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An Analysis of Female Attorney's Attitudes Toward the Insanity  
Defense

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BARRY UNIVERSITY

An Analysis of Female Attorney's Attitudes Toward the Insanity Defense

by Lainie Mae Ferring, B.S.

A THESIS

Submitted to the Faculty of  
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## **Dedication**

This thesis is dedicated to my family and friends whose unwavering support throughout the years has shown me the transformative power of unconditional love. Grandma, you have taught me the importance of honoring the individuality that each of us possess, and this has given me strength to continue to become the person that I am meant to be. You are my role model of a mentally and spiritually strong, independent, hard working woman. This thesis is dedicated to you because without you I would not be who I am today. Mom and Dad, being raised with the amount of love you gave me in my childhood is a gift from God that is priceless. This thesis is for us, for all of the hard work both of you have completed throughout your lifetimes thus far in order to give my sister and me a better life. I am truly proud to call you each my parent. To my baby sister, thank you for loving me and putting up with me all these years. You are my deepest bond, and I hope to make you as proud of me as I am of you. This thesis is dedicated to you in hope that it shows you that we all deserve to have our dreams and desires come true. Rebecca, my soulmate, you came into my life and changed everything; I will continue to follow you wherever you go. Tarra, my best friend, I love you to the moon and back. Mela, thank you for being a second mom to me, I love you. Ali, this thesis is dedicated to you because you helped revive my spirit at a time I truly needed it. Your lust for life is incredible. Carolina, Fefe, and Miguel this thesis is dedicated to you. One of the greatest gifts I have received in life is our friendship. Lastly, I want to thank the courageous and strong woman that has been by my side throughout this process, Brandi. This thesis is dedicated to you because without your support and empathy on a daily basis with this challenge, this thesis may not exist.

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**Abstract**

The purpose of this study was to compare female attorneys' attitudes toward the insanity defense to college students' attitudes. In addition, this study sought to find how political affiliation was related to acceptance of the insanity defense. Participants included female attorneys ( $n = 59$ ) and college students ( $n = 267$ ) recruited from a social media platform who were asked to complete two self-report questionnaires: a demographic questionnaire and Skeem & Golding's (2004) *Insanity Defense Attitude--Revised Scale* (IDA-R). The results suggested that attorneys showed greater support for the insanity defense than college students. However, political affiliation was not related to acceptance of the insanity defense. These findings highlight the importance of increasing the public's knowledge regarding the insanity defense to improve the fair treatment of individuals with mental illness if found guilty but mentally ill.

### **An Analysis of Female Attorney's Attitudes Toward the Insanity Defense**

Most Americans have seen television shows such as Law and Order, CSI, and CNN'S Nancy Grace. Americans are living in a culture where such shows flood us with information about our legal system. Often this information is inaccurate, yet it still influences our perceptions of legal issues. The general public misunderstands pleas such as the insanity defense. The media sensationalizes cases where the insanity plea is successful thus leading the public to believe it is an excuse and has more success than it truly does. This is a problem in our society today because mentally ill individuals can be negatively impacted by erroneous notions. In order to protect and fairly treat mentally ill individuals it is vital to know factors that influence people's perspectives of the insanity defense.

The objective of the present study was to compare attitudes between female attorneys with college students. First, this paper will provide a timeline for the insanity defense throughout history and explain the questionnaire that is widely accepted today to measure an individual's support or non-support of the defense, the *Insanity Defense Attitude Scale -- Revised* (IDA-R) (Skeem et al., 2004). Secondly, the paper will focus on reviewing previous literature whose studies look at various factors that influence perceptions the public holds regarding the insanity defense. Thirdly, the paper will focus on reviewing previous literature whose studies look at the experts (i.e., judges, forensic psychiatrists, and medical doctors) perceptions of the insanity defense. Lastly, the paper will introduce: methods used in the study, proposed statistical analysis, and results.

Unfounded biases towards the insanity defense make this an important subject to study



with the hope of decreasing negative views of the defense so individuals with mental illnesses can receive adequate defense.

### **History of the Insanity Defense and a Brilliant Measure**

The suggestion that a criminal defendant should not be accountable for his/her actions by reason of their mental state has been ingrained in Anglo-American law for centuries. In as early as 1581 a legal document stating individuals who understood the difference between good and evil versus those who did not were to be treated differently (Murdock & Navasky, 2002). An excerpt from this treaty is as follows, "If a madman or a natural fool, or a lunatic in the time of his lunacy do [kill a man], this is no felonious act for they cannot be said to have any understanding will (Murdock & Navasky, 2002). Moreover, in the 18<sup>th</sup> century British courts elaborated on this idea and coined the term "wild beast". British courts developed the "wild beast" test that stated if a defendant were so bereft of insanity that he understood the ramifications of his behavior no more than an infant, a brute, or a wild beast he would not be held responsible for his crimes (Murdock & Navasky, 2002).

The next major change of guiding principles for assessing criminal responsibility of defendants who claimed insanity occurred in the British courts during the case of Daniel M'Naughten in 1843 (Murdock & Navasky, 2002). M'Naughten, a Scottish woodcutter, murdered the secretary of the prime minister in an attempt to assassinate the prime minister. M'Naughten believed the prime minister to be the reason he experienced countless personal and financial devastations. During his trial nine witnesses testified that he was insane. He was acquitted, and found to be "not guilty by the reason of insanity." Upon Queen Victoria's dislike of this outcome, judges made a modification which was

that a defendant should not be held responsible for his actions if he could not tell that his actions were wrong at the time he committed them. The M'Naughten rule became the standard test for legal insanity in American courts until the mid-20<sup>th</sup> century (Murdock & Navasky, 2002)

With criticism growing in the U.S. towards the M'Naughten test, in the 1950s the legal and psychiatric professions sought reform. Legal and psychiatric professionals began to call for the introduction of medical evidence of mental illness. A capstone case, *Durham v. United States* (1954) ruled that a defendant could not be found criminally responsible if his unlawful act was the product of mental disease or defect. (Murdock & Navasky, 2002). This decision was revolutionary because it broke from the "right/wrong" idea and was the first to include psychiatric and psychological scientific determinations. However, many found the Durham rule to be too vague and were concerned it would absolve more defendants than ever before. Thus, in 1972 twenty-two state judges rejected the Durham test, and overturned the ruling in favor of the Model Penal Code test of the American Law Institute (Murdock & Navasky, 2002). The A.L.I. rule stated that a defendant would not be held criminally responsible if at the time of the behavior in question as a result of a mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law. In 1998, the states were split between two standards: twenty-two states used some form of the A.L.I. rule, while twenty-six used some form of the M'Naughten rule (Murdock & Navasky, 2002).

