

Not Guilty by Reason of Insanity: What is the Meaning of Such Madness?

LCA Annual Conference 2016
September 25, 2016
Keith Wilkerson, M.A., PLPC

What does not guilty by reason of insanity mean?

- Various definitions of not guilty by reason of insanity (NGRI).
- Involves culpability of defendant accused of criminal behavior.
- Some argue that criminal defendants with severe mental illness cannot be held responsible for criminal behaviors.
- Often is difficult to prove that defendant is not responsible for his or her criminal activities.

What does not guilty by reason of insanity mean?

- Burden of proof usually falls with the defense counsel.
- In 1955 American Law Institute declared the following rule for defendants considered for NGRI plea: “ A defendant is not criminally responsible for his-her act if, as a result of mental disease or defect, (s)he did not possess ‘substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law’” (America Law Institute Model Penal Code, 1985, as cited in Slate, Buffington-Vollum, & Johnson, 2013).

Myths and Facts

- Myth: Commonly used plea to release defendant from responsibility for his or her actions.
- Fact: NGRI is rarely used and often is unsuccessful when attempted by defendant and his or her counsel. Of the 1% of cases in which NGRI is attempted, 15%-25% cases actually result in NGRI adjudication (Slate, Buffington-Vollum, & Johnson, 2013).
- Myth: Insanity acquittees often get off with a "slap on the wrist."

Myths and Facts (continued)

- Fact: Insanity acquittees often are hospitalized in secure forensic institutions for sometimes longer than the actual sentence for the crime (Slate, Buffington-Vollum, & Johnson, 2013)



Examples of High-Profile Cases

- 1981 John Hinkley, Jr. suffered from the delusion that assassinating President Reagan would win him the affection of Actress Jodie Foster.
- John Hinkley, Jr. was found NGRI and was hospitalized in St. Elizabeth's Hospital where he remains to this day.



Examples of High-Profile Cases (continued)

- 2012 James Holmes committed a mass shooting in a Colorado theater during the opening night of the Batman movie.
- The jury rejected Holmes' plea of NGRI
- Currently serving life sentence for his atrocities.



Examples of High-Profile Cases (continued)

- November 2015 Robert Lewis Dear stormed a Planned Parenthood Clinic in Colorado Springs. Dear shot and killed three individuals, including a police officer, and wounded several others.
- Dear rambled incoherently at his arraignment proceedings.
- Legal status yet to be determined



What's Involved in Formulating Insanity Defense?

- Defendant must be evaluated by qualified forensic evaluator.
- Evaluator must gather immense amount of background information to assess defendant's state of mind before, during, and after commission of crime.
- Often evaluator must also assess defendant's competency to stand trial.
- Issue of sanity at the time of the alleged offense cannot be addressed unless and until defendant is competent to stand trial.

What's Involved in Formulating Insanity Defense? (continued)

- Defense counsel and prosecutor may hire forensic evaluators to make their respective cases.
- Burden of proof that defendant not legally responsible for criminal activities rests with defense counsel.
- Final outcome may be determined by either judge or jury.



What Happens Afterwards?

- Insanity acquittee usually committed to state psychiatric hospital for further evaluation and treatment.
- Length of inpatient hospitalization depends upon a number of factors.
- Eastern Louisiana Mental Health System only remaining state forensic institution.



What Happens Afterwards? (continued)

- If client becomes stable for period of time and is no longer dangerous to self or others, forensic mental health staff will petition the court for status review.
- May ask that client be placed on supervised probation and transferred to lesser restrictive setting.
- Will petition the court each time transfer to lesser restrictive setting is deemed appropriate.
- Ultimately client may be returned to community under intensive supervision by probation-parole and community mental health staff.

What Happens Afterwards? (continued)

- Is possible for court to terminate client's supervised release upon client's successful completion of all requirements.
- Upon termination of client's probation, he or she no longer under the care of the forensic mental health system.
- Hopefully former clients will continue to care for own mental health needs to mitigate risk of re-offending.

Presenter Credentials

- Has worked in the forensic system since 2011.
- Official title is Mental Health Program Director-B.
- Has thoroughly enjoyed working in this capacity.
- Serves an advocacy role for clients with significant mental health challenges.
- Currently pursuing PhD studies in counselor education and supervision at Regent University.
- Hopefully will serve even greater advocacy role for this population.

Resources and References

- Slate, R. N., Buffington-Vollum, J. K., & Johnson, W. W. (2013). *The criminalization of mental illness* (2nd ed.). Durham, NC: Carolina Academic Press.

Additional bibliography included separately

Questions and Answers


