Alan R. Felthous, [1] *M.D.*

Fates of Assailants of U.S. Presidents

REFERENCE: Felthous, A. R., **"Fates of Assailants of U.S. Presidents,"** *Journal of Forensic Sciences*, JFSCA, Vol. 30, No. 1, Jan. 1985, pp. 31-36.

ABSTRACT: Public outrage has been mounting in recent years over the increasing number of violent crimes and assassination attempts. Before the 1982 Hinckley verdict, criticisms over merits of the insanity defense were escalating. Immediately afterwards some inaccurate news reports and hyperbole by public figures added to the popular perception that the insanity defense and psychiatric testimony have allowed notorious offenders more favorable dispositions, or perhaps even to go "scot-free." Systematic review of fates of prior Presidential assailants demonstrates that both legal and extralegal consequences for their violent acts have been severe. Some inferences are discussed.

KEYWORDS: psychiatry, jurisprudence, homicide

Already waxing public concern over increasing frequencies of violent crimes and assassination attempts in recent decades exacerbated further in the wake of the 1982 Hinckley decision. Following the Hinckley decision, some inaccurate news reports muddled critically important concepts, when clarity of thought was most needed. Hyperbole by prominent political figures threw gasoline upon the fires of public discontent. As John Hinckley remains confined in the Howard Pavilion of St. Elizabeth's Hospital, we recall statements to the effect that the insanity defense and psychiatry testimony allowed him to go "scot-free."

Pasewark asserts that according to available data various segments of the population hold inaccurate estimates of the incidence and success rate of the insanity plea [*1*]. In a survey in Wyoming, residents in the community believed 43% of criminal defendants entered the insanity plea. State hospital aides believed the figure was 57%; state hospital professional staff, 13%. Actually only 0.47% of criminal defendants entered the insanity plea over the indicated time period. Success rates were also inflated in this opinion survey, ranging from 19% for community mental health professionals to 44% for college students. Community residents estimated the success rate to be 38%. In reality only 1 of 102 who entered the plea was found not guilty by reason of insanity (NGRI); hence, the success rate was 0.99% [*1*].

One cannot generalize from results of a study in a sparsely populated state. Without representative studies, neither can one know whether the American public overestimates incidences and success rates for the insanity defense with respect to specific types of notorious crimes such as attempted assassination of a U.S. President. Given the enormous negative publicity concerning the insanity defense in recent years, it would not be surprising if public opinion held that assailants of U.S. Presidents tended to benefit unduly from the insanity defense and

Presented at the 36th Annual Meeting of the American Academy of Forensic Sciences, Anaheim, CA, 21-25 Feb. 1984. Received for publication 10 March 1984; revised manuscript received 4 June 1984; accepted for publication 8 June 1984.

[1]Formerly, section chief, C. F. Menninger Memorial Hospital and faculty member, Karl Menninger School of Psychiatry, Topeka, KS; presently, chief of forensic services and associate professor of psychiatry, Department of Psychiatry and Behavioral Sciences, University of Texas Medical Branch, Galveston, TX.

psychiatric testimony. Particularly since the insanity defense continues under critical scrutiny; forensic science experts, legalists, and policy makers should be familiar with applications of this defense to prior assailants of U.S. Presidents.

Before proceeding with this review, a few disclaimers should be clarified. Selected, reported observations and impressions about assailants of U.S. Presidents are mentioned to support the propriety of the insanity defense in several cases. This information is not intended to imply conclusions by the author regarding either diagnosis or verdict. Observations about frequency and effectiveness of the insanity defense for assailants of Presidents cannot be generalized to apply to frequencies and effectiveness rates of the insanity defense for other types of offenders.

Assailants Found Not Guilty By Reason of Insanity

Rather than reviewing assailants chronologically, we will order them according to types of fate. Two of the eleven assailants before Hinckley used the insanity defense successfully: Richard Lawrence and John Shrank.

Richard Lawrence, the first in the series of assailants, shot at President Andrew Jackson in 1835. He was charged with two counts of assault with intent to kill, a misdemeanor punishable by fine and imprisonment. The prosecutor for the District of Columbia, Francis Scott Key, urged the defense to plead insanity [*2*]. Moreover, Key recommended invocation of the delusion rule of insanity rather than the right-wrong test [*3*], which had not yet been endorsed by the House of Lords of the M'Naghten trial and had not been enacted by the U.S. Congress or State Legislatures. The delusion test of insanity was more easily established for Lawrence than the comparatively vague right-wrong test would have been. Several physicians testified that Lawrence was insane. The court instructed the jury to apply the delusion rule, and after only 5 min the jury returned a verdict of not guilty by reason of insanity. Lawrence was confined to jails and hospitals for the rest of his life. He died in St. Elizabeth's Hospital on 13 June 1861, after 26 years of total confinement.

