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OPINION AND THE INSANITY PLEA: WHAT CAN A LITTLE EDUCATION DO?

A Thesis submitted in partial fulfillment of the requirements for the degree Master of Arts.

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May 2023

Opinion and the Insanity Plea: what can a Little Education Do?
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ABSTRACT

EXPERT TESTIMONY AND THE INDIVIDUAL'S OPINION

The misconceptions regarding the insanity defense have often left bias rampant within the court room. Within this study, the goal was to understand the relationship between education via an expert witness and how it changes one's verdict on a case where the insanity defense is used. Participants were given a vignette regarding the circumstances of an NGRI defense case, and then randomly assigned to a control video and a myth video. The control video talked about the circumstances around assessment, and insignificant details of the case, while the myth version discussed the common myths and misconceptions regarding the insanity defense. Each participant was then given a series of scales to measure political beliefs, emotionality, knowledge on the NGRI plea, and bias towards those with mental illness. The majority of participants chose their verdict as NGRI, which is contrary to some of the current literature. The biggest point of significance came within Bias. Bias was the most significant factor in predicting one's verdict. An indirect link was also found between the condition and verdict. The condition each participant was in effected their knowledge on the insanity defense, which in turn determined one's verdict decision. The results found within this study show the pervasiveness of bias within the courtroom and may aid in directing future studies towards resolving bias within the courtroom.

Keywords: Insanity Defense, Expert Witness, Opinion, Testimony

I dedicate this thesis to my wonderful and loving parents, Heather and Neal Raker, for always supporting me through the good and the bad. Love you both so much!

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TABLE OF CONTENTS

List of Tables	vii
List of Figures.....	viii
Introduction.....	1
Methods.....	12
Materials	13
Results.....	16
Discussion.....	19
References.....	28
Appendix A: KIDS Scale	33
Appendix B: RWA Scale.....	36
Appendix C: MIAS Scale.....	39
Appendix D: NFA Scale	40
Appendix E: Vignette	42
Appendix F: Script	43
Appendix G: Tables and Figures	46

LIST OF TABLES

Table 1: Demographic Information	13
Table 2: Descriptive Statistics.....	17
Table 3: Correlation.....	17
Table 4: Verdict Results	18
Table 5: Stepwise Logistic Regression	18

LIST OF FIGURES

Figure 1: Mediation analysis of Condition on Verdict through KIDS19

Introduction

The term ‘insanity’ has had many different meanings, with a great deal of variability across states and even across time (Find Law Legal Team, 2019). The lack of regularity has created an amorphous concept that is often difficult for a juror to understand, resulting in a number of myths. The goal of this research is to see if education by an expert witness regarding the three main myths about the insanity plea may result in a change of negative viewpoints of the insanity plea.

What is the NGRI plea?

The Not Guilty by Reason of Insanity (NGRI) plea is a defense used in cases involving serious mental illness or defect (637.18 U.S.C. § 17(A), 2020). The United States Department of Justice defines this defense as “an affirmative defense under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense” (637.18 U.S.C. § 17(A), 2020). Insanity is considered a legal term, not a psychological or psychiatric term, and diagnosis covers a range of symptoms from different types of mental disorders (Howes, 2009). Due to this gap between the definition of insanity and diagnostic criteria, it is nearly impossible to accurately define what symptomology or circumstances are consistent with a successful insanity defense.

This variability among the legal definitions has resulted in disjointed perspectives of the insanity defense as well as confusion among potential jurors. This confusion has created three common myths regarding the insanity defense; the insanity defense is overused, it is often successful, and once acquitted, defendants are let go (Daftary-Kapur et al., 2011). These

commonly held beliefs have perforated the bounds of common knowledge and are often believed to be fact. This makes education all the more important in a court case, especially when mental illness may be a mitigating factor in regard to one's guilt. In addition to this, education is incredibly important due to the commonly held misconceptions regarding the Insanity defense.

In a study done to gauge the general public's knowledge regarding the insanity plea, participants across multiple states estimated that 37% of cases utilized the insanity plea, while in reality, about 0.9% is the actual plea rate. Out of these Insanity pleas, the public believes that 44% of these cases would result in a successful plea when in reality it is closer to 26%. To put that in perspective, out of 1000 trials, the public assumes 370 of them are insanity defenses when in reality it is roughly 9 cases that utilize the insanity defense. Out of these 9 cases, 2 would be successful (Silver et al, 1994). In addition to this, those acquitted by Not Guilty by Reason of Insanity (NGRI) often spend double the time incarcerated than those convicted of similar crimes, and if or when they are released, commonly spend the rest of their release with judicial oversight (Silver et al, 1994). These numbers alone show how disconnected a potential jury may be from the content related to their decision.

When it comes to education, there are several factors that contribute not only to one's strength in belief but also extremity. Makowsky and Miller (2014) found that the level of education had a profound effect on an individual's ability to sway an opinion. It was specifically found that individuals with a college education are less likely to change their opinion than those with just a high school diploma and high levels of intelligence. In addition to this, education, such as public education campaigns, has been shown to positively impact negative opinions regarding these issues (Mandracchia et al, 2013). However, it was not specified how education

during a trial may impact an individual's opinion. The most common way a defense or prosecution may implement education during a trial would be through an expert witness.

Expert Testimony and its Effectiveness

An expert witness is defined as an individual with expertise in a specified area who is able to present their opinion within a court case without bearing witness to the occurrence relating to the lawsuit or criminal case (Wex Definitions Team, 2022). In reference to a Not Guilty by Reason of Insanity defense, a clinical psychologist or psychiatrist may be called to assess the current mental state of the defendant to determine if the individual meets the standard for insanity. While expert testimony such as this is paramount to understanding an individual's state of mind, much of the literature regarding the effectiveness of an expert witness in an insanity defense case often relies on a juror's initial biases. Jurors with a prior bias regarding the insanity defense were more likely to either side with the prosecution's expert witness or disregard the testimony regarding the defendant's mental state entirely (Krauss et al., 2018).

This brings up a very pertinent question regarding juror bias: how might this bias be mitigated? The answer might just be a different type of expert testimony: education. As mentioned prior, there are three myths commonly believed by the general population regarding the insanity defense: the insanity defense is overused, it is often successful, and once acquitted, defendants are let go (Daftary-Kapur et al., 2011). Utilizing an expert witness to demystify the insanity plea and give the jury a more accurate representation of the insanity defense could aid in starting a court case off with a more level playing field. Some areas of education that may be pertinent to focus on would be the disjointedness between state standards, statistics, and intended purposes of the insanity defense.

Standards Across the Country

While there is a federal definition of insanity, the definition of insanity often differs on a state-to-state basis (Find Law Legal Team, 2019). According to the FindLaw website, Kentucky's standard is based on the Model Penal Code. This standard states that the defendant was unable to act legally or did not understand that their acts were criminal due to a mental defect (Find Law Legal Team, 2019). In addition to this, there are several states that have abolished the use of the insanity defense all together. These differing standards and definitions of insanity have perpetuated the myths surrounding the defense, because there is no clear answer to what insanity actually is.

More on Myths

To better understand the problem surrounding the insanity defense, it is important to understand each myth thoroughly. Previously, the big three myths have been discussed: the insanity defense is overused, it is often successful, and the defendant is let go once acquitted. While these are the big overarching themes of the myths regarding the insanity defense, these themes have perpetuated interconnected ideologies surrounding the insanity plea, such as those who use it are faking their mental illness or it is a card lawyers play in order to get their clients off easily (Perlin, 2017). These offshoots can be just as harmful in deciding the fate of a defendant and harbor many misconceptions.

For instance, when it comes to the myth that those who use insanity defense are rich and just looking to get off easy, the vision of privilege and bending the system comes to mind. However, it is more likely those who use the insanity defense are laborers, possess roughly a 10th-grade education, and have a previous legal record (Boehnert, 1989). This is not to mention

that the majority of cases that use the insanity defense include the use of a public defender, rather than a private attorney (Boehnert, 1989).

There is also another idea connected to these myths that individuals who are successful in their use of the NGRI plea are violent offenders (Boehnert, 1989). In reality, those who have successfully utilized the insanity defense are likely to have an impaired perception of reality and low intelligence, while those cases with violent impulses and actions are usually unsuccessful. The main component assessed between these two types of individuals is the ability to assist within their own trial. Someone who is impulsive and violent can still aid in their defense; however, when it comes to an impaired sense of reality, the ability to assist is severely diminished (Boehnert, 1989).

