

FACTORS IN A SUCCESSFUL USE OF THE INSANITY DEFENSE

Is There More to Insanity than a State of Mind?: Factors Associated with Successful Use of the Insanity Defense

By Katie Conner¹

Abstract

Little research has been conducted into the factors that impact the successful use of a not guilty by reason of insanity plea by a defendant in a murder case. This study addresses this issue by examining a number of factors including defendant, victim, and crime scene characteristics. Employing archival research, data were gathered from all murder and non-negligent homicide cases for the years 2000 and 2001 in which a plea of not guilty by reason of insanity was later entered for the defendant. Results indicate that specific factors of a defendant's background, such as criminal and psychiatric history, are associated with impacting a successful not guilty by reason of insanity plea, as are characteristics that indicate planning and victimizing a child.

Background

¹ The author is currently a candidate for a Bachelors of Science in Psychology at Northeastern University. This research was conducted under the direction of Professors Jack Levin and Gordana Rabrenovic while working on cooperation education at the Brudnick Center on Violence and Conflict. Much gratitude and appreciation are owed Professors Levin and Rabrenovic for their continual support, guidance and feedback.

The insanity defense is an area which has been insufficiently explored by researchers in criminal justice, psychology and sociology. Researchers have not yet attempted to examine such variables as the defendant's previous criminal and psychiatric history, or specific characteristics of the crime in an existent court trial to determine if such factors impact the effectiveness of the plea.

Previous studies (e.g. Regan, Alderson & Regan, 2000, p. 66) have focused on the statistics surrounding the insanity defense, such as the fact that it is rarely used and, when used, results in only a minor number of defendants acquitted as not guilty by reason of insanity (NGI). One such study conducted in the year 2000 through the Tennessee Department of Mental Health investigated the 9,100 individuals facing criminal charges in Tennessee, of whom only seven percent were referred for mental evaluations. Furthermore, of this seven percent, merely 18.5 percent were found to have substantiated reasons to utilize the insanity defense and subsequently pled as such. Finally, of this select group, the District Attorney's Office accepted the plea in approximately seventy-two percent of the cases. This study thus supports the hypothesis that the insanity defense is rarely employed and even less frequently accepted. Nationally, it is estimated that an insanity defense is entered in only one percent of all felony cases and of that one percent, only approximately one quarter are ultimately declared not guilty by reason of insanity. This data has been tested in numerous states and inevitably each study draws similar conclusions as to the rarity of a successful NGI plea.

Additional research on the topic has employed a contrived approach, particularly with the intention of discovering which factors tend to influence mock jurors to select one verdict over another. Numerous studies of mock trial conditions (Finkel & Handel, 1989; Ogloff, 1991; Pickel, 1998) have identified specific constructs that tend to affect jurors' judgments in insanity cases. Several factors that were revealed as being significant were the ability of the defendants to control themselves, culpability, the presence of a reasonable or unreasonable motive, whether their awareness and perceptions were intact or impaired and the defendant's own personal history. Furthermore, according to a study of mock juror judgments in insanity cases conducted by Pickel in 1998, a defendant was more likely to be found not guilty by reason of insanity when a crime was either "oddly committed" or when evidence of an unreasonable motive existed. Pickel also discovered that especially vicious or heinous crimes were more likely to be seen as insane, whereas indications of planning or forethought tended to negate the plea. A final, but equally important finding from Pickel's study was that many jurors unconsciously attempted to draw, from the defendant's behavior during the trial, inferences about that defendant's mental state during the commission of the crime.

One other significant study in the area of the insanity defense suggests that juror attitudes towards topics such as the death penalty and the insanity defense have a direct effect on their evaluations of both the accuracy of the expert testimony provided during a trial and the defendant's mental state (Poulson, Brondino, Brown & Brathwaite, 1998). Nevertheless, although these results are important, they are difficult to apply in a realistic

context, having been obtained from mock jurors assigned to simulation trials and who thus potentially lack the variable of an emotional response, rather than from actual cases.

With the exception of the various research described above, little is known about those elements of a case or the characteristics of a defendant, outside of an artificial mock-trial setting, that cause a jury to be either more or less tempted to accept the insanity plea when selected by a defense team. This study attempts to quantify the variation in cases to discover which circumstances actually impact a real judge or jury in such a manner as to produce the greatest likelihood of achieving a successful verdict of not guilty by reason of insanity. The current study also seeks to determine the external validity of the previous studies in relation to actual courtroom usage.

