

Rates of Insanity Acquittals and the Factors Associated with Successful Insanity Pleas

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The frequency of use of the insanity plea, the probability of being acquitted by reason of insanity given the plea has been used, and the overall volume of insanity acquittees was determined for seven states. Across the seven states, there was an inverse relationship ($r = -.67$) between the frequency of use and the likelihood of success. As a result, the overall volume of insanity acquittees was stable. Based upon a sample of 8,138 people indicted for a felony and who raised an insanity plea at some point during the processing of their cases, the characteristics of insanity defendants and their cases differed by state, and a number of these characteristics, particularly diagnosis and type of crime, were related to the likelihood of an insanity acquittal. The inverse relationship between the plea and success rates was at least partially explained by the differences in the composition of the cases. States with high plea rates tended to have a higher proportion of cases that involved defendants who were unlikely to succeed. States with lower plea rates tended to have higher proportions of cases that involved defendants who were likely to succeed.

Previously, we reported data on the volume of insanity cases in each of eight states and pooled across the eight states as well as the characteristics of these insanity cases pooled across the eight states.¹ In that article, we found an inverse relationship between the rate of insanity defense use and the likelihood of an insanity

acquittal when the insanity defense has been used. We stated that "This relationship may suggest that there is some 'acceptable' range of acquittals such that a high volume of pleas is offset by a relatively low acquittal rate and vice versa."

This article is an extension of the earlier work; it moves beyond the prior study in four ways. First, this study quantifies the inverse relationship between the rate of use and the likelihood of success and the resulting stability in the volume of insanity acquittals. Second, this article presents evidence that the types of people and crimes involved in insanity cases differ by state. Third, this study shows that

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the characteristics of the defendants and of the crimes are correlated to the likelihood of an insanity acquittal. Finally, the analysis presented here reveals that the stable volume of insanity acquittals across states is at least partially due to the observed differences in the characteristics and the correlations between these characteristics and the probability of an insanity acquittal.

Sample and Data Collection

The data were drawn from seven states: California, Georgia, New Jersey, New York, Ohio, Washington, and Wisconsin. The data were collected as part of a larger project that assessed the impacts of various types of insanity defense reforms. That study also included an eighth state, Montana, which abolished the insanity defense in 1979. Because of the paucity of insanity acquittals subsequent to the abolition of the insanity defense, the inclusion of the Montana data would have greatly and artificially affected the estimated probabilities of a not guilty by reason of insanity (NGRI) verdict and would have introduced a number of other issues that are beyond the scope of this study. Those data are discussed elsewhere.^{2,3}

The time periods, the dates on which people who used an insanity defense were indicted for a felony, varied for each state (see Table 1). The differences in time period could pose a threat to the validity of subsequent analysis because differences across states could be due to other factors, such as changing social mores, which are related to time. All the analyses reported in this article were also run a

Table 1
Study Periods

State	Start Date	End Date
California	7/79	6/85
Georgia	1/76	12/85
New Jersey	1/76	12/85
New York	1/78	12/87
Ohio	1/77	12/83
Washington	7/79	12/87
Wisconsin	7/79	6/85

second time. In these additional analyses, all states were held to the same time period—the one common to all states, July 1979 through December 1983. Although the results of the second set of analyses are not reported here, those results did not differ significantly from the analyses based on the unrestricted time periods. Therefore, any differences across states observed in subsequent analyses is not due to the differences in study periods.

Statewide data on the frequency of insanity pleas were not available, but data on insanity acquittals were. Due to practical and financial constraints, a sample of counties rather than all counties in a state were used. We selected those counties that would provide 66 percent of all insanity acquittals in each state and would be the minimum number of counties to do so. This sampling procedure biased our sample toward larger, more urban counties and toward counties with higher rates of use and higher rates of successful insanity defenses. The extent to which our results may be generalized to smaller, less urban counties is not known. The study counties are reported elsewhere.³

The first step in data collection was to identify all persons who were indicted for

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a felony and who entered an insanity plea at any time during their defense.* The procedure required hand searches of individual criminal dockets that were maintained in the county clerks' offices. Every docket was evaluated to determine whether a defendant who had been indicted for a felony had ever raised an insanity defense. Searches of the county-level data did not always lead to the identification of all the insanity acquittees who had been found during the search of the statewide records. This did not occur frequently. Only 4.9 percent of all the insanity pleas reported in this study were identified at the state level and not at the county level, although the proportion was higher in California (11.7%) than in other states. This issue does highlight another potential bias. As data collection at the county level missed some successful insanity pleas, it most assuredly missed some unsuccessful pleas. Therefore, our numbers could underestimate the true proportion of felony indictments that involved an insanity plea and could overestimate the likelihood of an insanity acquittal given the plea had been entered. When the insanity pleas had been identified, information was abstracted from criminal case records.