One of the most famous U.S. legal cases, *Hinckley v. United States* (1984) caused major reform of the insanity defense. Ewing & McCann (2006) provide details of John

W. Hinckley Jr.'s life. Hinckley was born in 1955. He was the third and youngest child of educated parents. He was a gifted athlete and class president in junior high school. However, his success early in life was cut short. He would become known less than a decade later for his attempt to assassinate the President. In his teen years Hinckley became a recluse. In college he was inconsistent, taking classes here and there and never finishing. He became obsessed with the movie *Taxi Driver* while living in Hollywood, California one summer. Furthermore he developed an obsession with the movie's actress Jodie Foster (Ewing & McCann, 2006).

He fantasized that he could win her love by assassinating the President. Over the next several years he would stalk her, write her letters, and call her. From 1980-1981 a psychiatrist saw him about a dozen times. During his visits he neglected to mention his fantasies. The psychiatrist recommended the Hinckley's require their son to become more independent. Hinckley agreed, but did not complete the terms of their agreement (Ewing & McCann, 2006). Disappointed by their son's inability to find employment his father took him to a local airport and told him he was on his own. Hinckley flew to Hollywood, CA and after spending one day there he took a bus to Washington, D.C. where he checked into the Park Central Hotel. The following day he wrote a letter to Foster explaining that he hoped his assassinating the President would impress her. Hinckley then fired a Rohm R6-14 revolver six times, shooting the President in the chest, a secret service agent, a press secretary, and a police officer. The president survived after two hours of surgery and Hinckley was charged with multiple counts of attempted murder. A year later his defense was insanity (Ewing & McCann, 2006).

The Hinckley case is one of the most famous legal cases known to prompt an increase in public dislike of the insanity defense. Surveys conducted prior to the John Hinckley v. United States case found that most Americans believed the insanity defense is a “loophole” that allows criminals to go free. In Hinckley v. United States jurors went before a Senate subcommittee and revealed dissatisfaction with the legal rules governing the insanity plea (United States Congress, 1982). ABC News (1982) surveyed the public after Hinckley’s insanity acquittal and found many would be less disturbed if he was found “Guilty but Insane”. Guilty but insane means a defendant is found guilty and can be imprisoned. The Department of Corrections has the option to provide mental health treatment, and or confinement in a mental health facility that would count towards his or her prison sentence (Austin, 2018). The results were alarming to them, not because they didn’t doubt his mental state, but because of the “Not Guilty” label that inferred his action was not morally wrong.

In 1984 members of Congress responded to the public outrage caused by the Hinckley verdict with 26 pieces of legislation designed to abolish or modify the insanity defense, and this was known as the Insanity Defense Reform Act of 1984 (Murdock & Navasky, 2002). The insanity defense was not abolished entirely, but rather a stricter version of the M’Naughten test was set in motion. The burden shifted from the prosecution to prove beyond reasonable doubt that the defendant was sane to the defendant having to prove with clear and convincing evidence that he was legally insane at the time of the crime. More than 30 states changed their laws regarding insanity defense statues, and three states abolished the defense altogether (Utah, Montana, and Idaho) (Murdock & Navasky, 2002). The most recent verdict in many states is the

“Guilty But Mentally Ill” (GBMI) verdict. An individual who receives GBMI is considered legally guilty of the crime, however he is entitled to receive mental health treatment while institutionalized. If the individual’s symptoms cease, he is to serve the remainder of his sentence in a regular correctional facility, and will only be released if he is deemed to no longer be a danger to himself or others. Since year 2000, a little more than 20 states have instituted GMBI provisions (Murdock & Navasky, 2002).

A widely accepted measure for analyzing perceptions towards the insanity defense is the *Insanity Defense Attitudes-Revised* (IDA-R) scale (Skeem et al., 2004). This scale is a 22-item measure. When completing this scale participants indicated their agreement with 22 statements (e.g., “I believe that people should be held responsible for their actions no matter what their mental condition”) using 7-point Likert-type scales that ranged from strongly disagree to strongly agree, with higher numbers indicating greater agreement (Skeem et al., 2004). This scale was utilized in the present study.

### **Opinions Toward the Insanity Defense**

Hans (1986) examined the public’s dislike of the insanity defense. Participants were 330 men and women from New Castle County, Delaware. Eight trained interviewers conducted the survey on 11 weekday evenings. From July 25, 1983 to August 15, 1983, more than a year since Hinckley was found Not Guilty by Reason of Insanity. Interviewers began with an initial statement, “As you probably know, the insanity defense can be used by defendants in criminal trials. They can plead Not Guilty by Reason of Insanity, arguing that because of their mental condition, they should not be held responsible for what they’ve done” (Hans, 1986). Respondents were then told 20 different statements about the insanity defense (half were positive and half were

negative). Respondents identified whether they strongly agreed, agreed, disagreed or strongly disagreed with each statement. Statements were made from a variety of sources such as social science journals, law reviews and popular magazines.

The 20 statements were an attempt to encompass key arguments expected from supporters and opponents of the insanity defense, and to be a reflection of moral and utilitarian concerns. Respondents were asked to provide an estimate of the frequencies and consequences of the use of the insanity defense, and provide their views of psychiatry in insanity trials. Respondents were asked six items from Altemeyer's (1982) *Right Wing Authoritarianism Scale*. This scale identified an individual's level of authoritarianism. Respondents were given three items from the *Legal Attitudes Questionnaire* (Boehm, 1968). This scale identified an individual's view towards capital punishment. Fear of crime was measured by asking respondents how safe they feel or how safe they would feel being out alone in their neighborhood at night. Lastly, political liberalism was measured using a Likert scale (1 = extreme conservative to 9 = extreme liberal).

Researchers wanted to know the public's overall opinion on the insanity defense and its role in our legal system. Findings suggested 49% believe the insanity defense should be abolished, 95% agree it needs reform, 77% think it is sometimes justified and 64% believe the insanity defense is a necessary part of our legal system. Most participants reported a belief in the need for reform of the insanity defense as evidenced by the aforementioned statistics. Some factors that were associated with insanity defense support include: authoritarianism, education, and income. High authoritarianism was

correlated with low support for the insanity defense and higher education or lower income were correlated with greater support for the insanity defense.

Researchers also focused on the public's perceptions on care for those found guilty but mentally ill. Research indicated 96% believe individuals deemed insane are entitled to treatment, 66% agreed the insane should be treated rather than punished, 50% believed the insane should receive punishment for criminal behavior, and 36% believed it's wrong to punish insane people who break the law. These results suggest some people believe the mentally ill should receive treatment whereas others think they should receive punishment.

Results were informative regarding the public's views on experts' knowledge about the insanity defense and their ability to correctly decide if an individual is truly mentally ill or not. Results indicated 91% believed judges and juries have a hard time telling whether defendants are really sane or insane, 21% feel people found Not Guilty By Reason of Insanity are truly insane, 89% believe it is a loophole allowing too many people to go free, 25% believed that NGBRI acquittees are released when it's safe to do so, 89% believed the insanity defense allows dangerous people out on the streets, 61% rejected the view that the insanity defense is mainly a rich person's defense, 78% said it sends a message to criminals that they can get away with crime, 91% think psychiatrists should testify about a defendant's mental condition in insanity trials, 55% believed psychiatrists are paid enough to say anything about a defendant's sanity. Less than 1% of the defendants charged with serious crimes are found NGBRI (Hans, 1986). Results stated respondents overestimate the amount of individuals charged with crime who plead NGBRI at 38%. When an individual is deemed NGBRI they are immediately sent to a

psychiatric hospital for an evaluation and diagnosis occurs within 60 days, however 25% of the public believed they are released immediately.