These are just a few more examples of the ways the myths can become twisted and take root in the minds of a jury pool. When it comes down to it, a lot of the myths surrounding the insanity defense are based upon what individuals see in the mainstream media, such as news, movies, television shows, or books. A lot of the time, truth is augmented to make mental illness or insanity look exciting and interesting in a way that garners a more fruitful audience (Phlean et al., 1998). However, when these myths get to the courtroom, it could be detrimental and harmful to the integrity of the trial and subsequent verdict of a defendant when the NGRI plea is denied because of these myths (Perlin, 2017).

A case in which these myths and misconceptions can be examined is that of Andrea Yates. Yates is a woman who suffered from a history of psychotic episodes and severe post-partum depression. After the birth of her most recent child, she fell so deeply into post-partum depression, that it triggered a psychotic episode. Within this break, she drowned her five children to protect them from the devil, and calmly called her husband and 911 after the fact (Ask the

Expert, 2006). While there was no doubt this senseless tragedy was caused by a severe psychotic episode, her case was often debated in the media in ways that aligned with the misconceptions seen in the courtroom today.

One of the biggest misconceptions seen in this case has to do with *Law and Order* (Hobson, 2021). Within the trial, an expert witness told the jury that an episode of *Law and Order* aired a week prior to the murders in which a mother drowns her five children and “gets away with it” by utilizing the insanity defense. After hearing about the existence of this episode, and that Yates may have watched it, the jury had no issue delivering a guilty verdict, despite a clear indication of severe mental illness. One of Yates’ lawyers checked with a producer of the show to see if an episode of that caliber even existed, only to find that it did not (Hobson, 2021). The jury condemned this woman to life with no parole on the mere thought that she might have seen it on an episode of *Law and Order*. This goes to show that jurors already have these biases or misconceptions ingrained within them when coming into a courtroom, and only need the smallest of nudges in order to go in for a guilty verdict. In the case of Andrea Yates, it was a notion that turned out to be false. This is the power of the misconceptions involved with the insanity defense.

Consequences of Ignorance

While the myths and misconceptions have been discussed, it is also pertinent to know why it is important that these myths and misconceptions are eliminated in the courtroom. When an individual with severe mental illness goes to prison and does not receive treatment for their mental illness, they are put into an environment that does not foster growth or healing (Quandt & Jones, 2021). The prison environment will more than likely cause mental deterioration rather than restoration. The deterioration comes from many key factors involved in the justice system.

The limitation of communication between prisoners and their families essentially removes an individual's support system. They also lose control over their life and autonomy, with no choice of when to wake up, what to do during the day, or when to sleep. This can lead to feelings of hopelessness and helplessness. This is also not to mention that Corrections officers are not trained to handle mental health crises, meaning the staff are ill-equipped to de-escalate or process with these individuals. Overcrowding is common within prisons, resulting in fewer resources, and higher tension among inmates. This tension can lead to violence within prisons, and when it is enacted upon or witnessed by a mentally ill individual, it can be expected that antisocial behavior or symptom severity will increase, (Quandt & Jones, 2021).

With this, as well as the success rate of an insanity defense, one wonders what the potential outcome may be. Studies have shown that the recidivism rate among those with severe mental illness is roughly 54% (Wilson et al., 2011). This means there is a continuous cycle of prison and release with no change or hope to aid those struggling within the system, and that is why it is imperative to take more care to educate jurors on the insanity defense. Reducing recidivism could lead to an uptick in rehabilitation within the prison system, making it much more effective in reducing crime rates. In its current state, retribution contributes to recidivism and does not function as the deterrent many think it does (Santa Cruz, 2022). So, what option does that leave us? Are these individuals meant to be led back to a life of crime, or utilize mental health treatment and community to aid in the reconstruction of their lives? Therefore, the use of the insanity defense is important because it may mean that mental health treatment becomes a core tenant of the prison system. This can hopefully end this cycle of recidivism and shift the focus for these individuals to rehabilitation.

Another point that is commonly brought up is that of the Guilty but Mentally Ill (GBMI plea) verdict that has been popularized as of late. Its main reason for being is to alleviate the public of their concerns regarding the NGRI plea (i.e., the common misconceptions that we've discussed previously). However, it seems the GBMI plea is not immune to the misconceptions its birth was proposed to avoid, as much of the public sees it as a meeting point between a guilty and NGRI plea carrying the weight of a guilty verdict, with a mitigated punishment (Cotrone, 2017). However, in most cases, these individuals are given the standard full punishment of a guilty verdict. Overall, this research shows that the GBMI plea is essentially a way for a mentally ill individual to be punished for a crime, regardless of mitigating factors, such as mental illness (Cotrone, 2017)

Impacts on Judgment

While the myths surrounding the insanity plea have their influence, there are also other factors within an individual that may affect their ability to judge a defendant fairly. Each juror will bring their own unique life experience, political ideologies, and personal beliefs about the way the world works to the juror box. Some of these beliefs or opinions held by jurors can lead to bias within their final decision regarding a case, especially as it relates to mental illness. When a juror is told that a defendant is mentally ill, they will start to formulate thoughts and ideas of how they expect this person to be, regardless of their opinion on mental illness (Hudachek & Quigley-McBride, 2022). These initial judgments can be influenced by many things, such as political ideologies, religious beliefs, and how one perceives the justice system as a whole. This is why it is important to include expert testimony in a trial where the NGRI plea may be tenable. While individuals will hold firm to their beliefs, they are less likely to follow through with these beliefs if contradictory expert testimony is presented. When an expert witness is not used, it is

more likely that an individual will fall back on previously constructed notions (Hudachek & Quigley-McBride, 2022).

These traits and characteristics can be measured through scales such as the Right-Wing Authoritarian Scale (RWA scale, Altermeyer, 1981), or the Generic Scale for Public Health Surveillance of Mental Illness Associated Stigma (MIAS scale, specifically the mental illness attitude items; Kobau et al., 2010). The RWA scale is meant to assess how an individual's beliefs fall on social issues, such as societal roles, war, and political ideologies. Individuals with higher scores on the RWA scale may show some resistance to accepting information that does not align with their beliefs. This, in turn, would more than likely make them less accepting of information presented by an expert witness. The Mental Illness Attitude items, on the other hand, gathers information about attitudes toward mental illness in general (Kobau et al., 2010). Someone who has negative opinions of mental illness or possibly does not believe in it will also show resistance to new information about mental illness. There are many scales such as these that can aid a trial team in not only picking their jury but evaluating the one they have.

Scales such as the Knowledge of the Insanity Defense Scale (KIDS, Daftary-Kapur, 2011) or the Need for Affect Scale (NFA scale, Maio & Esses, 2001) are two additional scales that may be helpful when assessing a jury. The KIDS is meant to measure not just one's current knowledge about the insanity defense, but also where their viewpoint lies regarding the defense. Answers from this scale can help determine if education may be required, and which areas to target with an expert witness (Daftary-Kapur et al., 2011). The NFA scale measures one's connection with their emotions and their feelings regarding emotionality. This is a good scale to utilize in cases using the NGRI plea because one's NFA scale scores could be telling of their ability to empathize or sympathize with a defendant. These factors of empathy and sympathy

could be the tipping point when it comes to the final verdict of a case, for either guilty or not guilty (Maio & Esses, 2001).

Current Research

There is very little research on how education delivered by an expert witness might affect an individual's opinion on the Insanity plea; however, Mabry (2021) set out to answer some of the questions associated. This study aimed to identify the factors that result in a rejected NGRI plea as it relates to the jury. Mock jurors were given two questionnaires, the Generic Scale for Public Health Surveillance of Mental Illness Associated Stigma (MIAS; Kobau et al., 2010) scale and the Insanity Defense Attitude-revised (IDA-R; Skeem, 2004) scale. Each mock juror was then given a case vignette about an individual with mental health issues being accused of murder. Initial verdicts about the case were recorded (Guilty, NGRI, or undecided). The participants were then given a packet of information relating to diagnostic criteria and statistical information regarding psychological care in mental health and correctional facilities. The participants were asked to re-take the previous questionnaires and given the chance to revise their previous verdict. It was found that when given the packet, participants were more likely to favor the insanity defense.