Frequency of an NGRI Verdict

The sample reported here includes 8,138 people who were indicted for a felony during the study period and who raised an insanity plea at some point dur-

*Misdemeanors were not included because of the data collection burdens involved and because the controversy regarding the insanity defense centers on felony offenses.

Table 2
Rates of NGRI Acquittals, Pleas, and Success

State	Plea Rate, %	Success Rate, %	Acquittal Rate, % ^a
California	0.58	45.3	0.30
Georgia	1.73	13.1	0.28
New Jersey	0.53	43.3	0.23
New York	0.29	39.8	0.12
Ohio	1.36	15.2	0.23
Washington	0.60	87.4	0.52
Wisconsin	1.59	28.2	0.47
Aggregated	0.85	28.1	0.26

^aAcquittal rates will not necessarily equal the product of the plea rates and success rates. Both the plea and the acquittal rates are based on data from both state and county level data. Success rates are based on data from county sources only.

ing the processing of their cases. Of this group, there were 7,961 cases that were decided—a verdict rendered—by the end of data collection, and 7,618 (96%) of the resolved cases were identified from the county level data. There were 953,000 people indicted for a felony in the study counties during the study period.

To assess the frequency of an NGRI verdict, we calculated three rates: the plea rate, the success rate, and the acquittal rate. Plea rates are the number of insanity pleas for every 100 felony indictments, and they assess the frequency in which the insanity defense is attempted. Success rates are the number of insanity acquittals per 100 insanity pleas, and they assess the likelihood of an NGRI verdict, given the defense had been used. To assess the overall frequency of insanity acquittals, we calculated the acquittal rate—the number of insanity acquittals for every 100 felony indictments. Table 2 displays

each of the three rates for the seven states individually and aggregated across states.

The plea rates ranged from a low of .29 insanity pleas per 100 felony indictments in New York to a high of 1.73 in Georgia. Although Georgia had the highest plea rate, it had the lowest success rate—only 13.1 of every 100 insanity pleas resulted in an NGRI verdict. Washington state had the highest success rate (87.4%). As discussed in another article,¹ this unusually high success rate is an indication that insanity pleas may be negotiated before they are entered.

The acquittal rates ranged from a low of .12 NGRI verdicts out of every 100 felony indictments in New York to a high of .52 in Washington. For four states (California, Georgia, New Jersey, and Ohio), the acquittal rates ranged from .23 to .30. The rates were higher in both Washington and Wisconsin. Clearly, an NGRI verdict was rare. One in approximately 400 felony indictments resulted in an insanity acquittal.

Among the study states, plea rates and success rates are inversely related. Across all seven states, the correlation between the two rates is $-.67$ ($p < .06$). Without Washington, which had a high success rate, the correlation was $-.88$ ($p < .02$). States with higher rates of use of the insanity defense had lower rates in which such cases led to an insanity verdict. The implication is a stable acquittal rate, the overall volume of NGRI verdicts.

Our data are limited to the characteristics of the defendants using the insanity defense and the crimes for which they were indicted. Therefore, our investigation of the reasons for this inverse rela-

tionship is limited to these factors. We can examine the extent to which the stable acquittal rates are attributable to differences across states regarding the characteristics of the insanity cases. Other potential explanations for the inverse relationship are beyond the scope of this study.

Characteristics

For people who had pleaded not guilty by reason of insanity, we collected data regarding their sociodemographic characteristics, their criminal history, and their mental health history. The data reported represent the 7,618 cases that were obtained from the search of county level records and were resolved during the study period.[†] These data were used to determine the extent to which the characteristics of insanity cases differed by state and to assess which factors were related to an insanity acquittal.

It is important to note at the outset that the amount of missing information varied by state and variable. The proportion of cases with missing information for gender, race, and age was .1, 10.2, and 9.1 percent, respectively. In virtually every case, the indictment charge, or crime, was known.[‡] The level of education (29.1%) and defendant's marital status (23.6%) could not be determined for a large pro-

[†]The analysis was restricted to these cases, because the analysis of relationship between the characteristics and success rates would be limited to them. The present restriction allows comparability.