Method

To collect data, the periodical database Lexis-Nexis was searched for newspaper articles covering all court trials involving murder and non-negligent homicide cases tried in the years 2000 and 2001, in which the plea of not guilty by reason of insanity was later entered. By studying this entire period, it was possible to follow each of the cases to its conclusion. The usage of only murder cases was selected due to the fact that these cases are the ones in which the NGI plea is most frequently used and details of the aforementioned cases would be most similar to one another and thus were most easily categorized. Furthermore, the crime of murder and trials associated with that charge are nearly always reported in and covered extensively by newspapers, thus making murder the easiest and most comprehensive crime to study. These cases were retrieved from the database using the following key words: murder, kill, homicide, insane, insanity defense and verdict. The details about each of these cases were then taken from the periodical articles according to a coding system created to determine and classify specific characteristics of the cases. A coding sheet was completed for each of the 102 murder cases using the pleas of NGI during that time span, recording data on information ranging from the perpetrator's previous history to the nature, victims and circumstances of the crime. Some of the particular details obtained included the defendant's mental and criminal history, the victims' ages and relationships to the offender and specifics about the crime scene and weapon utilized. While recording these variables, fixed response categories were used wherever possible. Due to the fact that the entire population of cases over a two year period was included, it was not necessary to perform significance tests.

Results

I. Characteristics of an NGI Defendant

Out of a total of 102 cases collected from the years 2000 and 2001, 82 percent of the defendants were male and 18 percent were female. This shows a fairly large difference between those who plead NGI and all other murder defendants. As reported by the FBI's Uniform Crime Reports, women accounted for only approximately nine percent of all defendants arrested for murder. The mean age of the defendants who attempted a not guilty by reason of insanity plea was 34.76 years, which is somewhat older than that of the overall population of murderers, which reports a mean of 27.38 years of age according to the UCR data for that period.

With respect to their background, only 22 percent of the attempted NGI pleas were made by defendants with a past criminal history or record. Furthermore, according to the NGI defendants' reported mental health history, 30 percent of them described having survived a trauma in the past, varying from physical, sexual or metal abuses to an assortment of head injuries. Additionally, nearly eighteen percent had been previously institutionalized and almost seventeen percent had either received a prescription for psychiatric medication in the past or currently held such a prescription. Similarly, 40 percent of these defendants personally reported suffering from delusions, 22 percent from severe paranoia and 19 percent from hallucinations. Likewise, defense attorneys for fifty of the

102 defendants presented specific psychiatric diagnoses for their clients' symptoms in court, thus asserting the illness's existence prior to the commission of the crime.

With regard to victims, an astonishing 22.5 percent of the defendants who attempted to plead NGI had murdered at least one child, whereas according to the UCR data, only 4.3 percent of murders over during that two year period involved children as victims. This study, in concurrence with the UCR information, defined child victims as persons under the age of thirteen.² Moreover, almost 73 percent of the defendants in the study had killed only one victim during the commission of their crime. This figure is slightly higher than the 68 percent of all murder defendants who killed only one victim. Finally, for 45 percent of the attempted NGI defendants, there was no evidence that any type of planning for the murder by the defendant took place before said crime occurred and correspondingly, for 35 percent of these defendants, prosecutors were forced to admit that either the motive for the murder was unknown or that simply no motive existed for it.

A sample of these results has been summarized in Table 1 below:

Table 1
Characteristics of NGI Defendants Versus All Other Murder Defendants

Characteristic	NGI Defendants	Other Murder Defendants
Gender	Male: 82% Female: 18%	Male: 91% Female: 9%
Average Age	34.76 years	27.38 years
Previously Institutionalized	18%	Unknown
On Medication (Past/Present)	17%	Unknown
Child Murderers	23%	4%
Unknown/No Motive	35%	32%

² Data taken from the FBI's Uniform Crime Reports (2000, 2001) and from the Bureau of Justice's Sourcebook of Criminal Justice Statistics.

II. Factors Associated with the Success of the Insanity Defense

During the two years of murder trials studied, numerous characteristics of the cases, relating to both the defendants and the victims were observed as being associated with the success rate of the attempted plea. Many of these defendant characteristics are shown in Table 2.

With respect to criminal history, of the 17 defendants who had previously committed another crime, only six percent were declared NGI, whereas of the 61 defendants who had not previously committed a crime, 31 percent were found not guilty by reason of insanity. Assuming that the jurors adhered to the legal requirements, this appears to indicate that a past life of crime negates one's claim that he or she did not understand the wrongfulness of this particular action.