While this study has similar themes connected to the current research, it has several weaknesses. It is hoped that using a video format, rather than a written packet, will help retain and engage participants. It is also a way to more accurately simulate a courtroom environment by having someone verbally detail the education, rather than having to read it. In addition to this, it is expected that using an experimental and control group, rather than a pre-and post-test will provide some more valid and reliable numbers in studying how education about common myths surrounding the insanity plea may affect an individual's perspective. The problem with using a

pre-and post-test is that participants could be heavily influenced by demand characteristics (Allen, 2012). This means a participant may be led to think they are expected to answer a certain way when given the same test before and after the intervention; this study will avoid the demand characteristic by examining the changes over two groups. In addition to this, the Mabry (2021) dissertation only had 58 participants. This population is not representative, which may result in skewed results. In order to avoid this, participants for this study will be recruited using the research service Prolific. Prolific is a research platform that connects recruiters with participants (Prolific Team, 2023). This will allow for a wider net to be cast and the recruitment of a more representative population than previous research had allowed.

The aim of this study is to understand if individuals with misconceptions or negative opinions regarding the Insanity Plea will shift their opinion after listening to expert testimony including education regarding the nature of the Insanity Plea.

It was hypothesized that with proper education, via an expert witness, those with false or incorrect beliefs about the insanity plea will change their opinion. It was hoped that those within the experimental conditions would endorse a Not Guilty by Reason of Insanity and score more highly on the KIDS scale. It was also hypothesized that a mediation effect would occur and education within the experimental group would have an indirect effect on the verdict decision through knowledge of the insanity defense. Four scales were used: the Right-Wing Authoritarianism Scale (RWA scale), the Generic Scale for Public Health Surveillance of Mental Illness Associated Stigma Scale (MIAS), and the Need for Affect (NFA) scale to assess moderating and covariate factors on one's verdict.

Method

Participants

Participants were recruited via Prolific, an online research recruitment service, to take an online survey. Out of the 376 recorded responses, 358 responses were eligible for analysis. The other responses were not eligible due to failed attention checks, extremely low-test times, and incomplete questionnaires. Within the final sample, 50.7 % of the participants were male, 45.6% female, and the remainder of the participants identified as nonbinary or third gender. The ages of this participant pool ranged from 18 to 60 or older. The majority of the participants were white, making up 72% of the participation pool. Black or African American individuals made up 10%, Asian individuals made up 8%, and those who identified as Native American/ Pacific Islander made up roughly 1% of the sample. Additionally, 8.4% of the sample identified their race as “other.” For more demographic information, please see Table 1. Informed consent was obtained from every participant in accordance with Western Kentucky University Institutional Review Board (WKU IRB) standards. Participants were paid \$4.20 for their participation in the research study.

Table 1: Demographic Information

Demographic Info	Demographic Subset	Number	Percent
Gender	Male	181	50.70%
	Female	163	45.60%
	Non-Binary/ 3 rd Gender	5	1.40%
	Prefer Not to Say	4	1.10%
Race	White	259	72.50%
	Black or African American	38	10.60%
	American Indian or Native Alaska	2	0.56%
	Asian	30	8.40%
	Hawaiian or Pacific Islander	5	1.40%
	Other	28	7.80%
Age	18-20	6	1.60%
	21-29	72	20.20%
	30-39	104	29.10%
	40-49	73	20.40%
	50-59	53	14.80%
	60 or older	48	13.40%
Education	Less than a High School Degree	4	1.1%
	High School Degree or Equivalent	53	14.8%
	Associate degree	38	10.6%
	Bachelor's Degree	129	36.1%
	Graduate Degree	48	13.4%

Materials

Knowledge of the Insanity Defense Scale (KIDS; See Appendix A): Participants of this study completed the Knowledge of the Insanity Defense Scale (KIDS; Daftary-Kapur et al, 2011) after receiving the vignette and education in order to assess their current thoughts and ideas surrounding the defense. The KIDS is a scale consisting of nine different subscales with 36 items total based upon the common myths surrounding the insanity plea. The nine different scales each measure a different aspect of the insanity defense, such as overuse, violent crimes, risk, release, time spent incarcerated, malingering, expert witnesses, and the thought that the

NGRI plea is used to get individuals off easily. This scale was found to have good predictive validity and a Cronbach's alpha of .90 (Daftary-Kapur et al, 2011). This scale includes items such as "a lot of people use the insanity defense," "the insanity defense is overused," "use of the insanity defense is only in murder cases" and "most people who plead insanity have been in a mental hospital before"(Daftary-Kapur et al, 2011).

Right Wing Authoritarianism Scale (RWA scale; See Appendix B): The second scale that will be utilized is the Right-Wing Authoritarianism scale. This scale is a 30-item scale that measures levels of right-wing ideologies through opinions surrounding social and political topics, such as marriage and religion (Altermeyer, 1981). The reliability of this scale is indicated by a Cronbach's alpha between .89 and .93 (Gray & Durrheim, 2006). Some example items include: "Obedience and respect for authority are the most important virtues children should learn" and "There is nothing immoral in somebody being homosexual" (Altermeyer, 1981).

Generic Scale for Public Health Surveillance of Mental Illness Associated Stigma (MIAS: See Appendix C): This scale was designed to measure attitudes towards those with mental illness in the general topics associated with stigma. Such examples may be mental illness in the workplace and treatment (Kobau et al., 2010). This scale's Cronbach's alpha averages out to be around .67. While this is only considered acceptable, this scale may still be important in determining how mental health attitudes may affect viewpoints surrounding the Insanity plea (Kobau et al., 2010). Some example items include: "I believe a person with mental illness could pull himself or herself together if he or she wanted" and " I believe a person with mental illness can eventually recover" (Kobau et al., 2010).

Need for Affect Scale (See Appendix D): This scale is the Need for Affect scale (Maio & Esses, 2001). This is a 26-item scale that assesses an individual's connection with their

emotions and takes roughly 5 to 10 minutes to complete. This scale has an average Cronbach's alpha of .84 and was strong in its internal consistency (Maio & Esses, 2001). Some example items include "We should indulge our emotions," "Emotions help people get along in life," and "Emotions are dangerous – they tend to get me in situations I would rather avoid" (Maio & Esses, 2001).

Vignette (See Appendix E): This vignette details a crime committed by Tom Penny, a man who has had a history of troubled mental health. He kidnapped his former fiancé because he believed devious forces were keeping them apart. The purpose this vignette serves is to give the participant a viable case in which Not Guilty by Reason of Insanity would be used, without anyone having been killed or hurt. This allows for participants to make a decision regarding a case that holds less seriousness in order to avoid biases caused by common misconceptions about the insanity defense. One misconception that could lead to biased answers would be the thought that all defendants who use the insanity defense are violent. Providing a vignette that already goes against this misconception gives participants a chance to input their verdict without falling into preconceived biases.

Videos (See appendix F for Script): Two videos were created and randomly assigned to each participant. In the Experimental video, the expert witness talks specifically about the myths and misconceptions that are commonly thought about the Insanity defense. In the Control video, the expert witness talks very broadly about the case and assessment conditions.

Procedure

Each participant was first given a vignette, detailing the case of Tom Penny (see Appendix F). Then, each participant was randomly assigned to either the control or the experimental group. The experimental group was given the video of an expert witness detailing

information regarding the insanity plea, while the control group was given the video of an expert witness talking about superfluous information regarding the case (See Appendix G for script). Both videos featured the same voice-over white text on a black screen. After the video, each participant was asked to give one of the following verdicts on the case: Not Guilty by Reason of Insanity or Guilty.

Participants were then given a series of Likert-style questionnaires: the NFA Scale, RWA Scale, KIDS Scale, and the MIAS within a random order. Once these scales were completed, participants were asked questions regarding demographic information, such as race, age, gender, religion, etc. Afterward, participants were debriefed and paid. The mean test time for this study was 17 minutes and 13 seconds.

Results

The main purpose of the current research was to examine if the condition each participant was put in had an effect on their final verdict, and how initial biases may moderate one's decision on a verdict. In order to examine the effect of the condition on verdicts, a stepwise logistic regression was used. The condition each participant was in was the predictor variable, and the verdict was slated as the outcome. The RWA and MIAS were used to assess moderation, while the NFA was included as a covariate.

Preliminary Analysis

In Table 2 below, there are descriptive statistics of the mean and standard deviation for each scale of each scale. In Table 3, correlations between each of the scales were assessed. In that table, the Pearson's r values' strength is determined by the value attributed to it. A value closer to 0.10 would be considered a small or weak correlation, while a value closer to 0.50 would be considered a large or stronger correlation. The values accrued in this study show a

small correlation between the NFA scale and then RWA and MIAS scales. A medium correlation was found between the RWA scale and the MIAS and KIDS Scale, and the MIAS scale and the KIDS scale. This indicates some association between these scales.

