

**EXAMINING SANITY TESTING: PAST, PRESENT, AND
FUTURE**

Honors Thesis

*Presented in Partial Fulfillment of the Requirements
For the Degree of Bachelor of Science in Psychology*

In the School of Psychology
at Salem State University

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Commonwealth Honors Program
Salem State University
2019

Abstract

This thesis explores the use and validity of sanity testing in the United States. The central question is how the legal determination of criminally insanity impacts the outcomes for accused individuals. The primary sources used in this thesis include federal laws and regulations, forensic psychology research, and case studies. The history of the insanity plea and the role of the Diagnostic and Statistical Manual of Mental Disorders within the courtroom are explored. Also considered are current sanity testing practices, with emphasis on the consequences of type I and type II errors. My research suggests that these definitions are not consistent among the different organizations involved. The sanity plea is reevaluated when the public becomes involved and the nature of society changes. Implications for such inconsistencies are discussed.

This thesis explores the use and validity of sanity testing in the United States. The central question of this project is how the legal definitions of what it means to be criminally insane impact the outcomes for accused individuals. There has been much controversy surrounding sanity testing and how to deem a person insane. Most of the debate stems from concerns about individuals faking insanity to get a lesser sentence, or to avoid the death penalty. However, less research has focused on the other potential type of testing error, mentally ill inmates going through the system who should have been identified, and thus do not get the help they need.

In short, this thesis explores type one and type two error in sanity testing. In this study, type one error will be considered when individuals who need psychological help do not get the care they need. Type two errors would be if sane individuals get away with portraying themselves as insane. Recent research within the field of forensic psychology provides some new ideas on how to improve the validity of sanity testing. The new discoveries may be able to provide some support to individuals that need the help that they are not currently getting.

This thesis also takes into consideration outcomes of both testing errors. If an individual walks free when they should have served jail time, it can pose a danger to society. This individual now has the mindset that if they can pretend well enough, they can get to commit any crimes imaginable with little to no repercussions. On the other hand, neglect of mentally ill inmates and the lack of services they receive can be detrimental to the individual in question. If these individuals do not receive the help that they need, then there is no improvement and they most likely will end up cycling in and out of correctional facilities. The research on this topic is imperative to be able to

recognize the flaws of our systems, and make improvements. Without acknowledging the imperfections, there is no way to improve the process.

One case that reflects the controversy of the definition of being legally insane is the infamous Slender Man stabbing (Vielmetti, 2017). In 2017, 12-year-olds Anissa Weier and Morgan Geyser tried to kill a fellow classmate because of a Slender Man delusion. Slender Man comes from an old folktale of a 7 ft tall, extremely slender being. This being supposedly lives in the woods and feeds off of the lives of children. The two friends had believed that Slender Man was going to kill their families if they didn't kill their friend. . Weier and Geyser stabbed a girl from their class 19 times in the woods during a sleepover. Weier had refused to stab the girl at first because she knew it was wrong, as she stated to a detective. Weier and her friend brought the victim to a mansion deep in the woods, and she told said detective that she had had second thoughts about it during their walk.

The defense claimed that Weier only went through with it to keep her friendship with her friend Geyser, who was present during the incident. The defense also stated that Weier's brain was not fully developed, since she was 12, which aided in her poor judgement and decision making. Prosecution said that the girls didn't have the fears of Slender Man until after the incident. Weier's father testified that she had come from a "normal" home and there were no indications of strained mental health.

Weier had to prove that she was mentally ill to 12 jurors. If found insane, she would serve 3 years in a psychiatric ward, but if found guilty she would serve 10 years in jail. Weier ended up being able to convince the jury. Geyser presented more apparent symptoms of schizophrenia. In the end, she was sentenced to 25 years in a mental

institution. Doctors diagnosed Geysler with early onset schizophrenia. She was said to have told doctors that she had been talking to Harry Potter characters and couldn't guarantee that she wouldn't follow Slender Man's commands again. Jurors heard that at a juvenile jail she would talk to ants under the tables. On the day of her arrest, she sat with her feet up and was staring into space while singing. She was exhibiting no sense of emotions. The majority of the jury agreed that Weier was suffering from a mental disorder when she tried to kill her classmate. Jurors believed that her mental disorder was preventing her from knowing right from wrong and being able to conform to the law. The outcome of the trial was to send the accused to a mental hospital instead of being charged for murder.