[‡]Crime was the most serious charge at indictment. We used a tripartite categorization: murder, which included murder, manslaughter, and deliberate homicide; other violent crime, which included attempted murder, rape, attempted rape, assault, arson, and kidnapping; and other crimes, which included all felony crimes not captured by the other two categories.

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portion of the cases. The proportion of missing cases for information regarding the victim of a crime, prior arrest history, and prior prison incarceration history was high. For example, in New Jersey, prior prison incarcerations were unknown for 80.4 percent of the cases. Pooling the data from the seven states, diagnosis was unknown in 26.8 percent of the cases. The proportion of missing cases for prior hospitalization history was even greater (39.7%). If the data are not missing at random, the estimated distributions and correlations may be biased.

Table 3 displays the composition of the sample of resolved insanity pleas. A chi-square test of independence was used to assess the relationships between state and each characteristic. The differences across states were statistically significant for all characteristics. Pooling data from the seven states, approximately 10 percent of the cases involved a female defendant. The proportion of female defendants was highest in New Jersey (13.3%) and Washington (14.5%). The majority of defendants were nonwhite in Georgia, New Jersey, New York, Ohio, and Wisconsin. In California, 47 percent were nonwhite, while the number was only 25 percent in Washington. In all seven states, the majority of defendants were between 20 and 39 years of age. Wisconsin had very few (2.3%) defendants who were 50 years of age or older. The states also differed regarding the educational background of the defendants. In Georgia, only 36.9 percent of the defendants had at least a high school education, while in Washington the figure was 70 percent. In the other states, this ranged between 40

and 60 percent. Combining data on marital status across the seven states, 18.1 percent of the defendants were married. The proportion in New York was higher (23.1%), while it was significantly lower in both Washington (12.5) and Wisconsin (12.7%).

Approximately 14 percent of all cases involved a murder charge. New York had the highest proportion (29.8%), while in both Washington and Wisconsin approximately 8% of all insanity cases involved a murder. The majority of cases involved either a murder or some other violent crime in every state except Georgia and Wisconsin. For cases that involved a victim, 22.8 percent involved a victim who was related to the defendant. This proportion was significantly higher in New York (38.4%) and Georgia (27.5%). Almost one-half (48.5%) of the victims were male. The proportion in Georgia was significantly lower (42.4%), while in Washington it was higher (59.2%). Across the seven states, 75.1 percent of the defendants had been arrested previously. Again, Georgia (83.5%) and Washington (58.7%) were significantly different from the other states. Patterns for prior prison incarceration also varied across states. Georgia had the highest proportion of defendants who had been previously incarcerated (57.5%), while Washington had the lowest (13.3%).

The majority of insanity defendants were diagnosed with a major mental illness in every state except Ohio.[§] The

[§]We used a tripartite coding scheme for diagnosis. Defendants diagnosed with schizophrenia, other psychosis, or a major affective disorder were coded to have a "major" mental illness. Defendants who received no

proportion of cases diagnosed with no mental illness was highest in Georgia (24.0%) and Ohio (12.4%). No one received such a diagnosis in New York or Washington. The majority (72.2%) of defendants had previously been institutionalized in a mental hospital. The proportion was significantly higher in both Georgia (88.5%) and New Jersey (86.4%).

The characteristics of the insanity defense cases differed across the seven states. The inputs into the system of insanity cases were not the same. Therefore, some of the differences in the success rates of the seven states could be attributed to the differences in who pleads to NGRI. Two necessary conditions for this conclusion are: (1) the characteristics of the defendants and the crimes were related to the likelihood of an insanity acquittal; and (2) the states with lower success rates had a higher proportion of insanity cases involving those defendants or crimes with characteristics associated with lower probabilities of an insanity acquittal.

Correlates of an Insanity Acquittal

To determine which, if any, of the characteristics were correlated to the likelihood of success, we next calculated the success rates conditioned on these factors. Table 4 displays the results. All hypothesis tests were based on a chi-square

test of independence between the factors and a dichotomous dependent variable that indicated whether or not the defendant was found NGRI.¹¹

In regard to sociodemographic variables, a clear pattern emerges. In every state, the success rate for females was greater than that for males, and the difference was statistically significant in six states. Defendants under 20 years of age were less likely to be successful than other defendants. People with more years of formal education were more likely to be successful than defendants without a high school education. Generally, married defendants were less likely to be found NGRI than other defendants. The differences were not significant in either Washington or Wisconsin. The results were least consistent for race. The findings were not statistically significant in five states: California, New Jersey, New York, Washington, and Wisconsin. In both Georgia and Ohio, success rates were higher for nonwhites. Pooling the data across all states, however, suggests that the success rate for whites is higher than for nonwhites. That result is due to the fact that the rate is higher for whites in most of the states where there was no statistically significant difference.

