

Senator DOMINICK. Yes, just a rough estimate.

Dr. GUTTMACHER. Yes. The figures run, I think, in Maryland, about 1½ to 2 percent of individuals who come to trial in the criminal courts are found not guilty because of insanity. I would say the plea is not made, perhaps, more than in 3 or 4 percent of the cases. That would be—I do not have any actual statistics to support that, but I think that is a fairly accurate guess.

Senator DOMINICK. Are we talking now in terms of percentages of the more violent crimes, or are we talking about the overall crime rate?

Dr. GUTTMACHER. Well, I deal only with the trial court level. We have not, up to now, been dealing with the police court type of case. So that there are, I think, about 5,000 to 6,000 individuals who come before the criminal courts of Baltimore, and this is the group with which I deal. The statistics that I give you would be in regard to that particular group of cases. These are the more serious crimes, as a whole.

Senator DOMINICK. Would the percentage that you quote be equally applicable to the class of cases where death is involved?

Dr. GUTTMACHER. Death is involved? No; the insanity plea is made more frequently in capital offenses than in any other type of case.

Senator DOMINICK. Do you have any idea what percentage that might involve?

Dr. GUTTMACHER. This, sir, is a guess. I would say that not more than 10 percent, at most. And the reason that the figure is relatively low in Baltimore is that these cases are frequently referred to our office for pretrial examination. I think that our office is sufficiently well established, and because of our neutral position, if we render a report saying that we feel that this man is not suffering from a definite mental disease, that most defense attorneys will drop the idea of making an insanity plea. I believe if you go to a jurisdiction that does not have the particular type of office which we have, you would find a greater percentage of not-guilty-because-of-insanity pleas in capital cases.

Senator DOMINICK. You do not happen to know what that might be in the District of Columbia, do you?

Dr. GUTTMACHER. No, sir; I am not familiar with that at all.

Senator DOMINICK. Thank you, Doctor.

The CHAIRMAN. We will ask the staff to secure that from the proper officials.

The U.S. attorney did testify yesterday, this is not completely responsive to the Senator's question, but he did testify that in 1962 the figure of acquittals by reason of insanity was 13 percent of all defendants tried, which would seem to be materially higher than you have experienced in Maryland, 13 percent of all defendants tried.

Dr. GUTTMACHER. Well, we have in Maryland the *McNaghten* rule. It has not been in any way amended. We must deal with the rule which we have. I have never been a proponent of that rule. I think that it doesn't administer justice as it should be administered.

I do not know, sir, how to proceed. The one question which has come up which I am afraid I cannot give any very authoritative opinion about is whether this great problem which has been a vexing one for so long should be settled by the courts or by legislative enactment.