

notes some real testimony indicating that the defendant wishes to rely on insanity and that the man actually is suffering from a disease or defect, and he can prove it, I think until that is done the burden should not shift to the government to prove beyond a reasonable doubt that the man was not suffering from a disease or defect or, if he was, that the crime itself was not the product.

The CHAIRMAN. Are the words "substantial evidence" well defined in case law in this field of insanity in the matter of an insanity defense?

Is there a case law in the District of Columbia defining "substantial evidence," saying what is "substantial evidence" and what is not?

I do not know.

Mr. GASCH. Senator, to me it is a meaningful concept, but I have not researched the point.

I would think that it would mean that if you seek to interpose insanity as a defense you must show, by psychiatric testimony or by the testimony of lay witnesses, that this individual was at least the type of person who could be civilly committed.

The CHAIRMAN. Thank you.

Mr. GASCH. Now, the second point or the third point, rather, on which I feel the American Law Institute formula does add something to the administration of criminal justice is the manner in which it deals with the sociopath.

From the standpoint of the protection of the community and the people who are likely to be hurt by criminals at large, the sociopath is probably the most dangerous of this group of people whom the court in some cases has concluded are suffering from a mental disease or defect.

The sociopath, as the American Law Institute formula defines it, shall not be regarded as a person suffering from disease or defect if the only evidence of his sociopathy is continued criminal behavior.

That is to say, there must be something in addition to this series of criminal acts in order to show that he is within the protection of insanity as a defense.

Now, I can recall one case that I think illustrates that almost better than anything else.

I recall a number, but this is one case in particular.

This was the individual who was known as the "Bad Man of Swampoodle," Dallas O. Williams, and I have, in a statement that I would like to hand to the clerk, given the citation of the case in which the facts are set forth.

Williams had been convicted of a long series of crimes of violence, including murder.

The case was under consideration a number of times by the court of appeals and finally, because of the delay between the original indictment and the final trial, the conviction was reversed, the court interposed the speedy trial formula, and Williams was out and a free man.

The suggestion was made that we seek a civil commitment of Williams. I sought the assistance of psychiatrists from St. Elizabeths hospital.

They came over and the proof that I could get from the whole group of them amounted to an insufficient quantum to hold him.

He was not civilly committable.