Likewise, with respect to mental history, claiming that the defendant was delusional, as attempted in 41 out of the 102 cases, was successful in 29 percent of those cases, as opposed to the 16 percent who successfully pled insanity without claiming to be delusional. Similarly, of the 22 defendants who alleged that they suffered from extreme paranoia, 36 percent were found NGI, as opposed to only 18 percent of those who did not make such a claim. This demonstrates that the rate of success nearly doubled simply due to the suggestion that the defendant committed the murder as a result of some form of paranoia. These two psychotic symptoms appear to be not only the ones claimed more frequently, but also the ones most successful in bringing about a verdict of not guilty by reason of insanity.

Table 2
Reported Mental Health History

Symptom	Percent Reporting Symptom	Percent Reporting Symptom Found NGI
Delusions	N=41	29% (N=12)
Schizophrenia/Psychosis	N=32	25% (N=8)
Paranoia	N=22	36% (N=8)
Hallucinations	N=19	26% (N=5)
Depression/Anxiety	N=18	22% (N=4)
Bipolar Disorder	N=07	57% (N=4)

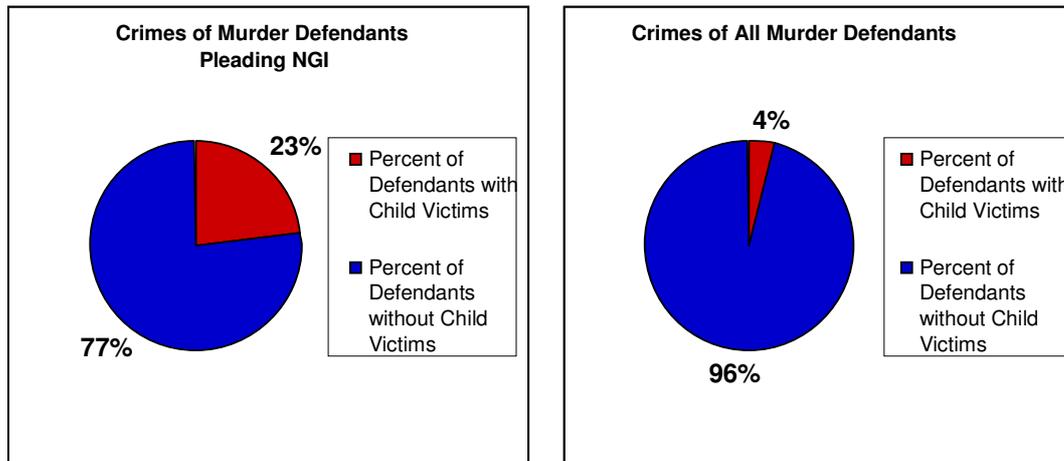
Of the 49 percent of cases in which the defense attorney presented a concrete diagnosis for his or her client's symptoms of mental illness, 28 percent achieved a successful NGI plea, as opposed to only 15 percent of those who did not. This shows that the plea has a far greater chance of success when the psychiatric condition appears to have been diagnosed and documented prior to the crime, thus allowing judges and jurors to believe that it may have been affecting the defendant's reasoning at the time they committed the crime. It appears that the most successful mental disorder for pleading NGI is Manic Depressive or Bipolar Disorder; 57 percent of those who claimed they were afflicted by

this disorder were later determined to be not guilty by reason of insanity. This is compared to with only 25 percent of those who were diagnosed as having schizophrenic or psychotic symptoms and determined to be NGI. This difference may be a result of the fact that Bipolar Disorder is one of the more familiar and well documented mental illnesses in today's society, allowing the judge and jurors to better understand and relate to the nature of the defendant's mindset during the commission of the crime.

Finally, having previously been institutionalized often appears to increase a defendant's chance at successfully pleading insanity. Out of the seventeen defendants who had been institutionalized at some point, 32 percent were found NGI, as opposed to the 19 percent who were not sent to an institution prior to the crime but were still declared NGI. Most likely this is due to the fact that previous institutionalization provides support for the defense's suggestion that its client was so afflicted by mental illness that he or she cannot possibly be held responsible for his or her actions. Likewise, of the sixteen defendants who were either taking psychiatric medication at the time of the murder or held a prescription anytime prior to the crime, 47 percent were found NGI, as opposed to only 17 percent of those who were found NGI but had not been on medication at any point in time. This may be attributed to the fact that for judges and jurors, psychiatric prescriptions are perceived as concrete, scientific evidence of the mental problem that is being suggested by the defense, consequently bolstering the claim that one cannot hold the defendant responsible.

