

# THE CASE OF MR. WOODS: PSYCHOLOGICAL CONTRIBUTIONS TO THE LEGAL PROCESS IN DEFENDANTS WITH MULTIPLE PERSONALITY/DISSOCIATIVE IDENTITY DISORDER

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## I. INTRODUCTION

Several years ago I was an expert witness in the penalty phase of a trial of a multiple murderer whom I diagnosed with Multiple Personality Disorder (“MPD”), now termed Dissociative Identity Disorder (“DID”). In the interest of continuity, I will refer to the disorder as MPD/DID in the discussion that follows. This complex forensic case illustrates the creative interface between clinical and legal thinking because it challenges both fields to think about issues of volition and responsibility that we might not otherwise have considered. The general legal standard for criminal responsibility is based on determining defendants’ state of mind and capacity to control their behavior at the time of the offense. Application of this rule to a disorder that, by definition, is characterized by limited self-knowledge and self control is not likely to be an easy task.

In her recent book on MPD/DID and criminal responsibility, Elyn Saks brings this issue to the fore.<sup>1</sup> She discusses the varied and contradictory court rulings on these cases and makes two sets of arguments regarding the responsibility issue.<sup>2</sup> She examines whether the personalities of someone with MPD/DID qualify as “persons” or “personlike parts” under the law

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I would like to thank Elyn Saks for her stimulating and supportive comments which have been so essential in helping me to identify and clarify the forensic issues in this case.

<sup>1</sup> See generally, ELYN R. SAKS WITH STEPHEN H. BEHNKE, *JEKYLL ON TRIAL: MULTIPLE PERSONALITY DISORDER AND CRIMINAL LAW* (1997).

<sup>2</sup> *Id.*

and concludes that a case can be made that they do.<sup>3</sup> She also argues that the general lack of self-integration and limited interaction between compartmentalized centers of consciousness characteristic of the disorder constitutes a convincing argument against criminal responsibility in many cases.<sup>4</sup> In contrast, Behnke contends that the alter personalities of MPD/DID are unintegrated aspects of a single person, and therefore, that people with this disorder are legally responsible for their criminal acts.<sup>5</sup> Behnke's reasoning follows that of the noted clinical forensic authority in this area, Dorothy Lewis. Lewis argues that, since alternate personalities are unconscious creations of the mind of a single individual, to accord such personalities the legal status of persons is tantamount to entering into the fantasy life of the disturbed person.<sup>6</sup> Whatever the ultimate decision of the law on this issue, I will argue that as with any disorder, a determination of criminal responsibility in MPD/DID ought to be based on the evaluation of mental condition of the complete person. I will further argue that MPD/DID is an excellent psychological example of the whole being more than the sum of its parts so that the question of criminal responsibility cannot be answered simply on the basis of examination of the person's divided self parts.

My primary purpose in this Article is to describe in detail the full state of mind of the defendant in all its complex and messy clinical reality. This focus on clinical detail follows from my view that the role of the psychological expert witness is not to offer conclusions about legal issues such as criminal responsibility, but to describe the personal nature and diagnostic status of the individual in sufficient detail to aid the finder of fact in making an informed decision.<sup>7</sup> I begin with a brief synopsis of the crime and its background. I follow this with a discussion of my theoretical and diagnostic approach to the case. I then describe my clinical, forensic interview with the defendant. Finally, I discuss a new approach to the issue of responsibility in MPD/DID and outline some ways that clinical experts can aid the law in approaching the legal questions raised by this disorder.

I will refer to the defendant's personalities both by name and as "alters," a term that reflects the clinical view that these entities represent complex altered states of consciousness that are compartmentalized from each other by dissociation. I have changed the names of the defendant and his victims, and greatly condensed the voluminous details of this case,

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<sup>3</sup> *Id.* at 80.

<sup>4</sup> *Id.* at 106.

<sup>5</sup> Stephen H. Behnke, *Assessing the Criminal Responsibility of Individuals with Multiple Personality Disorder: Legal Cases, Legal Theory*, 25 J. AM. ACAD. PSYCHIATRY & L. 391 (1997).

<sup>6</sup> Dorothy Otnow Lewis & Jennifer S. Bard, *Multiple Personality and Forensic Issues*, 14 PSYCHIATRIC CLINICS N. AM. 741, 746 (1991).

<sup>7</sup> Steven K. Hoge & Thomas Grisso, *Accuracy and Expert Testimony*, 20 BULL. AM. ACAD. PSYCHIATRY & L. 67, 67-76 (1992).

while attempting to retain its essential elements. I have also attempted to preserve the natural ambiguity of the data so that readers can pursue their own investigatory avenues on the subject of criminal responsibility. For example, while certain aspects of the murder appear to suggest that the defendant was out of touch with reality, he cleaned the murder scene after the act. He also claimed amnesia for the murder, yet confessed to the crime.

Readers who regard MPD/DID with incredulity should bear in mind that I will discuss issues of malingering and the “reality” of the disorder as it relates to this case. I would warn readers who are simply unfamiliar with MPD/DID that while this unusual disorder often elicits fascination, such an attitude easily becomes a barrier to the logical and objective examination of the clinical and legal questions that need to be addressed. Fascination tends to fade when one can draw a connection between the unique self-expression of the disorder and normal self-experience so that MPD/DID no longer seems a totally alien phenomenon. Frank Putnam’s conceptualization of MPD/DID as a developmental outcome of trauma offers a bridge between normal and dissociative self-variability.<sup>8</sup> Most people experience different mood states that cause a certain amount of changeability in their attitudes, self-experience and self-presentation (e.g., as reflected in the commonplace comment, “I am not myself today”). Putnam traces a connection between the rapid mood state changes of young children, which can move from laughter to tantrum in a matter of seconds, and the sudden self state changes of MPD/DID which have been shaped by a chaotically abusive and neglectful upbringing.<sup>9</sup> In both cases, the behavioral transitions are discontinuous and unregulated by an overarching sense of self. If such is the case in MPD/DID, the person’s thinking and behavior may not always be subject to conscious reflection and volition. Therein lies the clinical and legal challenge of this disorder.

