

# Forensic Assessment

Insanity and Competency

## Andrea Yates and Deanna Laney



## Park Dietz, MD, PhD





## Insanity and Competency

- Insanity: Mental state at the time of the *offense*
- Competency to stand trial: Mental state at the time of the *trial*

## Competency to Stand Trial

- Old English Law
  - Mute of malice
  - Mute by visitation of God

## Other Competencies

- to waive rights (e.g., Miranda)
- to represent oneself
- to be executed
- to consent to...

## Dusky v. US

- “test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding - and whether he has a rational as well as factual understanding of the proceedings against him”
- Two prongs:
  - functioning within proceeding
  - understanding of the proceeding

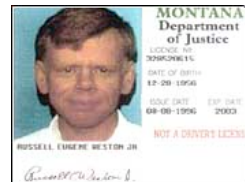
## Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

## Jackson v. Indiana

“A person charged by a State with a criminal offense who is committed solely on account of his incapacity to proceed to trial cannot be held more than a reasonable period of time necessary to determine whether there is a substantial probability that he will attain the capacity in the foreseeable future. If it is determined that this is not the case, then the State must either institute the customary civil commitment proceedings that would be required to commit indefinitely another citizen or release the defendant.”

## Russell Weston



## Why Insanity Defense?

- Mens rea
- Actus reus
- Intent
- Strict liability
- Hate crimes
- Motive vs. intent

- MYTH: Mental state is unique to insanity defense
- TRUTH: Mental state is central to our legal system

## Montana Hate Crimes Law

45-5-221. Malicious intimidation or harassment relating to civil or human rights -- penalty. (1) A person commits the offense of malicious intimidation or harassment when, because of another person's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities, he purposely or knowingly, with the intent to terrify, intimidate, threaten, harass, annoy, or offend:

- (a) causes bodily injury to another;
  - (b) causes reasonable apprehension of bodily injury in another; or
  - (c) damages, destroys, or defaces any property of another or any public property.
- (2) For purposes of this section, "deface" includes but is not limited to cross burning or the placing of any word or symbol commonly associated with racial, religious, or ethnic identity or activities on the property of another person without his or her permission.
- (3) A person convicted of the offense of malicious intimidation or harassment shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.

Sentence enhancement -- offenses committed because of victim's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities. (1) A person who has pleaded guilty or nolo contendere to or who has been found guilty of any offense, except malicious intimidation or harassment, that was committed because of the victim's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities or that involved damage, destruction, or attempted destruction of a building regularly used for religious worship, in addition to the punishment provided for commission of the offense, may, if the provisions of 46-1-401 have been complied with, be sentenced to a term of imprisonment of not less than 2 years or more than 10 years, except as provided in 46-18-222.

## New York Hate Crimes Law

Hate crimes.

1. A person commits a hate crime when he or she commits a specified offense and either:

- (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct,...

## McNaughton

every man is to be presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and that to establish a defense on the grounds of insanity it must be clearly proved that, at the time of committing the act, the accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know what he was doing was wrong

## McNaughton

- Mental disease/defect
- Did not know what he was doing
- (or) Did not know right from wrong
- Cognitive test

## Irresistible Impulse Test

- Reasoning powers were so far dethroned by his diseased mental condition as to deprive him of willpower to resist the insane impulse to perpetrate the deed, though knowing it to be wrong.
- Volitional
- “Elbow test”

## ALI (Brawner) rule

- Not criminally responsible if “at the time of such conduct as a result of mental disease or defect, lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of the law.”
- ‘substantial capacity’
- right-from-wrong test
- volitional test

## Durham (or Product) Rule

An accused is not criminally responsible if his unlawful act was the product of mental disease or mental defect

## Alternatives

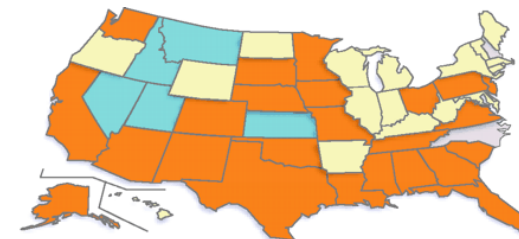
- Guilty but Mentally Ill
- No insanity verdict