The above case highlights some concern and questions about legal insanity. For instance, the time needed to be served, Weier's symptoms weren't quite as clear as Geysler's. The first inconsistency of this trial is the drastic time difference that would be spent in jail or a mental institution. If Weier was deemed insane, she would only spend 3 years in a mental hospital. While if she was found mentally sane at the time of the crime, she would serve 10 years in jail. This raises the question of why is the time spent in a mental institution is drastically lower than time in jail. This difference can lead to an individual attempting to claim false insanity since 3 years sounds a lot nicer than 10. The jury made their decision based on the information presented to them by three different psychologists, witness testimonies, and defendant testimonies. The three different psychologists were appointed by the defense and the court. The guidelines the psychologists based their evaluations off of was whether or not the girls were competent to stand trial, and understood their actions in the moments before and during the incident.

The current definitions of what it means to be competent to stand trial affect the outcome of trials. The definitions are constantly changing, and the differences in discretions can change the verdict or the processing of the individual within the criminal justice system. The most recent definition states “the defendant is oriented to time and place and has some recollection of events”, but that the test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding -- and whether he has a rational as well as factual understanding of the proceedings against him” (Roesch, Zapf, P. A., Golding, S. L., & Skeem, J. L., 2010). Competency to stand trial and pleading insanity differ due to the fact that competency solely deals with the defendant’s current mental state. It assesses the individual and their ability to understand the court proceedings. While the insanity plea focuses on the defendant’s mental stability and their mental state during the time of the crime. Both can change the course of the trial, but in different ways. It should be noted that this thesis focuses on the insanity plea rather than competency to stand trial.

Methods of Investigation

This thesis is limited to the laws and regulations that are followed by the federal government of the United States of America available online from federal sources. The cases selected in this study are composed of high profile cases released by the federal government by cited within primary sources. This thesis evaluates the previous and current federal definitions and guidelines that are used in courts of law to assess the insanity and competence of defendants. The accuracy and improvement of these guidelines is assessed as well; this includes the improvement of the overall system that involves defendants. Guidelines are evaluated on the basis of decision, accuracy and

whether or not the system has improved enough to detect when an individual is malingering or is truly mentally ill. The term “malingering” is used in the court of law to define an individual that is pretending to be mentally insane or incompetent. The goal that the individual is trying to accomplish is leaving the trial with a lesser sentence, or possible time in a mental facility rather than jail.

The research evaluated here touches upon the past, present, and future suggestions to create the most accurate rulings on such cases. This research sheds light on the notion of whether or not the procedures have improved since they were first implemented.

Current Federal Definitions and Procedures

In order to examine the effects of the system, the current definitions need to be explored. This thesis begins with the examination of the past and present definitions of insanity, then it will use actual trials to support such evidence. After that is examined, this thesis will take a look into what the future of insanity defenses may look like. The two major bodies that shape the definitions of insanity are the American Psychological Association (APA) and the American Academy of Psychiatry and the Law (AAPL). According to the APA insanity is “a condition of the mind that renders a person incapable of being responsible for his/her criminal acts” (APA, 2018, pg.14). The APA also considers the possibility of being partially insane. Being partially insane is a “borderline condition in which mental impairment is present but not sufficiently severe to render the individual completely irresponsible for his/her acts” (APA, 2018). The APA is unable to declare an individual insane, but the judicial system uses these definitions to aid in their decision making. Along with the APA definitions, there are definitions created by the AAPL as well. The AAPL describes the insanity defense as “a special defense in the

criminal law excusing a defendant from criminal responsibility. A defendant whose insanity defense is successful is adjudicated either not guilty by reason of insanity or not guilty but criminally responsible depending on the jurisdiction” (AALP, 2014). The AALP sets the guidelines for what would happen if an individual is deemed insane within the criminal justice system. The AALP takes it a step further by evaluating specific disorders that the individual may be suffering from, such as; battered women syndrome, paraphilic disorders, pyromania, dissociative identity disorder, and involuntary intoxication.

These definitions seem straightforward and easy to follow, but they are used on a case by case basis. From cursory discoveries by looking at previous outcomes, every case that enters the criminal justice system is different. The defendant is different, the jury is different, the judge and prosecutors could be different from the last case presented. These differences can lead to natural errors within the system itself. Both type one and type two errors will be evaluated. Examining these two types of errors will give insight on the validity of the way the criminal justice system handles this type of case.

