

The Insanity Defense

The legal tradition of Anglo-Saxon jurisprudence establishes that criminal responsibility requires two things:

- a) *actus rea* --- an action/ behavior must have occurred that violates the law
- b) *mens rea* --- there must be an intent to commit the act

There are three different legal standards of insanity ---

- 1) **The M’Naghten Rule:** an individual is not responsible for his or her actions “if he could not distinguish “right from wrong” more than a wild beast. [33% of States]
Originates in England in 1724; in the USA in 1843
- 2) **The Durham Rule:** “an accused is not criminally responsible if his unlawful act was the product of a mental disease or mental defect”. [0% of States]
Originates in the USA in 1954
- 3) **The Brawner Rule or the ALI (American Law Institute) Rule:** “a person is not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality (i.e., wrongfulness) of his conduct or to conform his conduct to the requirements of law”. [50% of States and all federal jurisdictions]
Originates in the USA in 1972

***Note:** the burden of proving insanity is now upon the defendant’s counsel

Definition: Competence to stand trial requires that the defendant have a reasonable degree of rational understanding ... and has a rational as well as factual understanding of the proceedings against him.

Case Studies:

- 1) **Jeffrey Dahmer**---the serial killer from the Milwaukee area who drugged and then cannibalized many of his victims keeping their spare body parts in his refrigerators while he continued to work at a local chocolate factory from 9 to 5 and was regarded as a model tenant by his landlord.
- 2) **Brian Stanley**---a local man who was formerly in the military but discharged for some psychiatric problems. He killed three adult males in an Onalaska church---two of whom were pastors and one was a custodian. He claimed to be hearing voices from God ordering him to kill those in the church who were violating God’s law (specifically, making sure that altar boys were boys and not girls).