Criminal insanity: Conflicting intuitions[1]

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Abstract

This paper's focus is upon the history, and contemporary use, of the 'Not Guilty By Reason of Insanity' plea (alternatively known as 'Not Guilty By Reason of Mental Disease Or Defect' in some jurisdictions) in the Anglo-American criminal justice system. In the USA, this plea has a varied geographical distribution, and there have been some quite notorious instances of its deployment—I discuss one these in some depth: the Andrea Yates case.

INTRODUCTION

In this discussion, my aim is to attempt to clarify the concept of 'criminal insanity' as it currently applies in our society and how it has metamorphosed over the past two centuries. I begin with one intuition which is somewhat stark. When Jeffrey Dahmer was convicted of serial cannibalistic murders, he was imprisoned rather than sent to a mental hospital for the criminally insane. But why? After all, vernacular versions of insanity comprise reactions such as: 'Whoever did that must have been mad/crazy/a psychopath' and so forth. Many such reactions typified common responses to Dahmer's atrocities. Also to those of Ted Bundy and John

[1] An earlier draft of this paper was presented to the 'Mind and Society Seminar Series', Manchester University, U.K., October 29, 2018, chaired by Professor Wes Sharrock for whom this *festschrift* has been produced. My sincere thanks to Professor David Bruck (personal communication, March 24, 2013) for his insightful remarks on which I shall draw extensively later in this essay. Professor Bruck is Clinical Professor of Law and Director of the Virginia Capital Case Clearing House, Washington and Lee School of Law, Lexington, Virginia. I am also grateful for his comments on an earlier draft of this essay to Professor Dennis Patterson, Law and Philosophy Departments, and Co-Director, Institute for Law and Philosophy, Rutgers University School of Law. I am also indebted to Professor Paul Jalbert for his editorial help on earlier drafts. Thanks also to my colleague at Boston University, Professor Peter Yeager, whose incisive comments on an earlier draft were most helpful. None of these colleagues are in any way responsible for whatever use I have made of their kind assistance.

Wayne Gacy, all of whom tried and *failed* to achieve an insanity defense. When John Hinckley Jr. attempted to assassinate then-President Reagan, he was found Not Guilty by Reason of Insanity. (The main reason for such a verdict was the demonstrated obsession Hinckley testified to with the actress Jodie Foster with whom he had corresponded pointlessly: his absurd notion was that such an assassination could impress her and, perhaps, engage her interest in him.)[2] These cases form the beginning of my inquiries. One arguably inconsistent intuition could be as follows: is there such a concept, implicit in the use of the NGRI defense, which excludes the *heinousness* of the crime from the criteria considered in such adjudications? If so, why is this the case? Is there what we could call a 'heinousness exemption' in such cases as are defended in NGRI cases? Jurors appear to accept such a move in a vast majority of cases. One issue with which I am not concerned, but which is often raised when controversies pertaining to this defense are addressed, is the rarity of the success of *any* NGRI plea. I am not doing frequency studies in this essay. I am only interested in the logic (or, occasionally, the lack thereof) of the appeal to insanity as a reason for exculpating a person from having committed a crime. One issue which I will not be dealing with is this one: 'insanity' is a purely *legal* concept, and not a *psychiatric* one. I do not think that this distinction is really significant for the forthcoming analysis, but it must be kept in focus.

Let us review the history of the idea that one could be found Not Guilty by Reason of Insanity. (I shall leave for later a consideration of the major alternative, which is the idea of a finding of Guilty but Mentally Ill (GBMI).)

A BRIEF HISTORY OF THE NGRI PLEA

Deriving from the Roman legal distinction between actions undertaken in *mens rea* and those *non compos mentis* (roughly, 'not of sound mind'), the development of Western juridical conceptions of the exemption from responsibility (and thence culpability) even for serious crimes can be dated in Western jurisprudence from the *Hadfield* case (1800).[3] His crime was to have attempted to assassinate King George III. On the evening of May 15th 1800 at the Theatre Royal in Drury Lane, during the playing of the national anthem, James Hadfield fired a pistol at the King, but missed. He was tried for high treason and was defended by the leading barrister of the day, Thomas Erskine. Hadfield pleaded insanity, but the prevailing standard for a successful plea was that the defendant must be 'lost to all sense … incapable of forming a judgement upon the consequences of the act which he is about to do'. Hadfield's planning of the (attempted) assassination appeared to

[2] For a complete account of this case and trial, see Low et al (1986).