If an individual is deemed insane and is sentenced to serve time at a mental institution, then they will be sent to the closest institution to be treated for the diagnosis that the forensic psychologist diagnosed them with. In some cases, the individual is treated and then retried when they are deemed competent. There is a difference between being competent to stand trial and being deemed insane. Competency to stand trial and insanity are both tested by psychologists, but competence to stand trial focuses on the individual’s current mental state (AALP, 2014). If the individual is coherent and understands what’s going on around them currently, then they are more likely going to be

able to stand trial. Insanity focuses on the mental state during the time of the crime. Both decisions will be similar in nature in most cases.

One of the consequences of an improper diagnosis is the individual's reintroduction to society. If the individual has a mental disorder and wasn't treated for it, then they would have even more difficulty being able to become a contributing member of society. People that finish their sentences in a corrections facility are less likely get help integrating back into society.

An example of the possible issues that can arise is the trial of Gypsy Rose Blanchard. Gypsy was girl in her early twenties that was being abused by her mother. Gypsy was suffering from Munchausen By Proxy. The official definitoin of this illness is controversial within the realm of psychology. It is currently defined as " a cluster of four critical features: (1) a simulated illness that is (2) persistently presented for medical assessment in which (3) the mother denies knowledge of the etiology, and (4) the child's symptoms abate when the child is separated from the perpetrator" (Pankratz, 2006). In short, Munchausen by Proxy is child abuse within a medical setting. In the case of Gypsy Rose Blanchard, her mother told Gypsy she had been sick her entire life. This illnesses Gypsy apparently had included leukemia, being paraplegic, anemic, and intestinal issues to the point where Gypsy was given a feeding tube (Lewis, 2017). As Gypsy aged, she learned that she has the ability to walk, and slowly started realizing that all her illnesses were made up. Mrs. Blanchard also lied about Gypsy's age so Gypsy wouldn't come to the realization that she is an adult and can defy her mother. Gypsy was told that she was 15, but her true age is 20. Due to the trauma this caused her, she and her boyfriend at the time killed her mother. Gypsy was sentenced to 10 years in jail, and her former boyfriend

was given life in prison. The possible fault with this sentencing is that Gypsy hasn't received any mental health counseling or aide while in prison. She has been affected by a traumatic mental disease her entire life, and she has no true understanding of who she is. When her 10 year sentence is over, she will not have the resources to live a normal life. Gypsy will likely have great difficulty integrating into society and making a life for herself.

This can lead to a cycle of getting out and going back into jail. If the person doesn't have anyone to support them on the outside, then they might get released without a place to go to. This can lead to the person wanting to go back to jail, because at least there they have free housing and meals. Correction facilities and psychologists should be working together to make sure that these individuals get the support they need on the outside to prevent the cycle.

History of the Insanity Plea

The cycle of the insanity plea began with trial of John W. Hinkley Jr. for the attempted assassination of President Ronald Reagan. He fired six shots outside a hotel in Washington in 1981 in an attempt to impress Jodie Foster. The bullets missed Miss Foster and ended up hitting President Reagan, and were almost fatal. Hinkley was found not guilty of insanity, which sparked public outrage. The attention that was given to this trial forced the laws and regulations to be revisited and revised. He was released from the mental hospital after serving 35 years in 2016 (Chuck, 2016). Hinkley was admitted to the mental institution instead of going to jail due to the diagnosis of depression and obsessive tendencies. In the 1970's he began obsessing over the actress Jodie Foster. It later progressed and he began stalking her. The initial instance that got him hyper focused

on Jodie Foster was when he saw the movie *Taxi Driver*. He watched the movie over 15 times (John Hinkley Jr. Biography, 2014). From there his fascination escalated, to the point of obsession. On March 30th, 1981 Hinkley wanted to impress the actress by shooting President Reagan. He shot six bullets which hit the president, and three others. One of the victims, Reagan's press secretary, was shot in the head. This gave him severe brain damage and confined him to a wheelchair the rest of his life, which then led to his death (John Hinkley Jr. Biography, 2014).

