

The Unconditional Release of Mentally Ill Offenders from Indefinite Commitment: A Study of Missouri Insanity Acquittees

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Using a database of all Missouri insanity acquittees committed on July 1, 1997 ($N = 873$) and all insanity acquittees unconditionally released from 1986 through 1997 ($N = 193$), this study calculated the lengths of commitment and identified variables associated with the unconditional release of insanity acquittees from indefinite commitment by the mental health and criminal justice systems. The study found that 85 percent of insanity acquittees were still under commitment 5 years after acquittal and 76 percent 10 years after acquittal. Factors that decreased the odds of being unconditionally released included never having been married; having a psychotic disorder, a mood disorder, a substance abuse disorder, or mental retardation/borderline intellectual functioning; and having committed a serious crime. These results support achievement of the intended goal of Missouri's insanity acquittee statute, which is to maximize public safety considerations, but have had the unintended effect of increasing the inpatient insanity acquittee population, resulting in fewer resources for voluntary patients.

Insanity acquittees are individuals who have been arrested and subsequently acquitted of their criminal acts because of the presence of a mental disease or defect that rendered them not criminally responsible. The insanity defense is an established component of our criminal justice system, although its use is controversial.¹

The public often perceives that the insanity defense is used extensively by defendants to avoid punishment and that those acquitted by reason of insanity quickly reenter the community and pose a threat to public safety.^{2, 3} In fact, these are misconceptions. Defendants seldom use the insanity defense, and when it is raised, it is usually not successful. Studies have found that the insanity defense is raised in less than 1 percent of felony cases and is successful in less than 25 percent of that 1 percent.⁴ To maximize public safety considerations, many states automatically hospitalize insanity acquittees at the time

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of acquittal, use restrictive release criteria to prevent their quick return from hospitals into the community, or allow indefinite commitment to hospitalization and community supervision until such time as they are determined to be no longer mentally ill or dangerous.⁵⁻⁷

The use of indefinite commitment of insanity acquittees is one of the most controversial aspects of the insanity defense. Some consider it necessary to protect public safety, others argue it is used for punitive purposes, and still others believe it violates the constitutional rights of insanity acquittees.^{6, 8-10} Two major United States Supreme Court cases have considered the indefinite commitment of insanity acquittees. First, in *Jones v. United States*,¹¹ the U.S. Supreme Court approved the use of indefinite commitment of insanity acquittees when defendants raised the insanity defense and demonstrated by a preponderance of the evidence that they were not criminally responsible because of the presence of a mental illness.^{6, 9-10} In reaching their opinion, the Court believed that hospitalization should not be time-limited, because insanity acquittees are committed for treatment rather than for punitive reasons. Typically, the commitment can continue as long as the insanity acquittee remains mentally ill and dangerous; however, both terms can be defined broadly to promote indefinite commitment.¹²

The second major decision was *Foucha v. Louisiana*.¹³ In this case the United States Supreme Court ruled that states cannot indefinitely hospitalize insanity acquittees who no longer have an active mental illness solely on the basis of con-

tinued dangerousness.^{14, 15} However, the Court recognized the authority of states to continue to indefinitely hospitalize insanity acquittees who are dangerous and mentally ill. In a concurring opinion, Justice O'Connor articulated a narrow interpretation of how states could continue to hospitalize. She indicated insanity acquittees who no longer were actively mentally ill could continue to be hospitalized if "the nature and duration of detention were tailored to reflect pressing public safety concerns related to the acquittee's continuing dangerousness" (p. 954).¹⁵

Despite the constitutionality of indefinite commitment of insanity acquittees, not all states have adopted this procedural option. In a 1988 review of state statutes, Brakel⁵ identified 11 states that limited commitment lengths to potential maximum years of imprisonment had they been convicted. Brakel also identified 13 states that used civil commitment criteria for commitment and release. Although civil commitment can result in indefinite commitment, the criteria used for continued civil commitment is much less likely to result in ongoing commitment than the criteria used in most states' insanity acquittee statutes.