## II. BACKGROUND DATA

John Woods, a college student, killed his girlfriend, Sally, and her roommate, Polly, after an argument over Sally’s unfaithfulness. John and Sally had dated for over a year and had been sexually intimate. She had given him considerable emotional and intellectual support and was apparently the one mutual love experience of his life. Sally was also the only person he had ever told about having “different people” inside him. The killings were bizarre. Sally was violently shaken and then suffocated to death when her underpants were stuffed into her mouth. Polly, who arrived shortly after the murder, was stabbed numerous times. John then cleaned

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<sup>8</sup> FRANK W. PUTNAM, DISSOCIATION IN CHILDREN AND ADOLESCENTS: A DEVELOPMENTAL PERSPECTIVE 180–98 (1997).

<sup>9</sup> *Id.* at 151–79.

the room and left town for several days. Phone records indicate that, during that time, he called newspapers and funeral homes to check on whether Sally was dead. The police picked him up when he returned to town. At first, he denied the crime. After several days and a long session of nonrecorded questioning, he confessed. He was viewed as a poor historian for many details of the murder as well as for his personal history.

While awaiting trial, John was given an extensive battery of psychological tests by an experienced neuropsychologist hired by the defense. He tested as severely limited and confused on intellectual measures. His personality tests reflected a psychotic level of functioning including severe formal thought disorder, delusional thinking, highly distorted reality testing, and great emotional variability. The tests also gave evidence of the psychological strengths that are often preserved in people who are able to encapsulate traumatic experiences into dissociative self-compartments.<sup>10</sup> For example, he showed a capacity for empathy and interpersonal connectedness as well as a rich fantasy life on these measures that was not consistent with either a typical psychotic process or an antisocial personality disorder. In a later discussion I had with the assessing psychologist, she explained that, during the personality testing, she had felt a sudden change in the quality of Mr. Woods' relatedness to her that made the hair on the back of her neck stand on end. She perceived an emergence from him of an immense neediness and something else that was frightening. At the same time, he seemed to become increasingly disorganized. Feeling that he was falling apart before her eyes, she cut the test session short and immediately referred him for a medical evaluation. She concluded that, in view of the cognitive distortions and emotional variability seen on his tests, the most likely diagnoses were bipolar or schizoaffective disorder.

The diagnostic picture that emerged over time was both complex and contradictory. Mr. Woods received different diagnoses from the mental health professionals who evaluated him. Six months after his testing he had a psychotic break characterized by paranoid delusions. Some time later, his treating psychiatrist, who had never before seen a patient with MPD/DID, found that Mr. Woods suddenly began to respond to him in a different manner and to refer to himself by another name. Another psychiatrist was called in for consultation. The consultant gave Mr. Woods the Structured Clinical Interview for DSM-IV Dissociative Disorders—Revised

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<sup>10</sup> Judith G. Armstrong & Richard J. Loewenstein, *Characteristics of Patients with Multiple Personality and Dissociative Disorders on Psychological Testing*, 178 J. NERVOUS & MENTAL DISEASE 448, 448–54 (1990). See, e.g., Joe C. Scropo, Sanford L. Drob, Joel L. Weinberger, & Paula Eagle, *Identifying Dissociative Identity Disorder: A Self-Report and Projective Study*, 107 J. ABNORMAL PSYCHOL. 272 (1998).

(SCID-D-R)<sup>11</sup> which was positive for MPD/DID. Three alters presented over time. John, the “host” alter, appeared as friendly, depressed, and amnesic for much of his present and past behavior. An adolescent-like alter, Donnie, was appealing, intellectually curious, and naive. The alter, Ron, was aggressive and verbally limited. He had presented first to the diagnosing psychiatrist and admitted to having attacked Sally and Polly. Later in that interview, however, he gave Sally’s social security number to the psychiatrist and ordered him to use it to find her. Ron interpreted all subsequent interventions by the psychiatrist to bring some reality to this request as an effort to refuse the task of bringing Sally back to him.

The diagnosis of a controversial disorder such as MPD/DID is always a complex process. This is especially true in forensic settings, where the possibility of considerable secondary gain arises from the diagnosis. On the other hand, forensic settings have the benefit of affording access to a variety of records that can provide objective evidence of the pre-crime existence of the disorder. Such independent data may well be the most effective way to rule out malingering.<sup>12</sup> As noted earlier, theoretically speaking, MPD/DID is considered to be a developmental posttraumatic disorder of the self. Therefore, one should look for evidence of severe abuse and dissociation in the childhood records of such adults. Social service, school, and early medical records, as well as interviews with people who have observed the person’s behavior over time, are especially valuable in documenting the pre-crime intellectual variability, rapid personality shifts, trance states, and amnesia consistent with prior MPD/DID. In a study of a number of murderers later diagnosed with MPD/DID, the link between childhood trauma and dissociative symptoms was corroborated with independent evidence.<sup>13</sup>

I will not go into details of the childhood records and interviews collected on Mr. Woods by a private investigator and a developmental psychologist who documented his extensive physical and sexual abuse and neglect. Using these records, I was able to establish childhood symptoms of dissociation by applying Putnam’s Child Dissociative Checklist to the records.<sup>14</sup> One striking illustration which can serve as an exemplar came from Mr. Woods’ school records. It was a request for a psychological evaluation by his second grade teacher that read in part:

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<sup>11</sup> MARLENE STEINBERG, STRUCTURED CLINICAL INTERVIEW FOR DSM-IV DISSOCIATIVE DISORDERS—REVISED (SCID-D-R) (1994).

<sup>12</sup> Landy F. Sparr, *Mental Defenses and Posttraumatic Stress Disorder: Assessment of Criminal Intent*, 9 J. TRAUMATIC STRESS 405, 418–21 (1996).

<sup>13</sup> Dorothy O. Lewis, Catherine A. Yeager, Yael Swica, Jonathan H. Pincus, & Melvin Lewis, *Objective Documentation of Child Abuse and Dissociation in 12 Murderers with Dissociative Identity Disorder*, 154 AM. J. PSYCHIATRY 1703 (1997).

