



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

Treatment, not punishment, for Odgren

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Attorney Jonathan Shapiro was outraged when Judge S. Jane Haggerty prohibited him from including in his closing statement before the jury, a description of what his client's fate would be were he be found not criminally responsible because of mental disease or defect. "I think it is an error, it is unfair, it is wrong," argued Shapiro, calling it one of the most egregious he has seen in his many years of legal practice. Shapiro's frustration is understandable, if not justified.

The defendant, John Odgren of Princeton, MA, is on trial for murder associated with the January 19, 2007 stabbing death of 15-year-old James Alenson inside a bathroom at Lincoln-Sudbury Regional High. Whether you believe the prosecution's theory that he knew exactly what he was doing on the day of the stabbing or the defense's claim that his fantasies and delusions were so powerful that he couldn't control his actions in accordance with the requirements of the law, John Odgren clearly remains a danger to society.

It would be important, and arguably fair, that the jury understand the ramifications of its verdict. Jurors need to know that, contrary to common belief, an insanity verdict would not result in Odgren being freed.

Instead, following a mandated 40 day evaluation, Odgren would undoubtedly be committed to a psychiatric facility for treatment, not to be released until he is deemed no longer dangerous to himself or others. Given the severity of his psychological impairment, this would likely take a significantly long time. Research shows, in fact, that insanity verdicts typically result in protracted stays of hospitalization, very often longer than what the term of incarceration would be if convicted of the crime.

During its deliberation, the jury will have several options for a unanimous verdict if unconvinced of the insanity defense--murder in the first and second degree, besides, of course, acquittal. First degree murder, the formal charge of the indictment, seems unreasonable, given how Odgren's

distorted thinking would have reduced his ability to premeditate in a clear-headed way. A more likely second-degree murder verdict would result in a life sentence with parole eligibility after 15 years and at such time as he was no longer considered a danger.

Whether convicted of the crime or excused from criminal responsibility based on his mental illness, Odgren will remain lock-up for a many years--likely decades. It would seem best for all concerned that he spend the time in a place where he can best receive treatment. That, of course, would be a hospital, not a prison.