

The Shame of Medicine: Conviction by Psychiatry

BY THOMAS SZASZ



In the predawn hours of June 5, 2002, Brian David Mitchell entered the bedroom of 14-year-old Elizabeth Smart and her nine-year-old sister Mary Katherine and left the house with Elizabeth. They walked to a camp site four miles behind her wealthy parents' spacious Salt Lake City home where they joined Wanda Barzee, Mitchell's wife. Nine months later—after spending months at the campsite, traveling to California, and returning to Utah with her alleged captors—Elizabeth was discovered in nearby Sandy. Charged with aggravated kidnapping, aggravated sexual assault, and aggravated burglary, Mitchell and Barzee disappeared into America's psychiatric Gulag.

The bare facts of the story, as reported in the press, are as follows. For nine months the trio hid in plain sight, made frequent trips to the city, was seen at a grocery store and a restaurant, and for about a week lived one block from the Salt Lake City police headquarters. A freelance photographer has a picture of the trio dressed in white robes.

In March 2003, when the police found her, Elizabeth was wearing a gray wig and dark glasses, and her head and face were covered. Approached by officers, Elizabeth identified herself as Augustine, claiming to be Mitchell's daughter. "We took her aside," one of the officers related. "She kind of just blurted out, I know who you think I am. You guys think I'm that Elizabeth Smart girl who ran away [sic]." When the officers insisted that she was Elizabeth Smart, she replied, "Thou sayest" and "showed concern only for their [Mitchell's and Barzee's] welfare, not her own."

Mitchell, a devout Mormon, was no stranger to the Smarts. In 2001 Elizabeth's father, Edward Smart, employed him as a handyman. "He was astonished," the press reported, "at Mr. Mitchell's mastery of deception. 'When I was up there on the roof with him, I never could have guessed. He was so soft-spoken; he was so quiet. I never would have guessed that such an animal would have existed behind such a person.'"

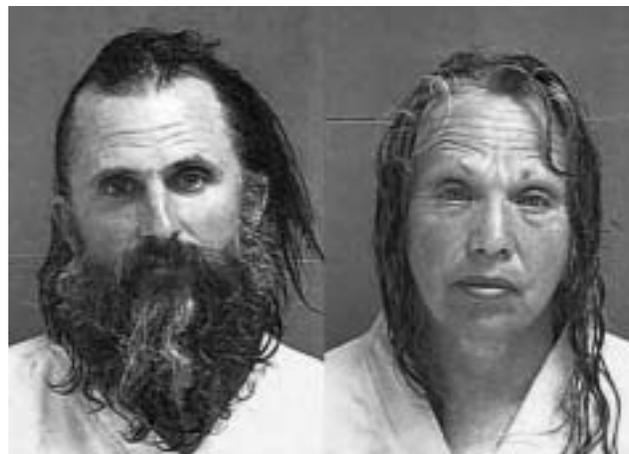
All that was more than six years ago. Mitchell and Barzee have still not been tried, and we still have no idea about what actually happened to Elizabeth Smart. While mental health professionals prevented the defendants from defending themselves in court, the Smarts convicted Mitchell and Barzee in the media as "sexual predators."

Defenseless Defendants

Actually, there was no hard evidence that Elizabeth had been kidnapped, much less raped. Eccentric and poor, the defendants inspired no one

to protect their constitutional right to trial. That would have required Elizabeth to be cross-examined and testify under oath about why she made no attempt to escape her alleged captors and why she lied to the police about who she was and referred to herself as "the girl who ran away"—not "was kidnapped."

Elizabeth's parents, Edward and Lois Smart, rushed into print with a book, titled "Bringing Elizabeth Home: A Journey of Faith and Hope," a boring protes-



Eccentric, certainly, but also denied their right to trial.
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tation of their Mormon faith and belief in “miracles.” “If you want just the straight story, as I did,” comments a reader on Amazon.com, “you’ve come to the wrong place. . . . The excruciating details of the family’s faith were belabored and preached and whined about until I wanted to scream and I couldn’t finish the book.” The Smarts’ book was used as the basis of the television movie *The Elizabeth Smart Story*, aired on CBS on November 9, 2003.

On March 9, 2006, Elizabeth Smart went to Congress to support sexual predator legislation. In 2008 she contributed to a pamphlet sponsored by the U.S. Department of Justice, titled “You’re Not Alone: The Journey from Abduction to Empowerment”: “Like you, I am also a survivor. . . . Do not feel obligated to tell people your experience. . . . [J]ust because they ask, or do something nice for you, does not give them the right to know what you went through. What happened is your story, which you can choose to share or to keep private.” Should a person allegedly kidnapped and raped be able to choose to keep silent while her silence is used to indefinitely incarcerate the persons accused of the crime?