<sup>14</sup> Frank W. Putnam, Karin Helmers, & Penelope K. Trickett, *Development, Reliability, and Validity of a Child Dissociation Scale*, 17 CHILD ABUSE & NEGLECT 731 app. (1993).

This child has a complete change of personality from time to time . . . he is extremely angry and minutes later so agreeable that it is unreal . . . at times he acts like he has no idea what is happening and his speech is inaudible . . . when he snaps out of this, he responds well and speaks in a normal tone.<sup>15</sup>

### III. SOME THEORETICAL PRINCIPLES

Before moving to the interview with Mr. Woods, I will briefly discuss some principles that guided my approach to this task. The ideas presented in this Part express the influence of Saks' view of criminal responsibility viewed through the lens of my own theoretical and clinical perspective on MPD/DID.

To use Saks' terminology in response to the question of whether people with MPD/DID consist of different persons, or a single person, or many, interacting personlike parts, my answer is: "yes." That is, I understand this disorder as existing simultaneously on three levels of reality.<sup>16</sup> To draw an analogy from physics, depending on the level of analysis one uses, the self of the multiple is as divided and discrete as a light particle, or as continuous and connected as a light wave.

The first of these simultaneous levels corresponds to the phenomenological experience of the alters and concrete behavior. At this level, MPD/DID consists of separate persons or personlike parts, each of whom has a distinctive set of memories, skills, emotional expressiveness and manner of relating. The *Diagnostic and Statistical Manual of Mental Disorders—DSM-IV*,<sup>17</sup> which focuses on self-reported symptoms and external behavior, works at this first level of understanding. These expressions of MPD/DID will be apparent in Mr. Wood's interview and are central to the task of evaluating him for diagnosis and malingering.

The second level of understanding corresponds to the perception of the experienced clinical observer of MPD/DID as well as to conventional reality. At this level, this is a disorder of a single person. The patient's self-multiplicity derives from an underlying defensive process: a nonconscious, nonvolitional, and ultimately unsuccessful, effort to master painful experiences by dividing them into memory compartments. Much of the modern treatment of MPD/DID works at this second level, focusing on modifying the dissociative processes that underlie the patient's tendency to

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<sup>15</sup> Request for Psychological Evaluation (on file with author).

<sup>16</sup> Judith Armstrong, *Keeping One's Balance in a Moving System: The Effects of the Multiple Personality Disordered Patient on the Cognitive Development of the Therapist*, in BRIDGING PARADIGMS: POSITIVE DEVELOPMENT IN ADULTHOOD AND COGNITIVE AGING 11, 14–15 (J.D. Sinnott & J.C. Cavanaugh eds., 1991).

<sup>17</sup> AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS—DSM-IV (4th ed. 1994).

cope with stress by switching to alternative states of awareness.<sup>18</sup> Experimental studies of the memory of patients with MPD/DID support this second level understanding. Such studies have documented compartmentalization of memory between alters. They have also shown, however, that as with most unworkable defenses, inter-alter amnesia for information is rarely complete. Thus, some transfer of learning does occur across dissociative barriers.<sup>19</sup> One major forensic implication of this second level of understanding of the disorder is that the argument for nonresponsibility in MPD/DID on the basis of total amnesia for a crime is rarely supportable. On the other hand, as will be seen with Mr. Woods, information that leaks across dissociative barriers may not be usable. It may be experienced by the person as jumbled, unreal, or otherwise unbelievable. To complicate the picture even more, leakage of behavior across alters' states can lead to "passive influence" experiences wherein the dissociating person experiences their body as controlled against their will.<sup>20</sup> The second level of understanding directs us to examine the quality of shared information and behavioral control that Mr. Woods experienced immediately before and during the crime. This level also alerts us to the possibility that, even if he truly has MPD/DID, he might be deluding himself or consciously lying about the degree of his amnesia and dyscontrol at the time of the crime, so that we must question him in an active fashion to get at this important information.

The research data on inter-alter sharing of information brings us to the third and deepest level of understanding MPD/DID. According to this level, beneath the apparent chaos of changeable selves and chronic dissociation lies an atypical self-system that operates according to rules that help us to understand the whole person. Usually, it is only in late adolescence that people with MPD/DID recognize that other people do not "overhear" internal conversations as they do, or access memories from a complicated and unpredictable internal filing system, or spend time with imaginary companions who seem real.<sup>21</sup> This third level, in directing us to examine the defects in underlying self-structure and functioning in MPD/DID, is the level that Saks' work inspires me to explore as essential to evaluating criminal responsibility. In terms of this perspective, Mr. Woods' damaged

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<sup>18</sup> Stephen S. Marmer, *An Outline for Psychoanalytic Treatment*, in TREATING DISSOCIATIVE IDENTITY DISORDER 183, 196–218 (I.D. Yalom & J.L. Spira eds., 1996); Frank W. Putnam & Richard J. Loewenstein, *Dissociative Identity Disorder*, in COMPREHENSIVE TEXTBOOK OF PSYCHIATRY 1559–63 (V.A. Sadack & B.J. Sadock eds., 7th ed. 2000).

<sup>19</sup> Eric Eich, Richard J. Loewenstein, & Patrice H. Dihle, *Memory, Amnesia and Dissociative Identity Disorder*, 8 PSYCHOL. SCI. 417, 421 (1997); Mary Jo Nissen, James L. Ross, Daniel B. Willingham, Thomas B. Mackenzie, & Daniel L. Schacter, *Memory and Awareness in a Patient with Multiple Personality Disorder*, 8 BRAIN & COGNITION 117 (1998).

<sup>20</sup> Richard P. Kluff, *The Natural History of Multiple Personality Disorder*, in CHILDHOOD ANTECEDENTS OF MULTIPLE PERSONALITY 197–238 (R.P. Kluff ed., 1985).