Table 2: Descriptive Stats

Descriptive Statistics

	KIDS total	MIAS Total	NFA Total	RWA Totals
Mean	117.226	21.670	85.601	34.218
Std. Deviation	14.941	4.688	13.229	16.904

Table 3: Correlation

Pearson's Correlations

Variable		NFA Total	RWA Totals	MIAS Total	KIDS total
1. NFA Total	Pearson's r	—			
	p-value	—			
2. RWA Totals	Pearson's r	-0.210 ***	—		
	p-value	< .001	—		
3. MIAS Total	Pearson's r	-0.271 ***	0.482 ***	—	
	p-value	< .001	< .001	—	
4. KIDS total	Pearson's r	0.097	-0.333 ***	-0.316 ***	—
	p-value	0.068	< .001	< .001	—

* $p < .05$, ** $p < .01$, *** $p < .001$

Primary Analysis

It was hypothesized that participants would be more likely to choose their verdict as NGRI if placed within the condition in which the testimony given explicitly debunks the myths about the defense (see Table 3 for regression table). It is important to note, contrary to previous research, an overwhelming 74.5% of participants selected NGRI as their verdict (see Table 4 for breakdown of verdict responses). Overall, results indicate that the condition participants were

placed in did not have a significant effect on verdict. In fact, the only variable that had any effect was the participants' internal biases as measured by the MIAS.

Table 4: Verdict Stats

<u>Condition</u>	<u>Total</u>	<u>NGRI Verdict</u>	<u>%</u>	<u>Guilty Verdict</u>	<u>%</u>
Experimental (Myth Condition)	181	140	77.3%	41	22.6%
Control	177	125	70.6%	52	29.4%
Total	358	265	75.4%	93	24.5%

In Table 5 below, the significance of each scale was examined through a stepwise logistic regression, NGRI was coded as 1 and guilty was coded as 2. Step 1 measured the significance of the condition and modifying scales on one's proposed verdict. As discussed above, one's MIAS or bias score had the most significance in relation to one's given verdict. Step 2 examined two-way interactions between the condition and modifying variables. Step 3 examined a three-way interactions in the same way. No significant findings came of steps 2-3.

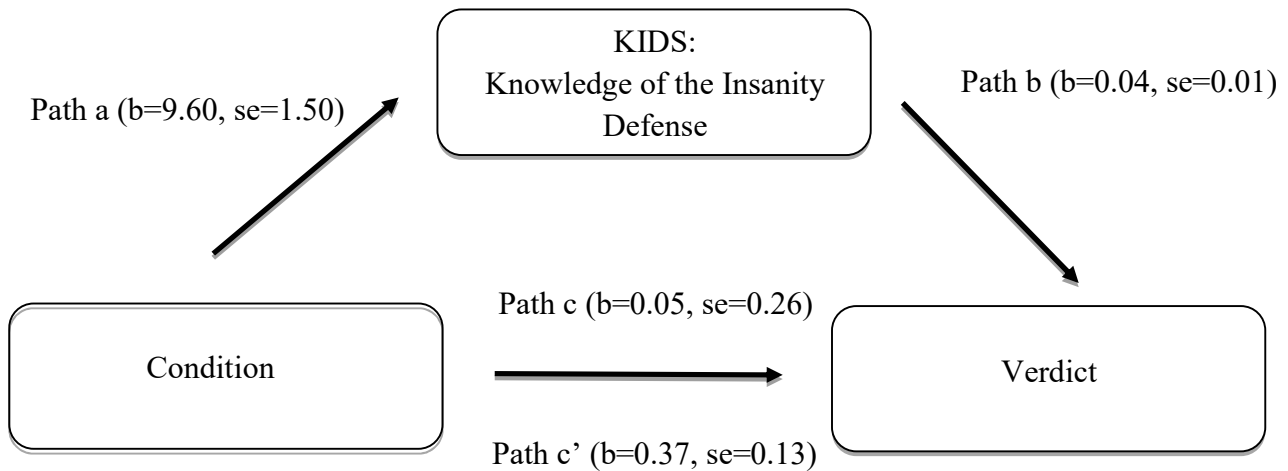
Table 5: Regression Table

<u>Predictor</u>	<u>B</u>	<u>S.E.</u>	<u>df</u>	<u>Sig.</u>	<u>95% CI</u>
Cond	0.30	0.25	1	0.226	[0.83, 2.19]
MIAS	0.07	0.03	1	0.023	[1.01, 1.14]
RWA	0.00	0.01	1	0.881	[0.98, 1.20]
NFA	0.01	0.01	1	0.488	[0.99, 1.03]
Cond x MIAS	0.08	0.06	1	0.233	[0.82, 1.05]
Cond x RWA	0.01	0.02	1	0.544	[0.98, 1.05]
MIAS x RWA	0.00	0.00	1	0.882	[1.00, 1.00]
Cond x MIAS x RWA	0.00	0.00	1	0.321	[0.99, 1.00]

The second analysis examined a possible indirect effect of Condition on Verdicts through the participants' knowledge about the insanity defense as measured by the KIDS. To accomplish this, a mediation analysis was performed utilizing Hayes's Process Model (Model 4, Hayes, 2022; See Figure 1). Results indicated a significant direct effect of Condition on KIDS (path a,

95% CI [-12.55, -6.65]), as well as a significant direct effect of KIDS on verdicts (path b, 95% CI [-0.06, -0.02]. There was not a direct effect of Condition on Verdicts (path c, 95% CI [-0.56, 0.47]); however, the indirect effect of Condition on Verdicts through KIDS was significant indicating that the KIDS was a significant mediator (path c', 95% CI [0.17, 0.65]).

Figure 1. Mediation analysis of Condition on Verdict through KIDS.



Discussion

The primary purpose of this study was to determine if addressing myths and common misconceptions regarding the insanity defense through expert witness testimony had any change in one's verdict regarding an NGRI case. It was hypothesized that those who received education debunking the myths on the insanity defense would be more likely to choose their verdict as NGRI and would score more highly on the KIDS scale. It was also hypothesized that there would be a mediation effect on the verdict through knowledge of the insanity defense, creating an indirect link between the condition and verdict.

The results did not support a direct link between the condition and verdict but indicated that internal bias surpassed education in significance as the biggest predictor for verdict results. This means the initial hypothesis was not supported. Secondly, a mediation effect was hypothesized, such that the education will have an indirect effect on verdicts through how much it changes participants' knowledge of the insanity defense. This hypothesis was supported by the mediation analysis results examining the condition's effect on the KIDS scale results, and the KIDS results on the verdict.

The current findings contradict what was found in previous research by Mabry (2021). Mabry found significant differences between the pre- and post-tests after education was administered; however, no direct statistical significance between the control and experimental group was found in this study, which may indicate the possibility of demand characteristics existing in the previous research. Overall, it seems that internal bias has the strongest effect on verdicts, but why is that?

When examining the lack of direct connection between the experimental condition and verdict, it appears that expert testimony is thoroughly trumped by one's initial bias, but what is even more interesting is the condition's indirect connection to one's verdict. The knowledge one has on the insanity defense seems to be absorbed into their thoughts, feelings, and biases regarding the defense, which in turn, affects how one may perceive the outcome of a case. In this study, the education provided in the experimental condition allowed for in-depth knowledge regarding the insanity defense to be taken in by the participants. This allowed participants to make an informed and educated decision regarding the case, while they may have, simultaneously, been employing previously held notions regarding the NGRI defense.

This may have greatly impacted the results regarding verdict, but there may also be other factors at play. Nearly 75% of participants chose NGRI as their verdict for our case vignette. This is atypical considering some of the current literature out there and provides some interesting insights. As discussed previously, the three big myths are that the insanity defense is overused, it is often successful, and those who use it successfully are let go after their acquittal (Silver et al, 1994). However, the results from this study might suggest another factor when it comes to myths: violence. Within this study, a non-violent vignette was chosen to avoid swaying participant to one verdict, as one of the sub-myths discussed was that mentally ill defendants who use the NGRI plea are only doing so for a violent crime (Boehnert, 1989). While the purpose of this vignette was to avoid swaying verdict, it may have unintentionally caused a sway in a different direction than expected: the NGRI. By using a non-violent vignette, the myth that NGRI is used for violent crime was challenged before any participant was put into a condition. With this challenge, it is not impossible to think that when violence is taken out of the equation, it may be easier for a potential juror to choose NGRI. In order to understand these results better, it is imperative to understand how jurors make decisions within the court room, and how bias plays a role. One way it can be understood is through the story model.