Even among states that commit insanity acquittees for an indefinite time, little is known about the effects of indefinite commitment. A study published in 1974 examined factors associated with the release of insanity acquittees from indefinite psychiatric hospitalization, but it did not extend to the use of indefinite commitment in the community.¹⁶ Two other studies included insanity acquittees who were released from commitment, but

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these were conducted in states that limit lengths of commitment to potential maximum prison terms.^{17, 18}

The current study addresses the lack of research on indefinite commitment of insanity acquittees through an examination of its application in Missouri. Missouri's insanity acquittee system is largely structured by state statute.¹⁹ Missouri statute requires automatic hospitalization for most insanity acquittees at the time of acquittal in a Missouri Department of Mental Health (MDMH) inpatient facility.²⁰ All MDMH long-term inpatient facilities house both criminally committed and nonforensic patients, with some facilities housing the two groups in the same residential units. In addition, Missouri statute allows for indefinite commitment to psychiatric hospitalization and community supervision by the mental health and criminal justice systems. The statute requires a conditional release order from a circuit court judge for insanity acquittees to live in the community, contingent upon meeting certain conditions such as taking prescribed medication, keeping mental health appointments, refraining from using illegal drugs and alcohol, and others. The statute requires MDMH staff to make monthly contact with each conditionally released insanity acquittee and to ensure compliance with conditions of release. MDMH created nine full-time forensic case monitor positions to carry out this oversight function. If insanity acquittees do not comply with their conditions of release, Missouri statute allows either the MDMH Forensic Director or the circuit court judge who issued the conditional release order to revoke the conditional

releases, which, after a due process hearing, can result in their involuntary rehospitalization in a MDMH facility for an indefinite period. To be free of indefinite supervision by the mental health and criminal justice systems, insanity acquittees must obtain an unconditional release, which is ordered from the original committing court.

Insanity acquittees can secure their own counsel to file conditional or unconditional release applications with the courts on their behalf. However, most release applications originate at the request of MDMH staff and are filed by the Attorney General's Office on behalf of MDMH. Both release types typically proceed through a multi-step review process. Treatment teams complete release applications, which are then reviewed by the MDMH facility's Forensic Review Committee and the facility superintendent. If the committing crime was serious, the release application is also reviewed by the MDMH Forensic Director. Next, the release application is reviewed by the Attorney General's Office, which may choose not to file it. If this occurs, insanity acquittees can solicit a public defender or a private attorney, and MDMH will continue to support the release. When the release application has been filed with the appropriate circuit court, any victims of the insanity acquittees' crimes must be notified.²¹ Missouri statute also requires that notification of conditional release applications be sent to the prosecuting attorneys in the county of committing court, the county of the MDMH facility, the county in which the insanity acquittees is seeking to reside. Notification of

unconditional release applications is sent to the prosecuting attorney in the county of the committing court. Prosecuting attorneys then have the option of requesting a hearing, during which they can oppose the release. By statute, prosecuting attorneys are to represent public safety interests. Circuit court judges make the final decision whether to grant conditional or unconditional releases.

Missouri statute establishes the criteria for conditional and unconditional releases. For unconditional releases, the burden of proof is on the party seeking release, which is usually MDMH staff, "to prove by clear and convincing evidence that the person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others."²² The statute also identifies the factors the court is to consider in making its decision.²² These factors include the following: (1) whether or not the committed person presently has a mental disease or defect; (2) the nature of the offense for which the committed person was committed; (3) the committed person's behavior while confined in a mental health facility; (4) the elapsed time between the hearing and the last reported unlawful or dangerous act; (5) whether the person has had conditional releases without incident; and (6) whether the determination that the committed person is not dangerous to himself or others is dependent on the person's taking drugs, medicine, or narcotics.

Additional criteria exist for insanity acquittees who seek conditional or uncon-

ditional release and who committed serious crimes, including first- and second-degree murder, first-degree assault, first-degree robbery, kidnapping, arson, rape, sodomy, sexual assault, or attempts thereof. The criteria, as outlined in the Missouri statute,²³ are: (1) such person is not now and is not likely in the reasonable future to commit another violent act against another person because of his mental illness; and (2) such person is aware of the nature of the violent crime committed against another person and presently possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to conform his conduct to the requirements of law in the future. In effect, the statutorily defined criteria require that insanity acquittees must demonstrate to a high degree that they are psychiatrically stable and are no longer dangerous.

This study first identifies the frequency with which Missouri courts grant unconditional releases. Next, it determines lengths of indefinite commitment. Then, it compares Missouri insanity acquittees who have been unconditionally released from indefinite commitment with those who have received conditional releases to live in the community and those who never have been released from psychiatric hospitalization across sets of demographic, psychiatric, criminal history, and legal support variables. In addition to these bivariate analyses, the study presents the results of a multivariate analysis that calculates the odds of each of the above variables influencing whether or not insanity acquittees are uncondition-

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ally released. Finally, the study examines implications for public policy.

