



I35 Jury Instructions on Insanity Acquittal Disposition

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The goals of this presentation are to: (1) provide a summary of federal and state laws on jury instructions on insanity acquittal disposition; (2) review the primary reasons for and against jury instructions on what happens to a person acquitted by reason of insanity; and, (3) review the empirical evidence on juror knowledge concerning insanity acquittal disposition.

This presentation will impact the forensic science community by reviewing the arguments for and against jury instructions on insanity acquittal disposition and will provide attendees with a review of the empirical research on juror knowledge concerning the consequences of a successful insanity defense.

Jurors generally know that persons found guilty of a crime are punished and persons found not guilty are set free. Although jurors may not be aware of sentencing guidelines applied to a particular defendant, they generally have a basic understanding regarding the range of criminal punishments afforded to persons found guilty of a crime and understand that most convicted defendants serve time in jail or prison.

Perhaps less obvious to jurors is what happens to defendants who are found Not Guilty by Reason of Insanity (NGRI). Because of uncertainty regarding NGRI disposition, some jurors may believe that criminally insane defendants are set free upon an NGRI verdict or may have unreasonable expectations about the duration of confinement.

An important topic concerning the insanity defense is what jurors should be told about the disposition of a defendant acquitted NGRI. In the federal system, jurors are not told about the consequences of an insanity verdict under *Shannon v. United States*.¹ State courts are divided on the issue.

This presentation will review the current status of jury instructions — in the federal system and among the states — on the consequences of an NGRI verdict. The most recent legal cases on this topic will be discussed. The role of the jury will also be reviewed. Historically, juries have decided on guilt without knowledge of the consequences to the defendant.

In this presentation, principle arguments for and against a jury instruction on NGRI disposition will be reviewed. Some courts address this issue by emphasizing the differences between the role of the jury and that of the judge — that judges are responsible for applying the law and imposing sentences, not the jury.² Other state courts have held, at least as a matter of policy, that a jury instruction on NGRI disposition is necessary to prevent juror confusion and misguided verdicts. In states that have both NGRI and Guilty but Mentally Ill verdicts, instruction(s) about the verdicts and disposition outcomes are likely to be particularly important to reduce juror confusion.

Of particular interest, this presentation will provide a review of the empirical evidence on juror knowledge regarding insanity acquittal disposition. Although the studies are limited in number and scope, they provide relevant information concerning juror knowledge and attitudes about the insanity defense. The weight of the studies confirms juror misunderstanding about a defendant's disposition upon an insanity acquittal. In one study, a juror commented that he voted for a guilty verdict (in contrast to NGRI) because he "did not want a mad dog released."³ This comment exemplifies the reason to give an instruction on the consequences to the defendant following acquittal by reason of insanity.

Reference(s):

1. *Shannon v. United States*, 114 S. Ct. 2419 (1994).
2. Piel J. In the Aftermath of *State v. Becker*: A Review of State and Federal Jury Instructions on Insanity Acquittal Disposition. *J Am Acad Psychiatry Law*. 2012; 40: 537-546.
3. Morris G.H., Bozzetti L.P., Rusk T.N., et al. Whither thou goest? — An inquiry into jurors' perceptions of the consequences of a successful insanity defense. *San Diego L Rev*. 1977; 14:1058–82

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