The data in this study affirms that the public fails to fully support the insanity defense, and there are two main reasons that Hans (1986) found they fail to support it. The first reason is for retributive purposes, meaning the public believes insane lawbreakers should be punished no matter what their mental state is. The second reason is for utilitarian purposes, meaning the public believes it is important to imprison an individual even if they are found to be insane in order to not compromise the safety of the public. The findings in the Hans study prove this topic needs to be explored further to avoid mistreatment of mentally ill defendants.

Mentally ill individuals are substantially more vulnerable to harm than non-mentally ill offenders when in prison. Johnston (2013) stated that individuals with major mental illness are vulnerable to victimization in the outside world, and also more susceptible than non-ill persons to physical and sexual assault while in prison. Mentally ill offenders often have cognitive and behavioral deficits and when placed in prison setting where they are confined with antisocial offenders they become the target to bullying and predation (Johnston, 2013). In the prison setting the mentally ill may experience great difficulty on a daily basis because they lack the skills and abilities to cope in a prison setting. They may be punished by prison guards for their inability to conform to prison rules causing them to be placed in solitary confinement where they may further decompensate, have a psychotic break, and or experience suicidal ideation.

Alarming statistics show the toxic environment in prison for mentally ill offenders. When commenting on the increased likelihood of mentally ill offenders



experiencing physical victimization Johnston (2013) reported statistics from 2006 from the Bureau of Justice Statistics of the Department of Justice, “10% of non-disordered state prisoners are injured in fights while incarcerated, but this injury rate is double for prisoners reporting a recent history or symptoms of major depression, mania, or psychotic disorders” (p. 162). In addition, mentally ill offenders are at an increased vulnerability for experiencing sexual victimization while in prison. In May 2012 the Bureau of Justice Statistics conducted a study where they found that 15.1% of inmates with mental disorders experienced sexual victimization over a six-month period, while 8.9% of non-disordered inmates were victimized (Johnston, 2013). Not only are mentally ill offenders experiencing physical and sexual victimization while incarcerated, statistics suggest they have a higher incidence of disciplinary infractions. Johnston (2013) reported statistics for federal prisons where 40% of inmates with a mental illness were charged with rule violations compared to 27.7% of inmates without a mental illness. Rule violations will lead to solitary confinement. Johnston (2013) shared the impacts of solitary confinement, “People who are prone to suicide ideation and attempts will become more suicidal in that setting. People who are prone to disorders of mood, either bipolar or depressive will become symptomatic and will have a breakdown in that direction. People who are psychotic in any way...those people will tend to start losing touch with reality because of the lack of feedback and the lack of social interaction and will have another breakdown” (p. 178). Experts state that isolating an inmate in solitary confinement who has a preexisting major mental illness is a violation of the individual's human rights. The statistics previously mentioned prove the mentally ill are significantly more vulnerable to harm than non-ill offenders.

The mentally ill offender's added vulnerability is a factor that court evaluations should contemplate in the sentencing process in order to avoid over punishment. Unfortunately, previous research reports that some, but not all states recognize vulnerability to harm in prison as a mitigating factor in sentencing. Johnston (2013) shared a common theory of punishment known as retributive punishment, "... punishment should be proportionate: its severity should reflect the offender's culpability and the harm caused by his criminal act", however, abuse and mental deterioration that is unintended by a sentencing judge does not equal punishment (Johnston, 2013). Thus, a theory of sentencing has been developed called Just Desert theory. Johnston (2013) explained the Just Desert theory, "By considering foreseeable, substantial risks of serious harm caused by the state and posed by available criminal sanctions, where the sentencing judge can take steps to ensure that the chosen penalty, as experienced, will equal the degree of condemnation actually warranted by an offender's criminal act" (p. 198). Ultimately, this is a framework for assessing an inmate's risk of vulnerability that will affect sentencing.

Blumstein and Choen (1980) conducted a study where residents of a Pennsylvania community completed a survey about sentence severity. The survey was a self-administered questionnaire where 23 offenses were included. Offenses were presented in the form of brief crime scenarios that were reflective of present prison populations in the United States (U.S Department of Justice, 1976). The survey was mailed in the spring of 1977 to adult residents in a random sample of 2,500 households where 603 households responded (24%). Results indicated women, blacks, youths, the highly educated, and low-income people were fairly lenient in sentence

recommendations. These results indicated these groups of people are less strict on sentencing after a defendant is found guilty of a crime.

Stinchcombe (1980) studied trends in the solution to crime in order to find how the public thinks criminals should be treated. Two surveys were used to find this answer: capital punishment for murder and whether or not local courts should be harsher in punishing criminals (Stinchcombe et al., 1980). These surveys were worded with questions such as, "Are you in favor of the death penalty for murder?" and "Do you think that having a death penalty for the worst of crimes is a good idea, or are you against the death penalty?" (Stinchcombe et al., 1980). From the 1930s to 1953 high support for capital punishment was steady, however, after this support began to fluctuate and lessened until the mid-1960s. A rush in public concern with crime, in media attention, and in personal fear reversed this trend causing capital punishment to move in a more punitive direction. A crime wave from the mid-1960s to early 1970s caused people to have a punitive attitude towards criminals that almost mirrored the 1950s.

Stinchcombe (1980) sought to find how fear of crime impacts an individual's view on punishment. The authors define fear as "the perception by a person of high risk of serious damage, which the person can do nothing to alleviate or control." Violent street crimes produce more fear than other crimes and accidents, however all can result in comparable losses. Being killed in an automobile accident is two to four times higher of a risk than any kind of murder, however more people stay home at night for fear of crime on the streets than fear of an automobile accident. Authors found people are more afraid of crime when they are more exposed to it, when the damages they might sustain are larger, or when they have fewer resources to protect themselves (Stinchcombe, 1980).

Interestingly, two significant results were found by the authors: punitive attitudes are in part a reaction to the personal and public salience of crime, and individuals who are themselves more afraid or who think crime is an important national problem are more likely to be punitive. In addition, the authors found that demographic groups that tend to be less punitive are: women, blacks, highly educated, and low-income people. Interestingly these groups generally tend to be more liberal on social and political issues, whereas high-income people and individuals with low formal education are more likely to support capital punishment (Stinchcombe et al., 1980).

