

# 刑事精神鑑定 之實證研究— 2016至2021年法院事實審統計

An Empirical Study for Psychiatry Assessment  
in the Criminal Procedure: The Statistic of  
Trial of Fact in the Court between 2016 and 2021

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## 摘要

近年來對於重大暴力事件犯罪嫌疑人經媒體報導似均患有精神疾病，就事實審法院5年送精神鑑定案件似有緩步成長，惟就所涉案件是以竊盜為大宗，暴力犯罪僅占少數，而其中罹患思覺失調症僅有7%，然而從精神鑑定結果與判決見解之高達近99%之一致性，是否屬於正常現象，而就不一致案例及複數精神鑑定究竟法院如何取捨，本文提出實證分析。

Recently the suspected of the serious violence cases seemed to suffer from the schizophrenia according to the mass media and within five years it would be increased slowly

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that the courts which are in charge of trial of fact assigned to the psychiatry assessment. In which the most cases were about theft, whereas the violence cases were less, in which only 7% of the patients suffered from the schizophrenia. By means of empirical analysis, it would be discussed in this essay whether it would be normal that the opinions of assessment had up to 99% of correspondence with the judgments, and how the court would make the decision when an opinion would be divergent from the assurance of the court and when there would be many opinions at the same time.

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## 壹、前言

「我有精神病所以殺死人也無罪」、「我有精神疾病犯法也無罪」，新聞中常見聳動的內容，也引起精神病是否為犯罪之護身符<sup>1</sup>及精神病患是否成為社會安全破口之議題。然而，在法院刑事案件中是否真如邇來新聞中陸續不斷傳出精神疾病犯罪之情事，此可從法院刑事精神鑑定之調查，是否隨著新聞傳播而有增加之趨勢作為觀察指標，而精神鑑定案件是否均屬暴力犯罪或者患有思覺失調之病人是否為精神鑑定之主要對象，作為檢驗標籤化真偽的方法；另就精神鑑定結果是否與法官最終判斷之一致性，法官是否尊重鑑定機關或鑑定人鑑定結果或者依據其自由心證獨立判斷，向為外界所關切，此外，就精神鑑定品質究竟有無基本應踐行之基本流程及鑑定方法，特別是在複數精神鑑定結果不一致時，究竟孰優孰劣，法院又應

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1 許立穎，殺警判無罪 名嘴怒了：思覺失調不是護身符！，中時新聞網，2020年4月30日報導，<https://www.chinatimes.com/realtimenews/20200430005467-260405?chdtv>（瀏覽日期：2021年7月29日）。