This was the first time that the insanity plea was used, successfully, in such a high profile case. It drew attention to the flawed definitions of insanity and the procedures that were used. The idea of insanity during a crime dates back to the 6th century B.C.E. During this time, insanity was described as not being able to understand the moral implications of one's actions (AAPL, 2014). Jumping to the 12th century, England introduced the idea of madness when committing crimes. If you were deemed mad, you would be sent to a mental institution rather than jail. (AAPL, 2014). This is similar to what can be done currently, if someone is deemed insane today they are sent to a mental facility rather than to jail or prison. What differs between now and then is the standards of care given to patients. The facilities in the 12th century were archaic and inadequate in treating these individuals. The progression in health care fields improved the standards in these institutions.

The idea of morality was integrated more into criminal justice in the 13th century. Christianity became the forefront of the common law. This brought up the concept of morality and right versus wrong. This required "both the presence of criminal acts (*actus reus*) and the presence of a guilty mind (*mens rea*)" (AAPL, 2014). This combines the

idea of committing the act and the thought process before and after the fact. This concept is what American law was based off of when we created our own nation. These guidelines were in place until 1870 when the New Hampshire Supreme Court ruled that “no man shall be held accountable, criminally, for an act which was the offspring and product of mental disease” (AAPL, 2014). This notion was not well received by the public when it was first stated. Even though it wasn’t revered by the public, other courts started using this guideline. In D.C. it was used during a trial and impacted its outcome.

By 1950 more than two thirds of the United States was using this definition of insanity. The next time this definition was amended was in 1955 by the American Law Institute which introduced the Model Penal Code. This stated that “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* either to *appreciate* the criminality [wrongfulness] of his conduct or to *conform his conduct* to the requirements of law” (AAPL, 2014). Almost instantly this became the most widely used model for insanity in courts across the United States. This is the guideline that was used during the Hinkley trial. Since that caused such an uproar, it forced legislators to reevaluate the model. Most members of the public believed that this definition was “too liberal” (AAPL, 2014). When reevaluating the definition, the American Psychological Association (APA) gave their insight on the definition of insanity. The APA argued that “the terms “mental disease” or “mental retardation” include only those severely abnormal mental conditions that grossly and demonstrably impair a person’s perception or understanding of reality and that are not attributable primarily to the voluntary ingestion of alcohol or other psychoactive substances” (AAPL, 2014).

Post-Hinkley also created ongoing debate between congress members. They had agreed to refine the federal definition of insanity. This notion introduced the Insanity Defense Reform Act. The act states that “Under the new federal insanity defense test, a defendant is not responsible for criminal conduct if, as a result of a severe mental disease or defect, [he] was unable to appreciate the nature and quality or the criminality or wrongfulness of his acts. The act provides for a special verdict of ‘not guilty only by reason of insanity’ in such cases” (AAPL, 2014). Since then there have been ample amendments as the public knowledge about specific mental disorders expands. There are supplements for substance abuse, post traumatic stress disorder, automatism, dissociative identity disorder, impulse-control disorders, intermittent explosive disorder, pyromania, gambling disorder, paraphilic disorders, and battered women syndrome. The more American society changes and evolves, the more the insanity defense evolves. As we become more aware of mental disorders and states, the law progresses.

Forensics and the Law

As the government became more aware of the presence of mental disorders, the field of forensic psychology was created. The field of Forensic psychology is one of the newer branches in the field of psychology. It brings behavioral research into the courtroom. Forensic psychologists are becoming more popular within the criminal justice system to bring a more well rounded and in depth assessment of the situation. In a majority of cases, the psychologist “focuses on the *personality construct*, and the consultant is asked to investigate, describe and explain the way of being and acting of people whose behaviors have acquired or may acquire a legal significance” (Iudici, 2015). The psychologist takes multiple factors of the individual’s life into account when

trying to determine their reasoning behind their actions that led them to be involved with the legal systems.

Bias in the Judicial Proceedings

One issue that is present throughout decision making in the criminal justice system is bias. An individual can try to eliminate their own biases towards a case, but no matter what there will still be an implicit bias. The term implicit bias is used to describe the subconscious feelings that one may have towards an individual or group of people based on their own experiences and knowledge. This can be applied to the insanity plea because everyone involved within a court case comes into the process with predisposed notions of the actions of the individual. The individual can actively try to not be biased on a conscious level, but subconsciously it will always be present. This can affect the way the lawyers, judges, and jury view the trial. They may not be able to see the trial from an objective point of view. The sentence a defendant is given also depends on the jury, and their biases. No matter how much evidence is presented, the implicit biases of the members of the jury may still play a role in the sentencing. It is human nature to judge a person on the way they present themselves. According to studies done by the Miami School of Law, “black males were held more criminally responsible for their maladaptive behavior than any of the other groups” (Villaverde, 1995). This trend could be influenced by the implicit bias that can be associated with black males and the law.