[3] For an excellent exegesis of this case, and of others which followed, see Robinson (1980, chapter 2).

contradict such a claim. Erskine's strategy was to mount a challenge to the insanity criterion, contending that a delusion alone, with no 'frenzy or raving madness', was the fundamental sign of insanity. The judge, Lloyd Kenyon, halted the trial and declared that the verdict was essentially an acquittal, but that the prisoner must not be simply discharged. Defendants acquitted by reason of insanity faced no specific fate and were often released to their families. Due to the public outrage attending this decision (because of the fear that a released felon might be a threat to innocent people) Parliament rapidly passed the Criminal Lunatics Act, 1800 to provide for the indefinite detention of insane defendants. Hadfield was detained in Bethlem Royal Hospital (or 'Bedlam', as it was notoriously known) for the rest of his life (except for a brief period when he had managed to escape). He died there from tuberculosis in 1841.[4]

Hadfield had been convinced by a Bannister Truelock (later also hospitalized) that the Savior's Second Coming was imminent, but that the King's conduct stood in the way of Redemption. In Robinson's (1980) poignant account of this particular crime, the idea that a guilty party did not know 'right from wrong' is somewhat compromised—to whit: Hadfield believed that it would be *right* to kill the King, and *wrong* to allow him to deliver Britain into the hands of Satan. The plea was predicated on the claim that the criminal act was based on a delusion. This very early case involved the notion that for a successful defense case to move forward, the plea must assert that 'the defendant must be lost to all senses … incapable of forming a judgment upon the consequences of the act he was about to do'.

The next major case was the famous M'Naghten trial. Daniel McNaughten (usually transcribed as M'Naghten in the legal history of this case) was an itinerant woodcutter who shot and killed Edward Diamond, the secretary to the Prime Minister, by mistake (he was aiming at the Prime Minister but missed his intended target).[5]

M'Naghten falsely believed that he was being persecuted by the government of the day, but no evidence was found to sustain his claim, hence he was construed as suffering from a delusion of an unusual sort. In 1843 the Law Lords formulated the M'Naghten Rules. There have to be demonstrably present: (1) A defect of reason, (2) This must have been produced by a 'disease of the mind' and (3) The result must have been that the accused did not know the nature of his act or that it was illegal.[6] This case essentially formed the foundation for the criminal insanity precept both in the UK and the USA. Here are its details.[7]

In the reign of Edward 1 in England, this famous case resulted in the following judicial decision:

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[4] See Moran (1985) and Eigen (1995).

[5] For a complete account of this landmark case, see West and Walk (1977). Also see Smith (1981).

[6] This outline was culled from Hart (1968: 189).

[7] In this I am drawing upon the classic work of Fingarette (1972) and also the superb chapter, 'Mental Disorder and the Law' in Cockerham (2010, chapter 14). See also White (2017).

> … that to establish a defense on the grounds of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing what was wrong. (Cockerham 2010: 311–12)

The temporality provision was later to prove an obstacle to the implementation of the Rule: how could one assess the state of mind of a defendant at the exact time of the crime he or she committed? The psychiatric community weighed in, arguing that the generic idea of Roman Law, i.e. the concept of *furiosus* (later that of a 'berserk' person) ought not to preclude an appeal to a timeline. After all, it had long been established psychiatric doctrine that insanity could exhibit symptomatological discontinuities. But this doctrine begged the question of how to assess their symptoms' presence or absence in any reliable way. In 1954 the generic appeal to the M'Naghten provision in the United States was superseded by the Durham Rule. This allowed the psychiatric profession great sway in courts of law dealing with NGRI pleas, in which the issue of fixing temporality was set aside, but one year later the American Law Institute advanced an alternative to *Durham* in the United States Criminal Court: their Model Penal Code enunciated the following conception:

> A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity to conform his conduct to the requirements of law. As used in this Article, the terms 'mental disease or defect' do not include an abnormality manifested only by repeated or otherwise antisocial conduct. (Cockerham 2010: 313)

However, this Rule *reintroduced* the relevance of the temporality of the act, and thus also the temporality of the state of mind of the accused. In the United States today, three states refuse to allow an NGRI plea: Montana, Idaho and Utah. The arguments which appear to have persuaded their legislatures are unclear to me, but surely the standard conception of this plea as it is now practiced in many jurisdictions has involved a continuous controversy.

