The Insanity Defense

Sarah Rexrode

Longwood University

Mental illness has been present since the beginning of history. Over time, society has morphed and changed to accommodate those who are affected by such illnesses. One of these adaptations was made within the U.S. Court system. Everyone must abide by the law, even those who might not understand it themselves. If a mentally ill person is deemed insane and commits a crime, he or she can plead not guilty by reason of insanity. The insanity defense is typically used in criminal trials. The defense is based on the assumption that the defendant was suffering from severe mental illness at the time of the crime and therefore, he or she was unable to comprehend the nature of the crime and could not tell right from wrong, making them not legally accountable for the crime (Math & Kumar & Moirangthem, 2015).

The insanity plea has been intact for centuries. Until 1740, the plea was not used often but for reasons unknown to scholars, its use greatly increased during the Industrial Revolution. In 1800, the insanity plea was used at the trial of James Hadfield. Hadfield had made a public attempt on the life of King George III. Hadfield was tried for treason but pleaded insane in an attempt to be granted an acquittal. Prior to 1800, if a person was found innocent by reason of insanity, they were acquitted and sent home. In response to Hadfield’s trial and acquittal, a bill was passed called the Criminal Lunatics Act of 1800. This bill made it so that criminals that were found insane would still be kept safe in custody. No longer was a defendant found not guilty by insanity guaranteed his freedom (Moran 1985). Hadfield’s trial and the passing of the Criminal Lunatics Act of 1800 led the way to the modern insanity defense.

According to the data collected by Hawkins and Pasewark, 61.3% of persons utilizing the insanity plea committed a form of violent crime. These crimes include homicide, assault, rape, and other sexual crimes. This data goes along with the purpose of the plea itself. It’s meant to be used when a person commits a crime without realizing the nature of the crime he or she is committing because they are unable to tell right from wrong. Those who commit a violent crime are the ones who seem to meet the criteria for the use of the insanity plea. In the same article published by Hawkins and Pasewark, the demographics of those who utilize the insanity plea was provided. Some of the average characteristics of a person pleading insanity was different than the characteristics of an average criminal offender. For example, the average criminal offender tends to be between 18 and 24 years old. According to Hawkins and Pasewark, the average age of defendants is 34 years old. A typical profile of an insanity defendant would be “an older than average indictee, almost certainly male and white, probably never married or having an unsuccessful marriage, unskilled, and a history of police contacts and mental hospitalizations,” (Hawkins & Pasewark, 1983). This description, along with the likelihood of committing a violent crime, creates the average demographic description of a defendant pleading not guilty by reason of insanity.

There are several factors that can make an effective plea. A defendant’s criminal and psychological history can have a large effect on the success of an insanity plea. Another factor is the defendant’s competency to stand trial. A significant amount of successful acquittees were found to be incompetent to stand trial (Boehnert, 1989). This incompetency could be an indicator to a psychological problem in the defendant. This could make a sentence more inclined to believe the defendant is insane and agree with his plea. An interesting factor found was the use of a judge versus a jury as the trier of fact. The defense with the most success was those who opted for a judge trial as supposed to a jury trial (Boehnert, 1989). It is unclear why this is so, but public beliefs about the insanity defense may give some answers.

 The insanity plea is viewed in many different ways by the public. This is largely due to various myths that surround the plea. Some of these myths might affect the likelihood of success when using the insanity defense. It is commonly believed that the insanity defense is overused in the court systems. However, there is no empirical evidence that supports this perception. In fact, the defense is used in about 1% percent of felony charges. And within that small percentage, only 1% of those defenses are successful (Daftary-Kapur & Groscup & O’Connor & Coffaro & Galietta, 2011). When a person thinks of mental illness and insanity, the word “dangerous”, comes up as well. The same happens in the court room too. Defendants take a risk when they invoke the insanity plea. An offender could actually receive a harsher sentence despite pleading insane. Some may view the insanity defense as “a mechanism that allowed dangerous, mentally ill individuals to re-enter society” (Daftary-Kapur & Groscup & O’Connor & Coffaro & Galietta, 2011). Despite the popular belief by the public, the recidivism rate for insanity defense acquittees is no different than that of felons (Daftary-Kapur & Groscup & O’Connor & Coffaro & Galietta, 2011). Another common belief is that defendants fake a mental illness in order to avoid punishment. Contrary to this belief, the typical insanity defendant has a history of hospitalizations prior to their offense (Daftary-Kapur & Groscup & O’Connor & Coffaro & Galietta, 2011). Although most of the cases where the insanity plea is utilized involve violent crimes, the plea is not exclusive to violent crimes. This myth may be fueled by media coverage of certain criminal cases (Daftary-Kapur & Groscup & O’Connor & Coffaro & Galietta, 2011)

 The insanity defense has been modified, ridiculed, and revered over the course of history. Now, the defense faces backlash and skepticism from the public. Misconceptions about the plea leave one to question what the future of the plea may be. As for the future, reforms have been proposed to appease those unhappy with the insanity defense. Although much effort is given, empirical research suggests that these reforms have little impact on the success and use of the defense (Borum & Fulero, 1999). Looking forward, the insanity defense seems unlikely to change and will remain in the U.S. Court system for years to come.

References

Boehnert, C. E. (1989). Characteristics of successful and unsuccessful insanity pleas. Law and Human Behavior, 13(1), 31–39. https://doi- org.proxy.longwood.edu/10.1007/BF01056161

Borum, R., & Fulero, S. M. (1999). Empirical research on the insanity defense and attempted reforms: Evidence toward informed policy. Law and Human Behavior, 23(1), 117– 135. [https://doi-org.proxy.longwood.edu/10.1023/A:1022330908350](https://psycnet-apa-org.proxy.longwood.edu/doi/10.1023/A%3A1022330908350)

Daftary, K. T., Groscup, J. L., O’Connor, M., Coffaro, F., & Galietta, M. (2011). Measuring knowledge of the insanity defense: Scale construction and validation. *Behavioral Sciences & the Law*, *29*(1), 40–63. <https://doi-org.proxy.longwood.edu/10.1002/bsl.938>

Hawkins, M. R., & Pasewark, R. A. (1983). Characteristics of Persons Utilizing the Insanity Plea. Psychological Reports, 53(1), 191–195. https://doi.org/10.2466/pr0.1983.53.1.191

Math, S. B., Kumar, C. N., & Moirangthem, S. (2015). Insanity Defense: Past, Present, and Future. *Indian Journal of Psychological Medicine*, *37*(4), 381–387. <https://doi-> org.proxy.longwood.edu/10.4103/0253-7176.168559

Moran, R. (1985). The Origin of Insanity as a Special Verdict: The Trial for Treason of James Hadfield (1800). *Law & Society Review*, *19*(3), 487–519. <https://doi-> org.proxy.longwood.edu/10.2307/3053574