Along with implicit bias, there is a possibility of confirmatory bias. This refers to the possibility of a mental health expert looking for evidence that supports the preconceived diagnosis based on historical information rather than using later relevant information because the expert is hyperfocused on confirming their initial diagnosis.

(Haydt, 2015). The mental health consultant may feel the pressure to diagnose the individual with the court's preconceived notions of what is ailing the defendant. This can create inconsistent diagnoses between more than one mental health expert.

To understand the possible biases, the guidelines and trainings of a forensic psychologist need to be explored. Along with any other field of psychology, forensic psychologists rely heavily on the Diagnostic and Statistical Manual for Mental Disorders (DSM, 2019). In an article published by the American Academy of Psychiatry and the Law, "when the manual is used for forensic purposes, there are significant risks that the information will be misused or misunderstood. These dangers arise, it states, because of the imperfect fit between the questions of ultimate concern to the law and the information contained in a clinical diagnosis" (Slovenko, 2011).

The Role of the DSM V

The Fifth Edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5) is used as a reference guide for mental health professionals. It is most commonly used when trying to find the right diagnosis for an individual. Courts and attorneys "widely use the DSM-5 as a primary reference in assessing the nature of forensic implications of mental disorders" (Haydt, 2015). There is one flaw surrounding the application of the DSM-5 in courtrooms and trials, the DSM-5 was created for primarily clinical use. There are no guidelines that are specific to the use of the diagnoses within a court setting. This discrepancy can cause disagreements about the right diagnosis and outcome of trials. Another factor that can cause discourse between experts is that "postgraduate programs in forensic psychology...train mental health professionals to assess clients for legal purposes; however [this] does not guarantee actual training or

clinical experience in diagnosis of any specific mental disorder” (Haydt, 2015). This can lead to differences in trials depending on the experience of the lawyers and judges involved. Every defendant should be given the same chances and there should be one universal training that these professionals go through to ensure that each client is getting the maximum amount of support and resources so there are no circumstantial advantages or disadvantages depending on who is representing the individual. Not having a universal training for this specific profession can lead to different interpretations of the DSM-5.

One of the more controversial diagnoses deals with sexual abuse cases. Since this is a crime that is considered morally wrong by many individuals, the thought of someone who committed that crime getting time in a mental facility rather than jail can seem like an injustice. The term that is used to describe this sort of behavior within the DSM-5 is paraphilia. The DSM-5’s qualifications for an individual to be diagnosed with this disorder are that they have to “feel personal distress about their interest, not merely distress resulting from society’s disapproval; or have a sexual desire or behavior that involves another person’s psychological distress, injury, or death, or a desire for sexual behaviors involving unwilling persons or persons unable to give legal consent” (APA, 2013). This can create conflict within a courtroom since it is a diagnosable illness, but also something that is legally and morally wrong. Disagreements such as this one can lead to the possibility of type 1 and 2 errors being made in accordance to the sentencing.

Assessment of the Validity

The insanity plea has changed over time due to the reactions from the public. It takes a high profile case that grabs the attention of the media. Once word spreads of a seemingly unjust case change ensues, such as the Hinkley trial. This leads to uproar

which forces the government to reexamine the guidelines. Because of human error, there is no way to make this system flawless. The current definition of insanity has room for error. If we could have the best of both worlds, there would be the evolution of the definitions based on the professional and scientific review of validity. Historically speaking, the changes in definitions are more responsive to public opinion.

The types of errors that are possible are Type 1 and Type 2. Type 1 error states that an individual who is mentally ill is deemed sane and receives jail time instead of getting the medical treatment they need. According to the Bureau of Justice Statistics “among those who had ever been told they had a mental disorder, the largest percentage of prisoners (24%) and jail inmates (31%) reported they had a major depressive disorder” and “prescription medication was the most common treatment type for prisoners and jail inmates who met the threshold for serious psychological distress” (Bronson & Berzofsky, 2017). This is the most recent statistics on the matter.

