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"Plain Crazy:"

Lay Definitions of Legal Insanity

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The 1982 Not Guilty by Reason of Insanity (NGRI) verdict in the trial of John Hinckley, Jr., would-be assassin of President Reagan, again has brought to the forefront long-standing public dissatisfaction in the United States with the insanity plea. In the wake of the Hinckley verdict, proposals for reform or abolition of the insanity defense have been submitted to both houses of the U.S. Congress and to state legislatures throughout the nation (Cunningham, 1983). Indeed, over the last several years, nine states have restricted or abolished altogether the defense of insanity (Rosenhan, 1983). Even organizations that support the concept of the insanity defense, such as the American Psychiatric Association and the American Bar Association, have recommended limitations in its scope or application (Cunningham, 1983; Insanity Defense Work Group, 1983). Fueling this reform movement is apparent public dissatisfaction with the insanity plea as it is currently defined.

In contrast to voluminous literature concerning legal and psychiatric perspectives on the insanity plea, very little has been written on the public's perception of the defense. This is the case in spite of the public's apparent role as impetus for recent legal changes. It is important to consider the public's views because such views may affect the legitimacy of the defense as well as verdicts in specific insanity cases. Public opinion surveys in the United States have revealed widespread beliefs that the insanity defense is a loophole (Bronson, 1970; Fitzgerald & Ellsworth, 1984; Hans & Slater, 1983). At least one study, however, has shown that the U.S. public has misconceptions about the criminally insane (Steadman & Cocozza, 1977). Negative attitudes also may be a result of pejorative labelling of the mentally ill in U.S. law (Sales & Kahle, 1980). Pasewark (1981) has demonstrated that the public vastly overestimates the frequency with which defendants successfully employ the insanity plea. All these misconceptions may create negative views of the insanity defense. Furthermore, such perceptions could affect jury decision making. Jurors' pre-existing views of the insanity defense may interact with legal instructions when juries decide cases (Simon, 1967).

As part of a larger study on reactions to the Hinckley trial (Hans & Slater, 1983), we asked a random sample of Delaware residents what they thought was the test of legal insanity. Only 1 of our 434 respondents gave a reasonably

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good approximation of the Model Penal Code definition of legal insanity which was used in the Hinckley trial and was employed in Delaware at the time of that trial. There are three elements in the Model Penal Code test. Defendants are entitled to be found NGRI (1) as a result of mental disease or defect, (2) if they lack substantial capacity to appreciate the wrongfulness of their conduct, or (3) are unable to conform their conduct to the requirements of the law. The obvious divergence of lay views of legal insanity from the actual legal definition in our sample directed us to explore the substance of lay perceptions. The purpose of the present paper is to report in detail the full range of our sample's definitions of legal insanity and to examine demographic correlates of those definitions.

Method

Survey Respondents

Respondents were 434 men and women from New Castle County, Delaware[1] who were contacted by telephone using random digit dialing techniques. The demographic characteristics of the sample generally paralleled 1980 census data for the county, although women, people in the 25-34 age range, and more highly educated individuals were overrepresented in the sample as compared to the census. The racial composition of the community (86% white, 14% nonwhite) was reflected accurately in our sample.

Procedure

Nine trained and paid interviewers conducted the survey beginning one week following the announcement of the verdict, on four consecutive evenings from June 28-July 1, 1982. The interviewers introduced themselves to persons answering the telephone and asked for their reactions to the Hinckley verdict. Calculation of the refusal rate was complicated by the fact that some interviewers recorded nonresidental and other inappropriate numbers with the same notation used for refusals. However, the remainder of the interviewers had a refusal rate of about 5%.

The questionnaire contained items related to the Hinckley trial, the insanity defense, and forensic psychiatry. The demographic characteristics of age, gender, race, and education, and media use information were solicited from respondents.