Crime was significantly related to success rate in every state. The success rate was highest for violent crimes other than murder, followed by murder, and then other crimes. The only exception to the pattern was in Washington state, where

such diagnosis but were diagnosed with some other mental disorder were included in the "other" category. If the only diagnosis a defendant received was not mentally ill, he/she was placed in the last category, "no mental illness."

¹¹Verdicts for those people not acquitted by reason of insanity included: guilty (85.08%), dismissed/not guilty (9.84%), guilty but mentally ill (2.63%), and other (2.45%).

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Table 3
Characteristics of Insanity Pleas

	States, %							Total
	CA	GA	NJ	NY	OH	WA	WI	
Gender								
Male	90.5	90.5	86.7	89.2	89.5	85.5	92.4	89.7***
Female	9.5	9.5	13.3	10.8	10.5	14.5	7.6	10.3
Race								
White	53.0	36.7	39.9	41.4	47.9	75.0	47.7	46.2****
Nonwhite	47.0	63.3	60.1	58.6	52.1	25.0	52.3	53.8
Age								
<20	6.8	14.7	8.9	10.1	11.6	4.0	15.1	11.2****
20-29	42.7	51.1	43.8	47.4	49.2	43.5	49.5	47.8
30-39	35.2	22.4	27.0	25.5	24.2	35.6	26.4	26.6
40-49	9.7	7.1	13.2	9.9	8.7	9.5	6.7	8.8
50+	5.6	4.7	7.2	7.1	6.4	7.4	2.3	5.7
Education								
No high school	40.2	63.1	58.8	46.1	58.7	30.0	51.9	53.9****
High school	59.8	36.9	41.2	53.9	41.3	70.0	48.1	46.1
Marital status								
Not married	83.4	79.2	82.0	76.9	81.9	87.5	87.3	81.9****
Married	16.6	20.8	18.0	23.1	18.1	12.5	12.7	18.1
Crime								
Murder	17.6	10.6	15.1	29.8	14.9	7.8	8.4	14.1****
Other violent	49.4	27.9	46.4	43.4	39.4	49.4	31.8	38.1
Other	33.0	61.5	38.5	26.8	45.6	42.8	59.8	47.7
Related to victim ^a								
No	80.5	72.5	75.6	61.6	80.2	77.3	83.7	77.2****
Yes	19.5	27.5	24.4	38.4	19.8	22.7	16.3	22.8
Gender of victim ^a								
Male	48.5	42.4	54.3	48.5	48.6	59.2	50.1	48.5****
Female	51.5	57.6	45.7	51.5	51.4	40.8	49.9	51.5
Prior arrest								
No	25.0	16.5	24.7	27.6	25.7	41.3	27.9	24.9****
Yes	75.0	83.5	75.3	72.4	74.3	58.7	72.1	75.1
Prior prison								
No	63.0	42.5	62.3	62.2	67.6	86.7	74.8	62.5****
Yes	37.0	57.5	37.7	37.8	32.4	13.3	25.2	37.5
Diagnosis								
Major	67.3	52.4	79.1	75.6	41.8	83.1	58.6	57.2****
Other	27.4	23.6	20.3	24.4	45.7	16.9	38.2	31.3
No mental illness	5.3	24.0	0.6	0.0	12.4	0.0	3.2	11.5
Prior hospitalization								
No	30.2	11.5	13.6	31.1	34.5	25.2	30.0	27.8****
Yes	69.8	88.5	86.4	68.9	65.5	74.8	70.0	72.2

^aAnalysis was limited to those cases with a victim.

* $p < .10$; ** $p < .05$; *** $p < .01$; **** $p < .001$.