Methods

Subjects This study included 1,066 insanity acquittees derived from two groups. The first group were those under MDMH supervision on July 1, 1997 ($n = 873$). Data were gathered for this group from an annual cross-sectional survey completed by clinical staff and collected through the MDMH Forensic Director's office. On July 1, 1997, 492 of the 873 insanity acquittees were residing in MDMH inpatient facilities; 273 of these had never received conditional releases, 186 had their conditional releases revoked, and 33 had valid conditional releases and had signed voluntarily into the hospital. On this same date, 374 insanity acquittees were residing in the community with conditional releases. Added to this database were all insanity acquittees who were granted court-ordered unconditional releases between January 1, 1986 and June 30, 1997, which totaled 193. Unconditional release data were gathered by the author and an assistant from case files maintained by forensic case monitors. To put these numbers of insanity acquittees into perspective, Missouri has one of the largest inpatient insanity acquittee populations in the United States and one of the highest annual rates of insanity acquittals.^{24, 25}

Variables This study included the use of five sets of variables. The first set was the lengths of commitment. Rather than focusing just on lengths of indefinite hospitalization, this study operationally defined the total length of commitment to

include either hospitalization (if never released from a MDMH facility) or community supervision (if ever granted a conditional release). Community supervision was also included because many insanity acquittees are involuntarily rehospitalized following revocation of their conditional release. For example, 38 percent of the insanity acquittees hospitalized on July 1, 1997 at one time had conditional releases but had them revoked. In addition, conditions of release limit personal freedom. For example, conditions of release require compliance with prescribed medication, severely limit out-of-state travel, and mandate random drug testing; some circuit court judges automatically prohibit all insanity acquittees from operating a motor vehicle, regardless of the committing crime.

Second are the demographic variables including gender, race, age, marital status, and county of the committing court, which was recoded into rural/urban counties. Urban counties were five that had populations of 200,000 or more according to the 1990 census, which accounted for 46.5 percent of all insanity acquittals in the dataset. Third are the psychiatric variables, which included whether insanity acquittees had one or more of nine categories of psychiatric disorders, derived from DSM-IV,²⁶ whether they were taking psychotropic medication either on the survey date (July 1, 1997) or at the time of unconditional release, and whether had they ever had any conditional release revocations. Fourth are criminal history variables. These included committing crimes, grouped into serious crimes, five classes of crimes, and the three most fre-

quent crimes; and whether the insanity acquittee had a felony conviction before the insanity acquittal. Last are legal support variables, which included the party filing the release application and whether MDMH supported the release application.

Statistical Analyses The study used three types of analyses. First, survival analysis was used to calculate the percentage of insanity acquittees remaining under MDMH supervision at various time intervals.²⁷ The advantage of using survival analysis is that it incorporates those cases that have not yet reached conclusion, which in this case would mean being unconditionally released. The Kaplan-Meier method of survival analysis was applied to a subset of insanity acquittees who were acquitted on or after July 1, 1986. This date was selected because it allows a comprehensive tally of insanity acquittals, including those still under supervision and those unconditionally released.

The study also conducted bivariate analyses using three groups of insanity acquittees, including 273 insanity acquittees who were continuously hospitalized from the date of acquittal to the survey date, July 1, 1997; 600 insanity acquittees who had received conditional releases, regardless of whether they ever were revoked; and the 193 unconditionally released insanity acquittees. The sets of variables previously described served as the independent variables in the bivariate analyses.

Finally, the study incorporated hazards regression analysis, which used as the dependent variable whether or not insan-

ity acquittees were unconditionally released and as independent variables, most of the variables listed above. This method produces an odds ratio, which indicates the increase or decrease in the odds of unconditional release associated with each independent variable while controlling for the effects of the other variables. The odds ratios produced by hazards regression analysis are superior to logistic regression because the former incorporates those cases that have not yet been unconditionally released, as does survival analysis.²⁸

Results

Frequency of Unconditional Releases

Accurate numbers of unconditional releases were available from 1986 through the survey date, July 1, 1997, during which courts unconditionally released 193 insanity acquittees. Courts granted only one release in 1986, the first year of community monitoring. Between 1987 and 1996, the mean number of releases was 18.4 (SD = 4.9) and ranged from 10 to 26. To put these totals into perspective, during the same 10-year period, Missouri courts granted a mean of 56.2 insanity acquittals per year (SD = 13.8), ranging from 39 to 80 acquittals. These figures clearly indicate that many more individuals are entering Missouri's insanity acquittee system than leaving it. This trend is reflected in an inpatient insanity acquittee population that has grown steadily and has consumed an increasing proportion of MDMH resources.^{29, 30}

Lengths of Commitment The use of indefinite commitment can be viewed from at least four perspectives. First, it

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Table 1
A Comparison of Lengths of Commitment Across Release Statuses: Unconditionally Released (UR), Conditionally Released (CR), and Never Conditionally Released (NCR)

Length of Commitment	UR ^a (N = 193)	CR ^b (N = 600)	NCR ^c (N = 273)
Less than 1 year, %	2.1	4.2	12.5
1–5 years, %	39.4	29.9	36.3
5–10 years, %	32.1	36.1	24.5
10–20 years, %	24.9	27.2	20.1
20–30 years, %	1.5	2.5	5.5
30 years or longer, %	0	.2	1.1
Mean years of commitment	7.3 (SD = 10.4)	12.7 (SD = 7.4)	7.3 (SD = 6.9)
Median years of commitment	5.8	11.5	5.1

^aCalculated from the date of insanity acquittal to the date of unconditional release.