To tap their understanding of the legal test for insanity, respondents were asked, "In a few words, what do you think is the legal definition of insanity?" The response format for this question was open-ended, and interviewers were instructed to take down respondents' answers verbatim, or as close to verbatim

[1] New Castle County encompasses the northern third of the state of Delaware and includes the urban center of Wilmington, the university community of Newark, and both suburban and rural/farming areas. New Castle County is the home of major corporations (e.g., DuPont, Hercules) as well as large automotive plants (Chrysler, General Motors). Census studies of voter registration, persons voting, and households with telephone service show that residents are within 3% of national averages. Delaware residents, on the whole, have a higher per capita income than the national average (Bureau of the Census, 1980).

as possible. A coding system with 14 different categories was developed from a subset of the responses. Two raters coded the sample's responses individually and initially agreed on 86% of the answers. The responses which generated disagreement were discussed and in all instances a code was agreed upon by the two raters. In the small number (N = 22) of instances in which respondents provided multiple answers, raters selected the first coherent or complete statement for coding.

Results

Definition Categories

Table 1 displays the categories of definitions of legal insanity given by respondents.

Examples of responses coded in each of the categories also are provided. By far the most frequent category was *Don't know what you're doing*. Almost a quarter of the entire sample (23.0%) defined legal insanity in this way. A review of the examples in this category will reveal that some respondents insisted on almost total lack of awareness, e.g., "someone who loses *all* sense of reality" and "someone who loses their mind, can't think *at all*." Three categories—*Mental disease, Cannot tell right from wrong*, and *Having no control*—coincide with the three elements of the Model Penal Code test. A small number of our respondents (3.9%) equated legal insanity with mental disease or mental problems. About one out of every eight (12.3%) respondents defined legal insanity as being unable to differentiate right from wrong. Answers in this category emphasized the cognitive-moral dimension, and, as the examples show, most explicitly used the terms *right* and *wrong*. A similar number of respondents (12.8%) instead focused on the volitional component, defining legal insanity as *Having no control* over one's actions.

Two other categories, each claiming about 5% of the sample, deserve mention. Some respondents used *Colloquial expressions*, such as "nuts altogether" or "go off the top" to define legal insanity. Others defined as legally insane those *Not responsible* for themselves or their actions.

The remaining categories accounted for insignificant numbers of respondents. Accordingly, they were combined, along with unclassifiable responses, into an umbrella *Other* category (18.8%). Finally, about one out of every five respondents (18.6%) responded *Don't know* to the interviewer's request to define legal insanity.

Demographic Correlates Of Insanity Definitions

We had information about the age, race, gender, and education of the respondents. Chi square analyses revealed that there were significant associations between three of these demographic variables—education, gender and race—and definitions of legal insanity.

Not surprisingly, the relationship between legal definitions and education was strong and statistically significant [$\chi^2\,(21, N = 414) = 59.83, p < .001$]. Those with more formal education were more likely to define legal insanity

TABLE 1
Definitions of Legal Insanity

Don't Know What You're Doing (23% of respondents)

didn't know what he was doing
not aware of actions
can't comprehend or think rationally
someone who loses all sense of reality, doesn't know who he or she is
someone who loses their mind, can't think at all
doing something you don't know what you are doing

Having No Control (12.8% of respondents)

out of control
no control at all, no smarts, can't talk
doing something uncontrollably
mental and physical lack of control over behavior
doesn't have control of emotions and thought processes
unable to control your mind and body
not being able to command faculties
people have no control over feelings

Cannot Tell Right From Wrong (12.3% of respondents)

doesn't realize what he is doing is wrong
don't know right from wrong
moral self loses it

Colloquial Expressions (6% of respondents)

crazed
a real nut
go off the top
doesn't have all his marbles
misfits; people who are scattered
plain crazy
nuts altogether
completely gone

Not Responsible (4.6% of respondents)

not responsible for actions
not responsible for self
not able to take responsibility for their actions

Mental Disease (3.9% of respondents)

something wrong with the mind
mentally incompetent
mental illness
mind's messed up
sick in the head

Other (18.8% of respondents)

cannot cope in society with society's rules
anyone who commits such a crime is insane
dangerous to others
no such thing as insanity
a gimmick to get away with your actions
history of erratic behavior

Don't Know (18.6% of respondents)

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as *Cannot tell right from wrong* and *Not responsible*. In contrast, respondents with less formal education were more apt to use *Colloquial expressions*, respond with *Don't know*, or define legal insanity as *Don't know what you're doing*. For example, just one respondent (1.9%) who had less than a high school education defined legal insanity as *Cannot tell right from wrong*, compared to 23 (21.5%) college graduates. Similarly, 9 (17%) respondents without a high school education used *Colloquial expressions*, compared to 1 (0.9%) college graduate.