The second major set of characteristics that emerges as repeatedly affecting NGI verdicts involves the victim of the crime. The most influential features appear to be the number of victims murdered and the victims' ages. First, it appears that the fewer victims killed by a perpetrator, the better chance that perpetrator has of successfully pleading not guilty by reason of insanity. Of the 71 cases which involved only one victim, 26 percent of the defendants were found NGI, as opposed to only 3 percent of those who had killed two or more victims. This finding may reflect a desire for vengeance: as the number of victims increases, so does the need for retribution in the eyes of the jurors. Thus the more deaths that occur, the more jurors feel that someone has to 'pay' for the crime. In addition, the larger body count might make jurors feel less safe in applying an NGI verdict with the perception, accurate or otherwise, that the defendant might someday return as a predator to the streets of their community.

The age of the victims also appears to be significant in a sense, mostly when referring to the murder of children. Results indicate that when children, or persons under the age of thirteen are murder victims, the defendant's likelihood of successfully pleading NGI is dramatically reduced. It was found that during the two year period studied, of the 23 percent of cases that involved murdered children, only 9 percent of the defendants were declared to be NGI. Conversely, of the remaining 77 percent of cases which did not involve children as victims, 25 percent of the defendants were successful in their pleas. The murder of children may seem especially heinous to jurors, who then develop a desire to hold someone accountable for the tragedy and restore their belief in a just world because children are generally viewed as vulnerable and in need of protection by adults.



The third set of characteristics associated with the success rate of the insanity defense involves demonstrations of planning before or after the crime is committed. One such measure of this was whether or not the defendant had brought the murder weapon to the scene of the crime, indicating malicious forethought. It was found that in 37 cases in which the murder weapon was brought to the scene by the defendant, only 10 percent of the defendants were found NGI, as opposed to 29 percent of the defendants who were found NGI and developed a weapon spontaneously. This is more likely due to the fact that bringing the weapon to the scene indicates a sense of planning, as well as forethought about the murder, which a jury often associates with rationality and the significances of rational thought capabilities. They reason that if the defendant planned the crime then how could he or she be “crazy?” Consequently, in the 44 cases in which police were unable to establish any type of planning for the murder before its occurrence, 35 percent of the defendants were found NGI, as opposed to only 11 percent who successfully pleaded it despite some form of evidence that planning was involved. This may be due to the fact that impulsive killing by its own nature appears irrational and pointless, thus allowing jurors and even judges to more easily believe that the defendant was either incapable of controlling his or her actions at that moment or simply no longer understood that the action to be committed was wrong and unlawful.

Conclusion

The results of this study suggest that there are indeed certain characteristics that impact the likelihood of obtaining a successful not guilty by reason of insanity verdict from a jury. These include factors such as the personal characteristics of the defendant including his or her criminal and psychiatric background, as well as characteristics of the victim and the crime scene. Many of these findings support prior research from mock jury settings (Finkel & Handel, 1989; Ogloff, 1991; Pickel, 1998) which suggested that such variables as the defendant's history, particularly with respect to psychiatric disorders, motive and evidence of planning the crime displayed an effect on the success of the insanity defense. One of the most significant discoveries gained from this study however, is the finding that the age of the victim is vital to both the initial decision to attempt a not guilty by reason of insanity plea as well as to its success. It appears that defendants whose crimes involve the murder of a child are far more likely to plead NGI than should be accounted for by the total population of child murderers. Furthermore, it is ironically these defendants who are also the most unlikely candidates to mount a successful NGI defense. While the findings of this study are important both in theory and in application, more research is necessary in order to determine more conclusively which factors of a crime and characteristics of a defendant are likely to produce a successful not guilty by reason of insanity defense.

References

- Finkel, N.J. & Handel, S.f. (1989). How jurors construe “insanity.” *Law and Human Behavior*, 15, 533-555.
- Ogloff, J.P. (1991). A comparison of insanity defense standards on juror decision making. *Law and Human Behavior*, 15, 509-532.
- Pickel, K.L. (1998). The effects of motive information and crime unusualness on jurors’ judgments in insanity cases. *Law and Human Behavior*, 22, 571-584.
- Poulson, R.L., Brondino, M.J., Brown, H. & Braithwaite, R.L. (1998). Relations among mock jurors’ attitudes, trial evidence and the selection of an insanity verdict: A path analytic approach. *Psychological Reports*, 82, 3-16.
- Regan, J.J., Alderson, A. & Regan, W.M. (2002). A Review of the Insanity Defense. *Psychiatrist Administrator: Newsjournal of the American Association of Psychiatric Administrators*, 2(3), 66-70.