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BACKGROUND DEVELOPMENTS

A brief consideration of legal and scientific developments is helpful in appraising the committee's report and recommendations.

1. It has been recognized for centuries that individuals should not be held responsible for criminal acts committed while they were insane. Our ethical and legal traditions forbid punishment of the mentally ill. "Our collective conscience does not allow punishment where it cannot impose blame. *Holloway v. United States*, 148 F. 2d 655, 666 (D.C.Cir. 1945).

2. The tests applied in determining whether an accused should be held accountable have varied. (At one time, for example, the test in England was whether the defendant could count to twenty, could tell who was his mother or father, or how old he was.) These varying tests have reflected developments in man's understanding of mental abnormality. They reflect the progress toward more enlightened and humane treatment of the insane and the historic trend toward greater individualization in the disposition of persons accused of crime.

3. In 1843 the House of Lords in England promulgated the so-called "right and wrong" test. *Daniel M'Naghten's Case*, 10 Cl. & Fin. 200 (H.L. 1843). The test of insanity to be applied in criminal proceedings was whether the accused "was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know he was doing wrong." This test was accepted in many jurisdictions in this country. See *Leland v. State of Oregon*, 343 U.S. 790, 800 (1954).

4. The "right and wrong" test was adopted in the District of Columbia by judicial decision and was formally applied as early as 1882 at the trial of President Garfield's assassin. *Guiteau's Case*, 1 Mackey 498 (D.C. Sup.Ct. 1882).

5. In 1929, our Court of Appeals supplemented the "right and wrong" test with the "irresistible impulse" test. *Smith v.*