^bCalculated from the date of insanity acquittal to the survey date, July 1, 1997, and commitment remains ongoing.

^cCalculated from the date of insanity acquittal to the survey date, July 1, 1997, and insanity acquittees continue to remain hospitalized.

can mean a life-long commitment to hospitalization or community supervision. The insanity acquittal literally was a life-long commitment for a small number of insanity acquittees. Based upon the best available data, 25 insanity acquittees expired while on conditional release between 1986 and 1993, a mean of 3.1 deaths per year. During a four-year period between fiscal years 1990 through 1994, two insanity acquittees expired while inpatients, both in fiscal year 1994. The frequency of deaths among conditionally released insanity acquittees should not be unexpected given their ages. The mean age of conditionally released insanity acquittees who were residing in the community on July 1, 1997 ($n = 374$) was 46.7 years and ranged from 18 to 87 years of age. Among this group, 31.6 percent were age 50 years or older, 14.4 percent were 60 years or older, and 3.7 percent were 70 years of age or older.

A second means of viewing indefinite commitment is to examine the total num-

ber of years Missouri insanity acquittees have been committed to hospitalization or community supervision. Table 1 includes lengths of commitment for the three study groups. The mean length of commitment for insanity acquittees who were unconditionally released was 7.3 years (SD = 10.5, median = 5.8). About one-third were committed for 5 to 10 years, with another 25 percent committed for 10 years or more. Lengths of commitment for conditionally released insanity acquittees were longer, a mean of 12.7 years (SD = 7.4, median = 11.5) on July 1, 1997. Among this group, over one-third had been committed for 5 to 10 years, 27 percent for 10 to 20 years, and 2.7 percent for 20 years or more. Finally, insanity acquittees who never have been released from psychiatric hospitalization were hospitalized a mean of 7.3 years (SD = 6.9, median = 5.1) on July 1, 1997. About 25 percent had been hospitalized for 5 to 10 years, 20 percent for 10 to 20 years, and almost 7 percent for more than

Table 2
Percent of Insanity Acquittes Exceeding the Length of Imprisonment Had They Been Found Guilty, Sorted by Release Status: Unconditionally Released (UR), Conditionally Released (CR), and Never Conditionally Released (NCR)

Length of Maximum Sentence by Crime Class	UR	CR	NCR
	%	%	%
Misdemeanors (maximum 1-year sentence)	86.7 (<i>N</i> ^a = 15)	94.6 (<i>N</i> = 37)	94.1 (<i>N</i> = 17)
Class D felonies (maximum 5-year sentence)	48.1 (<i>N</i> = 27)	79.4 (<i>N</i> = 58)	50.0 (<i>N</i> = 16)
Class C felonies (maximum 7-year sentence)	28.3 (<i>N</i> = 60)	73.3 (<i>N</i> = 180)	46.3 (<i>N</i> = 54)
Class B felonies (maximum 15-year sentence)	7.3 (<i>N</i> = 55)	33.2 (<i>N</i> = 172)	13.8 (<i>N</i> = 87)
Class A felonies (maximum 30-year sentence) ^b	0.0 (<i>N</i> = 36)	3.9 (<i>N</i> = 153)	3.0 (<i>N</i> = 99)

^a*N* refers to the number of insanity acquittes within each release status who committed a crime within that crime class.

^bAlthough 30 years is the typical maximum sentence for Class A felonies, the sentence can be increased to life imprisonment without parole or the death penalty under certain circumstances.

20 years. Lengths of commitment for the conditionally released and never conditionally released insanity acquittes were derived from the date of acquittal to the survey date, and commitment continues. Table 1 summarizes the results.

A third means of viewing indefinite commitment is to compare insanity acquittes' lengths of commitment to MDMH with the lengths of potential maximum sentences had they been convicted of their criminal acts. This comparison is meaningful for two reasons. First, some states limit lengths of commitment to balance the rights of insanity acquittes with public safety. Second, critics of the insanity defense often contend that the acquittal is a way to escape punishment, which often equates to "early" release from hospitalization compared with prison terms for comparable criminal acts. Table 2 presents the percentage of insanity acquittes who were, or con-

tinue to be, committed to MDMH longer than the maximum lengths of incarceration had they been convicted. The results indicate that a substantial number of insanity acquittes have been committed to MDMH for periods that exceed the potential maximum years of imprisonment. This was particularly true for Class C and D felonies and misdemeanors.

