

# Is this patient not guilty by reason of insanity?

## How to assess a defendant's mental state at the time of the offense



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**P**olice find Mr. B, age 45, at home after he called 911 to report that he killed his wife. Covered in blood, he confesses immediately and is holding the knife he used to stab her. Police arrest him without resistance and charge him with murder.

Three months later, Mr. B presents for a sanity evaluation. He has a history of schizoaffective disorder and has required three past psychiatric hospitalizations. Urine and serum toxicology studies the day of the killing were negative for alcohol and drugs.

Was Mr. B legally sane or insane when he committed this offense? As psychiatrists, we are often called on to assess competence to stand trial and sanity at the time of a crime. In a previous article (*CURRENT PSYCHIATRY, June 2006, p. 36-42*), we described how to evaluate whether a mentally ill criminal court defendant is competent to stand

trial. This article introduces the process for conducting a sanity evaluation.

### WHAT IS SANITY?

“Sanity” is a legal—not clinical—term related to a plea of “not guilty by reason of insanity.” A sanity evaluation—a mental health professional’s specialized assessment—may be entered into evidence at a criminal trial to help a judge or jury determine whether a defendant is criminally responsible for an alleged offense.

Approximately 1 in every 100 defendants charged with a felony raise an insanity defense.<sup>1</sup> A criminal defendant who pleads not guilty by reason of insanity asserts that he committed the offense and asks the court to find him not culpable because of his mental state when the offense occurred. Competence to stand trial, by comparison, focuses on the defendant’s present mental state (Table 1).

Before starting a sanity evaluation, determine the standard that applies in the jurisdiction where the alleged offense occurred. Federal and state courts have restricted insanity standards the past 20 years. Some states, including Idaho and Nevada, abolished the insanity defense. Others adopted “guilty but mentally ill” standards, which hold mentally-ill defendants criminally responsible for their actions.<sup>2</sup>

All insanity standards require that the defendant had a mental disease or defect at the time of the offense, but the terms “mental disease” and “mental defect” do not equate with particular DSM-IV-TR “mental disorders.” Rather, courts

Table 1

### How competency and sanity assessments differ

	Competency	Sanity
<b>Presence of mental illness</b>	Yes	Yes
<b>Mental status</b>	Current mental state	Mental state at the time of the offense
<b>Purpose of evaluation</b>	Ability to stand trial	Criminal responsibility
<b>Variation in laws by jurisdiction</b>	Minor variation	Great variation

can interpret which diagnoses qualify for determining sanity.

Courts usually rule that serious psychotic and mood disorders qualify as a mental disease and mental retardation qualifies as a mental defect.

Mental disorders that usually do not qualify include personality disorders, paraphilias, and voluntary intoxication.

**‘Mental disease’ and ‘mental defect’ do not equate with specific DSM-IV-TR mental disorders**

### HISTORY OF INSANITY DEFENSE

Many early codes of law provided exceptions to criminal responsibility for the mentally ill. Modern insanity standards are based on English common law (Table 2, page 56).

**‘Wild beast.’** The “wild beast” standard was established in 1724 in *Rex v. Arnold*. Arnold, the mentally-ill defendant, was found guilty after he shot and wounded Lord Onslow. Arnold’s death sentence was reduced to life in prison after Lord Onslow himself advocated for this change.

To be found insane under the wild beast standard, the defendant had to be “totally deprived of his understanding and memory, so as to not know what he is doing, no more than an infant, a brute or a wild beast.”<sup>3</sup>

continued



Table 2

### From 'wild beast' to 'irresistible impulse': Milestones in the insanity defense

Standard	Year	Description
<b>Wild beast</b>	1724	Most strict standard; required total deprivation of memory and understanding
<b>Irresistible impulse</b>	1840	More liberal standard; required that "...some controlling disease was...the acting power within him which he could not resist..."
<b>M'Naughten rule</b>	1843	Required that the defendant not know the nature/quality or the wrongfulness of the offense.
<b>American Law Institute's Model Penal Code</b>	1955	Combined M'Naughten Rule with irresistible impulse standard
<b>Federal Insanity Defense Reform Act</b>	1984	Stricter standard that dropped the irresistible impulse standard after attempted assassination of President Reagan

**'Irresistible impulse.'** The "irresistible impulse" standard was first used successfully in 1840 in the trial of Edward Oxford, who attempted to assassinate Queen Victoria. In *Regina v. Oxford*, the court recognized that "if some controlling disease was...the acting power within him which he could not resist, then he will not be responsible."<sup>4</sup>

**The M'Naughten rule**—perhaps the most famous standard—was established in 1843. M'Naughten suffered from paranoid delusions that the prime minister of England was plotting against him; he planned to kill the prime minister but mistakenly killed his secretary. The examiners who evaluated M'Naughten testified that he was insane, and the jury concurred. The public and royal family were incensed, however, and appellate judges reviewed the verdict and insanity standard.