Steadman and Coccozza (1997) found people associate the criminally insane with people like Charles Manson, an individual who was convicted of very violent crimes as opposed to associating them with other insanity acquittees. Steadman and Coccozza (1997) focused on the media's role related to stigmatization and rejection of mentally ill individuals. They report when the media presents information to the public about the mentally ill the information is distorted. The distortion often is an overemphasis on bizarre symptoms of mental illness that actually occur infrequently. The goal of the Steadman study was to find public perception and public knowledge about the criminally insane and the role of the media in these perceptions. The authors gathered data about the public's perceptions and who the public thought were included in the category "criminally insane". The participants were 413 households who were interviewed from the New York metropolitan area. Participants were asked to complete a series of 14 bipolar semantic differential adjective items adapted from Nunally (1961) and Olmstead and Durham (1976). The adjective sets were on a seven-point scale (bad-good, safe-dangerous, high sex drive-low sex drive). Each set of 14 items was asked related to "most

people”, a “criminally insane patient”, and “mental patient”. Some questions explored participants’ general levels of fear and avoidance of mental patients and the criminally insane. Researchers hypothesized that the criminally insane would be feared and avoided. Results indicated 29% of the respondents felt that people fear former mental patients “a lot”, and 61% felt that people feared former criminally insane patients “a lot”. The public’s perception of the criminally insane is dominated by a fear that the criminally insane are unpredictable and dangerous. This attitude was perpetuated by the media’s stigmatization of the criminally insane and by hallmark cases such as *Hinckley v. United States* (1982).

Public bias can flow into the courtroom when members of the public become jurors. Simon (1967) completed a jury simulation study of insanity defense trials. The experiment was designed to study the operation of the criminal trial jury in a case in which the defense of insanity is used. The study edited and condensed transcripts from two cases. One involved a charge of housebreaking and the other a charge of incest. Presiding judges from three jurisdictions (Chicago, St. Louis, and Minneapolis) selected juries. Thirty juries were used in the housebreaking case, and 68 juries were used in the incest case. One-third were given M’Naghten instruction, one-third the Durham instruction, and the remaining one-third were given no instruction on insanity. Results indicated that under Durham there was a slightly greater number of not guilty by reason of insanity verdicts than under M’Naghten while juries receiving no instruction responded the same as those instructed under Durham. However, results revealed juries were mistrustful of the insanity plea overall. Furthermore, the Simon study revealed that

black jurors were more likely than white jurors to find defendants Not Guilty by Reason of Insanity (Simon, 1967).

Moreover, Vitacco, Malesky, Erickson, Leslie, Croysdale, and Bloechl (2009) discussed negative attitudes venirepersons have against the insanity defense and the direct effect this has on the criminal justice system. A venireperson is an individual called for jury duty, and thus, a potential juror who appears in court for jury selection. Researchers found venirepersons arrive to jury duty with preconceived negative ideas regarding the insanity defense, which results in their unwillingness to rule in favor of the defendant. These researchers wanted to know why there are several negative attitudes associated with the insanity defense and found many responses to appear like this, “it is abused and serves criminals a loophole to get out of just punishment, and that even severely ill individuals should be held responsible for their behavior no matter what mental illness they may experience” (Vitacco et al., 2009, p. 62). This mindset contributes to an overall reluctance of jurors to find in favor of the insanity defense. This is not astonishing because previous research has found that across diverse samples the public think the use and success of the insanity defense, and amount of time insanity defense acquittees spend in forensic hospitals occurs more often than it truly does.

Psychological testimony is allowed to mitigate culpability in the United States if mental illness is found. Exoneration founded on mental illness has a long history in modern Western criminal law dating as far back as Blackstone (1803). Regardless of previous cases in history, juror bias continues to be a significant barrier for defense counsels representing individuals with mental illness. Vitacco et al. (2009) suggested jurors may be justified in their disbelief due to uncertainty of mental health testimony,

“Numerous Supreme Court decisions have cautioned against the subtleties and nuances of psychiatric diagnosis implying a tacit endorsement by the court with populist notions that mental health evidence is often fraught with uncertainties, and hence, unreliable” (p. 63). This statement reflects the disharmony between legal and psychological epistemologies. Ultimately, unwillingness to allow the insanity plea has extensive implications. Moral implications include sending a mentally ill individual to prison where they will most likely not receive proper mental health services. Due to the elevated risk associated with insanity verdicts it is important to understand variables that support negative opinions toward the insanity defense. Vitacco et al. (2009) suggested these variables are conservative political affiliations, favorable opinions toward capital punishment, and greater misperception of insanity defense use and success.

Due to jurors significant misunderstanding of the use and consequences of the insanity plea it has been suggested that venirepersons be provided with education. Unfortunately, Jeffrey and Pasework (1983) suggested educating jurors does not combat biases, “it is unclear if providing correct information alters jurors’ mistaken views or has any discernible impact on verdicts” (p. 38). Thus, it is imperative to evaluate attitudes to disallow predetermined and inflexible ideas about mental illness and culpability. Measuring attitudes toward the insanity defense has resulted in the development of specialized measures that have a line of questioning that will eliminate any venirepersons who hold bias (Vitacco et al. 2009). One of these measures is the *Insanity Defense Attitude-Revised scale* (IDA-R; Skeem et al., 2004).

Vitacco et al. (2009) had a sample of 239 individuals who ranged in age from 19 to 74 years ( $M = 45.43$ ,  $SD = 13.09$ ) and included 126 females and 76 males that

participated in their study. Participants were 89.5% European American, and 4.7% Native American. Participants were 26.8% Democratic, 26.8% Republican, and 35.2% “none” or “other”. Participants were individuals who had been selected for jury duty by the Jackson and Haywood counties in North Carolina.

The Vitacco study echoed previous research that suggested most venirepersons have distorted perceptions of the insanity defense. As previously stated most potential jurors walk into courtrooms with preconceived attitudes toward the insanity defense. Thus, identifying individuals with a negative attitude in voir dire is important. Voir dire is the process of questioning potential jurors. Results indicated 28.0% of potential jurors believed the insanity defense is used 10% or less, and 51.7% of potential jurors believed the insanity defense is used in 25% or more. Finding jurors who do not overestimate the usage of the insanity defense may be difficult, however the article provided insight in to what attorneys may ask potential jurors, “Attorneys may find simple questions like inquiring about insanity defense use and success to be useful in empanelling a jury that would give due consideration to the insanity defense” (Vitacco et al, 2009, p. 67). Ultimately, educating jurors may not break stereotypes, but a thorough voir dire may provide attorneys knowledge of bias regarding the usage of the insanity defense.

The insanity defense is one of the most disputed areas in mental health law. As previously stated, research holds that public perception is opposed to individuals being acquitted of crimes based on mental illness. In the past when an individual has been acquitted due to their mental illness it often creates a public mistrust of the insanity defense. Negative coverage of the insanity defense has led some states to eliminate the plea altogether, and it has been referred to as a “legal monstrosity” (Bloechl et al., 2006).



