving help from the community centers, become more susceptible to being homeless or ending up in jail.

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As the old adage goes, "The more things change, the more things stay the same." Half a century ago, we aimed to integrate the mentally ill into our society; now, we imprison them. Locking the mentally ill in jail is just as problematic as placing them in faulty overcrowded state hospitals. At least in the hospitals, the mentally ill could receive the help of treatment and the safety and security of a living environment. Imprisoning the mentally ill does not solve their health issues, nor does it help make communities safer. If anything, the perpetual imprisonment can add stress and exacerbate their symptoms. Further, imprisonment defeats the purpose if those imprisoned do not understand why their behavior is problematic. Although we have made improvements to the prison system, for example, getting rid of the three strikes law that permanently incarcerated people after three offenses, additional changes still can be made. Some of the main issues derive from decades of gradual cutbacks, lack of funding, and poor allocation of current resources. If hospitals such as Napa State and community health centers received more money, they could not only become safer but more effective in their treatment.

Notes

1 V, Paul. Entrance of Napa State Hospital, 2008, digital image, accessed March 8, 2013. <http://www.flickr.com/photos/pappyv/2463620988/>.

2 Mieszkowski, Katherine. "Napa State Hospital's Grisly Inside Story." The Bay Citizen, December 16, 2010, accessed March 6, 2013. <https://www.baycitizen.org/news/health/napa-state-hospitals-grisly-inside-story/>.

3 Interview with Napa State Hospital Social Worker. February 5, 2013.

4 Lee, Vic. "Hospital Director Addresses Safety Concerns." ABC7 News. December 27, 2010, accessed March 4, 2013. <http://abclocal.go.com/kgo/story?section=news/local/north_bay&id=7851113>.

5 Interview with Napa State Hospital Social Worker. February 5, 2013.

6 Mieszkowski, "Napa State."

7 CA Dept of State Hospitals. "Department of State Hospitals -- Napa." Accessed March 6, 2013. <http://www.dsh.ca.gov/Napa/default.asp>.

8 U.S. National Library of Medicine. "National Institute of Mental Health," last modified October 12, 2011, accessed February 18, 2013. http://www.nimh.nih.gov/health/publications/the-numbers-count-mental-disorders-in-america/index.shtml

9 Torrey, E. Fuller. Out of the Shadows: Confronting America's Mental Illness Crisis. (New York: John Wiley & Sons, 1997).

10 Torrey, Out of the Shadows.

11 Torrey, Out of the Shadows.

12 National Institute of Health. "Important Events in NIMH History," last modified October 12, 2011, accessed July 20, 2013. <http://www.nih.gov/about/almanac/organization/NIMH.htm>.

13 Sarah Watson and Alison Klurfeld. "California's Mental Health System." Insure the Uninsured Project, August 2011. Accessed March 8, 2013. <http://itup.org/wp-content/uploads/downloads/2011/08/Mental_Health_Report.pdf>.

14 Treatment Advocacy Center. "New Study Calls for Moratorium on Hospital Closures," last modified fall 2012, accessed March 8, 2013. <http://www.treatmentadvocacycenter.org/home-page/71/81>.

15 Auerback, Alfred. "THE SHORT-DOYLE ACT—California Community Mental Health Services Program: Background and Status After One Year." Western Journal of Medicine 90.5 (1959): 335-38, accessed February 18, 2013.

16 Watson and Klurfeld, "California's Mental Health System."

17 California Healthline. "California Faces Hurdles as More State Mental Institutions Close," last modified March 6, 2008, accessed March 6, 2013. <http://www.californiahealthline.org/articles/2008/3/6/california-faces-hurdles-as-more-state-mental-institutions-close.aspx>.

18 CA Dept of State Hospitals, "Department of State Hospitals."

19 E. Fuller Torrey, Aaron D. Kennard, Don Eslinger, Richard Lamb, and James Pavle. "More Mentally Ill Persons Are in Jails and Prisons Than Hospitals: A Survey of the States." Treatment Advocacy Center, May 2010. Accessed March 5, 2013. http://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf.

20 Ryan, Patricia. "California Community Mental Health Funding." California Institute for Mental Health, February 3, 2011. Accessed March 6, 2013. <http://www.cimh.org/LinkClick.aspx?fileticket=mOYILv5wc8w%3D&tabid=242>.

21 California Legislative Analyst's Office. "Major Milestones: 43 Years of Care and Treatment of the Mentally Ill," last modified March 2, 2000, accessed March 3, 2013. <http://www.lao.ca.gov/2000/030200_mental_illness/030200_mental_illness.html>.