Finally, the Kaplan-Meier method of survival analysis was used to calculate the percentage of insanity acquittes who remain under court commitment for various time periods. The results suggest that 98 percent of insanity acquittes are still committed 1 year after acquittal, 85 percent 5 years after acquittal, and 76 percent 10 years after acquittal.

These findings demonstrate that Missouri exercises its authority to indefinitely commit insanity acquittes. Although Missouri courts unconditionally released some insanity acquittes, most have re-

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Table 3
A Comparison of Demographic Variables Across Release Statuses: Unconditionally Released (UR), Conditionally Released (CR), and Never Conditionally Released (NCR)

Demographic Factor	UR (N = 193)	CR (N = 600)	NCR (N = 273)
Male, %	85.5	86.0	89.7
White, %	83.4	61.3	63.0***
Ever married, %	69.3	45.7	37.0***
Acquitted in a rural county, %	65.3	50.2	52.4**
Mean age in years at time of acquittal	35.4 (SD = 11.8)	33.2 (SD = 10.2)	33.4* (SD = 10.6)

* $p \leq .05$; ** $p \leq .01$; *** $p \leq .001$.

mained hospitalized without ever receiving releases, have been conditionally released and supervised in the community, or have been rehospitalized following revocation of conditional release.

Variables Associated with Unconditional Release Although most insanity acquittees remain indefinitely committed, some do receive unconditional releases. This section identifies the variables that distinguish those insanity acquittees who received unconditional releases from those who did not. The variables are grouped into four categories: demographic, psychiatric, criminal history, and legal support.

Demographic Variables Insanity acquittees who were unconditionally released were different from the conditionally released and never released insanity acquittees across four of the five demographic variables. First, unconditionally released insanity acquittees were considerably more likely to be white than non-white. They also, on average, tended to be about two years older at the time of acquittal. Next, they were much more likely to have been married. Finally, courts in rural counties were more likely to uncon-

ditionally release insanity acquittees than courts in urban counties. Differences in gender did not exist across the three insanity acquittee groups. Table 3 provides complete demographic information.

Psychiatric Variables Unconditionally released insanity acquittees differed from conditionally released and never released insanity acquittees across several psychiatric variables. First, unconditionally released insanity acquittees were much less likely to have a psychotic disorder, the most serious mental illness. They also were less likely to have a substance abuse disorder, an antisocial personality disorder, or mental retardation or borderline intellectual functioning. Differences were not found in relation to mood disorders, organic disorders, or other personality disorders. Unconditionally released insanity acquittees were also considerably less likely to be taking psychotropic medication at the time of unconditional release than were conditionally released clients on the survey date. (Data were unavailable for insanity acquittees hospitalized on the survey date, although anecdotal evidence suggests that almost all inpatient insanity acquittees re-

Table 4
A Comparison of Psychiatric Variables Across Release Statuses: Unconditionally Released (UR), Conditionally Released (CR), and Never Conditionally Released (NCR)

Psychiatric Factor	UR (N = 193)	CR (N = 600)	NCR (N = 273)
Psychotic disorder, %	45.1	66.2	67.0***
Mood disorder, %	23.3	22.0	19.8
Organic disorder, %	8.8	5.0	4.4
Substance abuse disorder, %	38.9	50.3	53.8**
Antisocial personality disorder, %	13.0	21.3	27.1***
Other personality disorder, %	17.1	20.8	23.1
Mental retardation/borderline intellectual functioning, %	9.8	17.5	26.4***
Other psychiatric disorders, %	11.4	8.5 ^a	12.5
Taking psychotropic medication, %	54.9	89.5 ^a	D/U*** ^b
No conditional release revocations, ^c %	78.2	66.2	N/A*** ^d
No psychiatric rehospitalizations following the first conditional release, %	61.7	D/U	N/A
Mean years of hospitalization from insanity acquittal date to date of CR or to survey date if NCR	2.1	4.8	7.3***
	(SD = 2.2)	(SD = 5.0)	(SD = 6.9)

^a Missing data = 305.

^b D/U = Data unavailable, although anecdotal information suggests that almost all inpatients take psychotropic medication.

^c Revocations may occur for psychiatric reasons (e.g., decompensation, stopped taking medication) and behavioral reasons (e.g., substance abuse, assaultive behavior not related to mental status).

^d N/A = Not applicable.