<sup>21</sup> PUTNAM, *supra* note 8, at 80–84.

self needs to be assessed in terms of its effects on capacities such as his overall ability to apprehend reality and to control his acts. As Lewis and Bard, and Steinberg, Bancroft, and Buchanan have cogently noted, diagnosing MPD/DID is only the first step in determining criminal responsibility.<sup>22</sup>

#### IV. THE INTERVIEW

I met with Mr. Woods alone, in a locked room in the jail. For my own sense of safety, he was shackled throughout the interview. I did not hypnotize him. He agreed to have the interview taped. I directly quote some of his phrases to help the reader gain a sense of his thinking style.

The first alter to give me his account of the crime and its background called himself, "Ron." He sat with his muscular shoulders hunched in a manner that made him appear menacing. His voice was flat, unemotional, and authoritative. His grammar and vocabulary were simple. He shrugged off all of my attempts at empathy. He appeared excited, however, about showing me that his knowledge and understanding of things was superior to mine. I found that this attitude made him quite open to talking about the murders since he wished to explain things to me in order to convince me of the correctness of his actions. Ron indicated that he was always aware of what was going on; and later in the interview, he told me that he had heard all of my conversations with the alter personalities, "John" and "Donnie." Ron described himself as someone who "takes all the garbage" for John. He said that he loves John "like a brother" because John needs him. He reported that unlike John, he is strong and feels no pain. He said that he bore all the childhood troubles such as being shaken, beaten with thorned branches by his parents to get the devil out of him, and anally penetrated by his male babysitter with the threat that if he ever told anyone about it, he would never see his mother again. Ron explained that he sees himself as different from John and Donnie, both of whom like people. He does not like to be around people since "they turn evil." Ron explained that it is the devil that makes people change in this way. He said that while he loved Sally, he was waiting for her to turn evil. He was especially suspicious of her "after she got our blueprint," by which he meant, "after John told her about the existence of Ron and Donnie." Ron said that Sally turned evil a year earlier, while he was briefly in jail for stealing presents for her. During this separation Sally began going out with other men. Ron said that although she used to be nice, she "made the devil take her over" because she was "weak." When that happened, she had "no shame and no limits"

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<sup>22</sup> Lewis & Bard, *supra* note 6, at 742. See Marlene Steinberg, Jean Bancroft, & Josephine Buchanan, *Multiple Personality Disorder in Criminal Law*, 21 BULL. AM. ACAD. PSYCHIATRY & L. 345 (1993).



because “evil can’t talk right and do right.” Ron also told me he thinks that knowing about their blueprint helped Sally to turn evil because she used the blueprint to hurt them.

Ron indicated that, on the day of the murder, he saw a suspicious footprint in Sally’s carpet that made him think she was seeing another man. He heard John ask about this, and Sally replied that she would sleep with whomever she wanted and that he would have to accept it because she didn’t care how he felt. Moreover, she didn’t like the fact that he (John) changed “in a second” all the time, that his moods “changed out of the blue,” and that he “caused confusion.” Ron described Sally as having said these things to John in a calm, emotionless voice that he believed was “cool and evil.” After this exchange between John and Sally, Ron saw John “die.” He believes that Sally had “killed” John by the things she said to him. He explained that he could see that John was dead because he had become all “hollow . . . everything was out of him; there was nothing there, just a shell.” Ron had never seen this happen before, and he felt that he had to try to bring John “back.” Meanwhile, he also knew that Sally was “far away” from them with the devil, and he had to bring her back, too. In order to accomplish this, he had to “loose the evilness from her and stop the words from coming out.” He felt that if Sally spoke any more, she would not only have killed John, she would have “taken him with her.” It was to this end that he stuffed Sally’s underpants into her mouth, since that was where the evil was coming from. He also shook her to bring her to where they were.

Ron told me that since John was not around at that time, he had “nothing to say, he had been completely taken out of the picture.” He told me that Donnie also didn’t have anything to say about what he, Ron, was doing because Donnie “is a coward” and he was “too afraid.” Ron further explained that since John was dead and Donnie was in a corner, “cowering,” he, Ron, had to handle the situation himself.

Ron said that after he had finished shaking Sally, he could see that she was happy. He explained that he could tell this because her face had become calm. He thought she was happy because she was coming to them and because she didn’t want to be there with the devil. He thought Sally was basically “not evil . . . and beautiful,” and that they would always take her side. She had just “got taken over.”

Ron said he felt weak because of his efforts at bringing John back from the dead and Sally back from the devil. As a result, he “lost” Sally just as she was “on the path” coming towards them. He concludes that this is why she isn’t with them now. He felt weak for a long time and he thinks that “everybody” (Ron, John, and Donnie) was in a state of confusion for some time afterwards. Ron is aware that other people believe that Sally is dead,

but he explained to me that he knows this isn't true because if she were dead, he could feel it.

When I asked Ron about the murder of Polly, he told me that after she jumped on his back and started "snatching and grabbing" at him, he could see the evil in her eyes because they had a "red dot" in them; it was then that he knew that the devil had gotten into her, too. He explained that although he did not know Polly, he did her a "favor" and "brought her to where we were" by "hitting" her with a knife that he found in his pocket. He explained that this was a good way of beating the devil out because it "helps it to leave faster." Ron smiled tenderly and added that this was the first time he had ever gotten to help somebody.

Ron believes that John told the police "too much" during his confession because he wanted the police to like him. Nonetheless, he "helped John out" because he could see that this was making him feel good.

He is now concerned because John has not fully recovered from his death and is no longer the same. He explained that, at night, he helps John by taking him on trips to the mountain and such. When I asked if these were real trips or imaginary ones, Ron told me that they were "the real mountains, they come out real good."

The second alter to give me his account of the murder was Donnie. He sat in an upright posture, and a smile often played across his face. His affect was bright and nonserious. He laughed and giggled when I misunderstood him. His thinking was childlike in its concreteness and rigidity. For example, he said he didn't believe in imagining, and so he consistently refused to answer any of my questions about what he would have done differently in situations, since these were "wishes." It is this subtle consistency that is so difficult to maintain when malingerers pretend to have MPD.

Donnie indicated that he knew who I was because "that information got passed around." He described himself to me as someone who likes to watch people, be nice to people, and go to school.

