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## The Insanity Defense: A Closer Look

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If Ruthann Aron escapes a prison sentence in her murder-for-hire trial, she might owe thanks to a 19th century Scotsman.

Daniel M'Naghten was a woodworker who believed he was the target of a conspiracy involving the pope and British Prime Minister Robert Peel. In 1843, M'Naghten traveled to 10 Downing Street to ambush Peel, but mistakenly shot and killed Peel's secretary. During the ensuing trial, several psychiatrists testified M'Naghten was delusional. A jury agreed, declaring him not guilty by reason of insanity.

The public howled in outrage and, a year later, a panel of British judges set forth the legal standard that has been used for 150 years — and might come into play as Aron's trial proceeds in Montgomery County. The M'Naghten rule says defendants may be acquitted only if they labored "under such defect of reason from disease of the mind" as to not realize what they were doing or why it was a crime. Some call it the "right-wrong" test.

The rule is the basis for most of the American laws permitting an insanity defense, including Maryland's. Here are some basics on the defense:

#### What is an insanity defense?

It typically refers to a plea that defendants are not guilty because they lacked the mental capacity to realize that they committed a wrong or appreciate why it was wrong. Some states also allow defendants to argue that that they understood their behavior was criminal but were unable to control it. This is sometimes called the "irresistible impulse" defense.

#### Why do we need an insanity defense?

It is an attempt to impose a moral check on a system largely designed to weigh facts and evidence. Thus, it allows judges and juries to decide some defendants aren't "criminally responsible" for their actions even though those acts might be a crime under different circumstances, just as a child who accidentally starts a fire shouldn't be treated as an arsonist.

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**Is the law the same everywhere?**

Some states have abolished the use of an insanity defense, an action upheld by the U.S. Supreme Court in 1994. Some have amended their laws to include standards of "diminished capacity" or "guilty but mentally ill," but most have roots in the M'Naghten rule. Maryland's statute, the one Aron will employ, defines the plea as "guilty but not criminally responsible by reason of insanity."

**Are insanity defenses often successful?**

No, despite public perceptions to the contrary. One eight-state study of criminal cases in the early 1990s concluded that less than one percent of defendants pleaded insanity and, of them, only a quarter won acquittals.

"In the real world, it just doesn't happen," said Maryland Attorney General Joseph Curran, who as lieutenant governor in 1983 chaired a task force that helped tighten that state's insanity defense.

**Then why are they controversial?**

Critics argue that some defendants misuse it, effectively faking insanity to win acquittals or less severe convictions. And often the trials involving an insanity defense get the most attention because they involve "crimes that are bizarre within themselves," said Baltimore defense attorney Cristina Gutierrez, who has defended a dozen such cases in as many years.

But studies by the American Academy of Psychiatry and the Law have concluded that "the overwhelming majority" of defendants acquitted by reason of insanity suffer from schizophrenia or some other mental illness, said Howard Zonana, a Yale University psychiatry professor and the academy's medical director.

**Do people acquitted under an insanity defense walk free?**

Rarely. In almost all cases, a verdict of not guilty by reason of insanity prompts a judge to commit defendants to treatment centers until mental health officials determine they do not pose a danger to anyone. For some, that could be akin to a life sentence. M'Naghten, for instance, died after 20 years in a mental asylum.

Aron, if ruled guilty but not criminally responsible, would have to petition Maryland's mental health department for her release.

**How does someone pleading "not guilty by reason of insanity" differ from someone deemed "incompetent to stand trial?"**

The former term refers to a defendant's state of mind at the time of the crime; the latter refers to a defendant's mindset at time of trial. Usually, a trial will not proceed until a defendant is deemed competent to understand the charges and face accusers.

**Is it used only in murder cases?**

No, any defendant can invoke the defense. Lorena Bobbitt argued she was temporarily insane when she severed her husband's penis with a kitchen knife four years ago. A Virginia jury agreed; she was

released after three months of psychiatric evaluation.

### **Who else used the insanity defense?**

A jury rejected Jack Ruby's claim of insanity and sent him to prison for shooting Lee Harvey Oswald, the assassin of President John F. Kennedy. Almost 20 years later, John Hinckley shot President Ronald Reagan — like Oswald, in front of a throng of television cameras — but was declared not guilty by reason of insanity and sent to a mental institution.

The insanity defense didn't help David Berkowitz, New York's "Son of Sam" murderer who claimed to receive his killing orders from a neighbor's dog. A Pennsylvania jury found millionaire John DuPont guilty but mentally ill last year in the murder of a wrestling coach. Lawyers for Unabomber Theodore Kaczynski argued that he was insane, but Kaczynski himself resisted such a defense and pleaded guilty. Jeffrey Dahmer dismembered and ate his victims, but his jury failed to deem him insane.

### **Has the standard changed?**

It gets periodic review, especially after a verdict the public finds shocking. After the Hinckley ruling, Congress and some states, including Maryland, passed laws designed to toughen standards in insanity defenses. Instead of requiring prosecutors to prove a defendant's sanity, defense attorneys now carry the burden of persuading a judge or jury their clients are insane.

Some also adopted a tougher release system. Such changes in Connecticut doubled the average term acquitted defendants spend committed in institutions and apparently caused the number of insanity pleas to drop, said Zonana, the Yale psychiatrist.

"So you really got to be crazy to take an insanity defense," he said.

### **Why would a sane person plead insanity?**

Forensic psychiatrist Jonas Rapoport routinely saw such pleas during his quarter century as chief medical officer of Baltimore's Circuit Court. Rarely were they successful.

But, he said, "When you've got no better defense, that's the way to go."

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