Men and women defined legal insanity somewhat differently [χ^2 (7, N = 410) = 19.34, $p < .007$]. Women were almost twice as likely to describe legal insanity as *Don't know what you're doing* (29.2% of females versus 16.2% of males), whereas men's responses were twice as likely to fall into the umbrella *Other* category (25.7% of males versus 12.8% of females). In all other categories, men's and women's responses were within a few percentage points of each other.

Men in our sample reported more years of formal education (M = 14.12 years) than women (M = 13.07) [t (424) = 3.90, $p < .001$]. We attempted to provide a control for these educational differences between men and women by examining the relationship between definitions and gender within four broad educational levels (less than high school diploma, high school diploma, some college, and college graduate). At all four levels women were more likely to respond *Don't know what you're doing* and men more likely to offer responses that could only be classified as *Other*, but this differential responding was statistically significant only at the highest level of education [χ^2 (7, N = 107) = 17.47, $p < .02$]. The impact of education on definitions was significant in both male and female subsamples [χ^2 (21, N = 166) = 37.72, $p < .01$ for males; χ^2 (21, N = 243) = 44.44, $p < .002$ for females].

Race also was significantly related to definitions of legal insanity [χ^2 (7, N = 397) = 32.42, $p < .001$]. White respondents were much more likely to describe legal insanity as *Cannot tell right from wrong* (14.5% of whites versus 1.7% of nonwhites), while nonwhites were more likely to use *Colloquial expressions* (18.6% of nonwhites versus 3.8% of whites) or respond *Don't know* (27% of nonwhites compared to 16.9% of whites). Differences in formal education between whites and nonwhites in our sample did not reach statistical significance [t (412) = 1.33, $p < .18$]. Because chi square analyses of the relationship among race, education, and definitions produced unacceptably small cell sizes, it was impossible to determine whether whites and nonwhites held divergent perceptions of legal insanity at different educational levels.

Television Viewing

Respondents' use of television was related to their definitions of legal insanity [χ^2 (14, N = 415) = 30.97, $p < .006$]. Respondents were divided into light, medium, and heavy users on the basis of their reports of how much television they watched per day. Light viewers were defined as watching less than two hours per day, medium viewers as two to four hours per day, and heavy viewers as more than four hours per day. Light viewers were more likely to define legal insanity as *Cannot tell right from wrong* (18.6% of light viewers compared to 12.6% of medium viewers and 5.6% of heavy viewers). Heavy viewers on the other hand were more likely to use *Colloquial expressions* (1.0% of light viewers versus 4.9% of medium viewers and 14.4% of heavy viewers). It was not possible to determine the extent to which education or race mediated this effect because of unacceptably small cell sizes. However, education and race were significantly associated with level of television viewing. Those with less formal education [χ^2 (6, N = 431) = 28.71, $p < .001$] and nonwhites [χ^2 (2, N = 416) = 16.17, $p < .001$] were most likely to be heavy viewers. These findings are consistent with other research (Comstock, Chaffee, Katzman, McCombs, & Roberts, 1978). The other media use variables—television news viewing and newspaper reading—were not significantly related to legal definitions.

Insanity Defense as a Loophole

People's beliefs about what constitutes legal insanity may be related to the apparently common view that the insanity defense is a loophole. To explore this possibility, we cross-tabulated respondents' definitions of legal insanity with their endorsement of the statement, "The insanity defense is a loophole that allows too many guilty people to go free." Responses were coded on a Likert-type scale. Fully two-thirds of the sample "strongly agreed" with this statement. To ensure adequate cell sizes for the chi square analysis, all other response categories were collapsed into one category representing less agreement. Respondents who strongly agreed that the insanity defense was a loophole did hold somewhat different views about legal insanity from those respondents stating less agreement [χ^2 (7, N = 409) = 17.68, $p < .01$]. Those who "strongly agreed" (SA) were more likely than those expressing "less agreement" (LA) to define insanity as *Don't know what you're doing* (27.6% for SA versus 14.9% for LA). In contrast, those who expressed less agreement were more likely to define legal insanity as *Not responsible* (2.5% of SA versus 9.0% of LA) or *Don't know* (17.1% of SA but 22.4% of LA).