The appeals court issued the M'Naughten rule,<sup>5</sup> by which a mentally ill defendant may be considered insane if, at the time of the act, he:

- did not understand the nature and quality of the act
- or did not know the wrongfulness of the act.

**United States law.** Based on the M'Naughten rule and the irresistible impulse standard, the American Law Institute in 1955 issued the Model Penal Code insanity standard. It stated that a defendant is not responsible for his criminal conduct if, at the time of the offense as a result of mental disease or defect, he lacked substantial capacity to:

- appreciate the criminality of his act
- or conform his conduct to the requirements of the law.

These standards were tightened in federal jurisdictions by the Federal Insanity Defense Reform Act of 1984—a reaction to John Hinckley's insanity acquittal after he tried to assassinate President Ronald Reagan.

#### HOW TO EVALUATE INSANITY

**Prepare.** Review the defendant's medical/psychiatric records and materials pertaining to the offense, including the police report and other legal or medical documents. Indications of a prior psychiatric diagnosis may support or rebut the

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**Table 3**  
**Signs that a defendant knew an act was wrong**

<b>Efforts to avoid detection</b>	Wearing gloves or a mask during the offense Concealing a weapon Falsifying information (using an alias or creating a passport) Committing the act in the dark
<b>Disposal of evidence</b>	Washing away blood Removing fingerprints Discarding the weapon Hiding the body
<b>Efforts to avoid apprehension</b>	Fleeing Lying to authorities

presence of a mental disease or defect at the time of the alleged offense.

To assess the defendant's mental state at the time of the act, note any recorded observations of his or her behavior during or around that time. You may wish to collect this information from collateral sources, as well. Look for bizarre behavior or other evidence that the defendant suffered from delusions, hallucinations, or other symptoms of a severe mental disease or defect.

Police records may contain:

- reports by witnesses, victims, and police officers about the defendant's statements or behavior during or soon after the offense
- a defendant's statement to the arresting officers.

These may give insight into the defendant's mental state.

**Interview the defendant.** Next, conduct a thorough standard psychiatric interview in person. Inform the defendant that the interview is not confidential, and that any information he or she provides may be included in a written report to the court or

Let the defendant give an uninterrupted narrative of the event, then ask follow-up questions

account of the event from the defendant. Look for:

- symptoms of a mental disease or defect when the offense occurred

- the defendant's knowledge (or lack thereof) that the offense was wrong at that time (*Table 3*).

**Irresistible impulse?** In jurisdictions with an irresistible impulse test, evaluate whether the defendant was able to refrain from the offense when it occurred (*Table 4, page 60*). Allow the defendant to provide an uninterrupted narrative of the event. Use follow-up questions to fill

in gaps in the story and to determine the defendant's motive. You may choose to confront the defendant with contradictory information obtained from collateral sources.<sup>6</sup>

Indications that the defendant was aware at the time of the offense that his actions were wrong may include:

- behaviors during or immediately after the event, such as hiding evidence, lying to authorities, or fleeing the scene
- a rational motive such as jealousy, revenge, or personal gain.

disclosed during trial testimony.

Consider psychiatric symptoms the defendant experienced during the offense, medication adherence, and use of alcohol or other mood-altering substances. Remember that voluntary intoxication does not provide grounds for an insanity defense, even in states that allow the irresistible impulse defense.

Obtain a detailed

continued



Table 4

### Irresistible impulse test for sanity: A modern interpretation

- Inability to defer the act
- Inability to ignore specific instructions
- Must not be caused by rage or intoxication
- Magnitude, likelihood, and imminence of consequences if act is not performed
- Attempted alternatives to the act
- Genuineness of command hallucinations and the ability to ignore them

By contrast, psychotic justification for the offense—for example, a mother who kills her children because she believes she is saving them from the devil—may indicate that the defendant believed that the offense was wrong but morally justified.

**Caveats.** The defendant’s mental status during the interview may differ vastly from that at the time of the offense. Don’t be swayed if a defendant with a history of psychosis now appears symptom-free. Recent treatment may explain his or her lack of symptoms. Also be aware that the

defendant may be malingering mental illness to support an insanity defense and escape criminal responsibility.<sup>7</sup>

**Outcomes.** Approximately 15% to 25% of criminal defendants who plead insanity are adjudicated insane. Technically, a defendant who is found legally insane has been acquitted of the offense. The insanity defense is less likely to succeed in jury than in nonjury trials.<sup>8</sup>

Although the defendant may not be punished once acquitted, he or she may be committed to a mental institution to ensure treatment compliance and protect the public.

#### CASE CONTINUED: SEEING RED

When you interview Mr. B 3 months after his arrest, he is not psychotic. He says he ran out of his medications 6 months before he killed his wife and resumed taking them while in jail awaiting trial.