22 California Legislative Analyst's Office, "Major Milestones."

23 Torrey, Out of the Shadows.

24 Scanlon, John. "Homelessness: Describing the Symptoms, Prescribing a Cure." The Heritage Foundation, October 2, 1989. Accessed March 6, 2013. <http://www.heritage.org/research/reports/1989/10/homelessness-describing-the-symptoms-prescribing-a-cure>.

25 California Legislative Analyst's Office, "Major Milestones."

26 "History and Funding Sources of California's Public Mental

Health System." California Mental Health Directors Association, March 2006. Accessed March 6, 2013. http://www.mhac.org/pdf/CMHDA_History_Mental_Health_Funding.pdf

27 Watson and Klurfeld, "California's Mental Health System."

28 Watson and Klurfeld, "California's Mental Health System."

29 Nieto, Marcus. "Mentally Ill Offenders in California's Criminal Justice System." California State Library, February 1999. Accessed February 18, 2013. http://www.library.ca.gov/crb/99/02/99002.pdf

30 Sheth, Hitesh, Dr. "Deinstitutionalization or Disowning Responsibility." International Journal of Psychosocial Rehabilitation 13 (2009): 11-20. Accessed Mar 8, 2013. <http://www.psychosocial.com/IJPR_13/Deinstitutionalization_Sheth.html>.

31 Nieto, "Mentally Ill Offenders."

32 Nieto, "Mentally Ill Offenders."

33 Interview with Napa State Hospital Social Worker. February 5, 2013.

34 Potter, Kathryn. Dr. Richard Frishman, Image 2, April 7, 2011, Digital image, accessed March 8, 2013. <http://www.npr.org/2011/04/07/134961467/at-california-mental-hospitals-fear-is-part-of-the-job>.

35 National Public Radio, Figure 1, April 7, 2011, Digital image, accessed March 8, 2013. <http://www.npr.org/2011/04/07/134961467/at-california-mental-hospitals-fear-is-part-of-the-job>. <http://www.npr.org/2011/04/07/134961467/at-california-mental-hospitals-fear-is-part-of-the-job>.

36 Lee, Vic. "Hospital Director Addresses Safety Concerns." ABC7 News. December 27, 2010. Accessed March 4, 2013. <http://abclocal.go.com/kgo/story?section=news/local/north_bay&id=7851113>.

37 Wang, Alan. "State Hospital Workers Remember Death of Colleague." ABC7 News. October 24, 2012. Accessed March 4, 2013. <http://abclocal.go.com/kgo/story?section=news/local/north_bay&id=8857238>.

38 Wang, "State Hospital Workers."

39 Lutterman, Ted. Figure 2, October 12, 2012, Digital image, accessed March 8, 2013. <http://www.nami.org/ContentManagement/ContentDisplay.cfm?ContentFileID=126233>.

40 Honberg, Ron, Sita Diehl, Angela Kimball, Darcy Gruttadaro, and Mike Fitzpatrick. "State Mental Health Cuts: A National Crisis." National Alliance on Mental Illness, March 2011. Accessed March 8, 2013. <http://www.nami.org/ContentManagement/ContentDisplay.cfm?ContentFileID=126233>.

41 Gillette, Hope. "Adam Lanza: Complex mental health profile points to premediation." Voxxi. February 19, 2013. Accessed March 6, 2013. http://www.voxxi.com/adam-lanza-new-evidence-mental-health/2/.

42 Cooper, Donna. "Cuts to Mental Health Services Could Lead to More Spree Killings." Center for American Progress. July 31, 2012. Accessed March 6, 2013. <http://www.americanprogress.org/issues/civil-liberties/news/2012/07/31/11871/cuts-to-mental-health-services-could-lead-to-more-spree-killings/>

43 Treatment Advocacy Center, Figure 3, May 2010, Digital image, accessed March 8, 2013. http://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf.

44 Fuller et al, "More Mentally Ill."

45 Aviram, Uri, D.S.W, and Steven Segal, A.C.S.W. "From Hospital to Community Care: The Change in the Mental Health Treatment System in California." Community Mental Health Journal 13.2 (1977): 1-11. Accessed March 8, 2013. <http://socialwelfare.berkeley.edu/Faculty/publications/ssegal/From%20Hospital%20To%20Community%20.PDF>.

46 Interview with Napa State Hospital Social Worker. February 5, 2013.

47 Department of Mental Health. "Mental Health Services Act (Proposition 63)."Accessed March 4, 2013. <http://www.dmh.ca.gov/prop_63/mhsa/>.