Donnie told me that he was watching throughout most of the attack. He, too, believed that John was dead because there was "nothing inside of him." He explained that he was "sad" about what was happening to Sally and Polly, but that he couldn't do anything. He wanted to ask Ron why this was happening, and why he was so upset, but Ron wouldn't talk to him. Although he was watching, Donnie said that he was unable to describe much of what had happened because he was too scared to think. He felt as if he were back in his childhood, where everything was "wild and confused" and he had "wanted to leave but . . . was trapped."

When I asked Donnie if he had tried to stop Ron, he laughed and said, “My arms are too short to box with God.” He explained that he is not allowed to change things; that all he can do is stay in the background, and things will be over sooner or later. He told me that recently he tried to change the way that Ron and John view him. He jumped off a high balcony in the prison hall in order to prove his bravery by showing them that he could fly. While he did get injured, he thinks that Ron and John respect him a little more since he had done this. Donnie’s explanation of this effort to change the internal balance of power made sense of what had otherwise been an inexplicable suicide attempt.

Regarding the question of whether or not Sally is dead, he said, “We all have questions; we don’t know what happened.” Nevertheless, he has concluded that Ron is probably right about her not being dead because “Ron is usually right.”

The last alter I spoke to about the murder was John. He had an excellent vocabulary and related to me in a dependent manner, often asking me to repeat my questions (an example of the ongoing amnesia typical of MPD/DID). He complained that he doesn’t get any “forewarning” when Ron is going to take over. Since he doesn’t remember things that happen when he “leaves” he assumes that everyone else always knows more about him than he does. He also told me he feels helpless and useless because he doesn’t have “real memories.” He explained that he remembers the incident with Sally as he remembers most things, in pieces of pictures, without the smells, feelings, dates, and times that go along with knowing he has really experienced something. His memory of the murder feels like a “hazy dream,” a “cocoon” that he can watch from a safe distance, as he used to do when he was being abused as a child. John told me the last thing he clearly remembered of the murder scene was looking at the footprint in Sally’s carpet. Right after that, he felt like he was “moving somewhere and . . . couldn’t stop it, like a tunnel or an escalator.” He remembers looking at Sally’s clock and thinking that it was “reinforcing the feeling [he] was having of moving.” He then felt like he needed to look in the mirror to determine if he had become a ghost. He could not see his reflection at first, then he closed his eyes, and when he opened them, saw someone he “did and didn’t” recognize. He suddenly felt he had a “power and control of myself and outside of myself.” He said that he was struggling at that point to make sense of things, but words and questions just kept “coming faster and faster.” He was aware of Sally “looking at me weird . . . aloof and distant,” telling him to shut up. John indicated that he could remember “continuing to say things” but that this remembering felt like “watching a movie from both sides of the screen.” Then, “everything happened . . . somewhere in that time frame I kinda lost myself . . . feelings

and explanations were absent . . . I saw actions, movements, words, and things about evilness and help, bits and pieces of a picture that fade in and out.”

The next thing he knew he was in Sally’s room, feeling like a “prehuman” struggling with the danger around him, with “no brain, just moving.” He knew that Ron was on the scene, but he was unable to “put together what [he] might have been thinking.” He told me that at that point he knew he didn’t want to be a part of what was happening but that he couldn’t see what was happening. He remembers “tripping over a bag” that he was holding, and realizing that his knee was bleeding, and thinking that if he put a bandage on, he would “defeat” himself.

John said that he later saw pictures of the experience in his head, and he felt a sense of pain and loneliness, not knowing if the pictures were true. He had made a decision to get out of the state, to get away from places he and Sally had been, but he found that “everything was there, and she wasn’t, and there was no explanation.” “Everybody” was wondering if the police were correct in saying that she was dead.

John explained that he still doesn’t know whether or not to believe that Sally is dead. When he is talking with the doctors, he feels like she might be dead; but when he talks with Ron, he feels sure that she is still alive.

In describing his relationship with Ron, John spoke about him in glowing terms as the “most loyal, and consistent, and truthful person I’ve ever known, bar none.” He indicated that he believes that Ron always knows what he (John) needs and that it is “just a matter of me accepting it.” John believes that Ron has proven to him time and time again that other people will lie to him, and that Ron is always right.

All three alters present a narrative in which the alters John and Donnie had no role in carrying out the murder. From John’s account, however, there was a period of time before and after the murder in which he was partly present, and apparently sharing Ron’s confusion and his grandiose feeling of power over himself and the world.

## V. THE QUESTION OF CRIMINAL RESPONSIBILITY

Viewed strictly from an alter perspective (i.e., the first level of MPD/DID understanding), it can be argued that the alter most clearly responsible for the crime was Ron. Data from the testing and interview suggest that Ron is sufficiently delusional that he does not appreciate the nature and quality of his acts. Ron apparently believed he acted to prevent Sally from murdering John. This assumption is consistent with his general reasoning. As in the case of his internal mountains that are as “good” as the

outside ones, Ron appears to make no distinction between the reality of the external world and his internal one. Thus, Sally's death and resurrection are as real to him as John's.

Interestingly, while the great majority of noncriminal MPD/DID patients that I have evaluated are often aware that there is a difference between their internal and external realities, their view of the impermanence of death in internal reality parallels Ron's. Thus, I have engaged in conversation with alters who, without any sense of contradiction, insist that they are "dead," and I have spoken with alters who claim to be important external people not presently available to the patient, such as a former therapist. It would appear that many people with MPD/DID suffer from a thought disorder characterized by an inability to evaluate and logically coordinate the relative reality of their internal and external worlds. Thus, even though Ron is convinced that Sally is alive, and he is aware that other people think she is dead, he does not concern himself with this discrepancy of opinion; however, the same cannot be said for John and Donnie. At the time I interviewed them, they did not always share Ron's interpretation of reality. Thus, it seems that the view of Mr. Woods' responsibility on this first level is as contradictory as is the logic of his internal cast of characters.

Viewed from a dissociative process perspective (i.e., the second level of MPD/DID understanding), the issue of Mr. Woods' responsibility is unclear again. He presents features of both dissociative defenses and psychosis; and it is difficult to know how to coordinate the two.