Theoretical Reasoning

The Story Model is a theoretical model that states jurors make decisions through organizing evidence presented into a narrative-like format (Pennington & Hastie, 1992). The theory states that there are three components to the decision-making process: evaluating evidence in the context of their story, comparing the likelihood of other outcomes, and coming to a decision regarding the evidence (Pennington & Hastie, 1992). This model implies that one filters information from a court case through their own personal experience in the deciding of a verdict.

If a juror biased against those with mental illness were to filter evidence of an NGRI case through their own thoughts and opinions on mental illness, it is likely they would see the NGRI verdict as less favorable. This is not to mention how evidence is presented as well, and how bias implicated within the evidence plays a role in a juror's story construction. As seen in the Yates case, the expert witness was sure that Yates was faking her defense because they thought she might have seen an episode of *Law and Order* similar to her case (Hobson, 2021). When presenting information such as this to a jury, it is likely that when the jury is evaluating alternative outcomes, it introduces reasonable doubt into the insanity defense, despite her extensive history of psychological troubles. Because the presentation of the evidence fits into a narrative that endorsed the common misconceptions surrounding the insanity defense, a jury found the story more compelling and truthful when deciding their verdict.

When applying the story model to this study, there are many aspects regarding the vignette and information produced that could have affected the narrative participants created. When thinking of a murder or assault case, we may see jurors categorize this into a certain crime category, while attributing certain thoughts and feelings to this crime. In a murder case with an NGRI plea, the severity of the crime may inform a juror's idea of what punishment should take place because of the crime. For murder it might be a life sentence. If there is already a belief that those who successfully plead NGRI are immediately let back into the community after acquittal, it is not unlikely that a juror may choose a guilty verdict to avoid that outcome. In this study, the crime was less severe, and regardless of condition, it is implied that the defendant in this case has a history of mental illness. These may have served as mitigating factors in a juror's narrative to what individuals believe should happen to this NGRI defendant. Therefore, it could be assumed that the narratives created by these participants were less focused on punishment because the

severity of the crime was greatly diminished than prior research. Considering the majority of NGRI cases are non-violent and the amount of NGRI verdicts seen within this study, these findings are in direct conflict with some of the statistics regarding actual success rate of the NGRI defense (Boehnert, 1989). So, what does this all mean for the court room?

Court Room Implications

The findings within this study suggest that within non-violent cases, the NGRI would be more accepted by a jury, so why isn't it? About 0.9% of cases use the NGRI case, and only 26% of those cases are successful (Silver et al., 1994). If the majority of the NGRI cases are nonviolent (Boehnert, 1989), then why are so many of these cases unsuccessful? This brings back the impact of internal bias and presentation of education within the court room. In this study, bias was the biggest predictor of verdict. It could be theorized that the success rate of NGRI cases is linked to bias within a jury. This has seemingly created a "no-win" situation for individuals with serious mental illness facing charges. If they plead with NGRI, they run a very high risk of being found guilty, but if they plead any other way, they will more than likely be introduced into the general population of a prison without the proper care to better their mental health. With bias having such an incredible sway on these real-life trials, it may be useful to mitigate this bias before the trial begins.

The first thing that may be helpful would be identifying what variables may indicate bias within an individual. In Bloechl et al.'s (2007) research on juror attitudes and bias, it was found that misconceptions regarding the insanity defense was the strongest predictor of bias against NGRI within a jury. The pervasiveness of these misconceptions has made them appear as fact to those who are not familiar with the inner workings of the legal system and the way insanity is

defined. This leaves a lot of room for error and injustice for those cases in which the NGRI plea may be pivotal to getting an individual the help they need to treat the mental illness.

The purpose of jury selection is to uncover bias within a jury pool to ensure a fair trial for the defendant. However, it seems that the red tape and stipulations from judges may cause more difficulty in discovering this bias than aiding in it. At the federal level, the judge holds control of much of the selection process, and testing for bias is often not required (Bloechl et al., 2007). This leaves room for potential error. It is clear the court system needs to change to accommodate one's constitutional rights to a fair and just trial. One small step to this much-needed overhaul may be a questionnaire designed to examine one's beliefs and how they may impact their judgment on a case.

While a questionnaire to identify bias within a courtroom could be beneficial in eliminating a problem before it begins, it would be a stipulation that would take years to enact. What can be done in the meantime? This study's results did indicate an indirect effect of education on verdicts by way of their knowledge about the insanity defense. This implies that expert testimony and education within the courtroom are still great tools to use to combat ignorance or bias. Jurors typically look for that definitive testimony in order to aid in their decision-making (Vindice, 1998). Having that definitive voice speaking against misconceptions and myths in order to better educate the jury could be beneficial in giving a jury the tools to make an informed decision.

Other Factors on the Verdict

It has been discussed thoroughly that the vignette used for this study has challenged a common thought system, which may have resulted in the verdict responses, but what other factors may have influenced these verdicts? One of the biggest research points referenced within

this study are the three big myths, but what if these aren't the three big myths anymore? Our results indicated that was no significant difference between the control and experimental group, but there was still a majority NGRI response. The three big myths were so common during the initial research on this topic, but education on them seemed to have little direct effect on one's verdict. The one thing both the experiment and control group had in common was that of the vignette. The severity of the crime or belief in the myth that all NGRI cases are violent cases may be a bigger indicator of verdict response than belief in the three big myths.

Another reason this might have occurred is related to the demographic information collected. Over half of the participant pool had some education after high school, with roughly 46% of participants having a college or graduate degree. With this type of education, it may be seen that these individuals were able to utilize in depth critical thinking skills and take the whole picture into account when submitting their verdict. The more knowledge that someone has, the more tools they have to make an informed decision.

Limitations

A limitation involved the artificiality of the situation. While better than just information packets (Mabry, 2021), the expert's testimony was still only auditory compared to the in-person experience an actual juror would have. Furthermore, due to the situation being researched, the stakes were low and might not translate well to the real world where someone actually committed a crime. It also only examines the thought process of a single juror, which again is not realistic as jurors are members of a jury that will have deliberations.

In addition to this, much of the core research on the NGRI plea is older. The increase in knowledge on mental illness, explosion of the internet, and frequency of mass shooting may have impacted some of the results we saw in this study versus studies done in the past. Replication

studies of the research referenced may be beneficial in putting current findings into context of the modern age.

Future Research

With this clearer understanding of how bias is present in the courtroom, it is possible to work towards eliminating bias within the courtroom. A direction for future research might be developing a questionnaire to target bias within jury pools. These questionnaires could be built into a computerized system for ease of access and build a profile of each perspective juror and potential biases present. Of course, this would only be a preliminary tool for jury selection but could aid in hastening trials.

Another avenue of research that could expand upon these findings would be examining the effects of different traits such as race, gender, attractiveness, etc. or modes (only writing vs. in-person vs. video) on receptibility of testimony. There are many different aspects that can influence a person's responsiveness to testimony, and understanding how participants may react to different types of witnesses could also inform on biases as they relate to the witnesses themselves. There are so many different avenues that could be taken to broaden understanding of how bias works within the courtroom, and with that understanding may come better ways of combating bias in juries.

Conclusion

To conclude, this research offers many implications regarding the persistence of bias and the factors that may influence one's verdict on an NGRI case. Bias is a moving force within NGRI cases and is something that must be mitigated to uphold a fair trial, especially when it comes to one of the most vulnerable populations: the mentally ill. It has been shown time and time again that the prison system does not work to strengthen one's mental fortitude, and we

have consistently seen mental deterioration and recidivism among those mentally ill within the prison system (Wilson et al., 2011). From this study, we can see that bias plays a large role in why these mentally ill individuals end up in the prison system, rather than a mental health facility. Some ways this may be combated are through education via an expert witness, and more careful jury selection.

Within this study, it was also found that the majority of the participants chose NGRI as their plea for the vignette case. What does this imply? The vignette used within the case was non-violent, which is something different from much of the current literature. With this vignette, the myth that mentally ill defendants are violent was challenged prior to the condition they were assigned to. This non-violent vignette is closer to what an individual may come into contact with as a juror in an NGRI case, as 86% of NGRI cases are nonviolent (Mullan, 2019). This research found that participants were more likely to select NGRI for this nonviolent case. Some factors that may have influenced this decision are the challenge of the violence myth, education level, or artificial environment. This leaves a lot of room for interesting future research regarding individual's perception of the insanity defense as it comes to crime severity, mode of education, and deliberation. Overall, we found that bias and the context of a case are big players when it comes to the insanity defense. Finding ways to mitigate bias and these myths should be key in providing mentally ill defendants with a fair trial by a jury of their peers.

