

# When Can a Defendant Use an Insanity Defense

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Can I use an insanity defense if I am on trial for committing a crime? The short answer is that depends on your state of mind when you committed the alleged crime. You should look at several factors before pleading an insanity defense, which is an excuse defense instead of a justification defense. An insanity defense means that you admit to committing the crime, but that you lacked culpability when you committed the crime.

## Establishing Competency

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Pleading insanity becomes difficult right from the start. If you are deemed legally incompetent, you cannot stand trial, so pleading insanity is moot. However, if you are deemed competent to stand trial, it weakens an insanity plea to a certain extent. You must be able to communicate with your attorney and understand the proceedings against you. Should your attorney decide to establish that you are incompetent to stand trial, you will most likely have to undergo a psychological evaluation.

## The Insanity Plea

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Your insanity defense lawyer will review the circumstances of your case and the law involved with your case to determine if you might win using one of the types of the insanity defense. Your attorney may decide on a diminished capacity defense instead. While both types look at your competence during the commission of the crime, insanity is a complete defense while diminished capacity means you ask for a lesser crime. In other words, when you use an insanity defense, you are essentially pleading not guilty, while you admit to the crime if you plead diminished capacity. Both types of insanity defense may require one or more psychological evaluations and/or tests.

## Insanity Defense Cases

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Several high-profile insanity defense cases exist, including *United State v. Hinkley*, the case of John Schrank, and Lorena Bobbitt. In the Bobbitt case, jurors found that Bobbitt's insanity was an "irresistible impulse." Schrank, as a defense to his shooting President Roosevelt, said that President McKinley told him in a dream that he had been assassinated by President Roosevelt. Hinkley successfully used an insanity defense when he shot President Reagan in 1981.

## After Winning an Insanity Defense

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Just because you won an insanity defense doesn't necessarily mean that you get to go free. Although you are deemed not guilty by way of insanity, the court usually orders you to receive psychological treatment in a mental health institution. Often, your "sentence" is longer than a regular jail sentence. In most cases, you will have to convince a court that you are no longer legally insane before the court will sign an order releasing you from the mental health institution.

## To Plead Insanity or Not to Plead Insanity

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Before you agree to an insanity plea, make sure you understand all of the consequences of such a plea, including being placed in a mental institution longer than what you would have received as a prison sentence. You should also consider that you will have to convince the court that you are no longer legally insane before the court orders your release. It may be more difficult to get released after pleading insanity. If you feel you should plead insanity for a crime you have been accused of committing, contact an insanity defense attorney before you plea.