

Editor:

We write to correct an oversight in our recently published paper regarding Arizona's procedures following a verdict of guilty except insane (GEI).¹ The thesis of our paper is that Arizona's GEI verdict, as modified in 2007, is consistent with a guilty but mentally ill (GBMI) verdict in that individuals adjudicated GEI for charges involving death or serious physical injury are incarcerated in the state department of corrections and are placed under the jurisdiction of the Arizona Psychiatric Security Review Board (AzPSRB) for the full term of their institutionalization or conditional release. The statute also provides a mechanism for the AzPSRB to transfer individuals adjudicated GEI for less serious offenses from the state hospital to the department of corrections when they no longer require hospital care but remain dangerous and likely to reoffend.

We have learned from representatives of the Board that this is not always the case. There is a small subset of individuals under AzPSRB jurisdiction who are not subject to transfer to a correctional facility even if the AzPSRB determines that the individual no longer needs treatment in the hospital but remains dangerous or at risk to reoffend.

Whether or not individuals are subject to transfer to a correctional facility is based on the specific statute under which they are sentenced. Based on our understanding of the legislative intent of the 2007

changes to Arizona's GEI verdict, we believe that excluding some individuals from transfer to corrections may have been an oversight. Preliminary discussions with individuals affiliated with the AzPSRB and the Arizona State Hospital indicate that excluding individuals from transfer to a correctional facility is problematic for both parties.

Stakeholders have suggested petitioning the legislature to change the statute to empower the AzPSRB to transfer to corrections any individual under its jurisdiction, consistent with the legislative intent of the 2007 statutory changes. Other proposed solutions include educating judges on the ramifications of sentencing individuals found GEI under the statutes that do not permit transfer to corrections.

We bring this statutory inconsistency to the attention of your readers and hope to follow this situation closely as actions are taken to clarify the situation.

Reference

1. Kirkorsky SE, Shao W, Bloom JD: The migration of Arizona's post-insanity defense procedures to a modified GBMI model. *J Am Acad Psychiatry Law* 47:217–23, 2019

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