References

637. *insanity-present statutory test-18 U.S.C. § 17(a)*. The United States Department of Justice. (2020, January 22). Retrieved August 27, 2022, from <https://www.justice.gov/archives/jm/criminal-resource-manual-637-insanity-present-statutory-test-18-usc-17a>
- Allen AP, Smith AP. Demand characteristics, pre-test attitudes and time-on-task trends in the effects of chewing gum on attention and reported mood in healthy volunteers. *Appetite*. 2012 Oct;59(2):349-56. doi: 10.1016/j.appet.2012.05.026. Epub 2012 May 29. PMID: 22659382.
- Altemeyer, B. (1981). *Right-wing authoritarianism*. University of Manitoba Press.
- Ask the Expert: The Case of Andrea Yates. (2006). *Annals of the American Psychotherapy Association*, 9(3), 33–34.
- Boehnert, C. E. (1989). Characteristics of successful and unsuccessful insanity pleas. *Law and Human Behavior*, 13(1), 31–39. <https://doi.org/10.1007/BF01056161>
- Bloechl, A. L., Vitacco, M. J., Neumann, C. S., & Erickson, S. E. (2007). An empirical investigation of insanity defense attitudes: Exploring factors related to bias. *International Journal of Law and Psychiatry*, 30(2), 153–161. <https://doi-org.wku.idm.oclc.org/10.1016/j.ijlp.2006.03.007>

Cherry, K. (2022, October 14). *How does observational learning actually work?* Verywell Mind. Retrieved March 26, 2023, from <https://www.verywellmind.com/social-learning-theory-2795074>

Cotrone, E. E. (2017). The guilty but mentally ill verdict: Assessing the impact of informing jurors of verdict consequences [ProQuest Information & Learning]. In Dissertation Abstracts International Section A: Humanities and Social Sciences (Vol. 78, Issue 6–A(E)).

Daftary-Kapur, T., Groscup, J. L., O'Connor, M., Coffaro, F., & Galietta, M. (2011). Measuring knowledge of the insanity defense: Scale construction and validation. *Behavioral Sciences & the Law*, 29(1), 40–63. <https://doi-org.libsrv.wku.edu/10.1002/bsl.938>

Find Law Legal Team. (2019, January 23). *The insanity defense among the states*. Findlaw. Retrieved September 5, 2022, from <https://www.findlaw.com/criminal/criminal-procedure/the-insanity-defense-among-the-states.html>

Gray, D., & Durrheim, K. (2006). The validity and reliability of measures of right-wing authoritarianism in South Africa. *South African Journal of Psychology*, 36(3), 500–520. <https://doi.org/10.1177/008124630603600305>

Hayes, A. F. (2022). *Introduction to mediation, moderation, and conditional process analysis: A regression-based approach* (3rd edition). New York: The Guilford Press.

Hill, G., & Hill, K. (2022). *Legal dictionary – law.com*. Law.com Legal Dictionary. Retrieved September 5, 2022, from <https://dictionary.law.com/Default.aspx?selected=700>

- Hobson. (2021, December 8). Andrea Yates: The lie that provided a second chance. Wendell Odom. Retrieved March 25, 2023, from <https://www.wendellodom.com/andrea-yates-the-lie-that-provided-a-second-chance/>
- Howes, R. (2009, July 27). The definition of insanity. *Psychology Today*.
<https://www.psychologytoday.com/us/blog/in-therapy/200907/the-definition-insanity>
- Hudachek, L., & Quigley-McBride, A. (2022). Juror perceptions of opposing expert forensic psychologists: Preexisting attitudes, confirmation bias, and belief perseverance. *Psychology, Public Policy, and Law*, 28(2), 213–225. <https://doi-org.libsrv.wku.edu/10.1037/law0000334.supp> (Supplemental)
- Krauss, D. A., Gongola, J., Scurich, N., & Busch, B. (2018). Mental state at time of offense in the hot tub: An empirical examination of concurrent expert testimony in an insanity case. *Behavioral Sciences & the Law*, 36(3), 358–372.
<https://doi-org.libsrv.wku.edu/10.1002/bsl.2348>
- Kobau, R., DiIorio, C., & Chapman, D. (2010). Attitudes about mental illness and its treatment validation of a generic scale for public health surveillance of mental illness associated stigma. *Community Mental Health Journal* 46, 164–176 .
<https://doi.org/10.1007/s10597-009-9191-x>
- Maio, G. R., & Esses, V. M. (2001). The need for affect: Individual differences in the motivation to approach or avoid emotions. *Journal of Personality*, 69, 583–615. DOI

- Mabry, M. E. (2021). Will providing education to jurors increase not guilty by reason of insanity plea acceptance? [ProQuest Information & Learning]. In *Dissertation Abstracts International: Section B: The Sciences and Engineering* (Vol. 82, Issue 6–B).
- Makowsky, M. D., & Miller, S. C. (2014). *Education, intelligence, and attitude extremity*. *Public Opinion Quarterly*, 78(4), 832–858. <https://doi.org/10.1093/poq/nfu041>
- Mandrachia, J. T., Shaw, L. B., & Morgan, R. D. (2013). What's with the attitude?: Changing attitudes about criminal justice issues. *Criminal Justice and Behavior*, 40(1), 95–113. <https://doi-org.libsrv.wku.edu/10.1177/0093854812459474>
- Pennington, N., & Hastie, R. (1992). Explaining the evidence: Tests of the Story Model for juror decision making. *Journal of Personality and Social Psychology*, 62(2), 189–206. <https://doi.org/10.1037/0022-3514.62.2.189>
- Perlin, M. L. (2017). The insanity defense: Nine myths that will not go away. In M. D. White (Ed.), *The insanity defense: Multidisciplinary views on its history, trends, and controversies*. (pp. 3–22). Praeger/ABC-CLIO.
- Phelan, J. C., & Link, B. G. (1998). The growing belief that people with mental illnesses are violent: the role of the dangerousness criterion for civil commitment. *Social Psychiatry & Psychiatric Epidemiology*, 33, S7–S12. <https://doiorg.libsrv.wku.edu/10.1007/s001270050204>
- Prolific Team. (2023, March 23). What is prolific and how does it work? Participant Help Centre. Retrieved March 26, 2023, from <https://participant-help.prolific.co/hc/en-gb/articles/360022523613-What-is-Prolific-and-how-does-it-work->
- Quandt, K. R., & Jones, A. (2021, May 13). *Research roundup: Incarceration can cause lasting damage to mental health*. Prison Policy Initiative. Retrieved September 18, 2022, from

<https://www.prisonpolicy.org/blog/2021/05/13/mentalhealthimpacts/#:~:text=Exposure%20to%20violence%20in%20prisons,and%20difficulty%20with%20emotional%20regulation.>

Santa Cruz, J. (2022, July 18). Rethinking prison as a deterrent to future crime - JSTOR DAILY.

JStor Daily. Retrieved April 13, 2023, from <https://daily.jstor.org/rethinking-prison-as-a-deterrent-to-future-crime/>

Silver, E., Cirincione, C., & Steadman, H. J. (1994). Demythologizing inaccurate perceptions of the insanity defense. *Law and Human Behavior*, 18(1), 63–70.

<https://doi-org.libsrv.wku.edu/10.1007/BF01499144>

Skeem, J. L., Louden, J. E., & Evans, J. (2004). Venirepersons's Attitudes Toward the Insanity

Defense: Developing, Refining, and Validating a Scale. *Law and Human Behavior*,

28(6), 623–648. <https://doi-org.wku.idm.oclc.org/10.1007/s10979-004-0487-7>

Vindice, V. (1998). Expert witness testimony by psychologists: A survey of judges, jurors and

lawyers [ProQuest Information & Learning]. In *Dissertation Abstracts International*:

Section B: The Sciences and Engineering (Vol. 58, Issue 10–B, p. 5659).

