

Opinions Concerning the Insanity Plea and Criminality among Mental Patients*

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Although numerous discourses relating to the insanity plea are to be found in the psychiatric and legal literature, there are but few empirical studies that address even the fundamental issue of its incidence and success rate.¹ Similarly, to the authors' knowledge, there is but one study concerned with the attitudes of individuals toward the insanity plea; that study was a survey made of lawyers and psychiatrists.²

In the present research, respondents were asked to (1) estimate the arrest rates of non-criminal civil male patients, aged 18-64, hospitalized at the Wyoming State Hospital as compared with given arrest rates by category for the general male population of the same age group; (2) estimate the frequency and success rate of the insanity plea in Wyoming; and (3) indicate their knowledge of certain procedural matters relating to the insanity plea.

Subjects anonymously completing the questionnaire were 209 University of Wyoming students. Of these, 169 were enrolled in undergraduate psychology classes and 40 in a master's program in Business Administration offered through the Extension Division in Casper, Wyoming. These were 111 females and 98 males. Age distribution ranged from 17 to 43 years, with a mean of 22.3 and a median of 20.3. Educational level varied from 12 to 16 years, with a mean of 13.5 and a median of 13.3. Sixty-two subjects (30%) reported that they, or a member of their immediate family, had sometime in the past been victims of a criminal act. These offenses varied from murder to vandalism.

Results and Discussion

From Table 1,^{***} it is seen that subjects believe patient arrest rates to be higher than the general Wyoming male population³ for only three offense categories: murder, aggravated assault, and possession of a dangerous weapon. For five crimes, larceny, burglary, forgery, fraud, and "other," they opined a lower arrest rate for male patients than that provided them for the general male population. For seven offenses, robbery, other assault, rape,

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***In compiling Table 1, confidence intervals were constructed around each sample mean for both the .05 and .01 levels of significance; the standard error for each mean was multiplied by the confidence interval desired and that sum was added to and subtracted from the mean. Thence, it was determined whether or not the arrest rate fell within each given confidence interval.⁴

other sexual, auto theft, possession of stolen property and drug law violations, subjects' estimation of the patient crime rate did not differ significantly from actual rates of the general Wyoming male population.

TABLE I
ACTUAL AND ESTIMATED ARREST RATES PER 10,000 FOR
WYOMING'S GENERAL MALE POPULATION AND HOSPITALIZED MALE MENTAL PATIENTS

Offense Category	Actual Arrest Rates		Subjects' Estimated Rate for Patients	Significance of Difference	
	General Population	Hospitalized Patients		Estimated Patient Rate to Actual General Popu- lation Rate	Estimated Patient Rate to Actual Patient Rate
Murder	1.18	3.76	3.98	Higher*	NS (1)
Robbery	3.69	11.29	3.46	NS (1)	Lower**
Assault, Aggravated	3.94	11.29	5.30	Higher**	Lower**
Assault, Other	10.51	15.05	11.26	NS (1)	Lower**
Rape	1.61	3.76	4.44	NS (1)	NS (1)
Other Sexual	3.52	3.76	11.14	NS (1)	NS (1)
Larceny, Auto	12.75	15.05	10.40	NS (1)	NS (1)
Larceny, Not Auto	32.53	48.91	23.00	Lower**	Lower**
Burglary	17.25	30.10	11.13	Lower**	Lower**
Possession Stolen Property	1.71	7.52	1.42	NS (1)	Lower**
Forgery	10.67	7.52	6.49	Lower**	Lower**
Fraud	17.94	7.52	8.79	Lower**	Higher**
Possession of Weapon	2.82	11.29	3.72	Higher**	Lower**
Drug Laws	12.74	37.62	12.70	NS (1)	Lower**
Other	153.84	116.63	102.57	Lower**	Lower**

(1) - No Significant difference between rates

* - $p < .05$

** - $p < .01$

Although respondents overestimate some patient arrest rates in comparison to the general population, they, in fact, tend to underestimate actual patient rates as determined by Durbin, Pasewark, and Albers³ for non-criminal, civil patients hospitalized at the Wyoming State Hospital. Thus in comparison to the actual arrest rate record of patients, subjects underestimate the rates for robbery, aggravated assault, other assault, larceny, burglary, possession of stolen property, forgery, possession of a dangerous weapon, drug laws and "other." Fairly accurate estimations of patient arrest rates are made for the categories of murder, rape, other sexual offenses, and auto larceny. For only one offense, fraud, do respondents overestimate patient arrest rates (Table I). Interestingly, and somewhat to our surprise, estimates of patient crime rates did not differ significantly for any offense category for respondents reporting themselves or a family member as having been a crime victim and those subjects who had not so reported. Essentially, from these results, one might speculate that subjects harbor a somewhat favorable perception of mental patients, at least as far as their criminal activity is concerned.