Kevin Davis, in a recent study, notes that:

> In the latter half of the eighteenth century… one hundred recorded pleas of insanity were entered at the Old Bailey, London's Central Criminal Court. Of them, sixty resulted in acquittals, a success rate more than double that of today, in which 15 to 25 percent of such cases lead to a verdict of not guilty by reason of insanity. An acquittal at the Old Bailey meant the defendant could go free without any confinement to a mental institution or asylum, a policy that created public resentment and fear. However, if the person was considered too dangerous, the court could convene

> a separate civil hearing to determine whether he or she should be held at a lunatic asylum. *There was no consistency in how these cases were handled.* In most instances, the insane were sent home. Others were placed under the care and protection of friends or relatives. A handful were confined to asylums … (Davis 2017: 43, emphasis added)

GUILTY BUT MENTALLY ILL

A preferred alternative to the NGRI plea has been adopted now in 20 states. It is referred to as the 'Guilty But Mentally Ill' plea. This alternative originated with the trial of Ralph Tortorici, whose guilt was clear but who was, for all everyday, vernacular intents and purposes, obviously insane. It is contested by many because it appears to be an oxymoron. If you are insane by psychiatric standards such that you have no capacity to understand what you are doing when you commit a crime, then the concept of responsibility is nullified and *thence also the idea of guilt* (according to the precept of *mens rea*). A defendant who received a GBMI verdict is routinely sentenced like a commonly *compos mentis* criminal defendant. By 1995, twenty states embraced the American Law Institute (ALI) Rule, twenty-eight states the M'Naghten Rule, and one state (New Hampshire) the Durham Rule. In 1984, Congress, acting upon the negative public reception in the United States to the acquittal of the would-be assassin of President Reagan, John Hinckley Jr., passed the Insanity Defense Reform Act according to which the burden in Federal law is shifted from the prosecution to the defendant to prove insanity at the time of the criminal act (Cockerham 2010: 313-314). (Only twelve states retained the prior provision in law which asserted that the burden falls to the state.) Until 1972, defendants who were thought to be incompetent to stand trial were hospitalized for an indefinite period. In the same year, the Supreme Court decided that such open-ended institutionalization was unconstitutional.

Notwithstanding the afore-mentioned issues, there are other considerations to handle. One provision of the insanity defense in the United States allowed the concept of 'irresistible impulse' to apply. In the U.K., Lord Atkin's Committee recommended in 1923 that such a provision ought to apply as an amendment to the M'Naghten Rule. This provision was *rejected*, and it was not until 1957 that a plea of 'diminished responsibility' was allowed into the legal calculus of pleas. However, as H.L.A. Hart (1968) has noted, some judges (e.g., in the case of Lord Goddard in *R. v. Spriggs* 1958) refused to direct juries to consider the accused's *capacity to conform to the law*, rather than simply his or her knowledge of it.

Cartographic and historical variations in the treatment of 'criminal insanity' are almost notorious. There is a patchwork quilt with holes in it applying to this issue across the Western world. Almost no standardization has been accomplished in its deployment, and it is a rare case, as noted earlier, in which such a plea, where even permissible, actually wins a case.

Richard Arens's study of the application of the Durham Rule in D.C. jurisdictions had this to say:

> The testimony of experts on organic conditions is usually treated with deference; or at least with greater respect than testimony about 'functional' mental diseases. Lay jurors, judges and counselors at law are reluctant to believe that a person who is entirely aware that he is doing wrong is nevertheless driven to perform a forbidden act as a result of conflicting drives of whose nature he is unaware. (Arens 1969: 112)[8]

One exception was the case against Lorena Bobbitt, who was acquitted of criminal charges against her husband after having cut off his penis. The verdict in her case was 'temporary insanity'. An interesting feature of this case is the following: 'A jury concluded that she had yielded to an irresistible impulse after having been raped by her husband. *Before that event, Mrs. Bobbitt had allegedly suffered continued physical and psychological abuse from her spouse*' (Cockerham 2010: 312).