John Shrank shot former President Theodore Roosevelt nonfatally in Milwaukee, WI in 1912. Shrank was charged with armed assault with intent to kill, a crime punishable by imprisonment for not less than one year and not more than fifteen years in Wisconsin [*3*]. The Municipal Court empanelled a sanity commission of five alienists each of whom testified in support of insanity. The court found Shrank not guilty by reason of insanity, and he was hospitalized for the rest of his life. In 1943 Shrank died of natural causes, after 31 years of total confinement. His length of confinement was more than double what it would have been had he been found guilty and maximally punished for the criminal offense. Shrank's confinement was long and indefinite because of insanity law and post insanity acquittal commitment procedures of the day.

John Hinckley's attempt to shoot President Reagan, his insanity defense, psychiatric testimony on both sides of the issue, and the jury's verdict of not guilty by reason of insanity are comparatively recent events that received much publicity. Consequently, we will not belabor facts with which the reader is undoubtedly familiar. Rather, we will indicate features that render this case unique among Presidential assailants.

Hinckley was the first and only assailant who pled insanity since the 1965 Act which criminalized attempts to assassinite a U.S. President. He was the only assailant-defendant for whom the American Law Institute (ALI) test of insanity was applied, a much broader test than the long used M'Naghten right-wrong test or the early delusion test. He was the only assailant to be found NGRI when psychiatrists testified on both sides of the issue. He was the only assailant found NGRI who actually seriously injured and maimed someone during the attack. He was the only NGRI assailant who had a reasonable chance of release during his lifetime. Hinckley was the single assailant among twelve who may have actually benefited from the insanity defense.

Assailants Found Guilty and Executed

After Guiteau assassinated President Garfield in 1881, two attempts were made on Guiteau's life [*4, 5*]. Soldiers assigned to guard the jail in which he was housed decided that he should be killed. The sergeant who was assigned the grisly task shot into his cell and missed Guiteau, but hit and shattered a picture of his mother. The second attempt occurred while Guiteau was being transported in a van between jail and the courthouse. A mounted rider shot into the van and grazed Guiteau's arm. It appears fortuitous, then, that Guiteau did not fall into the class of assailants who were killed before trial.

During Guiteau's trial, a neurologist testified that Guiteau was insane [*5*]; and his sister testified that once just after he threatened her with an ax, the family physician said he was insane and recommended commitment. The jury took only 1 h and 5 min to find Guiteau sane and guilty. He was executed by hanging. After detailing various signs of cerebral disease, Dr. Esmond Long, a modern pathologist who reviewed Guiteau's autopsy report, concluded that there was good evidence for an inflammatory, infectious process of the brain [*6*].

Zangara attempted to shoot President Franklin Roosevelt and did, in fact, kill the Mayor of Chicago [*7*]. He went to trial two times, once before and once after Mayor Cermak died. Two psychiatrists interviewed Zangara and arrived at a diagnostic impression of "Psychopathic Personality," but neither concluded whether he was sane or insane. Some 20 years later, one of the psychiatrists said that, if he had been examined in modern facilities, Zangara would have been adjudicated insane. Zangara was found guilty and executed by electrocution.

Although Czolgosz, who assassinated President McKinley in 1901, did not present the insanity defense, he reportedly showed signs of psychosis [*8*]. Five physicians testified that he was sane and responsible. He, too, was executed by electrocution. If this was not punishment enough, a carboy of sulfuric acid was poured into his coffin.

Assailants Killed Before Trial

Six assailants met a violent death, three before trial: Booth, Torresola, and Oswald. John Wilkes Booth, assassin of President Lincoln, was shot during apprehension by Union soldiers. A nagging question remained as to whether the fatal bullet was delivered by his own firearm or by that of a soldier. Booth's three coconspirators, who entered the Seward home and stabbed five persons, were tried, convicted, and executed by hanging. Mrs. Suratt, the widow who kept the boarding house where Booth and his coconspirators met to make their plans, was also executed. She was the first woman in American history to be hanged and the first woman to be executed by the U.S. Government [*9*]. Torresola was one of the two would-be assassins of President Truman. After felling two policemen with gunfire, he was fatally shot in the head [*10*]. Lee Harvey Oswald, assassin of President Kennedy, was fatally shot by Jack Ruby.