Bloechl et al., (2006) found negative opinions against the use of the insanity defense are not limited to the United States but rather this attitude has been shown across cultures. Increased stigmatization of the insanity defense has occurred due to negative media coverage, “ABC news polled the American public after the Hinckley acquittal and reported that 83% of Americans believed “justice was not done” (Bloechl et al, 2006, p. 154). This suggests that jurors will appear in court with some kind of preconceived bias. Ultimately, these preconceived ideas will strongly influence the verdicts. Perlin (1994) suggested the insanity defense has legal, social, and moral overtones that will influence whether an individual accepts or denies the insanity defense.

The Bloechl et al., (2006) final sample consisted of 578 individuals who ranged in age from 18 to 49 years ( $M = 19.90$ ,  $SD = 3.67$ ) and included 395 females and 183 males. Participants were 91.1% European American, and 8.9% were distributed across various ethnic backgrounds. Concerning political affiliation, 198 individuals described themselves as Democrats, 193 as Republicans, 159 as having no political affiliation, and 28 as “other”. Participants were from a mid-sized Midwestern university. Participants were taking undergraduate courses and reported a wide range of majors. This study utilized the *Insanity Defense Attitude Scale-Revised* (Skeem et al., 2004). The IDAS-R is a 22-item measure that is scored on a seven-point Likert scale with 1 meaning “strongly disagree” to 7 meaning “strongly agree”. The IDAS-R uses 19 items to make two scales associated with insanity defense attitudes and these are 1) Injustice and Danger and 2) Strict Liability. An important feature of this scale is it measures general attitudes regarding the insanity defense versus a specific test like the M’Naghten standard. This study utilized the *Attitudes toward the Death Penalty Scale* (Haingula & Wrightsman,

2001). The ATDP is a 23-item measure scored on a five-point Likert scale ranging from “strongly agree” to “strongly disagree.” An individual’s score can range from 23 to 115, and in the current study scores ranged from 34 to 99 illustrating that the students had mixed feelings regarding capital punishment.

The purpose of the Bloechl study was to assess variables that influence attitudes towards the insanity defense. The results found two factors that influence negative attitudes towards the insanity defense: positive attitude toward capital punishment and overestimation of the use of the insanity defense (Bloechl et al., 2006). Findings suggested individuals who identified as Democrats had a higher positive regard toward the insanity defense. Findings also suggested individuals who held favorable attitudes for the death penalty had a negative view toward the insanity defense (Bloechl et al., 2006). The authors found significant results between individuals’ perception of the overuse of the insanity defense and negative attitudes toward the defense itself. This indicates that in order for misinformed bias to be overcome it is imperative to distribute accurate information about the insanity defense’s actual use and success.

According to the Bloechl research the public has two main misperceptions regarding the insanity defense. The first is the idea that the insanity defense is a loophole for criminals who are trying to escape persecution. The second is the public’s lack of correct knowledge about the frequency and success of the use of the insanity plea. Unfortunately, Bloechl et al. (2006) discovered that even when the jury is provided information regarding accurate statistics of use and frequency of the insanity defense most individuals continue to report the defense is used more than it truly is. Ultimately,

the public's misperception can impair the ability for a mentally ill individual to be given a fair trial.

Weinstein and Geiger (2003) focused on ways to counteract juror bias, one being the importance of making a universal judicial understanding of insanity. They found this to be one central way to counteract bias because most jurors tend to have a lack of mental health training. Jurors' who have more knowledge regarding mental health tend to be more favorable of the insanity plea. The authors sought to find if there were significant differences between three professions endorsements of various insanity definitions.

Weinstein and Geiger (2003) surveyed 30 men ranging in age from 30 to 65 years from Salina, Kansas. Three groups of professionals were surveyed: physicians, lawyers, and judges. The survey consisted of seven definitions of the term insanity. Participants rated their agreement with each statement on a ten point Likert scale (10 = absolute agreement, and 1 = absolute disagreement). The seven definitions were as follows 1) the moral definition stated that insanity was sinful behavior 2) the medical model definition stated that insanity was a disease with a set of diagnosable symptoms, treated with drugs, and had a prognosis 3) the statistical model stated that insanity was infrequent or rare behavior 4) the sociological model stated that for a person to be labeled insane one has to first look at the behavior and the society in which it occurred and at the one who observed the behavior 5) the psychometric model stated that insanity was a point on a psychometric test 6) the professional model stated that anything a qualified physician or clinical psychologist defines as insane could be called insane, and 7) the legal model stated that abnormal behavior involves lack of competency to understand the laws of

society (Weinstein and Geiger, 2003). Each participant was sent a survey by mail and returned the completed survey to the address enclosed.

Interestingly, authors found significant differences in level of endorsement among professionals depending on the insanity definition given. The medical model was endorsed most by physicians and, secondly by lawyers and then judges. The legal model was endorsed significantly more by judges than physicians. The sociological model scored the highest with the group of physicians, however there was not much between the endorsement of this model and the statistical and medical model among the other professional groups. Overall, this study presents the idea that a single clear definition of insanity is needed to insure justices and accuracy in the legal and medical professions.

### **Perceptions of Lawyers and Mental Health Professionals**

While the public does not have a favorable opinion of the insanity defense, neither do lawyers or psychologists. In this section legal knowledge, and psychologists role in the law will be discussed. Blau, McGinley and Pasewark (1993) highlighted the importance of lawyers and psychologists having a thorough knowledge of the use of the insanity defense. When commenting on a clinical psychologists role related to this topic Blau et al., (1993) stated, "Clinical psychologists not only provide testimony about a defendant's insanity, but also may be involved in the data collection process and may be consulted about the use of the pleas within their state or nationally" (p. 435). Moreover, the legal systems responsibility in society is to help society remain stable. In general, laws reflect overall values of a society, however they can impulsively change due to public opinion. The insanity defense is an example of law being swayed due to public opinion (i.e.

M’Naghten and Hinckley case). It has been misinterpreted, misunderstood by the public, legal and mental health professionals.

The law states that in order for a crime to exist there must be three features: mens rea, a proscribed act and the actus reus. Mens rea is the intention or knowledge of wrongdoing that constitutes part of a crime, as opposed to the action or conduct of the accused (Webster, 2008). A proscribed act is an action that is not allowed, and actus reus is an action that is the wrongful act or omission that compromises the physical components of a crime (Webster, 2008). If a criminal is not capable of a guilty mind then they are not found guilty of the proscribed act. Thus, the insane person is not found guilty by reason of insanity. When the public perceives the defendant is using the insanity defense because they have no other defense and the case stands out and is remembered (The Barnum Effect) this increases the notion in the public’s eyes that this defense is overused and is successful more than it truly is.