** $p \leq .01$; *** $p \leq .001$.

ceive psychotropic medication.) Next, unconditionally released insanity acquittees were hospitalized for less than half the number of years prior to their conditional release compared with those who were conditionally released and about one-fourth of the time compared with never released insanity acquittees who remained hospitalized on the survey date. Unconditionally released insanity acquittees were also more likely to remain in the community without revocation of their prior conditional releases. Finally, almost two-thirds of unconditionally released insanity acquittees were not rehospitalized in a public or private psychiatric hospital from the time of their conditional release into the community to their un-

conditional release. (Data were unavailable for conditionally released insanity acquittees.) Table 4 summarizes the results.

Criminal History Variables Two types of criminal history variables were considered: severity of insanity acquittees' committing crimes and whether they had felony convictions before their insanity acquittals. Insanity acquittees' committing crimes were first grouped into serious crimes that require additional testimony requirements for conditional and unconditional release; these crimes include murder, first-degree assault, first-degree robbery, kidnapping, arson, rape, sodomy, and sexual assault or attempts thereof. Crimes were also grouped into

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the five classes of crimes established by state statute, with Class A felonies being the most serious and misdemeanors the least.

Unconditionally released insanity acquittees were less likely to have committed serious crimes compared with conditionally released insanity acquittees and especially compared with never released insanity acquittees. However, these differences were not consistently found across the Missouri's five classes of crimes. Unconditionally released insanity acquittees were much less likely to have committed Class A felonies, the most serious crime class, and were more likely to have committed Class C and D felonies. Differences were not found across the three insanity acquittee groups in the percentage who committed Class B felonies or misdemeanors.

Next, crimes were recoded into the three most frequently occurring types: first-, second-, or third-degree assault ($n = 283$); first- or second-degree murder ($n = 150$), and sexual crimes including rape, sodomy, sexual assault, sexual abuse, and others ($n = 135$). Differences in the three insanity acquittee groups were found for assault, with those unconditionally released being least likely to have committed that crime. Never released insanity acquittees were most likely to have committed murder and sexual crimes, and differences between the unconditionally released and conditionally released insanity acquittees were not statistically significant for murder and sexual crimes.

Finally, whether insanity acquittees had felony convictions before the insanity

acquittal was considered across the three insanity acquittee groups. About one-fifth of conditionally released insanity acquittees had prior felony convictions, compared with over one-third of the never released group. Differences between the unconditionally and conditionally released insanity acquittees were small and not statistically significant. Table 5 includes complete findings.

Legal Support Variables The final variables considered were legal support for release, including whether MDMH supported the unconditional or conditional releases and the legal party filing the release application with the courts. Data were available only for those insanity acquittees who received conditional or unconditional releases. The data did not include any never released insanity acquittees for whom courts denied their requests for unconditional or conditional releases or any conditionally released insanity acquittees who were denied unconditional releases.

As found in Table 6, MDMH supported most releases, although somewhat less frequently for those unconditionally released compared with conditionally released insanity acquittees. Variation also existed in the party filing release applications. Although the Attorney General's Office filed for over three-fourths of the successful conditional release applications, it represented insanity acquittees in less than half of the successful unconditional release applications. Instead, insanity acquittees seeking unconditional release had to secure public defenders or private attorneys.

Multivariate Analysis Finally, a mul-

Table 5
A Comparison of Criminal History Across Commitment Statuses: Unconditionally Released (UR), Conditionally Released (CR), and Never Conditionally Released (NCR)

Criminal History Factor	UR	CR	NCR
	(N = 193)	(N = 600)	(N = 273)
	%	%	%
Acquitted for a serious crime ^a	37.3	46.0	58.6***
Acquitted by class of crime ^b ***			
Misdemeanors	7.8	6.2	6.2
Class D felonies	14.0	9.7	5.9*
Class C felonies	31.1	30.0	19.8**
Class B felonies	28.5	28.7	31.9
Class A felonies	18.7	25.5	36.3***
Acquitted for felony or misdemeanor assault	19.2	26.8	31.1*
Acquitted for murder	9.8	13.7	17.9 ^c
Acquitted for sexual crimes	11.9	10.0	19.0*** ^c
Felony conviction prior to acquittal	20.2	23.3	34.1*** ^c

^a Includes murder, rape, sodomy, sexual assault, arson, kidnapping, first degree assault, first degree robbery, or attempts thereof.

^b Statistical differences were calculated for the categories as one group and separately within each crime class.

^c Differences solely between UR and CR group were not statistically significant.