Table 4
Percent Found Not Guilty by Reason of Insanity

	States, %							
	CA	GA	NJ	NY	OH	WA	WI	Total
Gender								
Male	43.9***	12.4****	42.2	38.4***	14.7*	86.0**	27.0**	26.9****
Female	58.3	20.5	50.6	56.9	19.7	95.2	42.5	38.5
Race								
White	48.7	12.6***	49.1	38.5	11.8****	88.9	30.7	32.2****
Nonwhite	44.2	17.3	42.5	41.9	18.3	82.9	27.2	28.2
Age								
<20	28.8**	8.1****	23.1***	20.4**	5.8****	76.5	19.0	13.9****
20–29	45.7	14.0	39.8	42.3	14.4	88.2	28.6	28.0
30–39	48.8	19.8	50.6	41.9	18.8	86.3	32.6	36.2
40–49	48.5	16.8	53.2	45.3	20.8	92.7	25.7	36.0
50+	43.3	18.4	52.4	44.7	17.9	87.5	41.7	34.5
Education								
No high school	39.3**	14.8***	59.1	43.2**	13.0****	89.0	26.5****	24.5****
High school	46.7	20.4	63.3	52.8	19.7	94.1	38.7	37.5
Marital status								
Not married	48.3****	20.1****	58.0**	53.9**	16.3**	89.2	29.4	34.0****
Married	33.7	10.6	44.3	40.2	11.3	91.1	29.0	24.0
Crime								
Murder	45.9****	14.0****	40.4****	39.4****	15.5***	64.7****	31.8*	28.7****
Other violent	54.8	19.2	55.4	51.9	18.6	91.6	34.1	38.3
Other	32.9	10.1	30.0	22.9	12.2	86.6	24.5	19.9
Related to victim ^a								
No	41.2****	10.3****	44.6***	44.6****	14.1****	83.9	26.6	29.7****
Yes	56.8	30.9	65.2	63.5	26.0	85.7	26.3	45.3
Gender of victim ^a								
Male	46.7	21.5****	50.0	48.1	18.3**	84.8	32.6**	36.0****
Female	42.4	12.9	42.2	41.7	13.1	82.6	20.7	27.1
Prior arrest								
No	49.2*	4.9	24.1*	51.9**	15.2	89.5	36.9**	33.6****
Yes	42.0	7.3	37.0	40.8	13.7	85.2	26.1	25.1
Prior prison								
No	46.8****	7.3***	23.7	54.4****	14.6**	86.0	30.5*	30.9****
Yes	33.1	3.3	30.4	31.0	10.8	79.4	21.4	16.9
Diagnosis								
Major	62.3****	26.8****	65.6****	85.9****	34.3****	95.2****	53.1****	51.7****
Other	27.9	12.4	38.0	37.1	4.7	70.1	13.0	15.7
No mental illness	3.8	1.1	0.0	NA	1.9	NA	0.0	1.6
Prior hospitalization								
No	32.0****	16.4**	66.7	49.1**	5.5****	84.5**	13.2****	23.9****
Yes	55.7	29.5	62.4	60.1	22.9	92.4	41.5	43.3

^aAnalysis is limited to those cases with a victim.
p* < .10; *p* < .05; ****p* < .01; *****p* < .001.

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the success rate for other crimes was higher than the success rate for murder. Defendants who victimized a person who was related to them were more likely to be found NGRI than a defendant who victimized a person who was not related. This factor was not statistically significant in Washington or Wisconsin. The success rate was generally lower when the victim was female, but the relationship between victim gender and success rate was significant in only three states: Georgia, Ohio, and Wisconsin. Prior arrest history was significantly related to the probability of an insanity acquittal in four states (California, New Jersey, New York, and Wisconsin). In New Jersey and Georgia, defendants with prior arrests had higher success rates, while in these other states, they had lower success rates. Defendants who had previously been imprisoned were less likely to be found NGRI than people who had not. There was no significant difference in this factor in either New Jersey or Washington.

In every state, diagnosis was significantly related to verdict at the .001 level. Success rates were highest for defendants diagnosed with a major mental illness. Very few defendants diagnosed with no mental illness were found NGRI, which should be expected. What was surprising was that some defendants who were diagnosed with no mental illness were acquitted by reason of insanity. Defendants diagnosed with a mental illness, but not a major mental illness, had success rates lower than the first group but higher than the last. People who had previously been hospitalized were significantly more

likely to be found NGRI in every state except New Jersey.

In our investigation of the factors associated with an insanity acquittal, we found the following:

1. The most significant and consistent correlates of verdict were diagnosis and crime.

2. The nature of the relationship was similar for most of the factors (e.g., success rates for female defendants were higher than those for male defendants).

3. The results for race were the least consistent.

4. A defendant who was female, over 20 years old, not married, and had at least a high school diploma was more likely to succeed than a similar defendant who was not.