Professor Bruck informed me (personal communication) that judges are not required to explain to jurors the exact nature of the insanity plea: 'The result is a legal system that almost guarantees that jurors will reject even the most valid insanity defense out of a misplaced fear of putting a violent person back on the street'. There is evidence that jurors are not well-informed about the conditions for a finding of NGRI. Expert testimony is over-rated as a *decisive component* in cases involving an insanity plea: most jurors prefer to apply their own 'commonsense' and values to such cases. There is always a risk here, and jurors understand that: 'dangerousness' is a far more compelling issue than *mens rea* (Cockerham 2010). Since psychiatrists can be called upon to testify for both the prosecution *and* the defense, jurors are required *de facto* to use their own best judgment.

There have been efforts to *simulate* insanity in courts of law: they rarely work. We know that some folks who have been homeless and destitute have tried to get into a mental hospital in order to have a few meals and a roof over their heads (Braginsky et al. 1969).[9] And then of course we have to deal with issues of neurophysiology (Bennett and Hacker 2011).[10] The burden of sustaining the idea of expert testimony often relies upon the demonstrability of the *scientificity* of their testimony. So, we confront a major question here: Is psychiatry a genuine science even when it does not (or cannot) present compelling biological/neurophysiological evidence to buttress its claims to scientific expertise?

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[8] For a contrasting view, see Perlin (2017).

[9] On the other hand we have the well-known work of David Rosenhan (1973). All of these studies make it an issue for how anyone accused might *simulate* insanity.

[10] Stephen J. Morse (2016: 273) in a trail-blazing article, writes: 'Neuroscience will not justifiably revolutionise legal insanity or criminal responsibility doctrines and practices in the short term and is unlikely to do so in the intermediate term'.

Here I draw upon a paper by Anthony Kenny, 'The Psychiatric Expert In Court' (1984). Kenny makes several arguments which I would like to consider here. His focus is upon the issue of the nature of science, and especially as it may (or may not) apply to the human sciences. Is psychiatry a 'human science'? Of course, in some respects, it purports to be, and a major component of psychiatry as practiced today includes the application of medical techniques and pharmaceutical treatment regimes, often prescribed without necessarily having to *name* the condition to which such medications have been allocated. For example, I have witnessed the prescription of psychotropic drugs (most especially Olanzapene, trade-name Zyprexa—one of the most effective psychopharmacological treatments ever devised since the early days of Chlorpromazine (Largactyl, etc.) to persons *whose only diagnosis has been that of 'Psychosis'*. It seems that the concept of 'schizophrenia' and its various subtypes are no longer required for contemporary psychiatrists to justify making their medical recommendations. Perhaps this is an advance, since, as I and many others have argued elsewhere (e.g., Coulter 1991), the concept of 'schizophrenia', being a polymorph with dubious utility in discerning etiological connections, is best retired within the vocabulary of modern thought.

'ROUTINE' MENTAL DISORDERS AND THOSE INVOLVED IN CRIMINAL CONDUCT

There is a dictum in contemporary psychiatry that 'schizophrenics' are overwhelmingly 'peaceful': it is a rarity when a person with this psychiatric diagnosis engages in significant, violent criminality. Those whose defense involved an NGRI plea must often face intensive court scrutiny, wherein psychiatric testimony is usually deferred to. Facing incarceration in a high security psychiatric facility, such as Broadmorr Hospital, located in Crowthrone, England, or Bridgewater State Hospital (a medium security facility) in Massachusetts, a facility portrayed or parodied in the documentary made by a Boston-based lawyer Fred Wiseman entitled 'Titicut Follies' (1967), defendants face a very tough choice indeed, and their defense attorneys can be hamstrung by virtue of the publicity attending such a documentary. One of the reasons why I, as a professional sociologist, was denied access to the Bridgewater State Hospital when I applied to visit that facility in order to engage in a field-work study in that institution was almost certainly the negative publicity which the Wiseman film generated. I reserve judgment about whether or not that documentary accurately portrayed that facility.