Discussion

This survey occurred in the week following the Hinckley verdict. Arguably, more Americans were exposed to information and debate about the insanity defense during that time than any other period in recent memory. Despite this context of relatively high information, the bulk of our respondents were unable

to define the legal test for insanity. Their responses were nevertheless fascinating.

The most frequent way people defined the legal test was *Don't know what you're doing*. This may represent on an intuitive level people's views of what is, or in any event should be, the condition under which an individual may be excused from responsibility for criminal conduct. Researchers familiar with the history of the insanity plea may note the similarity between this type of response and the so-called "wild beast" test employed in some early trials. For instance in 1724 in the trial of Edward Arnold, also known as Crazy Ned, the presiding judge charged the jury: "It must be a man that is totally deprived of his understanding and memory, and doth not know what he is doing, no more than an infant, than a brute, or a wild beast" (Quen, 1983, p. 158).

In addition, one of the components of the McNaughtan Rule employed in England (Moran, 1981), and approximately 20 states in the USA, is not appreciating the nature and quality of one's acts, i.e., not knowing what one is doing. The Model Penal Code definition, used in the Hinckley trial and in Delaware at the time of the study, however, does not explicitly contain such a provision. Rather, it focuses more specifically on understanding the wrongfulness of one's acts.

The apparently common belief that the legal definition for insanity is a lack of understanding of what one is doing may help to explain why so many of our respondents believed the insanity defense was a loophole. These respondents had just witnessed Hinckley, who even by his own account "knew" what he was doing (Hinckley, 1982), adjudged NGRI by a jury. This apparent discrepancy may have led them to the view that the insanity defense was indeed a loophole that allowed the guilty to go free. In fact, respondents who defined legal insanity as *Don't know what you're doing* were more likely than other respondents to agree that the insanity defense was a loophole.

This raises the possibility that the public, and even jurors, may employ their own understanding of legal insanity rather than legal rules in making judgments about criminal responsibility. Even if defendants are legally insane under the relevant test, unless they "don't know what they're doing" some members of the public may hold them criminally responsible. This prospect is even more alarming since in defining legal insanity some of our respondents insisted on near total lack of comprehension. Very few, if any, defendants would be able to meet such a strict standard.

In our study, the demographic variables of education, gender, and race, and television viewing were all related to the way people defined legal insanity. Furthermore, several of these variables showed strong intercorrelations. While any attempt to establish causality could only be speculative at this point, the results do suggest that different groups in our society have varied notions of what constitutes legal insanity. Amount of formal education had a marked effect on respondents' answers, and it is likely that educational differences among subgroups contributed to the other demographic effects. However, the possibility exists that even if they could be equated for educational level, certain subgroups such as men and women or whites and nonwhites might hold different views about what constitutes legal insanity. Indeed, the definition *Cannot tell right from wrong* was given most often by white males. Carol

Gilligan (1982) has recently documented differences between men and women in their concept of morality and what constitutes moral behavior. She has argued that men appear to be more rule bound in their definition of moral behavior, while women seem to take the context of the behavior into account in determining what is moral. Such differences might well affect men's and women's attributions of the conditions under which defendants could be absolved from moral responsibility for their conduct. Future research could investigate the links between knowledge and views of legal insanity and moral reasoning.

In our study, light and heavy television users reported different definitions of legal insanity. Gerbner and Gross (1976) have reported that light and heavy viewers have divergent perceptions of crime in society no matter what content is viewed. Others suggest that the content of what is viewed may also be a factor. Haney and Manzolati (1981) have demonstrated that criminal motivation and the link between mental illness and crime are distorted on many popular television programs. If such distortions are seen as real (Slater & Elliott, 1982), they may affect views of the insanity defense and help shape people's definitions.

