

# Commitment Versus Confinement: Therapeutic Passes in the Management of Insanity Acquitttees

Stephen A. Young, MD, Richard L. Frierson, MD, R. Gregg Dwyer, MD, EdD, and Amishi Shah, MD

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Despite documented changes in the not-guilty-by-reason-of-insanity (NGRI) defense during the past 15 years, most states and the federal government continue to recognize the underlying principle that some mentally ill defendants must be viewed in a different light when assigning criminal responsibility.<sup>1</sup> Although the NGRI defense is rarely invoked and is not usually successful,<sup>2</sup> some individuals nationwide are found NGRI each year, creating complex dispositional questions for mental health agencies, courts, and patient advocacy groups. In most states that recognize some version of the NGRI verdict, statutory guidelines direct procedures for a disposition after NGRI acquittal. Although the general nature of these statutes mandates immediate commitment to a treatment facility, the parameters of commitment vary significantly between jurisdictions. Frequently, these statutes fail to cover the use of therapeutic passes, a clinical tool used to ease the transition of patients into the community before conditional release. Specifically, statutory language frequently fails to address the crucial matter of who bears decision-making responsibility for allowing patients to have therapeutic passes: clinicians or the courts.

In this article, we explore a recent case in South Carolina in which the very definition of the word

commitment was in dispute, leading to a larger discussion about how decision-making authority regarding therapeutic passes was to be divided between the department of mental health, the office of attorney general, and the original trial court. A detailed review of the case will be followed by a discussion of the results of a state-by-state survey on the question of therapeutic passes for this population. Finally, a discussion of the broader issues involving this area of post-trial management of insanity acquitttees will be presented.

## Facts of *State v. Hudson*

On April 1, 1995, Ui Sun Hudson, a 39-year-old Korean female, was wandering through a Charleston, South Carolina, shopping mall and attacked three children with a pair of scissors, causing significant injury. One child suffered permanent loss of vision in one eye. The parents, who eventually subdued Ms. Hudson, were also injured. Ms. Hudson had immigrated to the United States several years earlier in the context of a brief marriage to a U.S. serviceman. Although initially able to maintain a job and a home, her history in the years prior to the offense revealed a gradual but severe deterioration in her ability to function. By 1995, she had been homeless for at least a year and had joined a group of people who moved semiannually between Florida and Washington, D.C., to avoid cold weather. On the day of the offense, she reportedly had become so paranoid that she frightened her traveling companions and ended up hitching a ride to South Carolina on her own.

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# Management And Treatment Of Insanity Acquittees

**Ralph Slovenko**



## **Management And Treatment Of Insanity Acquittees:**

*Management and Treatment of Insanity Acquittees* Joseph D. Bloom, Mary H. Williams (M.S.), 1993      The Handbook of Forensic Mental Health in Africa Adegboyega Ogunwale, Adegboyega Ogunlesi, Stephane Shepherd, Katrina Serpa, Jay Singh, 2021-06-17 The Handbook of Forensic Mental Health in Africa traces the history of forensic mental health in Africa discussing the importance of considering cultural differences when implementing Western validated practices on the continent while establishing state of the art assessment and treatment of justice involved persons Experts in the field of forensic mental health throughout Africa explore the current state of forensic mental health policy and service provision as well as the unique ethical challenges which have arisen with the recent growth of interest in the field The African and international research literature on violence risk assessment competency to stand trial malingering assessment Not Guilty by Reason of Insanity NGRI evaluations report writing as an expert witness and mental health legislation in the context of forensic practice are explored throughout Finally future directions for forensic mental health in Africa are discussed for juvenile female and elderly offenders This text is ideal for mental health criminal justice and legal professionals working in clinical research and policy contexts      **Principles and Practice of Forensic Psychiatry, Third Edition** Richard Rosner, Charles Scott, 2017-02-03 The third edition of this award winning textbook has been revised and thoroughly updated Building on the success of the previous editions it continues to address the history and practice of forensic psychiatry legal regulation of the practice of psychiatry forensic evaluation and treatment psychiatry in relation to civil law criminal law and family law as well as correctional forensic psychiatry New chapters address changes in the assessment and treatment of aggression and violence as well as psychological and neuroimaging assessments      **Principles and Practice of Forensic Psychiatry** Richard Rosner, Charles Scott, 2017-02-03 The third edition of this award winning textbook has been revised and thoroughly updated Building on the success of the previous editions it continues to address the history and practice of forensic psychiatry legal regulation of the practice of psychiatry forensic evaluation and treatment psychiatry in relation to civil law criminal law and family law as well as correctional forensic psychiatry New chapters address changes in the assessment and treatment of aggression and violence as well as psychological and neuroimaging assessments      **NIJ Catalog**, 1994 Contains information on criminal justice publications and other materials available from NIJ's information clearinghouse the National Criminal Justice Reference Service NCJRS and other sources      *The Role of Mental Illness in Criminal Trials: The insanity defense* Jane Campbell Moriarty, 2001 First Published in 2002 Routledge is an imprint of Taylor Francis an informa company      Forensic Psychology and Law Ronald Roesch, Patricia A. Zapf, Stephen D. Hart, 2009-12-21 Praise for Forensic Psychology and Law In Forensic Psychology and Law three internationally known experts provide exceptional coverage of a wide array of topics that address both the clinical applications of forensic psychology and the role of psychological science in understanding and evaluating legal assumptions and processes Norman Poythress PhD Research