Blau et al., (1993) attempted to determine the frequency of cases where the insanity defense was entered and insanity verdicts declared. Forensic directors in each state were contacted by a mail survey that inquired about the amount of insanity pleas and adjudications in their jurisdiction. Five jurisdictions reported on the number of individuals who used the insanity defense: Colorado-45; Minnesota-59; Michigan-12515; Maine-200; and Wyoming-100 (Blau et al, 1993). These results support the idea that the insanity defense is rarely used. Furthermore, results indicate that Colorado has an incidence of 1 plea for 4,968 arrests, Minnesota had an incidence of 1 plea for 2,938 arrests, Michigan had an incidence of 1 plea for 476 arrests, Maine had an incidence of 1 plea per 214 arrests, and Wyoming had an incidence of 1 plea per 204 arrests. Blau et al

(1993) found 44% of defendants who plead insane were found adjudicated insane, meaning their plea of insanity was successful, whereas rates in Michigan, Maine, Minnesota, and Wyoming were 7%, 4%, 3%, and 2% respectively. These findings are evidence that the insanity defense is used and seldom successful.

Yourston, Lindholm, Gram and Svenson (2008) researched gender bias of practicing forensic psychiatric clinicians, chief judges, and psychology students in legally insane cases in Stockholm, Sweden. According to previous research forensic psychiatric decision-making plays a crucial role in homicide cases. Research suggests women defendants have a greater chance of being declared legally insane and sent to a hospital than men do (Yourstone, 2008). The results highlighted the alarming statistic that up to 1 in 4 homicide offenders suffer from mental illness, specifically a psychotic illness. These statistics show that gender influences sentencing and many offenders suffer from mental illness.

Yourstone et al. (2008) aimed at increasing knowledge about gender bias of clinicians, judges, and possible jurors. Stereotypic beliefs may influence the decision making process in a legally insane case. For example, many cultures view men to be considerably more aggressive than women. Yourstone et al. (2008) commented on the relevance of this idea to legal insanity cases, "Research has shown that such gender-biased beliefs may have a decisive impact on how the individual is perceived and assessed in a judicial process" (p. 273). Furthermore, in simulated domestic violence studies mock jurors perceive male-against-female abuse typically as more negative than female-against-male abuse. Research has indicated that a male perpetrator or victim is judged harder than females in eyewitness accounts. More evidence of gender bias occurs

with clinicians such as bias in decision-making when completing assessments and treatment recommendations. Yourstone et al. (2008) illustrated how gender bias is perpetual, “gender stereotypes may influence responses without the perceivers awareness of the influence, and even if they are against the individuals’ own conscious opinion of the target group” (p. 274). Bias may also occur due to in-group bias. In-group bias is the tendency to favor one’s own membership group and disapprove the out-group. Attaining in-group status may be correlated with in-group bias, ultimately, serving in-group members with a positive social identity and self-esteem.

Yourstone et al. (2008) had a final sample of 141 participants. Participants were 45 forensic psychiatric clinicians (27 women) from main forensic psychiatric units in Sweden: Stockholm, Gothenburg, Malmo, and Umea. Participants were 46 chief judges recruited from different courts of appeals, district courts and country administrative courts in Sweden. Participants were 80 students (56 women) in psychology at Stockholm University.

Participants were given a written vignette that described a homicide case and forensic information about the perpetrator (psychosocial variables before, during and after the crime). Two identical versions were written with the perpetrators gender varying. Half of the participants read a vignette about a female perpetrator and the other half read a vignette about a male perpetrator. Results found case information was perceived to be more indicative of legally insane when the perpetrator was a woman. Male and female judges seemed to “protect” their gender in-group. Students significantly found a female perpetrator to suffer from mental illness. Male perpetrators did not get the same care as female perpetrators showing males to be at a disadvantage. This could shed

light on the belief that women are not responsible in the same way as men for their behavior. This could possibly show there is a link to women's inferiority to men and a judge's gender may influence the outcome.

Fazel and Grann (2004) report that death by homicide is the sixth highest cause of mortality worldwide in those 20-44 years old. In the current study researchers examined psychiatric diagnoses of all individuals convicted of homicide and attempted homicide in Sweden from 1988 to 2001 (Fazel, & Grann 2004). Data was collected from two comprehensive national registers. Results indicated 90% of homicide offenders had a psychiatric diagnosis, 20% of all offenders had a psychotic illness, and 54% of offenders had a personality disorder as a principal or secondary diagnosis. Furthermore, Fazel and Grann (2004) found female defendants were one-and-a-half times more likely deemed legally insane than their male counterparts. These findings show that there is a high rate of psychiatric illness among homicide offenders. This is important to know because treatment may have a preventive role.

Coid, Kathan, Gault, and Jarman (2000) found female perpetrators who were diverted to forensic hospitals received different diagnoses than male perpetrators. Differences may mirror factual conditions, or differences could be due to behavior of men and women being interpreted systematically different during the judicial process resulting from stereotypic expectations regarding men and women. Coid et al. (2000) compared rates of female and male patients admitted to medium and high secure forensic psychiatry services.

The authors conducted research in England and Wales over a seven year period. Data was collected at 18 various sites: three special hospitals, eleven medium secure



units, and four private hospitals. Researchers found the annual rate of first admissions to secure forensic psychiatry services was 5.6 times higher for males than females (Coid et al., 2000). Results showed that more women were admitted for serious behavioral disorders for which they had not been charged or convicted due to a primary diagnosis of personality disorder compared to their male counterpart. This suggests that forensic psychiatrists may favor women having a psychiatric disposal at court more often than men.

### **The Present Study**

In light of the above information, the purpose of this study was to investigate female attorneys' attitudes toward the insanity defense in comparison to college students. In addition, a democratic attitude was hypothesized to positively correlate with greater acceptance of the insanity defense. This study used an independent sample *t*-test to compare the two groups (female attorneys and college students) attitudes towards the insanity defense, and an independent sample *t*-test to compare attitudes towards the insanity defense between democratic and republican affiliation. The hypotheses tested were:

H<sub>1</sub>: Female attorneys will show greater support for the insanity defense than college students.

H<sub>2</sub>: Individuals with a democratic political affiliation will show greater support for the insanity defense than those with a republican political affiliation.

Previous research suggests that the general population has a significantly negative attitude towards the insanity defense. They believe the defense is a loophole for criminals and that a mentally ill individual should be punished no matter their mental state (Hans,

1986). Further, previous research suggests some attitudinal and demographic factors have been found to be associated with support or non-support of the insanity defense (Hans, 1986). This study is important in further gaining insight about views towards the insanity defense that affects how the mentally ill can receive adequate care if found guilty but mentally ill.

## **Method**

### **Participants**

There was a total of 326 participants in the study (59 women attorneys and 267 college students). In terms of the attorneys, a majority of the participants were: between the ages of 31 and 40 years old ( $n = 34$ , 57.6%), followed by individuals 40+ years old ( $n = 18$ , 30.6%) and 25 and 30 years old ( $n = 7$ , 11.9%). Attorneys reported ethnicities of: Caucasian, not Hispanic ( $n = 42$ ), African American ( $n = 7$ ), Hispanic ( $n = 6$ ), Asian ( $n = 1$ ), Caribbean ( $n = 1$ ) and other ( $n = 2$ ). The types of law practiced as reported by the attorneys were: civil ( $n = 24$ ), criminal ( $n = 18$ ), family ( $n = 8$ ) and other ( $n = 9$ ). Attorneys' political affiliation was as follows: Democrat ( $n = 36$ ), Republican ( $n = 6$ ), Independent ( $n = 9$ ), Libertarian ( $n = 3$ ) and other ( $n = 5$ ).