THE HEINOUSNESSS EXEMPTION RE-VISITED: THE CASE OF ANDREA YATES

The case of Andrea Yates is often invoked as an example of a truly *heinous* crime: she drowned her five children in their bathtub on June 20th 2001, and faced the

death penalty. After a guilty verdict was established in her case, the State abandoned the request for the death penalty and consigned to her a secure psychiatric facility. A basis for this reversal is revealed in an interview with Yates conducted by Dr. Park Dietz (hence PD), video clips from which were shown in open court, a transcribed section of which I reproduce here:

PD: What can you remember about any planning?
AY: About drowning them.
PD: What were you thinking?
AY: What was I thinking? Why to do it?
PD: Yes.
AY: Because I didn't want them tormented by Satan like I was.
PD: Was Satan tormenting you then?
AY: Yes, I believe so.
PD: In what way?
AY: Just the thoughts. Bad thoughts.
PD: Tell me as much about those thoughts as you can.
AY: There was the thoughts about the TVs, and cameras in the house, and afraid Satan would ruin my children through himself, and that maybe I had some Satan in me.
PD: How did you think that happened?
AY: Satan?
PD: Yes.
AY: Just the way I behaved.
PD: Now did anyone tell you that you had some Satan in you?
AY: No.
PD: But you saw some clues?
AY: I just felt like he was inside giving me directions.
PD: What directions?
AY: About harming the children.
PD: How did he give you directions?
AY: Well, eventually I thought of a way out. To drown them.
PD: And how would that be a way out?
AY: A way out?
PD: How would that be a way out?
AY: For the children?
PD: Yes.
AY: They would go to heaven and be safe up there.

This revealing interview was grist to the mill in court: it appeared that Andrea Yates was suffering from religiously-based delusions. Following the birth of her fourth child, Rusty (her husband) found her shaking and attempting suicide. Soon

after her release, she begged Rusty Yates to let her die as she held a knife to her neck. Again, she was hospitalized.

Andrea Yates was imprisoned after the first trial. This outcome meets my standard of a heinousness exemption from an NGRI verdict—jurors wish to *punish*, not to 'rehabilitate' (if they actually believe that being hospitalized in a psychiatric facility is about 'rehabilitating' anyone). The idea, widely shared, is that people who commit heinous crimes must face prison time, and what could be more heinous than slaughtering your kids? Such people ought to be locked up … or worse … On an appeal of her conviction, she was eventually remanded to a psychiatric facility. In this brief study, I venture no opinion on this particular case. My idea here is only to assert that an NGRI verdict is an option whereby jurors do not decide cases on the basis of psychiatric testimony, but on the basis of their lay judgment of proper punishment. I think that this pattern of reasoning is clear through the Dahmer, Gacy and Bundy cases mentioned earlier.

Let us also recall the case of Charles Manson and his 'family' of murderers. Manson claimed that, by the murders he supervised, he could generate a 'race war'. The white race could then triumph. Manson was convicted of murder—but wasn't he insane to tout the beliefs that he had? Vincent Bugliosi was the trial attorney and denied any attempt at an NGRI plea. Why? Because of the *heinousness* of Manson's crimes. Manson was imprisoned, and not sent to an institution for the mentally ill. However, by most ordinary standards, he seemed to be utterly delusional. You want to start a race war by murdering innocent people and then blame black folks? Really? *Helter Skelter* is now a rallying cry for some racists in America. Are they insane by the standards of the legal system, or merely expressing disgusting opinions protected by the First Amendment? An interesting discussion, to be pursued elsewhere.

In concluding this discussion, I would like to enter a *caveat* to Kenny's (1984) otherwise commendable treatment of this issue. It is this: in claiming that lay jurors ought to be accorded primacy in adjudicating cases in which an NGRI case has been presented, he sees no way in which psychiatric testimony ought to be allocated the role of 'expert' testimony, except to enter claims about such matters as 'fitness to plead'. If I am not mistaken here, this seems to me to obviate the role of the psychiatrist in assessing the nature and state of the use of psychotropic medications with their side-effects in criminal cases, in assessing the presence or absence of a psychiatrically-relevant neurological anomaly in such cases, and in (perhaps prematurely) ruling out the possibility of further advances in our understanding of malignant delusions for which, at the moment, we have no clear biological/biochemical explanations. Delimiting the role of professional psychiatry in courts of law, I have argued, is an important objective within our criminal justice system. Nonetheless, this does *not* mean that psychiatrists ought to have no role. The key issue before us is: what *exactly* ought that role to be? One major thesis of this paper is: no role which ought to be permitted to take primacy over the

finality of jurors' verdicts. Any discernible neuropathy (a lesion or other anomaly) does *not* amount to a nullification of the demonstrably criminal character of the act or actions being adjudicated in a court of law. There are *no* cases, to the best of my knowledge, where a neural pathology *alone* can lead to an NGRI verdict, because it has never been demonstrated that a neural lesion (or other such anomaly) has been specifically related, determinately, to the commission of a major felony.[11]