Director and Professor Louis de la Parte Florida Mental Health Institute Dept of Mental Health Law and Policy Forensic Psychology and Law is a major contribution to the teaching of law and psychology Roesch Zapf and Hart offer a timely comprehensive and succinct overview of the field that will offer widespread appeal to those interested in this vibrant and growing area Outstanding Kirk Heilbrun PhD Professor and Head Department of Psychology Drexel University In this volume three noted experts have managed to capture the basic elements of forensic psychology It is clearly written well organized and provides real world examples to hold the interest of any reader While clarifying complex issues the authors also present a very balanced discussion of a number of the most hotly debated topics Mary Alice Conroy PhD ABPP Psychological Services Center Sam Houston State University A Comprehensive Up to Date Discussion of the Interface Between Forensic Psychology and Law Forensic Psychology and Law covers the latest theory research and practice in the field and provides thought provoking discussion of topics with chapters on Forensic assessment in criminal and civil domains Eyewitness identification Police investigations interrogations and confessions Correctional psychology Psychology law and public policy Ethics and professional issues

*Violence among the Mentally III* Sheilagh Hodgins, 2012-12-06 The NATO Advanced Study Institute on the Prevention of Crime and Violence Among the Mentally III was held in May 1999 in Tuscany Italy Participants from 15 countries attended Since care for persons with mental illness schizophrenia major depression bipolar disorder delusional disorder atypical psychoses has been deinstitutionalized some persons with these disorders are committing crimes and serious violence Consequently societies around the world are confronted with a new challenge to provide mental health care and social services to mentally ill persons in a humane way that will prevent illegal behaviours Research in this field has been dominated by investigations designed to improve clinicians accuracy in predicting violent behaviours with little attention focused on the organization and implementation of treatments The premise of the Advanced Study Institute was that treatments must have empirically proven efficacy Both professional ethics and public accountability require empirical evidence that each treatment will alleviate the problem that it targets However despite the fact that Western industrial societies provide treatment for mentally ill persons who have offended there is a very limited base of knowledge on what constitutes effective treatment and how such treatments should be organized and delivered The Advanced Study Institute was an attempt to stimulate and encourage research that will extend this knowledge base The goals were to review what is known about mentally ill offenders and about effective treatments for them and to provide a framework for the orientation of future investigations designed to improve treatment efficacy

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therefore culpable while Twinkiedefense killer Dan White and would be presidential assassin John Hinckley Jr are deemed not guilty by reason of insanity What are the origins of tests for criminal responsibility and how is mental illness defined under them Can causal links be shown to exist between specific crimes and disorders Psychiatry and Criminal Culpability explores in depth these questions and many others at the heart of one of the most controversial issues in our criminal justice system today Throughout Dr Ralph Slovenko an acknowledged expert whose professional experience straddles both the worlds of psychiatry and the law brings a wealth of scholarship and direct experience to bear on the subject Citing numerous landmark cases and historical formulations of criminal responsibility dating back to biblical times he traces the evolution of current legal and psychiatric notions of culpability and the relationship between culpability and insanity Writing for both a mental health and legal audience Dr Slovenko clearly and eloquently addresses a wide range of important topical issues He explains the distinctions between the defenses of not guilty by reason of insanity guilty but mentally ill and diminished capacity He identifies the types of mental illness that currently qualify under the test of criminal responsibility including disorders that psychiatrists do not regard as psychotic but which nevertheless many experts assert negate responsibility He explores the role of the mental health professional as an expert character witness in cases where it is uncertain whether the accused committed the crime in question And much more Fascinating thought provoking and enlightening Psychiatry and Criminal Culpability helps guide mental health and legal professionals through the moral and technical complexities of one of the knottiest issues of our day

*Yale Textbook of Public Psychiatry* Dr Selby Jacobs, Dr Jeanne Steiner, 2016-01-15 Yale Textbook of Public Psychiatry is a comprehensive resource on treatment rehabilitation recovery and public health of persons cared for in organized publically funded systems of care Edited and authored by experts in public psychiatry at the Yale Department of Psychiatry this text provides up to date information on clinical work in the public sector This book will be a useful reference for professionals and students of public psychiatry administrators and policy makers

