

ad hoc definitions or conclusions as to what experts state is a disease or defect. What psychiatrists may consider a "mental disease or defect" for clinical purposes, where their concern is treatment, may or may not be the same as mental disease or defect for the jury's purpose in determining criminal responsibility. Consequently, for that purpose the jury should be told that a mental disease or defect includes any abnormal condition of the mind which substantially affects mental or emotional processes and substantially impairs behavior controls. Thus the jury would consider testimony concerning the development, adaptation and functioning of these processes and controls.

We emphasize that, since the question of whether the defendant has a disease or defect is ultimately for the triers of fact, obviously its resolution cannot be controlled by expert opinion.⁷ The jury must determine for itself, from all the testimony, lay and expert, whether the nature and degree of the disability are sufficient to establish a mental disease or defect as we have now defined those terms. What we have said, however, should in no way be construed to limit the latitude of expert testimony.⁸ *Carter v. United States*, 102 U.S.App.D.C. 227, 236, 252 F.2d 608, 617.

III.

Having determined in Part I hereof that the charge on criminal responsibility was required, we revert now to a consideration of the other contentions made by the parties with respect to that charge as given. The able and experienced trial court, in the course of the charge, failed to give the *Lyles* instruction concerning the disposition of a de-

⁷ See, however, *Isaac v. United States*, 109 U.S.App.D.C. 34, 284 F.2d 168, where the evidence required the direction of a judgment of acquittal by reason of insanity.

⁸ See Note 9, *infra*.