In terms of college students (69 men and 198 women), a majority of the participants were: between the ages of 18 and 24 years old ( $n = 222$ , 83.1%), followed by individuals between 25 and 30 years old ( $n = 21$ , 7.9%), 31- 40 ( $n = 14$ , 5.2%) and 40+ years old ( $n = 10$ , 3.7%). Students reported ethnicities of: Caucasian, not Hispanic ( $n = 54$ ), African American ( $n = 76$ ), Hispanic ( $n = 88$ ), Asian ( $n = 2$ ), Caribbean ( $n = 27$ ) and other ( $n = 20$ ). Students' level of education was as follows: high school ( $n = 108$ ), undergraduate ( $n = 145$ ), graduate ( $n = 10$ ) and other ( $n = 4$ ). Students reported political

affiliations of Democrat ( $n = 130$ ), Republican ( $n = 35$ ), Independent ( $n = 41$ ), Libertarian ( $n = 3$ ) and other ( $n = 58$ ).

### **Procedure**

This study used archival data, which was originally collected by emailing a link to female attorneys on Facebook and emailing students attending a private university located in the southeastern region of the U.S.A., posting the link on social media and random participation through the online survey platform PsychData. Inclusion criteria for participation was being at least 18 years of age and English speaking. Individuals were able to anonymously complete the survey at their convenience. Anonymity was maintained by excluding any names or identifiers in the survey, as well as utilizing PsychData's 256-bit encryption technology to ensure protection of all data transactions. Prior to participation, individuals were presented with a cover letter indicating the purpose of the study and informing them that they were able to opt out of the study at any time (See Appendix A). Participants were directed to a link where they completed the following measures: the *Insanity Defense Attitude Scale—Revised (IDA-R)* (Skeem, Louden, & Evans, 2004), and a demographic questionnaire. Upon completion of these steps the study was completed.

### **Measures**

*Insanity Defense Attitudes Scale – Revised* (Skeem, Louden, & Evans, 2004).

The 22-item scale assesses an individual's attitude towards the insanity defense (See Appendix B). The participants were asked to indicate how much they agreed with statements on a 5-point Likert scale (1 = "strongly disagree", 5 = "strongly agree").

Examples of the statements are as follows: "The insanity defense threatens public safety

by telling criminals that they can get away with a crime if they come up with a good story about why they did it” and “The insanity defense returns disturbed, dangerous people to the streets.” Higher scores indicate a more negative attitude toward the insanity defense. In this study, the instrument was found to be reliable for both the attorneys ( $\alpha = .77$ ) and the college students ( $\alpha = .80$ ).

**Demographic Questionnaire.** A demographic questionnaire assessed participant’s gender, whether or not an individual was an attorney and if so what type of law did she practice, age, highest education level, ethnicity, and political affiliation (See Appendix C).

### Results

The first hypothesis was tested using an independent-samples *t*-test (women attorneys versus college students), with the outcome variable of acceptance of the insanity defense. Attorneys ( $M = 3.03$ ,  $SD = .61$ ) showed greater support for the insanity defense than college students ( $M = 3.92$ ,  $SD = .67$ ),  $t(324) = 9.30$ ,  $p < .001$ , 95% CI [1.07, 6.99],  $d = 1.80$ . The second hypothesis was also tested using an independent-sample *t*-test (democrats versus republicans), with the outcome variable of acceptance of the insanity defense. Political affiliation was not related to acceptance of the insanity defense,  $t(205) = .99$ ,  $p = .326$ , 95% CI [-.41, .14].

### Discussion

The objective of the current study was to investigate female attorneys’ attitudes toward the insanity defense in comparison to college students as well as seeking to find how political affiliation was related to acceptance of the insanity defense. The results supported the idea that female attorneys showed greater acceptance of the insanity

defense than college students. However, democrats did not differ from republicans as hypothesized.

The results of the present study support earlier findings that having an increased knowledge of law can decrease inaccurate perceptions of the insanity defense. Previous research has reported that the general population holds several negative preconceived ideas towards the insanity defense. For example, Vitacco (2009) reported about a common belief held by the general public regarding the insanity defense: "it is abused and serves criminals a loophole to get out of just punishment, and that even severely ill individuals should be held responsible for their behavior no matter what mental illness they may experience" (p. 62). The lack of knowledge that the public displays regarding the insanity defense has direct negative consequences on the mentally ill. Johnston (2013) commented that "mentally ill individuals are more vulnerable than non-mentally ill individuals when in prison to bullying, and sexual and physical assault" (p. 150). Therefore, it is possible that attorneys showed greater support for the insanity defense than college students due to having more knowledge in the legal realm.

Furthermore, this study sheds light on the importance of disseminating information about the insanity defense to society. As stated previously, the public holds many misconceptions about the insanity defense. For example, Hans (1986) reported that 89% of individuals believe the insanity defense is a loophole that allows too many people to go free. Thus, it would be beneficial to integrate education about the insanity defense and mentally ill in high schools and universities. Specifically, correct statistics could be shared and discussed in educational settings in order to decrease negative attitudes towards the defense due to lack of knowledge.

Previous research has suggested that a more authoritarian or punitive attitude correlates with less acceptance of the insanity defense (Hans, 1986). Furthermore, several researchers have documented a significant relationship between a conservative political affiliation and strict punitive reactions to crime. For instance, Flanagan, van Alstyne, and Gottfredson's (1982) found that white, conservative men showed greater support for capital punishment than women and minorities. Nonetheless, political affiliation was not related to acceptance of the insanity defense in the present study.

Newport (2014) suggested that attitudes regarding political and social issues are changing between younger and older generations. In U.S. history, the "moral/punitive" model is what the public has widely accepted (Pustilnik, 2005). The moral/punitive model conceives mental illness as failure of responsibility of the individual. Under this model, people with mental illness are seen as having defects of character who are unable to control themselves leading to the need of greater measures of control imposed on them (Pustilnik, 2005). However, it can be the case that younger generations, no matter what their political affiliation is, are looking to address social issues related to the insanity defense via the "medical/therapeutic" model instead. The medical/therapeutic model conceives mental illness as a set of medical conditions that require and respond to treatment. Pustilnik (2005) suggested that individuals may be shifting from the moral/punitive model to the medical/therapeutic model of conceiving mental illness due to economic and quality of life consequences. For instance, incarceration of a severely mentally ill person costs double than integrated services of a mentally ill person, which includes services such as supervised housing, daily nurse visits, mental health services and medication at a cost of \$25,000 per year in New York state (Pustilnik, 2005).