**Violence, Crime and Mentally Disordered Offenders** Sheilagh Hodgins, Rüdiger Müller-Isberner, 2000-06-08 The mentally disordered criminal is a public nightmare and the management of these offenders can be driven as much by political and economic concerns as by scientific evidence and professional judgement within the fields of mental health and correction services This book aims to provide a critical and focused review of knowledge and best practice in this field for mental health and correction professionals and for those concerned with policy and management of services for these offenders Mentally disordered offenders include offenders who suffer from schizophrenia major affective disorders personality disorders including psychopathy brain damage and mental retardation The topic is of increasing importance because of the growth of community psychiatry and the growing community programmes for offenders and also because of the growing pressures on those institutions which deal with offenders and care for the mentally disordered or disabled Professionals in these fields will welcome this book which Provides a review of approaches to treatment accessible to a wide mental health and forensic

readership Relates treatment approaches to specific mental problems and reviews evidence of effectiveness features a truly international group of authors bringing together a wide variety of approaches scientific research and practical experience of important programmes for treatment and prevention Few recent texts provide both the depth and breadth necessary to understand the vexing behaviour of mentally disordered offenders Drs Hodgins and Muller Isberner a remarkable pairing of research and clinical expertise have put together a highly readable and superb resource for anyone interested in this interface of serious mental illness and criminal behavior The authors of the constituent chapters are leading authorities in their respective areas and have provided thoughtful commentary on the most recent international literature This is a first rate treatment of a rapidly growing and fascinating field Marvin Swartz Duke University USA *Monitoring and Management of Psychiatric Symptomatology in Conditionally Released Insanity Acquittes* Jo Mariah Mahler, 1992 Biomedical Index to PHS-supported Research , 1990 **Research Awards Index** , 1989 **Handbook of Psychological Approaches with Violent Offenders** Vincent B. Van Hasselt, Michel Hersen, 2013-11-11 The past quarter century has witnessed a dramatic upsurge of violent crime in the United States and abroad In this country the rise in violent criminal activity has been consistently documented in such published accounts as the Uniform Crime Reports and the Statistical Handbook on Violence in America published by the FBI and the Violence Research Group respectively Further social scientists particularly those working in the fields of sociology and psychology have provided a convergence of findings attesting to the magnitude of one of today's most significant social problems domestic violence e.g. spouse child and elder abuse Such efforts have served as the impetus for heightened clinical and investigative activity in the area of violent behavior Indeed a wide range of mental health experts such as psychologists psychiatrists social workers counselors and rehabilitation specialists have endeavored to focus on strategies and issues in research and treatment for violent individuals and their victims The purpose of this book is to provide a comprehensive and timely examination of current psychological approaches with violent criminal offenders Despite the fact that we continue to have much to learn about perpetrators of violent acts in recent an increasingly large body of empirical data have been adduced about this years issue However these data generally have appeared in disparate journals and books That being the case it is our belief that such a handbook now is warranted **Bearing Witness to Change** Ezra Griffith, Michael A. Norko, Alec Buchanan, Madelon V. Baranoski, Howard Zonana, 2016-09-19 This book explores the response of forensic psychiatry and psychology to changes over the last several decades It presents the disciplines themselves as change agents that have shaped forensic work public policy and law Topics include selected developments in forensic practice the management and treatment of individuals who have had involvement with law enforcement systems and the application of administrative principles to the management of forensic entities **Opinions of the Attorney General and Report to the Governor of Virginia** Virginia. Office of the Attorney General, 1987 *Psychology and Law* Ronald Roesch, Stephen D. Hart, James R.P. Ogloff, 2012-12-06 As law is instituted by society to serve society there can be no question

that psychology plays an important and inevitable role in the legal process clarifying or complicating legal issues In this enlightening text Roesch Hart Ogloff and the contributors review all the key areas of the use of psychological expertise in civil criminal and family law An impressive selection of academic scholars and legal professionals discusses the contributions that psychology brings to the legal arena Topics examined in this insightful text include juries and the current empirical literature witnesses and the validity of reports preventing mistaken convictions in eyewitness identification trials forensic assessment and treatment predicting violence in mentally and personality disordered individuals employment and discrimination new best interests standards for children in courts education and training in psychology and law and ethical and legal contours of forensic psychology The volume also features a noteworthy appendix on specialty guidelines for forensic psychologists Psychology and Law collects a range of expert testimony in its thorough examination of the legal process affording readers a unique survey of contemporary knowledge

Mentally Disordered Offenders John Monahan, Henry J. Steadman, 2013-11-11 In its narrowest sense mentally disordered offender refers to the approximately twenty thousand persons per year in the United States who are institutionalized as not guilty by reason of insanity incompetent to stand trial and mentally disordered sex offenders as well as those prisoners transferred to mental hospitals The real importance of mentally disordered offenders however may not lie in this figure Rather it may reside in the symbolic role that mentally disordered offenders play for the rest of the legal system The 3 140 persons residing in state institutions on an average day in 1978 as not guilty by reason of insanity see Chapter 4 for example are surely worthy of concern in their own right But they represent only 1% of the 307 276 persons residing in state and federal prisons in the same period U S Dept of Justice 1981 From a purely numeric point of view the insanity defense truly is much ado about little Pasewark Pasewark 1982 The central importance of understanding these persons however is that they serve a symbolic function in justifying the imprisonment of the other 99% The insanity defense as Stone 1975 has noted is the exception that proves the rule By exculpating a relatively few people from being criminally responsible for their behavior the law inculcates all other law violators as liable for social sanction



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