On a closely related matter, there is the issue of forcible medication of those housed in mental hospitals for the criminally insane. The history of psychotropic medications is not exactly exemplary. Leon Eisenberg (1973) published a significant paper in the *Scientific American*. In this paper, Eisenberg discussed the history of psychotropic medications. One of the earliest was the development of the drug, chlorpromazine, developed by Henri Laborit along with his co-worker Pierre Deniker. Laborit was a surgeon who serendipitously discovered that chlorpromazine (utilized in hibernation surgery, which he practised routinely) could have a side-effect of suppressing symptoms of 'schizophrenia' such as delusions. Following this discovery, with Laborit's approval, pharmaceutical companies began to develop other related psychopharmacological drugs such as Stelazine, Thorazine and others which eventually became grouped under the trade-name, Phenothiazines. One problem recurred, however, which was the incidence of what became known as 'tardive dyskinesia', a condition vernacularly referred to a 'tonguing', whereby the patient experienced involuntary tongue movements beyond his/her control. Later, it was discovered that 'dystonia', an involuntary foot-shaking movement, also occurred.

CONCLUDING REMARKS

Pardo and Patterson noted that:

> The *M'Naghten* test, which focuses on a defendant's cognitive capacities, depends on whether a defendant 'was laboring under such a defect of reason from disease of the mind, as not to know the nature and quality of the act, etc.

[11] According to Davis (1995, chapter 10), the efforts of Adrian Raine and Monte Buchsbaum, two biologically-oriented researchers, to specify (largely through positron emission tomography scans) one or more specific neuropathologies in persons being defended by an NGRI plea, led them to conclude that a neural anomaly might, at best, *predispose* someone to behave in an irrationally violent manner. However, they further argued that other, unspecified (presumably 'environmental') factors can enhance or diminish any such predisposition. Thus, in effect, their 'findings' could not be appealed to in *exonerating* a criminal defendant, since everything someone does is a complex function of their biology and their socialization. No-one has succeeded in adequately *partitioning* such a presumed function; consequently, no concrete deduction relevant to an NGRI plea is available to this day.

However, these authors add the following:

> Jurisdictions differ as to what they require in order to satisfy either prong of this test—for example, does 'wrong' mean 'legally wrong' or 'morally wrong', and if the latter, what does 'moral' mean?—and whether to include both prongs … . Under both types of tests, jurisdictions also differ substantially in how they structure the burden of proof. (Pardo and Patterson 2013: 141)

An interesting question is: how many successful NGRI's are there in the United States? H.R. Steadman (1985) conducted a study and found that in 1978 across the country, there were 1554 persons admitted as not guilty by reason of insanity. It is a rare verdict, given the enormous number of other-than-NGRI cases which confront jurors in this country, but in certain cases, jurors who have been questioned after trials when an NGRI plea has been entered, often say that, as long as those who are convicted thereby are dispatched to a secure psychiatric facility, they are content with such a verdict.

There are various considerations involved in adjudicating NGRI/GBMI verdicts in courts in the United States. Some may strike you as trivial, some far more serious. Some politicians think that NGRI/GBMI verdicts permit felons to escape from justice (i.e., rightful punishment). My own view is that psychiatric testimony in courts of law should be restricted to issues of organic pathology. If this sounds too restrictive to you, well consider this—in a court of law, *both* the defense and prosecution can employ psychiatrists to assist their clients.

There is no doubt that psychiatric medications were often forcibly administered, but now we have a major anti-psychotic medication called Xyprexa (Olanzapene). It is no panacea, but it far surpasses earlier efforts to handle psychoses with medications. Accordingly, issues pertaining to the nature of, treatment of, and punishment for, cases adjudicated in courts of law in regard to 'criminal insanity' are still largely unsettled to date, both in the so-called 'court of public opinion' as well as in 'courts of law'. Such is the predicament we as a public must confront if ever called upon to assess such cases, as jurors, which are defended with a plea of 'Not Guilty By Reason of Insanity' or of: 'Guilty But Mentally Ill' by defense attorneys in the United States. This debate is far from having been settled.

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