* $p \leq .05$; ** $p \leq .01$; *** $p \leq .001$.

tivariate analysis of the variables associated with unconditional release was conducted using hazards regression analysis. This techniques allows one to calculate the degree to which an independent variable affects the odds of an event occur-

ring, in this case, insanity acquittees being unconditionally released, while controlling for the effect of other independent variables. An odds ratio of 1.0 indicates an even chance of the event occurring. Values below 1.0 indicate that

Table 6
A Comparison of Legal Support for Release Across Release Statuses: Unconditionally Released (UR), Conditionally Released (CR), and Never Conditionally Released (NCR)^a

Legal Support Factor	UR	CR	NR
	(N = 193)	(N = 600)	(N = 273)
	%	%	
MDMH support for release	85.0	93.9 ^b	D/U***
Party filing application for release ^c			
Attorney General's Office	46.6	75.3	D/U***
Public defender/legal aid attorney	26.9	15.8	D/U
Private attorney	26.4	8.9	D/U

^a Data were available only for conditional or unconditional releases that the courts granted and does not include failed release attempts. Consequently, data are unavailable (D/U) for the never released insanity acquittees and for those conditionally released who were unsuccessful in their unconditional release attempts.

^b Missing data = 208.

^c Missing data for the CR group = 220.

*** $p \leq .001$.

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Table 7
Results of Hazards Regression Analysis Predicting Occurrence of Unconditional Releases
for Individuals Acquitted After January 1, 1986 (N = 613)

Variables	B	Odds Ratio
Demographic		
Age in years at time of insanity acquittal	-.01	.99
Gender (1 = male, 0 = female)	.25	1.29
Race (1 = white, 0 = non-white)	.17	1.18
Ever married (1 = never married, 0 = married)	-.67	.51**
Population of county of acquittal (1 = rural, 0 = urban)	.13	1.14
Psychiatric		
Psychotic disorder (1 = yes, 0 = no)	-1.49	.23***
Mood disorder (1 = yes, 0 = no)	-1.00	.37**
Organic disorder (1 = yes, 0 = no)	-.83	.43
Substance abuse disorder (1 = yes, 0 = no)	-.63	.53**
Antisocial personality disorder (1 = yes, 0 = no)	-.68	.51
Other personality disorder (1 = yes, 0 = no)	-.26	.77
Mental retardation or borderline intellectual functioning (1 = yes, 0 = no)	-1.88	.15***
Other disorders	-.36	.70
Criminal history		
Committed a serious crime (1 = yes, 0 = no)	-.57	.56**
Felony conviction prior to insanity acquittal (1 = yes, 0 = no)	-.05	.96

** $p \leq .01$; *** $p \leq .001$.

the odds are decreased when the attribute of the variable is present, whereas values above 1.0 indicate odds are increased. Independent variables included most of the demographic, psychiatric diagnosis, and criminal history variables used in the above bivariate analyses. Whether insanity acquittees were taking psychotropic medication, whether MDMH was supporting the release application, and the party filing the release application were omitted because each had large numbers of missing values.

As found in Table 7, six variables had odds ratios that were statistically significant at the .05 level. Never marrying was the only demographic variable that decreased the odds of unconditional release. Four psychiatric disorders decreased the odds of unconditional release, those

being having a psychotic disorder, a mood disorder, a substance abuse disorder, or mental retardation/borderline intellectual functioning. Finally, having committed a serious crime decreased the odds of unconditional release.

Five variables that were statistically significant in the bivariate analyses were not significant when controlling for the effects of the other variables in the multivariate analysis. These included age at the time of insanity acquittal, race, population of the county of acquittal, having an antisocial personality disorder, and having a felony conviction before acquittal. Being diagnosed with a mood disorder, which was found to decrease the odds of unconditional release in the multivariate analysis, was not statistically significant in the bivariate analysis.

Discussion

These findings should further dispel the myth that insanity acquittals result in the quick release of dangerous, mentally ill offenders into the community. Missouri's use of indefinite commitment indicates that some insanity acquittees will remain under the supervision of the mental health or criminal justice systems in an inpatient or community setting for the remainder of their lives because they fail to meet statutory requirements for unconditional release. Those who receive unconditional releases from indefinite commitment will do so only after demonstrating for a substantial number of years that they no longer have a mental illness that renders them dangerous.

Although most Missouri insanity acquittees were committed for substantial periods of time, variations in the length of commitment existed. This analysis has identified demographic, psychiatric, criminal history, and legal support variables that were associated with insanity acquittees receiving unconditional releases. Overall, insanity acquittees who received unconditional release were more likely to have characteristics indicating less severe or more treatable mental illnesses. They were less likely to have a psychotic disorder, a substance abuse disorder, or mental retardation or borderline intellectual functioning. In addition, they were less likely to take psychotropic medication, were less likely to have had a conditional release revoked, and had shorter periods of initial hospitalizations.

