

BOB DOLE



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FOR IMMEDIATE RELEASE:
THURSDAY, JUNE 24, 1982

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DOLE DRAFTS LEGISLATION TO CHANGE INSANITY DEFENSE

WASHINGTON -- Senator Bob Dole (Rep.-Ks.) today called for sweeping revisions in the law regarding the insanity defense. Dole, Chairman of the Senate Judiciary Subcommittee on Courts, has directed his Judiciary staff to begin work on legislation to restructure the insanity defense.

In a statement released in Washington today, Dole focused on the confusion created in the judicial process by complicated jury instructions, conflicting trial testimony offered by experts on the issue of mental competency, and the vague definitions of mental illness used by the medical profession which have made it difficult to separate true mental illness from severe emotional distress or imbalance.

"Many of the jurors in the Hinckley case have expressed frustration with the instructions to the jury on the insanity question. The instructions were convoluted, and required the jury to acquit the defendant if it found that the government had failed to prove beyond a reasonable doubt that the defendant was not mentally incompetent at the time of the shooting. That phrases the question in the form of a double negative -- and it's twice as difficult to understand. It seems to me that the question of insanity can be more simply stated to a jury. The Subcommittee on Courts of the Senate Judiciary Committee, which I chair, has jurisdiction over court procedures, and this is one of the things that we're going to look at", Dole said. "The questions raised by the Hinckley verdict should not be allowed to fade with time. Substantive changes in the insanity defense should be considered in a forum that will guarantee a serious and proper review."

Dole also focused on the problems created by the use of hired psychiatrists, and the difficulty of separating fact from opinion in expert testimony. "A number of proposals have been made over the years to limit the use of expert testimony. I'm exploring four alternatives in this regard:

- (1) require court appointed, independent experts to examine the defendant and provide testimony to aid the jury;
- (2) limit the experts to statements of fact and not opinion on the ultimate question of mental responsibility at the time of the offense -- facts such as what behavior was observed during examination, what statements the defendant made about the offense, and perhaps statistical data relating to the overall state of health of the defendant;
- (3) narrow the insanity defense to the sole question of whether the defendant had the required intent to commit the act at the time of the offense. That is, did he know what he was doing and did he intend the result? This would severely curtail the inquiry that the present law permits into whether the defendant could control his conduct, and is consistent with what the law requires before a person can be convicted of a crime;
- (4) study the possibility of shifting the burden of proof to the defendant to establish that he lacked the ability to control his conduct at the time of the offense."