Mr. B relates that in the months before the offense he grew concerned that his wife was involved in “ritualistic sexual perversions” commanded by the devil. He tried to discuss this with his mother-in-law and minister but did not get a satisfactory response.

On the evening of the killing, Mr. B was particularly agitated while waiting for his wife to return home from work. She walked in wearing a red sweater, which indicated to him that she had had sex with 17 different men at work that day. To save her from eternal damnation for adultery, Mr. B believed he had to stab her 17 times before sunrise.

He becomes tearful during the interview and says he wishes he “could go back in time and fix things.”

Mr. B. shows clear evidence of a severe mental disease during the offense (psychosis, medication nonadherence) without a personality or substance use disorder.

Factors that indicate he did not know his actions were wrong at the time of the event include:

- his delusional belief that he was saving his wife from damnation

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[www.currentpsychiatry.com](http://www.currentpsychiatry.com)

- ▶ **Competency to stand trial**  
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- ▶ **Faking it: Malingered psychosis**  
NOVEMBER 2005





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- lack of a rational motive
- lack of effort to conceal the offense
- his ready confession to 911 operators and police officers
- his cooperation with police.

On the other hand, Mr. B knew that murder is illegal and that killing one's wife for infidelity (whether delusional or not) is not legal. These factors suggest that Mr. B knew that his actions were wrong at the time.

Mr. B's attempts at alternate solutions (discussions with clergy and his mother-in-law) and the perceived deadline (the need to kill his wife before sunrise to prevent damnation) indicate that he had an irresistible impulse.

### OPEN TO INTERPRETATION

As this case suggests, a defendant's sanity or insanity is determined by many factors and is often open to interpretation. In court, the prosecution and defense aim to answer two complex questions:

- Did the defendant suffer from a mental illness? (This may be clear in patients with schizophrenia but more difficult to determine in others, such as in substance-induced mood disorder.)
- Did this mental illness alter the defendant's judgment to such a degree that he or she no longer knew the offense was wrongful?

States use subtle variations in language to indicate the strictness of their standards. Some

### Related resources

- ▶ American Academy of Psychiatry and the Law. [www.aapl.org](http://www.aapl.org),
- ▶ Giorgi-Guarnieri D, Janofsky J, Keram E, et al. AAPL practice guideline for forensic psychiatric evaluation of defendants raising the insanity defense. *J Am Acad Psychiatry Law* 2002;30(2 suppl):S3-40.
- ▶ Noffsinger SG, Resnick PJ. Insanity defense evaluations. *Directions in Psychiatry* 1999;19:325-38.

may use "know" (a stricter standard) versus "appreciate" the wrongfulness of his or her actions. This difficult concept becomes more detailed if the defendant knew the act was wrongful but had an overriding moral justification (such as Mr. B's desire to save his wife from damnation).

**Recent cases.** Despite her plea of not guilty by reason of insanity, Andrea Yates was convicted of murder in June 2002 for drowning her five children in the bathtub of their home. Though most would agree the Texas housewife suffered from a severe mental illness, prosecutors convinced the jury that she knew the wrongfulness of her actions. An appeal was granted earlier this year, and Yates returned to court in June.

Also this year, the U.S. Supreme Court heard a case contesting Arizona's insanity defense on grounds that it violated a defendant's right to due process. In late June, the court sided with the state, continuing to allow each to state to establish its own insanity defense standard.

### References

1. Callahan L, Meyer C, et al. Insanity defense reform in the United States-post-Hinckley. *Ment Phys Disabil Law Rep* 1987;11:54-9.
2. Giorgi-Guarnieri D, Janofsky J, Keram E, et al. AAPL practice guideline for forensic psychiatric evaluation of defendants raising the insanity defense. *J Am Acad Psychiatry Law* 2002;30(2 suppl):S3-40.
3. *Rex v. Arnold*, 16 How. St. Tr. 695 (1724).
4. *Regina v. Oxford*, 9 Car. and P. 525, 546 (1840).
5. *M'Naughten's case*, 8 Eng. Rep. 718 (1843).
6. Resnick PJ. The detection of malingered psychosis. *Psychiatr Clin North Am* 1999;22:159-72.
7. Resnick PJ, Knoll J. Faking it: how to detect malingered psychosis. *Current Psychiatry* 2005;4(11):13-25.
8. Roger JL, Bloom JD, Manson SM. Insanity defenses: contested or concealed? *Am J Psychiatry* 1984;141:885-8.

**D**etermine the insanity standard in the jurisdiction where the offense occurred. Review the defendant's medical/psychiatric records and the police report. During the psychiatric interview, obtain the defendant's account of the event. Look for signs of mental disease during the offense and of the defendant's knowledge that his actions were wrong.

## BottomLine