Criminal history, including the com-

mitting crime and prior felony convictions, played less of a role in determining whether insanity acquittees were unconditionally released. Although insanity acquittees who committed serious crimes or who had prior felony convictions had lower rates of unconditional releases, their presence reduced the odds of unconditional release much less than psychiatric variables when controlling for the effects of the demographic and psychiatric variables. These findings are in sharp contrast to studies of lengths of hospitalization of insanity acquittees in which committing crimes were found to be more important than psychiatric factors.³¹

More so than criminal history, the analysis found that demographic and legal support variables, in addition to psychiatric variables, played a role in whether insanity acquittees were unconditionally released. Insanity acquittees who were unconditionally released were less likely to have support from MDMH and to have the Attorney General's Office file the release petition on their behalf. When MDMH does not support the release, insanity acquittees usually must secure outside psychiatric testimony to support the release, which they must do at their own expense, and they must secure their own counsel. Although public defenders may be available, over one-fourth of unconditionally released insanity acquittees hired private attorney to represent them. Consequently, having limited financial resources and knowledge of the mental health and criminal justice systems can greatly reduce the chances of unconditional release when MDMH does not support the release.

Unconditional Release of Mentally Ill Offenders

One demographic variable in particular, race, was associated in the bivariate analyses with being unconditionally released. Non-white insanity acquittees, most of whom were African American, were considerably less likely to be unconditionally released. However, this relationship no longer existed when controlling for the effects of the other variables in the multivariate analysis. One explanation is that the non-white insanity acquittees have more severe mental illnesses, which render them less likely to meet the requirements for unconditional release. Some support exists for this assertion. An analysis of racial and gender differences in Missouri's insanity acquittee population (which did not include unconditionally released insanity acquittees) found the African American males were by far the most at-risk group.³² They had the highest rates of schizophrenia, substance abuse disorders, personality disorders, and conditional release revocations. More severe levels of mental illness among Missouri's African American male insanity acquittees may be attributable to the manner in which such cases are processed in the criminal justice system. One study outside of Missouri found that minority defendants with mental illnesses were more likely to enter the criminal justice system, whereas white defendants with mental illnesses were more likely to enter the mental health system, with only the most severely ill minority defendants entering the mental health system.³³ In addition, non-white insanity acquittees may be more likely to lack the economic resources necessary to obtain outside psychiatric opinions and private attorneys

when MDMH does not support insanity acquittees' request for unconditional releases. Further research is needed to sort out the influence that race, and racism, may play within the criminal justice and mental health systems as defendants are arrested, found not guilty by reason of insanity, provided psychiatric treatment, and considered for conditional and unconditional release.

Finally, the analysis provides support for the ability of legislation to shape policy implementation in the intended manner.^{19, 29} The primary legislative goal of Missouri's insanity acquittee statute is to ensure public safety in its unconditional release procedures. The analysis found that Missouri's insanity acquittee system used its capacity to indefinitely commit most insanity acquittees to the supervision of the mental health and criminal justice systems. Those who gained unconditional release under the restrictive statutory criteria were, overall, more psychiatrically stable than those for whom commitment was ongoing.

Although achieving its intended policy goal, indefinite commitment of insanity acquittees has had consequences for MDMH that were unintended in the enacting legislation. First, the extensive lengths of hospitalization and community supervision resulting from indefinite commitment have required MDMH to allocate increasing resources to the care and treatment of insanity acquittees, a population it is statutorily required to serve. Currently, over half of MDMH's long-term psychiatric beds are held by insanity acquittees, which is an increase from nine percent in 1981.³⁰ As a result, this expan-

sion has limited the ability of MDMH to provide long-term hospitalization to voluntary patients. Second, MDMH psychiatric hospitals have had to change the types of treatment and rehabilitation activities offered to meet the unique needs of insanity acquittees, which, overall, are different from those of voluntary patients served in public psychiatric hospitals.³⁴ Third, it has influenced the administration of these hospitals, which must devote increasing attention to risk assessment and the processing of conditional release and unconditional release applications.³⁰

If states choose to incorporate indefinite commitment into their insanity acquittee systems, this study suggests that most insanity acquittees will remain under the supervision of the mental health and criminal justice systems for many years. Although this supervision may help to protect public safety, some believe that it violates due process and equal protection for insanity acquittees^{7, 35, 36}; and the use of indefinite commitment has required that MDMH direct much of its scarce resources to the hospitalization of insanity acquittees at the expense of other persons with serious mental illness who may need long-term psychiatric hospitalization. Much of the policy-making surrounding the insanity defense is guided by emotional reactions to high profile events that involve insanity acquittees.³⁷⁻³⁹ However, as state policy-makers debate policy options for mentally ill offenders, greater consideration should be given to the ethical issues and to the intended and unintended consequences of indefinite commitment of insanity acquittees.

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