

Editorial Comment upon "The Insanity Defense"

JONAS R. RAPPEPORT, M.D.*

One of the questions I am asked most frequently when lecturing on the insanity plea concerns the frequency of the NGRI plea. Of more concern to society, however, is the number of persons eventually found NGRI by juries. The most often quoted statistic is 4-6% reported as not responsible by state hospitals and 2-4% eventually so found by juries. Dr. Sauer and Mr. Mullens have given us some data which clearly indicate that when the test of responsibility is changed, M'Naghten to ALI, the incidence of NGRI judgments by the hospital also changes. Some authorities had expected this result; others predicted that it would not happen. Unfortunately the present authors did not go further and report the final jury or judicial findings. Rita J. Simons, in her epic work, *The Jury & the Defense of Insanity*,¹ reports similar results, as does Matthews,² who investigated six states (four M'Naghten, one Durham, and one ALI).

Unfortunately, there are many variables to be considered in such studies before we can jump to conclusions. Does the adoption of a "new rule" represent a legislative-social-judicial change in philosophy? Did the hospital staff attitude change toward borderline and nonpsychotic individuals? Has the Human Rights movement and the availability of public defenders led to an increased use of the NGRI plea? Have modern psychiatric concepts and explanations of human behavior finally reached the jury? ALI was intended to broaden the basically cognitive form of M'Naghten to include more conative aspects as well as the "irresistible impulse" concept. Has it done so? This article and the other works mentioned indicate that it has. Although the authors did not mention the fact, Maryland's law uses the phrase "... as a result of mental disorder ..." and not the usual "mental disease or defect" as do most other statutes. Does this phrasing alter opinions?

Countless other questions remain to be asked and answered in our search for a better understanding of the NGRI plea and its effect on the criminal justice system.

I hope that this paper by Dr. Sauer and Mr. Mullens will stimulate others to investigate further and report their results.

References

1. Simon RJ: *The Jury & the Defense of Insanity*. Boston, Little, Brown & Company, 1967
2. Matthews AJ: *Mental Disability & The Criminal Law*. Chicago, American Bar Foundation, 1970

* Dr. Rappeport is Chief Medical Officer, Supreme Bench of Baltimore City, and Associate Editor of the Bulletin.