Wex Definitions Team. (2022, August). *Expert witness*. Legal Information Institute. Retrieved

November 7, 2022, from https://www.law.cornell.edu/wex/expert_witness

Wilson, A. B., Draine, J., Hadley, T., Metraux, S., & Evans, A. (2011). Examining the impact of

mental illness and substance use on recidivism in a county jail. *International Journal of*

Law and Psychiatry, 34(4), 264–268. <https://doi.org/10.1016/j.ijlp.2011.07.004>

Appendix A: KIDS Scale

Knowledge of the Insanity Defense Scale (KIDS)

Answer Scale

1 2 3 4 5

Strongly Disagree

Neutral

Strongly Agree

1. A lot of people use the insanity defense.
2. The insanity defense is used very frequently.
3. The insanity defense is attempted very rarely.
4. The insanity defense is overused.
5. The insanity defense is mostly used in cases that involve the death of a victim.
6. The insanity defense is most often used for serious offenses.
7. Use of the insanity defense is only in murder cases
8. People often use the insanity defense when they are charged with non-violent crime.
9. It is worth it for someone to plead insanity because there is no risk.
10. A defendant has nothing to lose by pleading NGRI.
11. There is no risk to the defendant who pleads NGRI.
12. A person might as well plead insanity because it is risk-free.

13. Defendants who are found NGRI are released from detention almost immediately.
14. Defendants who are found NGRI are quickly released from detention.
15. Defendants who are found NGRI are held in detention for a long period of time.
16. Most people who are found NGRI are released quickly.
17. Defendants who are found NGRI spend much less time in detention than do defendants convicted of the same crime.
18. If two people are charged with the same crime, the person who is found NGRI will spend less time in detention than the person who is found guilty.
19. Defendants who are found guilty spend double the amount of time in detention than defendants who are found NGRI.
20. Defendants who are found NGRI spend less time in the criminal justice system than those who are found guilty for the same crime.
21. Most people who plead insanity have been in a mental hospital before.
22. Most people who plead the insanity defense have a mental illness.
23. Most defendants who use the insanity defense are not really insane.
24. Most people who plead insanity are faking.
25. Expert witnesses in insanity trials are honest in their testimony.
26. Expert witnesses will say anything for money.

27. Expert witnesses are paid to say whatever the lawyer wants.
28. Expert witnesses are paid to make excuses for the defendant's behavior.
29. Experts in insanity cases usually agree with each other about whether the defendant is insane.
30. In most cases, even experts cannot agree that a person was insane when they committed the crime.
31. Experts don't usually have the same opinion regarding whether someone was insane at the time of the crime.
32. It is difficult for experts to come to an agreement about whether the person was sane when they committed the crime.
33. Lawyers use the insanity defense when their client is guilty as a way to get them off.
34. Criminals without any mental problems can get away with their crimes by hiring expensive lawyers and experts who wrongly use the insanity defense.
35. Criminal defense attorneys use the insanity defense when they can think of no other options.
36. Criminal defense attorneys use the insanity defense only to 'beat the rap', not when their clients really have a mental illness.

Appendix B: RWA Scale

Answer Scale

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

1. The way things are going in this country, it's going to take lots of "strong medicine" to straighten out the troublemakers, criminals and perverts.
2. It is wonderful that young people today have greater freedom to protest against things they don't like and to "do their own thing".
3. It is always better to trust the judgment of the proper authorities in government and religion than to listen to the noisy rabble-rousers in our society who are trying to create doubt in people's minds.
4. People should pay less attention to the Bible and the other old traditional forms of religious guidance and instead develop their own personal standards of what is moral and immoral.
5. It would be best for everyone if the proper authorities censored magazines and movies to keep trashy material away from the youth.
6. It may be considered old-fashioned by some, but having a decent, respectable appearance is still the mark of a gentleman and, especially, a lady.
7. The sooner we get rid of the traditional family structure, where the father is the head of the family and the children are taught to obey authority automatically, the better. The old-fashioned way has a lot wrong with it.
8. There is nothing wrong with premarital sexual intercourse.

9. The facts on crime, sexual immorality, and the recent public disorders all show we have to crack down harder on deviant groups and troublemakers if we are going to save our moral standards and preserve law and order.
10. There is nothing immoral or sick in somebody being a homosexual.
11. It is important to protect fully the rights of radicals and deviants.
12. Obedience and respect for authority are the most important virtues children should learn.
13. Rules about being "well-mannered" and respectable are chains from the past, which we should question very thoroughly before accepting.
14. Once our government leaders and the authorities condemn the dangerous element in our society, it will be the duty of every patriotic citizen to help stomp out the rot that is poisoning our country from within.
15. "Free speech" means that people should even be allowed to make speeches and write books urging the overthrow of the government.
16. Some of the worst people in our country nowadays are those who do not respect our flag, our leaders, and the normal way things are supposed to be done.
17. In these troubled times laws have to be enforced without mercy, especially when dealing with the agitators and the revolutionaries who are stirring things up.
18. Atheists and others who have rebelled against the established religions are no doubt every bit as good and virtuous as those who attend church regularly.
19. Young people sometimes get rebellious ideas, but as they grow up they ought to get over them and settle down.
20. The self-righteous "forces of law and order" threaten freedom in our country a lot more than most of the groups they claim are "radical" and "godless".

21. The courts are right in being easy on drug users. Punishment would not do any good in cases like these.
22. If a child starts becoming unconventional and disrespectful of authority, it is his parents' duty to get him back to the normal way.
23. In the final analysis the established authorities, like parents and our national leaders, generally turn out to be right about things, and all the protesters don't know what they are talking about.
24. A lot of our rules regarding modesty and 8βχμ3ĩ behaviour are just customs which are not necessarily any better or holier than those which other people follow.
25. There is absolutely nothing wrong with nudist camps.
26. The real keys to the "good life" are obedience, discipline and sticking to the straight and narrow.
27. It is best to treat dissenters with leniency and an open mind, since new ideas are the lifeblood of progressive change.
28. The biggest threat to our freedom comes from the Communists and their kind, who are out to destroy religion, ridicule patriotism, corrupt the youth, and in general undermine our whole way of life.
29. Students in high school and university must be encouraged to challenge their parents' ways, confront established authorities and in general criticise the customs and traditions of our society.
30. One reason we have so many troublemakers in our society nowadays is that parents and other authorities have forgotten that good old-fashioned physical punishment is still one of the best ways to make people behave properly.

Appendix C: Generic Scale for Public Health Surveillance of Mental Illness Associated Stigma

Answer Scale

1	2	3	4	5
Strongly Disagree		Neutral		Strongly Agree

1. I believe a person with mental illness is a danger to others.
2. I believe a person with mental illness is unpredictable.
3. I believe a person with mental illness is hard to talk with.
4. I believe a person with mental illness could pull himself or herself together if he or she wanted.
5. I believe a person with mental illness has only himself/herself to blame for his/her condition.
6. I believe a person with mental illness would improve if given treatment and support.
7. I believe a person with mental illness feels the way we all do at times.
8. I believe a person with mental illness can eventually recover.
9. I believe a person with mental illness can be as successful at work as others.
10. Treatment can help people with mental illness lead normal lives.

Appendix D: NFA Scale

Answer Scale

1 2 3 4 5

Strongly Disagree

Neutral

Strongly Agree

1. It is important for me to be in touch with my feelings.
2. I think that it is important to explore my feelings
3. I am a very emotional person.
4. It is important for me to know how others are feeling.
5. Emotions help people get along in life.
6. Strong emotions are generally beneficial.
7. I feel that I need to experience strong emotions regularly.
8. I approach situations in which I expect to experience strong emotions.
9. I feel like I need a good cry every now and then.
10. I like to dwell on my emotions.
11. We should indulge our emotions.
12. I like decorating my bedroom with a lot of pictures and posters of things emotionally significant to me.
13. The experience of emotions promotes human survival.
14. I do not know how to handle my emotions, so I avoid them.
15. I find strong emotions overwhelming and therefore try to avoid them.
16. Emotions are dangerous—they tend to get me into situations that I would rather avoid.
17. I would prefer not to experience either the lows or highs of emotion.

18. If I reflect on my past, I see that I tend to be afraid of feeling emotions.
19. I would love to be like “Mr. Spock,” who is totally logical and experiences little emotion.
20. I have trouble telling the people close to me that I love them.
21. Displays of emotions are embarrassing.
22. Acting on one’s emotions is always a mistake.
23. I am sometimes afraid of how I might act if I become too emotional.
24. Avoiding emotional events helps me sleep better at night.
25. . I wish I could feel less emotion.
26. People can function most effectively when they are not experiencing strong emotions.