Perhaps his case could support an insanity defense, arguing that the psychosis encapsulated in the dissociative Ron state prevented Mr. Woods from controlling his behavior and appreciating the nature of his criminal acts. The best evidence we have of this comes from his two later psychological tests, and the alters' assertion that Ron attacked Sally to save John's life; that they were not killing her, but bringing her to a different place; and thus, she is not really dead. However, even if we diagnose Mr. Woods as having a psychotic process, we do not know if he had this disorder at the time of the murder. Moreover, as noted earlier, Mr. Woods does not always adhere to Ron's gross misinterpretation of reality. The most we can say is that when Mr. Woods enters his Ron state, he appears to be psychotic to the degree that probably makes him not guilty by reason of insanity. However, we cannot say the same for the majority of his personality states.

It seems clear then, that if we stay at the first two conceptual levels, we can say something about the state of "minds" of Mr. Woods' alters, and even say that one of his alters appears to be legally insane; but we cannot resolve the overriding issue of whether Mr. Woods, himself, meets the

psychological criteria for an insanity defense. To do that, we must consider not just the alters, but the underlying relationship between Mr. Woods' alters. This includes the issue of whether his John and Donnie states have the ability to modify and control his Ron state or whether there are conditions under which the psychotic Ron state has full control over Mr. Woods' mental processes and behavior. In other words, we need to examine Mr. Woods' full personality in order to determine the balance of power between the psychotic and adaptive forces within him.

It is here that the third, self-system, level of conceptualization of MPD/DID is most helpful. It puts forth the basic issue with which the law and the psychological expert must grapple in order to define criminal responsibility in such cases. Putnam's focus on the developmental damage in people with MPD/DID guides us to examine Mr. Woods' damaged self-system, the product of his chronic, lifelong dissociation. In this light, Richard Kluft has long insisted that we are misled if we focus on the specific alter personalities as being the essential elements of this disorder.<sup>23</sup> In his view, alters are simply epiphenomena of structured dissociative defenses. His longitudinal clinical studies indicate that alter separateness and distinctiveness varies over the patient's life course, depending on the stresses on, and reinforcements for, this method of coping. Putnam carries Kluft's observations to their logical conclusion by placing them within the larger developmental psychology framework of research on the effects of chronic abuse and neglect on the self.<sup>24</sup> Putnam theorizes that in cases of MPD/DID, traumatic experiences, in conjunction with greatly disturbed caretaker-child attachment, disrupt the metacognitive processes that develop in early childhood which enable children to integrate their experiences across different social contexts and emotional states. The crucial point of this theoretical shift for the clinical and forensic understanding of this disorder is that people with MPD/DID have not split into separate self-states under stress. Rather, they have failed to develop a unified sense of self in the first place, and so they function instead like islands of self-states.

Mr. Woods exemplifies the forensic application of this third level to MPD/DID responsibility. His parts were aware of each other's existence

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<sup>23</sup> Richard P. Kluft, *Clinical Presentations of Multiple Personality Disorder*, 14 *PSYCHIATRIC CLINICS N. AM.* 605, 609–10 (1991).

<sup>24</sup> SUSAN HARTER, *THE CONSTRUCTION OF THE SELF: A DEVELOPMENTAL PERSPECTIVE* (1999); Dante Cicchetti, *How Research on Child Maltreatment Has Informed the Study of Child Development: Perspectives from Developmental Psychology*, in *CHILD MALTREATMENT: THEORY AND RESEARCH ON THE CAUSES AND CONSEQUENCES OF CHILD ABUSE AND NEGLECT* 377–431 (D. Cicchetti & V. Carlson eds., 1989); Kurt W. Fischer & Catherine Ayoub, *Affective Splitting and Dissociation in Normal and Maltreated Children: Developmental Pathways for Self in Relationships*, in *ROCHESTER SYMPOSIUM ON DEVELOPMENTAL PSYCHOPATHOLOGY: DISORDERS AND DYSFUNCTIONS OF THE SELF* 149–222 (Dante Cicchetti & Sheree Toth eds., 1999).

since childhood. Thus, general amnesia, a nonresponsibility requirement of the first level perspective, is not pertinent here. Positing a general loss of volition due to his disorder, a nonresponsibility requirement of the second level perspective, is also not pertinent. After all, the fact that Ron is capable of taking over when there is danger does not distinguish Mr. Woods from other impulsively violent people whom the law deems criminally responsible. The central psychological issue in Mr. Woods' case revolves around two points: the degree of volitional control he had over his switching to different alter states, and the extent to which the shared information between John, Donnie, and Ron constituted an overriding consciousness that could apprehend the reality of the crime.

Unfortunately, at the time of my interview, my thinking on these issues was not sufficiently advanced to gather all the information to answer these questions. However, the fact that Ron, and later, Donnie and John, were capable of severe distortions of reality; and moreover, that Ron was the most powerful member of the self-triumvirate, argues for Mr. Woods' legal insanity. Like someone with a shared delusional disorder, John and Donnie cannot maintain their hold on reality, or on behavior, when Ron is activated. In Mr. Woods' "*folie à trois*," the alter who is least capable of appreciating reality is Ron, and he is the strongest in the self-system. Thus, Ron's thinking and behavior can easily take over the other parts of Mr. Woods' mind; and perhaps, to expect otherwise would be, using Donnie's terminology, to "box with God." This third level of understanding incorporates the other two, leading us to consider whether or not Mr. Woods suffers from a psychotic-like condition that pervades his general personality and interferes with his ability to observe the law.