One controversial case that falls under this category is the case of Lisa Montgomery. Lisa strangled an eight month pregnant woman named Bobbie, and then cut the unborn baby from her womb. Montgomery’s lawyers stated that she was insane due to sexual abuse by her father that occurred when she was a child. In 2004, Montgomery was convicted and sentenced to death. The jury rejected any insanity plea. Montgomery’s lawyer appealed and presented over 20 issues that should lead to a retrial (Marshall, 2008). The entire event is a tragedy, but individuals do not do such heinous acts if they are entirely mentally stable. More often than not, there is some underlying mental illness. In this case, Montgomery’s mental illness stems from the sexual abuse she experienced from her father when she was a child. “There's so much in the (court) tapes about Lisa's

sorrow about what happened, but the trouble with her mental condition is that she can't even go back there, can't even resurrect those memories of what happened” (Marshall, 2008), Montgomery’s past trauma has made her repress those memories, which can be seen as a sign of past trauma. Montgomery should not be acquitted, but her case should be reevaluated and she should be given a proper mental evaluation. A decision that leads to life or death should be made without bias. Situations such as this can ignite personal feelings from the judge and jury. These feelings need to be put aside and all the facts from all angles need to be taken into consideration.

Type 2 error is defined as an individual who is mentally sane, but is deemed insane by malingering. An example of this would be the court case *U.S. vs. Greer*. In this instance a man named Mr. Greer kidnapped someone he knew and then forced them to drive him from Texas to New Mexico at gunpoint. When they got to the destination, Mr. Greer apologized and then said that he wanted to get as far away from his family to commit suicide. The driver then called the police and Mr. Greer was charged on five counts of kidnapping and possession of stolen firearms (Knoll IV & Resnick, 1999). This case was then brought to a federal court and then was found incompetent to stand trial. The district court brought in a federal psychologist and he deemed Mr. Greer sane. This brought up the notion of whether or not he was pretending to have a psychosis. The final jury noted that there is a “difficulty of distinguishing between calculated malingering and incompetence due to a severe personality disorder” (Knoll IV & Resnick, 1999). He eventually was found guilty of all charges including malingering, which increased his sentencing. In this case the desired outcome did not happen. But the confusion of mental insanity is something that should be addressed.

In the two cases that have been presented above, it can be difficult to put feelings and bias aside to make a fully informed decision on the matter. The crimes that are presented to a grand jury can be hard to hear, but that doesn't mean that the defendant shouldn't get a fair and just trial. All aspects of the crimes presented need to be taken into consideration to make a decision that fits the crimes, but also fits the individual that committed the crimes.

Discussion

Based on the information above, the legal definitions of the insanity plea mostly changes when the public gets involved. The only times the public truly cares is when there is a high profile case where there is seemingly an injustice. The guidelines of the insanity defense reflect the time period's moral and social views. A lot of the cases that have been examined here demonstrate the confusion about the definitions and how they apply. Given the biases and discrepancies considered in this thesis, I believe there is a need for universal guidelines that are used during every hearing to ensure justice. There are always exceptions to rules, but those should be circumstantial and taken as they come. Having a set of guidelines helps prevent the possibility of bias and misdiagnosis. The guidelines should include direction on training, procedures on applying the DSM to the courtroom, and bias awareness.

Training should be provided to every individual that is assigned to trials with the possibility of insanity. The judge should be aware of different mental disorders and how they can affect a person. Even though judges get their degrees in criminal justice, they are dealing with people as well. Some sort of abnormal psychology course/lecture should be a part of the training to become a federal judge. Along with judges, all lawyers and jury

members should be aware of the possibilities of mental illness and what those symptoms look like. Having some sort of mental illness awareness can help in the decision making because the goal would be to make the individuals aware so what they decide would not be solely based on personal feelings of the crime. When the potential jury members are sitting in the courthouse waiting for the trial, they should be shown a video that gives them a brief overview of mental illness, the most common ones that they might be exposed to, how that may impact the defendant's actions, and what can be done to help a mentally ill defendant if necessary. Along with this training, jury members should be required to watch a video on implicit bias. If they are made aware of this, it may help make them more personally aware while in the decision making process.

In any insanity case, the DSM becomes a factor in the verdict. Since the mental illness definitions are located in the DSM, lawyers and judges should have some familiarity with the manual. In the process to become a judge or lawyer, they should have to learn about the DSM and the different implications that it could impose on a trial. There should be a standard way that the DSM is used in the courtroom so there are no discrepancies from trial to trial. If every case follows the DSM in a similar fashion, then there would be less room for bias and personal opinions to influence the verdict.

