

termination as to whether or not the defendant did have the mental capability, or was mentally responsible for his act? It seems to me if I were in the jury box, I would look for guidance. I am not a man trained in this field. I am looking to you, Dr. Overholser, and other doctors, to try to indicate to me whether this defendant who is standing trial is responsible for his criminal act.

Dr. GUTTMACHER. Yes, I feel it should lean heavily, but not as heavily as it seems to me is often the case. It is a great responsibility to put on one individual.

The CHAIRMAN. You differ somewhat, then, with the testimony of the present Superintendent of St. Elizabeths, who testified yesterday, and took the position, rather novel, I think, that he would take this entire question of criminal responsibility away from the jury entirely; he would simply have them determine whether an unlawful act had been committed, and then either the judge or I think he called it a responsible body would then make the determination of whether the man was responsible for his act and what disposition should be made of him. This is a new concept.

Dr. GUTTMACHER. The idea of having a treatment facility, having the court decide whether the man carried out the act or not, and then having a board of so-called experts composed of sociologists, psychologists, and psychiatrists, determine whether the man should go in institution A, B, C, or D, and roughly for how long, this is not too novel an idea. Perhaps it has some merit to it.

I feel that our society is certainly not ready to give up the whole concept of responsibility.

I think that sometimes a psychiatrist is placed in a role that he does not have sufficient divine inspiration to play in these proceedings.

Now, in regard to the definition, my chief quarrel with the definition is this leaving out of the psychopath, just categorically deciding that this group of people, the sociopaths and psychopaths, that these people are to be put into a separate entity. From a practical point of view, perhaps this is not so unjust, if we deal with these people as we are now dealing with them in Maryland.

As I have told you, Maryland now has the *McNaghten* rule, and, of course, the psychopaths in 99 cases out of 100, I would say, are found responsible.

But Maryland has built a special institution where this group of offenders, who form so important an element in the recidivistic group, are sent for an indeterminate time——

The CHAIRMAN. Those are the ones that come back time and time again.

Dr. GUTTMACHER. That is right. They are sent to a special facility under an indeterminate sentence. We do not have a fourth-offender law in Maryland. This law, I think, is far better. And these people are dealt with in a very special category, and are under civil proceedings determined to be what we call in the Maryland law defective delinquents rather than sociopaths. And there they are sent to an institution which is midway between a hospital and a prison. It is administered by a psychiatrist, but it has a great wall around it and custodial staff, and a great deal of the discipline that goes with a prison. But these men are offered training in various fields, they are given a great deal of group therapy, and the general atmosphere of