## VI. THE ROLE OF THE PSYCHOLOGIST IN THE MPD/DID LEGAL PROCESS

Mr. Woods' case, in all its tragedy and ambiguity, offers a perspective on the challenges that MPD/DID poses to psychology and the law when one moves beyond stereotyped assumptions about this disorder. The confusion, and even despair, that such real life complexity presents is evident in a recent court ruling which concluded that the clinical understanding of MPD/DID is so unclear that mental health experts cannot clarify the matter for the courts.<sup>25</sup> In fact, if the court were to require psychological experts to determine MPD/DID criminal responsibility on a case by case basis, we would be forced to fall back upon our own definitions of what makes for personal responsibility which, indeed, would be quite problematic for the law. In the area of responsibility, we can be

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<sup>25</sup> State v. Greene, 984 P.2d 1024, 1028-31 (Wash. 1999).

blinded, as well as enlightened, by our clinical expertise. Our clinical training focuses us on the goal of helping people. This charge can sometimes act to blur our objectivity for the purposes of the law. For example, my own view on the issue of MPD/DID responsibility, consistent with that of many other experts, slants toward responsibility. My bias occurs because of my therapeutic stance, which is to help patients become psychologically mature. Like parents, we clinicians often relate to our patients with the expectation that they can behave in responsible and ethical ways; even when, at first, they cannot. In this way, we encourage them to take steps toward these goals. Other clinicians, moved by the terrible histories these patients report, compassionately focus on their lack of abilities and vulnerabilities, thus biasing them toward nonresponsibility. The responsibility bias, the belief bias toward uncritical skepticism, and fascination with MPD are a few of the factors that could create differing expert opinions.

While I do not believe that the clinical expert can define MPD/DID legal responsibility, neither do I agree with the Washington Supreme Court's decision that we have nothing to offer the law on this issue. I would argue instead that our role simply needs to be redefined. If the court uses psychological experts on MPD/DID in an advisory capacity, there are a number of contributions that we can make to help clarify legal thinking on the issue of criminal responsibility. The discussion that follows describes three areas where we could play a useful role.

The MPD psychological expert could help the law lay the groundwork for the determination of responsibility in the individual case. This includes helping the court to assess competence to stand trial, gaining access to information from alters about the crime, and helping to ensure that the defendant's behavior conforms to the social requirements of his or her trial. The case of Mr. Woods is a good illustration of this. Ron had the most information about the crime, yet I was the only person to interview him for details of the murder. The "host" alter, John, had only fragmentary memories of the murders, but he was the one who interacted with the legal system. Therefore, a detailed description of the commission of the crime was not available to the court until the penalty phase. Clearly, it would have been useful to have expert aid in interviewing Mr. Woods for important details of the crime at an earlier point in the legal process. His behavior during his trial also raised a question of his competence to stand trial and posed a major problem to the court. At stressful times, he rapidly switched alters, disrupting the court and interrupting the progress of his trial. For example, Ron had an angry outburst when he felt John was being maligned; next, Donnie complained that he could not see the photographs of the murder from his seat; then, John asked his lawyer to repeat everything that



had happened in the previous five minutes because he had been amnesic while the other alters were “out.” Mr. Woods’ erratic behavior stopped, and the trial continued without incident, only after I advised his lawyer to tell him that John was required to be at the trial full time, whereas the other alters could listen, but not take an active role in the proceedings. Thus, the expert can perform a useful preliminary role in gathering information and in helping to ensure that the defendant appreciates and follows legal ground rules.

Although I have argued that the psychological expert should not define criminal responsibility, I do think that the clinical science of MPD/DID can help the law to articulate a general standard of criminal responsibility for this disorder. I would argue that such a standard be free from the popular misapprehension that people with the disorder consist of selves hermetically sealed off from each other by amnesia. As I have discussed earlier, this does not fit the clinical and research evidence. Secondly, as with any severe mental disorder, the diagnosis of MPD/DID, itself, does not offer an immediate argument for nonresponsibility. On the other hand, neither does it rule out nonresponsibility. People with severe, untreated MPD/DID can have very limited knowledge of their motives and limited control of their behavior due to the very disruption of consciousness implied by partial communication. It is the problem of determining the limits of self-awareness and behavioral control in the individual case that challenges the skills of the expert examiner and the law.

If MPD/DID theory does not support a *prima facie* argument for nonresponsibility, the story of Mr. Woods illustrates some of the ways that a psychological expert can gather data that could help the law apply the standard for MPD/DID criminal responsibility in specific cases. The development of a general legal standard of MPD/DID responsibility would enormously help the psychological expert as well as the law to focus on the relevant issues. An expert could illuminate areas that include the objective establishment of a diagnosis, the evaluation for malingering, the investigation into the nature and degree of inter-alter awareness and control over behavior, and the assessment of the defendant’s overall personality structure. I will use the case of Mr. Woods again to briefly illustrate the role of the expert here.

My analysis of the documentation of Mr. Woods’ pre-crime dissociation, which objectively confirmed his pre-crime diagnosis of the disorder, followed the guidelines of Lewis et al.<sup>26</sup> Data gathered from school, hospital, work, and social service records might be supplemented by interviews with people who knew the defendant before the crime. Given

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<sup>26</sup> Lewis et al., *supra* note 13.

that, in most cases, the MPD/DID will have gone undiagnosed, and that most people with MPD take pains to conceal their alter world, data that focuses on concrete behavior from disinterested parties generally yields the most convincing evidence for, or against, the pre-crime diagnosis. Assessment of malingering, while never simple, can be greatly aided if the expert has the opportunity to evaluate the defendant more than once to examine short-term consistency in diagnostic presentation. For example, regarding amnesia, defendants must exhibit consistency in remembering what they have claimed to have forgotten, and show patience when the interviewer repeats information that has been discussed in detail with alters with whom they claim to have amnesic barriers. The centrality of dissociative defenses in this disorder gives an expert indications beyond the alter self-report for diagnosis. More dependable diagnostic signs are the subtle, process manifestations of dissociation, including such micro-dissociative episodes as pronounced upward eye rolls, bursts of rapid blinking, and sudden changes in rapport.<sup>27</sup> Here, Loewenstein's interview guidelines are invaluable for enabling the examiner to track the nonverbal signs of dissociation.<sup>28</sup>

My discussion of the case of Mr. Woods illustrates the steps in assessing for this disorder. As in other forensic interviews, such an evaluation generally begins with open-ended questions and observation of the defendant's behavior to gain the maximum amount of information while avoiding the inadvertent suggestion of symptoms through leading questions.<sup>29</sup> Again, as with any disorder, use of hypnosis is not recommended since this may be a contaminating factor. In any event, there is no reason to expect that people with MPD/DID will be highly hypnotizable since a review of more than a dozen studies on this issue finds a low correlation between measures of hypnotizability and dissociation.<sup>30</sup> Interview information can be supplemented by administering the SCID-D-R, a structured diagnostic interview for dissociative disorders that, in the hands of a knowledgeable interviewer, can also yield data on potential malingering through such signs as the inability to describe dissociative symptoms in convincing detail; or atypical, across-the-board assertion or denial of dissociative signs.<sup>31</sup> Personality tests that have dissimulation scales, such as the MMPI, and tests that have meanings which are not obvious, such as the Rorschach Inkblot Test—Exner Comprehensive System, are especially useful in aiding diagnosis,

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<sup>27</sup> Putnam & Loewenstein, *supra* note 18, at 1557.