Although the present study offers useful information in understanding attitudes towards the insanity defense, there were several limitations. First, the present study relied on the use of self-report. Wright (2005) reported that self-report surveys run the risk that participants consciously or unconsciously respond in a manner that presents them as more favorable despite remaining anonymous. Second, the demographic composition of the participants limited the extent to which the results can be generalizable as the participants were primarily college students. Lastly, this study used categorical data to assess participants' political affiliation instead of capturing it at quantitative level. Spence and Heimrich (1978) warned that this technique results in data subject to statistical distortion, and that findings obtained using this method, should be interpreted with caution when research questions deal with between-group comparisons.

Future studies should consider assessing political affiliation on a spectrum. Levitt (2014) stated that the default modes (democrat and republican) of understanding political affiliation are descriptive and diagnostic failures that have grave consequences. In modern times, individual's political attitudes are referred to as being on a spectrum because individuals have a wide range of variability of beliefs, morals, and values within their political groups. Future studies could include the *Attitudes Toward Parties Scale* (Douglas & Christiansen, 2010), which examines attitudes toward political parties. Also, future studies should compare attitudes between female and male attorneys to determine if there is gender bias in the assessment of the insanity defense.

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## Appendix A

Barry University

## Cover Letter

Dear Research Participant:

Your participation in a research project is requested. The title of the study is Perceptions of the Insanity Defense. The research is being conducted by Linda Bacheller, PsyD, JD, a faculty member in the Psychology Department at Barry University, and is seeking information that will be useful in the field of psychology. The aims of the research are to further the knowledge in the field of psychology about the complex relationship between perceptions of mental illness and culpability. In accordance with these aims, the following procedures will be used: the study will be posted on social media on an online survey forum, in which individuals will be able to complete at their convenience. Participants will complete a demographic questionnaire and The Insanity Defense Attitudes—Revised Scale. The anticipated number of participants is 2500. If you decide to participate in this research, you will be asked to spend approximately 10 minutes completing the two questionnaires mentioned above.

Your consent to be a research participant is strictly voluntary and should you decline to participate, refuse to answer any questions, or should you choose to drop out at any time during the study, there will be no adverse effects.

There are no known risks to you and therefore, this study is considered minimal risk, meaning the probability and magnitude of harm or discomfort anticipated in the research is not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

While there are no direct benefits to you, your participation in this study will help further the knowledge in the field of psychology about the complex relationship between perceptions of mental illness and culpability.

As a research participant information that you provide will be kept anonymous, that is, no names or other identifiers will be collected. Opinions will be collected via an anonymous online survey tool, PsychData. The following description outlines PsychData's policies with respect to confidentiality and data security: "PsychData is specifically designed to meet and exceed industry standards for Internet security as well as IRB standards for the protection of research participants. Our servers, database, and web presence employ multiple forms of enterprise-level security features to accomplish these goals. PsychData utilizes Secure Socket Layer (SSL) 256-bit encryption technology to ensure protection of all data transactions on our website. Data is encrypted at the instant that a user submits it and can only be decoded by the target server. PsychData maintains an SSL certificate from Verisign, the industry leader in SSL technology". In addition, PsychData allows for disabling IP address collection, thereby assuring that the results received will be truly anonymous and there will be no record kept of IP address nor linkages, which could be utilized to identify participants. Upon completion of data collection, all electronic data will be downloaded and then deleted from the PsychData server.

If you have any questions or concerns regarding the study or your participation in the study, you may contact me. Dr. Linda Bacheller, at [lbacheller@barry.edu](mailto:lbacheller@barry.edu), or the Institutional Review Board point of contact, Estela Azevedo, at (305) 899 – 3020.

Thank you for your participation.

Sincerely,

Linda L. Bacheller, PsyD, JD

This study has been approved by Barry University's IRB #170916.

## Appendix B

## Insanity Defense Attitude

Please indicate the degree to which you disagree or agree with the following statements.

1. I believe that people should be held responsible for their actions no matter what their mental condition.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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2. I believe that all human beings know what they are doing and have the power to control themselves.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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3. The insanity defense threatens public safety by telling criminals that they can get away with a crime if they come up with a good story about why they did it.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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4. I believe that mental illness can impair people's ability to make logical choices and control themselves.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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5. A defendant's degree of insanity is irrelevant: if he commits they crime, then he should do the time.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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6. The insanity defense returns disturbed, dangerous people to the streets.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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7. Mentally ill defendants who plead insanity have failed to exert enough willpower to behave properly like the rest of us. So, they should be punished for their crimes like everyone else.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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8. As a last resort, defense attorneys will encourage their clients to act strangely and lie through their teeth in order to appear "insane".

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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9. Perfectly sane killers can get away with their crimes by hiring high-priced lawyers and experts who misuse the insanity defense.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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10. The insanity plea is a loophole in the law that allows too many guilty people to escape punishment.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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11. We should punish people who commit criminal acts, regardless of their degree of mental disturbance.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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12. It is wrong to punish people who commit crime for crazy reasons while gripped by uncontrollable hallucinations or delusions.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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13. Most defendants who use the insanity defense are truly mentally ill, not fakers.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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14. Some people with severe mental illness are out of touch with reality and do not understand that their acts are wrong. These people cannot be blamed and do not deserve to be punished.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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15. Many of the crazy criminals that psychiatrists see fit to return to the streets go on to kill again.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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16. With slick attorneys and a sad story, any criminal can use the insanity defenses to finagle his way to freedom.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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17. It is wrong to punish someone for an act they commit because of any uncontrollable illness, whether it be epilepsy or mental illness.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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18. I believe that we should punish a person for a criminal act only if he understood the act as evil and then freely chose to do it.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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19. For the right price, psychiatrists will probably manufacture a "mental illness" for any criminal to convince the jury that he is insane.

Strongly Disagree	Somewhat Disagree	Disagree	Neutral	Agree	Somewhat Agree	Strongly Agree
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20. How strongly do you feel about the insanity defense?

Not at all	Somewhat Strongly	Neutral	Mildly	Somewhat Strongly	Very Strongly
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21. How personally important is your opinion of the insanity defense?

Not at all	Somewhat Strongly	Neutral	Mildly	Somewhat Strongly	Very Strongly
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22. How much do you care about the insanity defense?

Not at all	Somewhat Strongly	Neutral	Mildly	Somewhat Strongly	Very Strongly
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## Appendix C

## Demographic Questionnaire

1. What is your gender?
  - Female
  - Male
2. Are you an attorney?
  - Yes
  - No
3. What is your age?
  - 18-24
  - 25-30
  - 31-40
  - 40+
4. If you are an attorney, what type of law do you practice:
  - Civil
  - Criminal
  - Family
  - Juvenile
  - Other
5. What is your highest education level?
  - High School
  - Undergraduate
  - Graduate

- Other
6. What is your ethnicity?
- Caucasian, not Hispanic
  - African American
  - Hispanic
  - Asian
  - Caribbean
  - Other
7. Describe your political affiliation:
- Democrat
  - Republican
  - Independent
  - Libertarian
  - Other