Early in 2004 Mitchell was declared competent to stand trial and answered “not guilty” to six different charges related to the kidnapping of Elizabeth Smart. After he began singing the Christmas hymn “Oh come, oh come, Emmanuel” at the hearing, he was ordered to submit to a new competency evaluation. (Emmanuel is the name Mitchell used as a street preacher.)

In January 2005 attorneys for Mitchell requested Elizabeth’s school and medical records. Attorneys for the Smart family refused on the ground that “efforts to obtain the records are merely a ploy to get the family to agree to a lenient plea agreement.” Edward Smart declared that he would rather see prosecutors make a plea bargain with Mitchell “than having his family go through the trauma of a trial.”

In July 2006, TV pundit and victims’ rights advocate

Nancy Grace interviewed Elizabeth Smart and repeatedly asked her for information about her experience. Elizabeth asked Grace to stop and stated, “I really am here to support the bill and not to go into what—you know, what happened to me.” Grace persisted, asking Elizabeth what it was like to see out of the burqa she was wearing. Elizabeth replied, “I’m really not going to talk about this at this time.”

Mitchell continued to play the part of a Mormon prophet, interrupting one of his 2005 competency hearings “by singing religious songs, the third time he has done so.” A defense expert testified that Mitchell is incompetent to stand trial “because he is consumed by ‘messianic delusions’ and wants to be crucified.”

The psychiatrists “treating” Mitchell, confined in a Utah state mental hospital, sought to drug him to restore his competence. He refused and the courts were unwilling to authorize forced drugging. This prompted U.S. Attorney Brett Tolman, in October 2008, to announce his intention to prosecute Mitchell in federal court. A competency hearing for Mitchell was scheduled to begin in November. As a prelude to it, Elizabeth Smart testified in court for the first time—in a hearing ostensibly about Mitchell’s mental competence to stand trial—about being raped by

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Mitchell “three or four times a day.” According to the press, “Smart testified early because she is going on a religious mission for the Mormon church in Paris.” She was not cross-examined and Mitchell—whose physical appearance belies the sexual prowess attributed to him by Smart—was excluded from the proceedings.

My brief remarks in this column are intended to call attention to still another case of the psychiatric denial of the right to trial of socially embarrassing defendants. Despite their publicity, such stories make no dent in dispelling the widely held belief that no American accused of a crime is deprived of liberty indefinitely without trial. The canard that psychiatry is a “helping profession” is even more impregnable. **FRE**

How to End Mexico's Deadly Drug War

BY PAUL ARMENTANO

Albert Einstein declared, “The definition of insanity is doing the same thing over and over again and expecting different results.” He wasn’t describing the federal government’s nearly century-long war on drugs but he might as well have been.

Despite ample lip-service for “hope” and “change,” the Obama administration’s cynical response to the escalating drug prohibition-related violence around the Mexican border epitomizes Einstein’s oft-quoted observation.

Since 2008 more than 7,000 people—over 1,000 last January alone, including Mexican civilians, journalists, police, and public officials—have been killed in clashes with warring drug traffickers. Wire-service reports estimate that Mexico’s drug lords employ over 100,000 soldiers—approximately as many as the Mexican army—and that the cartels’ wealth, intimidation, and influence extend to the highest echelons of law enforcement and government. Where do the cartels get their unprecedented wealth and power? By trafficking in illicit drugs—primarily marijuana—over the border into the United States.

The U.S. Office of Drug Control Policy (more commonly known as the drug czar’s office) says more than 60 percent of the profits reaped by Mexican drug lords are derived from the exportation and sale of cannabis to the American market. To anyone who has studied the marijuana issue, this figure should come as no surprise. An estimated 100 million Americans age 12 or older—or about 43 percent of the country—admit to having tried pot, a higher percentage, according to

the World Health Organization, than any other country on the planet. Twenty-five million Americans admit (on government surveys, no less) to smoking marijuana during the past year, and 15 million say that they indulge regularly. This high demand, combined with the drug’s artificially inflated black-market value (pot possession has been illegal under federal law since 1937), now makes cannabis America’s top cash crop. In fact, according to a 2007 analysis by George Mason University professor Jon Gettman, the annual retail value of the U.S. marijuana market is some \$113 billion.

How much of this goes directly to Mexican cartels is difficult to quantify, but no doubt the percentage is significant. Government officials estimate that approximately half the marijuana consumed in the United States originates from outside its borders, and they have identified Mexico as far and away America’s largest pot provider. Because Mexican-grown marijuana tends to fetch

lower prices on the black market than domestically grown weed (a result attributed largely to lower production costs—the Mexican variety tends to be grown outdoors, while an increasing percentage of American-grown pot is produced hydroponically indoors), it remains consistently popular among U.S. consumers, particularly in a down economy. As a result, U.S. law officials now report that some Mexican cartels are

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