<sup>28</sup> Richard J. Loewenstein, *An Office Mental Status Examination for Complex Chronic Dissociative Symptoms and Multiple Personality Disorder*, 14 PSYCHIATRIC CLINICS N. AM. 567 (1991).

<sup>29</sup> Sparr, *supra* note 12, at 419.

<sup>30</sup> Putnam & Loewenstein, *supra* note 18, at 1555.

<sup>31</sup> Steinberg et al., *supra* note 22.

examining for malingering, and evaluating important underlying personality characteristics.<sup>32</sup>

As noted earlier, even if the defendant is diagnosed with MPD/DID, this does not rule out the possibility of malingering through feigning greater amnesia, greater disorganization, and less behavioral control than actually exist. This disorder also does not prevent alters from presuming that surviving a childhood of unpredictable and abusive punishment entitles them to evade responsibility and punishment in adulthood. Pre-crime treatment for MPD would increase the likelihood of effective inter-alter communication and greater appreciation of the importance of outer reality and, thus, increase the potential for criminal responsibility. Single, unplanned crimes are probably more psychologically defensible than are repeated crimes or crimes that require planning. In the former case, it is possible to consider that the defendant with MPD/DID had little opportunity to control context-driven switching or to entertain alternative interpretations of reality. Thus, as with any disorder, an attitude of clinical neutrality in evaluating an MPD/DID defendant is a prerequisite of obtaining accurate data.

Finally, following my arguments on the nature of MPD/DID, it is essential to examine the defendant's overriding personality structure by means of the interview, testing and records. From my standpoint, the presence of a psychotic alter who did not appreciate the nature of his or her acts would not speak to the issue of the defendant's responsibility unless it is determined that this alter expressed, in more obvious form, the general psychotic quality of the whole person. Simply assessing for all comorbid disorders does not fully address this issue. Personalities are defined by their strengths as well as their weaknesses. This is why two people with equally severe psychological disorders may express their disorders in different ways and to different degrees. For this reason, it is important for the expert to access the MPD/DID defendant's personality as far as possible to evaluate the degree of defectiveness in self-continuity, and to determine the balance between the person's psychotic and adaptive elements. This can include utilizing the self language of the defendant to invite all parts into the assessment, and sufficiently investigating general personality characteristics (such as the capacity to appreciate truth and reality) to present a reliable report.<sup>33</sup>

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<sup>32</sup> J.N. BUTCHER, MINNESOTA MULTIPHASIC PERSONALITY INVENTORY-2 (MMPI-2): MANUAL FOR ADMINISTRATION AND SCORING (1989); JOHN E. EXNER, JR., THE RORSCHACH: A COMPREHENSIVE SYSTEM, VOLUME 1: THE BASIC FOUNDATION (3d ed. 1993); Jordan B. Hiller, Robert Rosenthal, Robert F. Bornstein, David T.R. Berry, & Sherri Brunell-Neuleib, *A Comparative Meta-Analysis of Rorschach and MMPI Validity*, 11 PSYCHOL. ASSESSMENT 278 (1999).

<sup>33</sup> Armstrong & Loewenstein, *supra* note 10, at 451-54.

## VII. FORENSIC AND NARRATIVE CONCLUSIONS

Mr. Woods' test data shows a general preponderance of psychosis and severe misinterpretations of reality, and his interview data illustrate his capacity for psychotic dominated behavior; thus, from a psychological standpoint, a strong argument can be made for an insanity defense. In my view, the fact that John and Donnie appeared reasonable during portions of the interview does not argue against Mr. Woods being both psychotic in the psychological sense, and insane in the legal sense. Psychotic people who may merit an insanity defense, such as schizophrenics, do not present as continuously psychotic. To require people with MPD/DID to meet more stringent criteria for legal insanity than those with other mental disorders would be reverse discrimination.

The case of Mr. Woods alerts us to the possibility that there is a psychotic condition unique to some forms of MPD/DID, and that this condition may support an insanity defense. This unique psychosis consists of an inversion of the relative importance of the real versus imaginary worlds, an inability to appreciate logical contradictions, and hallucinations that go far beyond flashback, and seriously interfere with the defendant's ability to control behavior. Each of these elements pervaded all three of Mr. Woods' alters. Evaluating for such characteristics requires recognizing dissociation and accessing alter personalities, without accepting all of what one sees and hears at face value. As with any disorder, the examiner should maintain a balance between empathy and objectivity in order to obtain the fullest understanding of the defendant's mind and behavior.

The view of MPD/DID criminal responsibility developed here offers a way to reconcile the apparent differences in the legal approaches of Saks and Behnke on MPD/DID. Like Behnke, one can acknowledge that this is a disorder of a single person; but like Saks, one can also recognize that having severely compartmentalized centers of consciousness, in place of a full self, can constitute an insanity defense in some cases.

During the penalty phase, Mr. Woods' jury found him to have diminished responsibility for the murders. Instead of a death sentence, he received life in a prison system that is likely to be far more responsive to his psychotic behavior than to his underlying self-dividedness. He had already made one apparent suicide attempt by flinging himself off a high balcony. The meaning of this act was not appreciated (in both senses of the word) by the prison staff, and he was accorded no psychological treatment. Given the lack of understanding from within and without, one could concur with Ron that an escape to the mountains in the mind may well be Mr. Woods' most adaptive alternative.