As a telephone survey of the residents of one geographical area in the USA, this study has some obvious limitations. Respondents gave, in an open-ended format, only brief definitions of what they thought constituted legal insanity. There were no follow-up questions, a feature of some other surveys. One drawback of an open-ended format is that the verbal ability of respondents may determine their answers. People with similar knowledge of the test for legal insanity may express themselves quite differently depending on their verbal fluency, which of course is affected by formal education. For example, a person with less education might respond *Don't know what you're doing* when what he/she *really* means is *Cannot tell right from wrong*, a phrase that perhaps comes more readily to a more highly educated individual. We acknowledge the contributory role of verbal fluency but believe that the educational differences found in the present study reflect actual differences in the way respondents think about legal insanity. Support for this position comes from the fact that respondents who said that the definition of legal insanity was *Don't know what you're doing* were more likely to endorse the statement that the insanity defense was a loophole than were respondents who defined legal insanity as *Cannot tell right from wrong*. Fully 79.2% of the *Don't know what you're doing* respondents strongly agreed that the insanity defense was a loophole, compared to 65.4% of the *Cannot tell right from wrong* respondents. Furthermore, 13.4% of the *Cannot tell right from wrong* respondents disagreed that the insanity defense was a loophole, compared to just 3.1% of the *Don't know what you're doing* respondents. Nevertheless, in future studies, beliefs about legal insanity should be assessed with other response formats in an effort to minimize effects due to differences in verbal fluency.

While these limitations should be noted, our study provides unique data about how the public views the insanity defense. More work on the formation of the public's views and the relationship between these views and individual attitudes toward crime, justice, and mental illness may yield important results for our future understanding of the concept of legal insanity and its application in real-life cases.

The results of the study raise a broader issue as well. What *should* be the relationship between lay views of legal insanity and legal definitions? Divergence between the two may create difficulties. This is illustrated by the following excerpt from the testimony of Nathalia Brown, one of the jurors in the Hinckley case, before a U.S. Senate subcommittee on criminal law:

> Well, insane is a word that—it is hard to figure out. OK, you have got your legal insanity. Then you have got your lay insanity. We can say insane and think of somebody being crazy. But the legal insanity, how far does that go? We really do not know as lay witnesses (United States Congress, 1982, p. 161).

In addition to causing confusion for jurors, disparity between lay and legal notions of insanity may lessen respect for the legal system.

There are two perspectives on how society might address this divergence between lay and legal definitions of insanity. On the one hand, some might argue that legal rules of insanity are simply formalizations of cultural sentiments about what behavior is morally excusable because of mental illness. There is no magic in the legal terminology, no scientific study of such phrases as "ability to appreciate the nature and consequences of one's acts," and no operationalizations of the concepts incorporated into insanity laws. In this view, if lay and legal notions diverge then the law should be changed so that it more closely reflects lay views of insanity. Likewise, jurors should be free to draw upon their own lay views of insanity in arriving at verdicts. Certainly there is evidence that on other issues shifts in public opinion lead to legal change (Page & Shapiro, 1983). New limitations in U.S. insanity defense laws after negative public response to the Hinckley verdict appear to be part of this general pattern.

On the other hand, what is clear from both this study and from other work is that the public is badly informed about the insanity defense. We believe that widespread misconceptions have caused the public to be overly concerned about the application, use, and success of the insanity plea (Hans & Slater, 1983; Pasewark, 1981). In our view it would be precipitous to alter centuries-old legal rules for insanity in response to opinions of a discontented but poorly informed public. Furthermore, others have suggested that the insanity defense should be maintained as it currently exists whether or not it comports with current lay views of legal insanity (Slovenko, 1982; Stone, 1982). In their view, the insanity plea reflects critical legal-philosophical foundations of a democratic society. For example, Alan Stone, a past president of the American Psychiatric Association, argues that the insanity defense serves larger interests. As he states, "It is not psychiatrists, it is not criminals, it is not the insane who need the insanity defense. The insanity defense is the exception that 'proves' the rule of free will. It is required by the law itself . . ." (Stone, 1982, p. 21). He maintains that the fact some defendants can be found Not Guilty by Reason of Insanity demonstrates that other criminals had free will and thus can be convicted and punished.

Because the proper relationship between public views and law regarding insanity is partly a value judgment, it cannot be resolved exclusively by empirical means. The tension that exists between lay views and legal definitions will continue until laws are reformed to be consistent with lay views or until

the public becomes adequately informed or persuaded of the necessity for the insanity defense. To assist that process, further research and continued public debate are required.

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