Appendix E: Vignette

Tom Penny, a 28 year-old man, is accused of abducting Jen Schmit, his 27 year-old ex-fiance, after their recent breakup due to a persistent belief that Ms. Schmit was off with another man despite that not being the case. Mr. Penny abducted Ms. Schmit after ambushing her outside of her sister's apartment and forcing her into his car. His car was soon pulled over for driving erratically on the highway, and he was subsequently arrested. Neither party was injured. During his evaluation, he told the clinician that men were out to get him, and they sabotaged his and Ms. Schmit's relationship. He claimed he only needed to show her the truth so that they could get back together. What follows is testimony from his forensic evaluator:

Appendix F: Script

In the case of Mr. Penny, I performed the standard evaluations afforded in this type of case. The evaluations indicated there are clear delusions present in such a way that they interfered with his ability to determine right from wrong. He firmly believed that his and his ex-fiance's relationship was corrupted by unknown forces and that what he was doing would save her. The defendant also has a history of mental illness that when left untreated has resulted in similar delusions in the past. This consistency as well as aspects of the evaluations given, indicate the client is not faking these delusions.

<Lawyer interlude> Doctor, I understand The insanity defense is a defense that carries a lot of misconception and stigma with it. Could you speak to this.?

Certainly, one common myth is that those who use the insanity defense are faking it to get off easy and will be immediately released. This is inaccurate. Upon, being found not guilty by reason of insanity, the defendant is typically placed in a psychiatric facility. In addition to this, NGRI acquittees often spend double the time in this facility than those convicted of similar crimes, and if or when they are released, commonly spend the rest of their release with judicial oversight

Another myth is that it's a commonly used defense. This is not the case. According to research, many individuals overestimate the use as well as the success rate of the Not Guilty by Reason of Insanity defense and plea. In a study done comparing actual rate to public opinion, it was found that individuals thought that 37% of trials used the NGRI plea, when in reality it was closer to

0.9% of cases used the NGRI plea. The assumption made was forty-one times the actual numbers. This is not to mention that these same individuals believe that 44% of every insanity plea put in would be successful, when the reality is closer to 26%. To put that in perspective, out of 1000 trials, the public assumes 370 of them are insanity defenses, when in reality it is roughly 9 cases that utilize the insanity defense. Out of these 9 cases, 2 would be successful.

Control Group Script

In the case of Mr. Penny, I performed the standard evaluations afforded in this type of case. The evaluations indicated there are clear delusions present in such a way that they interfered with his ability to determine right from wrong. He firmly believed that his and his ex-fiance's relationship was corrupted by unknown forces and that what he was doing would save her. The defendant also has a history of mental illness that when left untreated has resulted in similar delusions in the past. This consistency as well as aspects of the evaluations given, indicate the client is not faking these delusions.

<Lawyer Interlude: Doctor, can you tell the jury a little more about what you do as a forensic psychologist and where this evaluation takes place>

As a forensic psychologist, it is my job to assess and aid individuals in relation to the court system. A forensic psychologist can perform assessments for both criminal, as in this case, or civil trials. For example, a forensic psychologist may be hired by the court in order to give psychological assessments to parents in a custody hearing. The forensic in forensic psychology essentially determines the environment and topics that psychologists are associated with.

The psychological evaluation was completed over the course of two days in the county jail.

While the results are valid by all statistical means, it is also important to take the environment into consideration with any evaluation conducted. The county jail is a drafty, concrete building, and the room we were able to conduct our evaluation in was grey

Appendix G: Tables and Figures

Table 1: Demographic Information

Demographic Info	Demographic Subset	Number	Percent
Gender	Male	181	50.70%
	Female	163	45.60%
	Non-Binary/ 3 rd Gender	5	1.40%
	Prefer Not to Say	4	1.10%
Race	White	259	72.50%
	Black or African American	38	10.60%
	American Indian or Native Alaska	2	0.56%
	Asian	30	8.40%
	Hawaiian or Pacific Islander	5	1.40%
	Other	28	7.80%
Age	18-20	6	1.60%
	21-29	72	20.20%
	30-39	104	29.10%
	40-49	73	20.40%
	50-59	53	14.80%
	60 or older	48	13.40%
Education	Less than a High School Degree	4	1.1%
	High School Degree or Equivalent	53	14.8%
	Associate degree	38	10.6%
	Bachelor's Degree	129	36.1%
	Graduate Degree	48	13.4%

Table 2: Descriptive Stats

Descriptive Statistics

	KIDS total	MIAS Total	NFA Total	RWA Totals
Mean	117.226	21.670	85.601	34.218
Std. Deviation	14.941	4.688	13.229	16.904

Table 3: Correlation**Pearson's Correlations**

Variable	NFA Total	RWA Totals	MIAS Total	KIDS total
1. NFA Total	Pearson's r —			
	p-value —			
2. RWA Totals	Pearson's r -0.210 ***	—		
	p-value < .001	—		
3. MIAS Total	Pearson's r -0.271 ***	0.482 ***	—	
	p-value < .001	< .001	—	
4. KIDS total	Pearson's r 0.097	-0.333 ***	-0.316 ***	—
	p-value 0.068	< .001	< .001	—

* p < .05, ** p < .01, *** p < .001

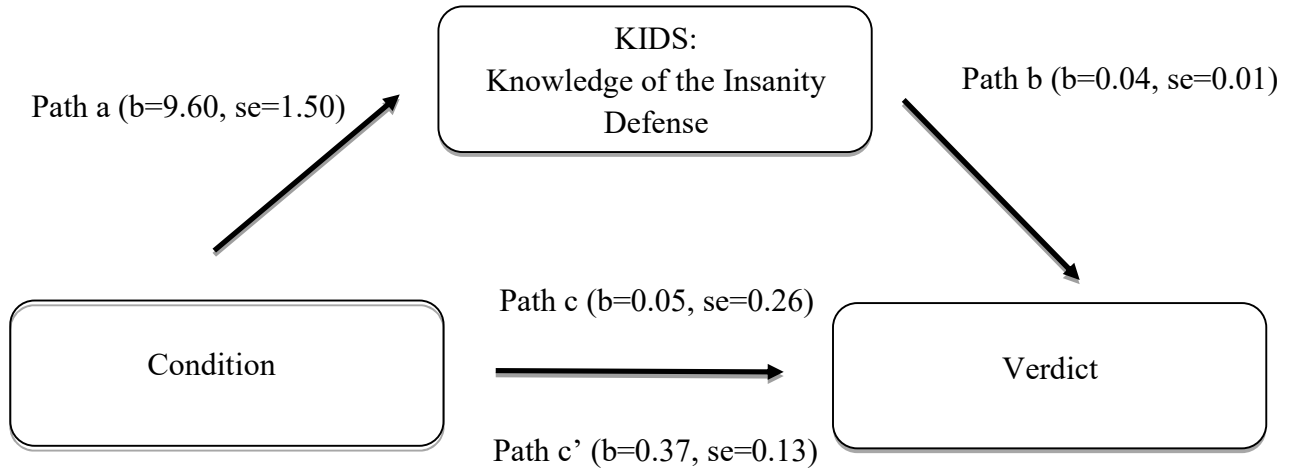
Table 4: Verdict Stats

<u>Condition</u>	<u>Total</u>	<u>NGRI Verdict</u>	<u>%</u>	<u>Guilty Verdict</u>	<u>%</u>
Experimental (Myth Condition)	181	140	77.3%	41	22.6%
Control	177	125	70.6%	52	29.4%
Total	358	265	75.4%	93	24.5%

Table 5: Regression Table

	<u>Predictor</u>	<u>B</u>	<u>S.E.</u>	<u>df</u>	<u>Sig.</u>	<u>95% CI</u>
Cond		0.30	0.25	1	0.226	[0.83, 2.19]
MIAS		0.07	0.03	1	0.023	[1.01, 1.14]
RWA		0.00	0.01	1	0.881	[0.98, 1.20]
NFA		0.01	0.01	1	0.488	[0.99, 1.03]
Cond x MIAS		0.08	0.06	1	0.233	[0.82, 1.05]
Cond x RWA		0.01	0.02	1	0.544	[0.98, 1.05]
MIAS x RWA		0.00	0.00	1	0.882	[1.00, 1.00]
Cond x MIAS x RWA		0.00	0.00	1	0.321	[0.99, 1.00]

Figure 1: Mediation Analysis of Condition on Verdict Through KIDS



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