Assailants Found Guilty and Imprisoned

Lynette "Squeaky" Fromme attempted to shoot President Ford on 5 Sept. 1975. Her handgun apparently misfired. The firearm was loaded but there was no bullet in the chamber. One week later, she was the first person to be arraigned for the federal crime of attempting to assassinate a U.S. President since the law was enacted in 1965. She initially pled not guilty, then quickly changed her plea to "nolo contendere." The U.S. Judge Thomas J. MacBride rejected her request. Fromme released her attorneys, took charge of her own case, and tried to change her plea to guilty [*11*]. Attempting to restore order to the judicial process, Judge MacBride reappointed the public defender and strictly limited Fromme's participation in the trial. Her counsel did not ask for acquittal. Instead, the argument was that Fromme did not intend to shoot the President; hence, she should be convicted of the lesser crime of assault. After 19½ h

of deliberation, the jury entered a verdict of guilty [*12*]. She was sentenced to life imprisonment with possibility for parole in 15 years [*13*].

Fromme's peculiar statements and irrational behavior in and out of the courtroom raise questions about her competency to stand trial. At the trial's inception, Judge MacBride ruled that Fromme was competent to stand trial and to waive her counsel [*14*]. Insanity was not among her various pleas. There is reason to ask whether Fromme met insanity criteria, but this issue was not formally addressed in the courtroom.

On 22 Sept. 1975, Sara Jane "Sally" Moore shot at President Ford. The bullet missed Ford by 1.5 m by (5 ft), ricocheted off a wall, and struck an off-duty cab driver without inflicting serious injury. She was arraigned on the charge of "attempting to kill the President of the United States by the use of a handgun" [*14*]. With consent of both defense and prosecuting attorneys, U.S. Magistrate Owen Woodruff ordered Moore to undergo psychiatric evaluation at Metropolitan Correctional Center, San Diego. Moore first pled innocent, then asked to change her plea to guilty. Federal Court Judge Samuel Corti reviewed evidence for the charge and her psychiatric report. The diagnosis from psychiatric assessment was hysterical personality disorder. Moore was adjudicated guilty of the charge and sentenced to prison with eligibility for parole after ten years [*15*].

The only assailant to eventually regain his freedom did not advance the insanity defense. Collazo, who together with Torresola, planned to assassinate President Truman, shot a police officer and was shot in the chest himself during the exchange of gunfire. After recovering from his wound, Collazo was convicted and sentenced to be executed; but President Truman commuted the sentence to life imprisonment. Some years later, President Carter granted Collazo freedom. The survival of Collazo's intended victim, the President, was critical to his fate. The insanity defense was not.

Discussion

Historically the fates of Presidential assailants have been severe. The insanity defense did not protect them from harsh consequences. Those who advanced the insanity defense were found guilty and executed or found not guilty by reason of insanity and consigned to a mental hospital. Two of the three NGRI assailants spent the rest of their lives in institutions. Ultimate fates cannot be predicted for Fromme and Moore, who are in prison, or Hinckley, who is in a security hospital.

Expert testimony evidently related to the verdict in individual cases, although mere involvement of medical experts did not lead to leniency. In each of the two cases wherein a commission of physicians testified in support of insanity, the defendants were found NGRI. Where two psychiatrists refrained from answering the legal question of insanity in the case of Zangara, the verdict was guilty. After five psychiatrists testified that Czolgosz was sane, the verdict was guilty. In only two cases did experts testify on both sides of the issue: Guiteau was found guilty and Hinckley, NGRI.

An ideal interpretation of the positive relationship between medical testimony and adjudication is that experts are in agreement when clincial findings are clear, and verdicts reflect valid findings of the experts. Ambiguous psychological conditions, on the other hand, lead to equivocal or variable clinical findings and variable verdicts.

But other factors may have been more compelling in the courtroom than the defendant's states of mind. The three men who were found NGRI failed to kill their victims. Each of the three for whom the insanity issue was raised but who were found guilty and executed, killed an important political figure of the day. After President Garfield was shot, but before he died, it was commonly assumed that, if the President survived, Guiteau would be institutionalized [5].

Experts may tend to find themselves in agreement when they are members of a court-appointed sanity commission. Verdicts were consonant with testimony of experts on a commission, and members of each commission were unanimous. It should be asked whether findings

of commissioners were influenced to a greater extent by perceived or anticipated public opinion in comparison with experts for either defense or prosecution.