## Hypothetical verdict form

- \_\_\_ Guilty
- \_\_\_ Not guilty
- \_\_\_ Not guilty by reason of insanity
- \_\_\_ Guilty but mentally ill

## Definitions from Illinois

- *Murder*: A person commits murder if, in performing the acts which cause the death: 1) He either intends to kill or do great bodily harm to that individual or another; or 2) He knows that such acts create a strong probability of death or great bodily harm to that individual or another.
- *Not guilty by reason of insanity*: a person is insane and not criminally responsible for conduct if at the time of such conduct, as a result of mental disease or mental defect, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law. (Based on ALI)
- *Guilty but mentally ill*: A person who, at the time of the commission of a criminal offense, was not insane but was suffering from a mental illness, is not relieved of criminal responsibility for his conduct and may be found guilty but mentally ill.



- Abolished the insanity defense\*
- Use a variation of the M'Naghten standard
- Use a variation of the ALI standard\*\*
- Other

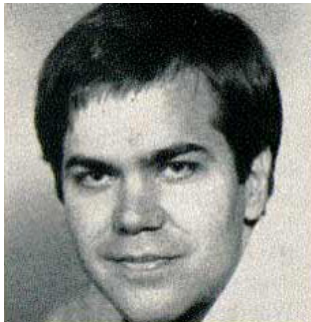
\* The Nevada Supreme Court has ruled the state's abolition of the insanity defense unconstitutional.  
\*\* Also includes the military and the federal government.

## Temporary Insanity?

## Some unusual cases

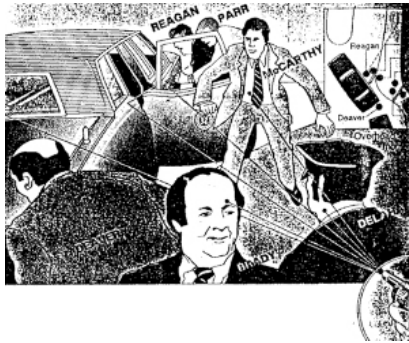
- Francine Hughes
- Mark Peterson
- Scott Falater
- Dan White

## John Hinckley



## Reagan assassination attempt





Dear Jodie:

There is definitely a possibility that I will be killed in my attempt to get Reagan. It is for this very reason that I am writing you this letter now.

As you well know by now I love you very much. Over the past seven months I've left you dozens of poems, letters and love messages in the faint hope that you could develop an interest in me. Although we talked on the phone a couple of times I never had the nerve to simply approach you and introduce myself. Besides my shyness, I honestly did not wish to bother you with my constant presence. I know the many messages left at your door and in your mailbox were a nuisance, but I felt that it was the most painless way for me to express my love for you.

I feel very good about the fact that you at least know my name and how I feel about you. And by hanging around your dormitory, I've come to realize that I'm the topic of more than a little conversation, however full of ridicule it may be. At least you know that I'll always love you. Jodie, I would abandon the idea of getting Reagan in a second if I could only win your heart and live out the rest of my life with you, whether it be in total obscurity or whatever.

I will admit to you that the reason I'm going ahead with this attempt now is because I cannot wait any longer to impress you. I've got to do something now to make you understand, in no uncertain terms, that I'm doing all of this for your sake! By sacrificing my freedom and possibly my life, I hope to change your mind about me. This letter is being written only an hour before I leave for the Hilton Hotel. Jodie, I'm asking you to please look into your heart and at least give the chance, with this historical deed, to gain your love and respect.

I love you forever,

John W. Hinckley

## Insanity Defense Reform Act

- Abolish volitional prong of ALI rule
- Prohibited ultimate issue testimony
- Burden on defense to prove insanity
  - Was previously on prosecution to prove sanity

## Burdens and Standards of Proof

- Burden of proof
  - Presumption of innocence
- Standard of proof
  - Beyond a reasonable doubt
  - A preponderance of evidence

# Myths about the Insanity Defense

Myth	Reality
Used frequently (37%)	Used in 1% of cases
It is successful (44%)	Successful 26%
When successful, set free	Longer than prison