5. Violent crimes other than murder that involved a victim who was related to the defendant had a higher chance of an insanity acquittal, particularly if the defendant had no prior arrests and no prior incarcerations.

6. Defendants who had histories of prior mental hospitalizations and who were diagnosed with a major mental illness had higher success rates.

Discussion

The goals of this study were to: (1) estimate the magnitude of the inverse relationship between the frequency in which the insanity defense is used and the probability of an insanity acquittal; (2) examine the effect of this relationship on the overall volume of insanity acquittals; and (3) assess the extent to which the inverse relationship was due to differences in the characteristics of the defen-

dants and the crimes involved in the defense.

Based upon our data, the magnitude of the inverse relationship between the insanity defense plea rate and the success rate was $-.67$. If Washington state, which has an extremely high success rate, were dropped from the analysis, the correlation would be $-.88$. Because of this relationship, the two rates cancel one another to produce a stable overall volume of insanity acquittals. Pooled across the seven states, there were .26 insanity acquittals per 100 felony indictments. The acquittal rates ranged from a high of .52 to a low of .12. The rate was no higher than .30 for five of the seven states.

Our analysis of the characteristics of the defendants using the insanity defense and the crimes with which they have been charged revealed a number of patterns. First, diagnosis and indictment charge were the most predictive factors. Second, the composition of insanity cases differed by state. Third, the inverse relationship between the plea and the success rates was at least partially explained by the differences in the composition of the cases. States with high plea rates tended to have a higher proportion of cases that involved defendants who were unlikely to succeed. Therefore, the overall success rate for those states is low. Concurrently, states with lower plea rates tended to have higher proportions of cases that involve defendants who were likely to succeed. Therefore, the overall success rates were high.

For example, Georgia had the highest plea rate (1.73 insanity pleas per 100 felony indictments) and the lowest success

rate (13.1% of all insanity cases). Of those employing the defense in Georgia, a majority (61.5%) involved "less serious" crimes, a high proportion (24.0%) of the defendants were diagnosed as having no mental illness, a relatively high proportion (63.1%) of defendants had less than a high school education, and a relatively large proportion (14.7%) of the cases involved defendants under 20 years of age. All of these characteristics were associated with lower chances of an insanity acquittal.

The same type of pattern holds in Ohio, which had the third highest plea rate (1.36 insanity pleas per 100 felony indictments) and the second lowest success rate (15.2% of all insanity cases). There was a high proportion of cases (45.6%) involving "less serious" crimes, a high proportion (12.4%) of cases with a diagnosis of no mental illness, a relatively low proportion of cases (41.8%) with a diagnosis of a major mental illness, and a relatively high proportion (11.6%) of defendants under the age of 20. Wisconsin had the second highest plea rate and the third lowest success rate. In this state, a large proportion (59.8%) of cases involved "less serious" crimes, a relatively high proportion of cases (38.2%) diagnosed with a mental illness other than a major mental illness, and a high proportion (15.1%) of defendants under the age of 20. At the other extreme, Washington had by far the highest success rate (87.4%), and 83.1% of the defendants were diagnosed with a major mental illness—the single most significant predictor of an insanity acquittal.

All of these results are consistent with

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the conclusions that "... there is some 'acceptable' range of acquittals such that a high volume of pleas is offset by a relatively low acquittal rate and vice versa."¹ That conclusion was not to imply that there is a quota for insanity acquittes. Instead, as shown in this study, there are certain characteristics of defendants and the crimes with which they are charged that are predictive of an insanity acquittal. Furthermore, a certain proportion of felony cases, or at least defendants who are indicted for a felony and who at some point use the insanity plea in their defense, possess those characteristics associated with a high probability of an insanity acquittal. Therefore, the overall volume of insanity acquittals remains constant.

While beyond the scope of our investigation and the ability of data set, these findings do raise the question of why more defendants, including those who are unlikely to succeed, use the insanity defense in some states than in others. These results suggest that states tended to em-

ploy one of two screening mechanisms: limited access or limited likelihood of success given access. The first screen appears to filter out cases unlikely to lead to an insanity acquittal. The second allows greater access, but a smaller proportion will succeed. Another potential explanation is that the attractiveness of the insanity defense relative to either a not guilty or guilty plea might differ across states. As a result, there might be greater incentive to use the defense in some states. The reader must still keep in mind that, in terms of the overall volume of felony indictments, the insanity defense was used rarely in all states in the survey.

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