That segment of our study concerned with knowledge relative to the insanity plea indicates that, even in a fairly educated group, beliefs are harbored that are markedly at odds with the facts. Presented with the information that, during the period July 1, 1970, to June 30, 1972, there were 26,567 persons arrested and 22,102 indicted for felonies,⁵ subjects ranged from 30 to 25,000 in the number of defendants they believed pled

NGRI. The mean estimate was 8,150.85; the median was 8,840.75. As a group, therefore, respondents believed that approximately 37% of all persons indicted for a felony entered the "not guilty by reason of insanity" (NGRI) plea. In fact, but 102 defendants (.46%) made the plea in Wyoming during that time period.⁵

In like manner, the success rate of the plea was grossly misjudged. Asked to assume that the figure they had provided concerning the number of individuals who entered the plea was correct, subjects were requested to indicate the number of persons they believed were adjudicated NGRI. These estimates ranged from one to 25,000. The mean estimate for successful NGRI pleas was 3,598.95, whereas the median was 1,999.81. Thus as a group, subjects believed that, on an average, 44% of the persons pleading NGRI were acquitted. Actually, during the time period given, only one defendant was so adjudicated, for an acquittal rate of .99%.⁵ In perusing these results, we cannot help but speculate that the widespread publicity given such notorious cases as Speck⁶ and Berkowitz⁷ has had undue influence upon the public's view of the insanity plea.

Other segments of our data also suggest that: (1) many subjects are quite unfamiliar with some of the mechanisms involved in the NGRI plea; and (2) much of our group is unsympathetic toward the basic philosophy reflected in the plea. Only 38% opine that the adjudication to an NGRI plea reposes in either a judge or jury, while the majority (56%) erroneously believe that the psychiatrists or psychologists make this decision. One per cent believe that the police make this determination, while 2% state the county attorney does.

Given the marked overestimation made by subjects concerning the use and success rate of the NGRI plea, it is all the more interesting to note that the majority of persons believe that mental health professionals are responsible for the large number of supposed acquittals. Implied by these results is a perception of mental health professionals as "tender-hearted softies" who absolve the guilty from criminal responsibility too easily.

Generally, respondents seemed fairly knowledgeable concerning the disposition of persons acquitted by reason of insanity. Sixty-one per cent responded correctly that the acquitted defendant is sent to a mental hospital until found sane. Additionally, 32% replied that the individual is hospitalized for a given period of time. Only 2% believe that the defendant is set free; 3% stated that he is placed on probation; and 2% responded that he is sent to prison.

To the question, "Do you believe that there is ever a situation in which a person accused of a crime should be excused from responsibility for it because of mental illness?" 50% of the sample responded affirmatively while 50% responded negatively. Essentially, half of our population would appear opposed to the underlying philosophy of the NGRI plea. However, given the fact that the NGRI plea is a component of contemporary law, only 37% "believe that the consequences and/or punishment should be the same as for a person found guilty of the same crime who is not mentally ill."

Perhaps the attitude of respondents toward the insanity plea is best revealed by responses to the assertion "The insanity plea is used too much. Too many people escape responsibility for crimes by pleading insanity." To

this statement, 57% agreed strongly and 37% somewhat agreed. Only 12 (6%) of the 209 respondents disagreed with this statement to any degree.

From our results, derived with a fairly well-educated college group, the presently witnessed dissatisfaction with the insanity plea is possibly more understandable. Although mental patients are not viewed as a particularly crime-prone group, respondents appear to believe that the insanity plea is too often employed as a mechanism whereby persons charged with a crime escape culpability for their criminal action. Contributing to this belief seems to be a gross misimpression held concerning both the number of persons who make the plea as well as the number who are eventually successful in the plea. In this, for lack of a better explanation, we are forced to assume that the basis for the misinformation held about the plea derives from the widespread publicity given to notorious NGRI cases by the various media.

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