The last issue that should be addressed is bias awareness in a courtroom setting. Along with mental illness awareness, every individual that is involved in a court case should have a training on being aware of their bias. Every person comes into a court case with their own personal feelings and experiences. Whether we are aware or not, those feelings and experiences influence almost all decision we make as humans. In reality, there is nothing we can do as humans to fully eliminate our implicit bias. That being said,

there are things we can do to prevent that bias from impacting decisions such as a verdict in a court case. The most effective way to do this is have these individuals undergo implicit bias training. This is already being implemented in some police forces, one of them being Salem State University Police. The Salem State University Police have recently undergone training on how to be aware of their innate bias as human beings. Being aware of such issues is the first step to making fully informed verdicts in insanity cases.

As of right now, there is no specific training for mental health specialists that are asked to participate in court cases. Each professional is brought in with a different amount of training. This can lead to a lack of validity in the criminal justice system. The training that these individuals have can affect the outcome of the trial. A person's future should not be left to chance based on the background of the mental health professional. All the professionals should have the same training to provide the defendant with the most accurate analysis of their well being. If there are universal standards for this type of work, then there would be fewer discrepancies and inaccurate diagnosis and sentences.

The training that has been discussed should be conducted by a committee of clinical psychologists, forensic investigators, and judges/lawyers who are familiar with the federal definitions. The clinical psychologists would provide the knowledge about the DSM and the proper treatment of mental illnesses. The forensic investigators would be able to help bridge the gap between the therapy room and the courtroom. The two settings are vastly different, so there should be some modifications with the treatment of the possibly mentally ill defendant. On the other end, there should be qualified lawyers and judges to provide the legal definitions and procedures that play out in a court case. All

three of these parties should work together to create the universal guidelines and training that individuals involved in a court case of any kind should be trained on and informed of.

Future implications should focus on how to fuse the legal definitions with the definitions that the DSM provides. From there it should be applied the same way in every case. A part of the forensic psychologists' training should be the fusion of these two definitions and how they can be applied to a defendant. These actions need to be taken now without waiting for the general public to react to the next high profile failed case. The fate of an individual's life is at stake, and these guidelines should be treated with such seriousness. There should be one specific guideline about malingering and insanity in order to be impervious and not succumb to social opinions.

References

- American Psychiatric Association (2006). American Psychiatric Association statement on the insanity defense, *American Journal of Psychiatry*, 140(6), 681-688.
- Bronson, J. & Berzofsky, M. (2017). Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, *Bureau of Justice Statistics, 2011-2012*.
- Truesdell, J. (2017). Gypsy Rose Blanchard Says Her Prison Sentence Is Too Harsh for Murdering Munchausen by Proxy Mom, ATT.net, retrieved in March, 2019.
- Lewis, E. (2017). Care Gone Wrong: Bad Moms, Fake Disabilities, and Imagined Illnesses. NursingClio.org, August 8, 2017.
- Marshall, J. (2008). Lisa Montgomery gets death penalty for killing pregnant woman. CNN.com, April 4, 2008.
- Mercado C. & Bornstein, B. (2006). Expert testimony in insanity cases, *Judicial Notebook, American Psychological Association*, 37(10), 59.
- Okasha, A. (2019). Mental patients in prisons: punishment versus treatment?, *World Psychiatry*, 3(1).
- Pankratz, L. (2006). Persistent Problems with the Munchausen Syndrome by Proxy Label, *Journal of the American Academy of Psychiatry and the Law*, 34(1), 90-95.
- Roesch, R., Zapf, P. A., Golding, S. L., & Skeem, J. L. (2014). *Defining and Assessing Competency to Stand*. U.S. Department of Justice.

- Slovenko, R. (2011). The DSM in Litigation and Legislation. *Journal of the American Academy of Psychiatry and the Law Online*, 39(1), 6-11.
- Vielmetti, B. (2017). Anissa Weier Found Not Guilty by Mental Disease in Slender Man Stabbing. *Milwaukee Journal Sentinel*.
- Vielmetti, B. (2017). Prosecutors Concede Insanity Plea for Morgan Geyser in Slender Man Stabbing Case. *Milwaukee Journal Sentinel*.
- Villaverde, H. (1996). Racism in the Insanity Defense. *University of Miami School of Law* 50(1), 209-246.
- Wargo, E. (2011). From the lab to the courtroom. *Observer*, Association for Psychological Science.