The 1965 Act on assassination attempts against Presidents, which provided for lengthier prison sentencing for failed attempts, may have affected the use and potential for effectiveness of the insanity defense. Together with recent court decisions allowing for release of NGRI acquittees by establishing commitment standards, this act completely turned the tables for near-assassins found guilty in relation to those found NGRI. If found guilty, a near-assassin now could face life imprisonment, while one adjudicated NGRI could be released after several years of hospital treatment. Would Lawrence and Shrank have been found NGRI, if criminal laws of their day had provided a sentence of life imprisonment for an abortive assassination attempt?

Court decisions within the past ten years permit earlier release in comparison with practices of an earlier era, when NGRIs charged with violent crimes remained hospitalized for life. If hospitalization is to serve therapeutic rather than punitive purposes, the NGRI individual should not be hospitalized longer than is necessary for adequate treatment. Moreover, confinement standards today approach those for civil commitment. An individual may be released after he is no longer dangerous because of mental illness, even if he has not fully recovered from mental illness. If the possibility of early release causes citizens to wax anxiously concerned, it renders the defense more attractive to defendants.

Beyond considerations of insanity laws and dispositional issues, it is striking that all six assailants who killed someone during the attack were killed themselves. Presidential assassination attempts which result in a death detonate widespread rage. Public anger can be expressed through orderly legal procedures that result in conviction and execution. Or, less orderly, an irate person may attempt to "assassinate" the infamous assailant.

Even though more attractive, effective assertion of the insanity defense remains uncommon, perhaps only a fraction of 1% of felony cases [*1*]. In the group of twelve Presidential assailants, the percentage of defendants who invoked this defense was higher than that for felony defendants collectively. Those who attempt overt assassination may be more mentally disturbed than those charged with other types of felonies. Greater use of this defense may be related to the highly visible modus operandi which does not permit an effective not guilty defense. The percentage of effective insanity defenses was also higher for Presidential assailants compared with that for most felony defendants. However, if the touchstone for a *successful* defense is a reasonably auspicious, or at least less grievous fate for the defendant, then the insanity defense has not been successful for most assailants of U.S. Presidents.

References

[*1*] Pasewark, R. A., "Insanity Plea: A Review of the Research Literature," *Journal of Psychiatry and Law*, Vol. 9, 1981, pp. 357-401.

[*2*] Weisz, A. E. and Taylor, R. L., "American Presidential Assassinations," *Diseases of the Nervous System*, Vol. 30, No. 10, Oct. 1969, pp. 659-668.

[*3*] Donovan, R. J., *The Assassins*, Harper and Brothers Publishers, New York, 1952.

[*4*] Hastings, D. W., "The Psychiatry of Presidential Assassination: Part II: Garfield and McKinley," *The Journal-Lancet*, Vol. 85, No. 4, April 1965, pp. 157-162.

[*5*] Rosenberg, C. E., *The Trial of the Assassin Guiteau*, The University of Chicago Press, Chicago, 1968.

[*6*] Communication from Dr. Esmond Long to C. E. Rosenberg, 20 June 1927, cited in footnote pp. 239-240, in Rosenberg, C. E., *The Trial of the Assassin Guiteau*, The University of Chicago Press, Chicago, 1968.

[*7*] Hastings, D. W., "The Pyschiatry of Presidential Assassination: Part III: The Roosevelts," *The Journal-Lancet*, Vol. 85, No. 5, May 1965, pp. 189-192.

[*8*] Channing, W., "The Mental Status of Czolgosz, The Assassin of President McKinley," *American Journal of Insanity*, Vol. 59, No. 2, Oct. 1902, pp. 233-278.

[*9*] Sandburg, C., *Abraham Lincoln: The War Years*, Vol. IV, Harcort Brace, and Co., New York, 1939.

[*10*] Hastings, D. W., "The Psychiatry of Presidential Assassination: Part IV: Truman and Kennedy," *The Journal-Lancet*, Vol. 85, No. 7, July 1965, pp. 295–301.
[*11*] *Newsweek*, Vol. 86, No. 20, 17 Nov. 1975, p. 53.
[*12*] *Newsweek*, Vol. 85, No. 23, 8 Dec. 1975, p. 32.
[*13*] *Time*, Vol. 106, No. 26, 29 Dec. 1975, p. 19.
[*14*] *Time*, Vol. 106, No. 14, 6 Oct. 1975, p. 14.
[*15*] Keerdoja, E., in *Newsweek*, Vol. 88, No. 19, 8 Nov. 1976, p. 10.

Address requests for reprints or additional information to
Alan R. Felthous, M.D.
Chief of Forensic Services
Department of Psychiatry and Behavioral Sciences
University of Texas Medical Branch
Galveston, TX 77550