The Insanity Defense

by Seth Feuerstein, MD, JD; Frank Fortunati, MD, JD; Charles A. Morgan, MD, MA; Vladimir Coric, MD; Humberto Temporini, MD; and Steven Southwick, MD

Involvement in cases that concern the insanity defense is without a doubt the best known of the roles that psychiatrists play at the interface of medicine and the law. In fact, before the formalization of psychiatry as a specific discipline within medicine, doctors were involved in assisting the courts with members of society who were acting outside of generally accepted standards and who were clearly "not themselves."

DERIVATION IN THE LAW

In the legal system, there are two general requirements for criminal sanction against an individual: *mens rea* and *actus reus*. *Mens rea* refers to the intent to commit an act and have a desired consequence (e.g., intending to pull a trigger and having the escaping bullet hit someone for a murder charge), and *actus reus* refers to the act fitting within the criminal statute (e.g., someone needs to be dead for there to have been a murder).

The insanity defense derives from the idea that certain mental diseases or defects can interfere with an individual's ability to form *mens rea* as required by the law.

A MOVING TARGET

One thing that may not be apparent to those who read about cases or hear about them on television is that the insanity defense standard is not static. Like most things in the law, it constantly is evolving and does so within the greater cultural context. For example, in the wake of the shooting of Ronald Reagan, there was widespread and rapid reaction to the finding that the perpetrator, Mr. Hinckley, was not guilty by reason of insanity. The reaction was, in general, toward a narrowing

of who could qualify and with what standard they should be examined.

It is difficult to imagine how the standard might change without experience in the field, and there are some standards that all should be aware of who delve into the field, as follows:

The M'Naughten standard. This standard is the classic example of the insanity defense. It originated in Britain where, in 1843, M'Naughten murdered the secretary of the Prime Minister (in an attempt to kill the Prime Minister) believing there was a conspiracy against him involving the government. The high court found him insane and he was hospitalized. The court described what is now known as the M'Naughten Standard, and in simplified form it says that at the time of the act, the person had a mental disease or defect that interfered with his ability to understand the nature and quality of the act he was performing or if he knew so, he did not know it was wrong.

Irresistible impulse. The irresistible impulse standard focuses on the ability of the defendant to have control over his or her actions at the time of the crime.

The Durham rule. The Durham rule is so named because it grew from a decision in 1954 in a case called Durham v. United States. This rule generally is considered a broadening of the insanity defense as it focuses on whether the action was the result or product of a mental disease or defect. It is therefore often referred to as the "product rule."

Comprehensive Crime Control Act. Following the assassination attempt on Ronald Reagan, legislation was passed in the United States called the Comprehensive Crime Control Act. This act set a standard that in some ways returned to the historic rule of knowing right from wrong. The language of the statute includes this standard and pushed back the Durham product rule.

It may seem from the description above that the insanity defense may leave a loophole for individuals who seemingly break the law, but do so under the influence of drugs, such as alcohol and hallucinogens. In such cases, people are obviously in an abnormal state of mind and to some degree are not aware of their actions and the subsequent ramifications. If someone is under the influence of hallucinogenic compounds and, therefore, in a psychotic state, it is easy to see how they can act under the influence of the paranoia or hallucinations that often result.

This particular question has been taken care of in general through specific statutes in municipalities that describe the criminal ramifications of clear *actus reus* in the setting of a person where *mens rea* might be absent for reasons that are in the apparent control of the individual.

Understanding the different standards makes it easier to perform an examination, but more important for psychiatrists than the general information above is that the insanity defense standard varies from state to state. You should become familiar with the statute in your state in the event you become involved with such a case.

HOW PSYCHIATRISTS GET INVOLVED IN CASES THAT INVOLVE THE INSANITY DEFENSE

One way that psychiatrists get involved in insanity cases is through their patients. This would necessitate the unfortunate event where a patient is involved in a criminal matter. The patient and his or her counsel choose to make his or her state of mind at the time of the alleged incident an issue and you, as the treating physician, are called to testify.

The other common way psychiatrists end up playing a role in these cases is as a consultant who is serving to evaluate the individual as well as the circumstances of the crime. In such a case, you are actually seeing the person under a court order or at the request of one of the attorneys, and it is quite different than seeing a patient, especially when issues such as confidentiality come up.

WHAT IT MEANS WHEN SOMEONE IS FOUND NOT GUILTY BY REASON OF INSANITY

When a defendant is found not guilty by reason of insanity it does not mean he or she necessarily goes free. Commonly, states have requirements for treatment or institutionalization after such a finding. Some states require such confinement for the length of time the person would have received if convicted as a minimum, so he or she may end up spending more time confined than if he or she did not raise such a defense. Like other areas of the law, this varies from state to state.

The insanity defense is a significant area at the nexus of law and psychiatry. This introduction merely provides a glance at the issues that run deeper. ●

All authors are from Yale University School of Medicine, New Haven, Connecticut.

ADDRESS CORRESPONDENCE TO:
New Haven Forensic Consultants LLC,
1440 Whalley Ave., #244
New Haven, CT 06515