

Dissociative identity disorder: No excuse for criminal activity

Using multiple personalities as the basis of an insanity defense rarely is successful

Formerly called multiple personality disorder, dissociative identity disorder (DID) is a controversial diagnosis that challenges forensic psychiatrists, other mental health clinicians, legal professionals, the media, and the public. DID cases often present in the criminal justice system rather than in the mental health system, and the illness perplexes experts in both professions.

Individuals may commit criminal acts while in a dissociated state. A study that tracked 21 reported DID cases found that 47% of men and 35% of women reported engaging in criminal activity, including 19% of men and 7% of women who committed homicide.¹ Defendants occasionally use DID as a basis for pleading not guilty by reason of insanity (NGRI). Controversy over the DID diagnosis has contributed to debates about the disorder's role in criminal responsibility.

The DID diagnosis

An American Psychiatric Association Work Group has proposed new diagnostic criteria for DID for DSM-5, which is scheduled to be published in May 2013.² Presently, DID is listed in DSM-IV-TR as an axis I disorder.³ Criteria for DID include the presence of ≥ 2 distinctive identities or personality states that recurrently take control of an individual's behavior (*Table 1, page 34*).³ This is accompanied by an inability to recall important personal information to an extent that cannot be explained by ordinary forgetfulness. Patients with DID typically have a primary identity that is passive, dependent, guilty, and



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DID and crime

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An insanity defense is raised in <1% of felony cases, and is successful in only a fraction of those

Table 1

DSM-IV-TR criteria for dissociative identity disorder

The presence of ≥ 2 distinct identities or personality states, each with its own relatively enduring pattern of perceiving, relating to, and thinking about the environment and self

At least 2 of these identities or personality states must recurrently take control of the person's behavior

An inability to recall important personal information that is too extensive to be explained by ordinary forgetfulness

The disturbance is not due to the direct physiological effects of substance or a general medical condition. In children, the symptoms are not attributable to imaginary playmates or other fantasy play

Source: Reference 3

depressed, and alternate identities with characteristics that differ from the primary identity, commonly in reported age and gender, vocabulary, general knowledge, or predominant affect.³

Dissociative pathology may result from trauma, comorbid mental illness, or other medical issues, including complex partial seizures. Developmental theorists have proposed that severe sexual, physical, or psychological trauma in childhood predisposes an individual to develop DID.⁴ Theoretically, harm by a trusted caregiver forces a child to split off awareness and memory of the trauma to survive in the relationship. Later these memories and feelings are experienced as a separate personality. Because this process happens repeatedly, the patient develops multiple personalities; each has different memories and performs different functions, which may be helpful or destructive. Later, dissociation becomes a coping mechanism when individuals face stressful situations.⁵

Personality traits that may predispose patients to develop a dissociative disorder include mental absorption, suggestibility, ability to be easily hypnotized, and tendency to fantasize.⁶ Patients with dissociation also may meet criteria for posttraumatic stress disorder, borderline personality dis-

order, somatoform disorder, eating disorder, or substance use disorders.⁷

DID and NGRI

An insanity defense is raised in <1% of felony cases, and is successful in only a fraction of those.⁸ A criminal defendant who claims NGRI asserts that he committed the offense and asks the court to find him not culpable because of his mental state when the offense occurred.

The legal approach used by the defense in cases of NGRI due to DID will be determined by the jurisdiction in which the case is tried. The "Alter-in-control" approach considers the key issue as which "alter" (personality) was in control at the time of the offense and whether he or she met the insanity standard, the "Each-alter" approach considers whether each personality met the insanity standard, and the "Host-alter" approach considers whether the dominant or primary personality met the insanity standard.⁹

Legal and mental health professionals are divided on whether DID warrants an acquittal for insanity. The first time DID was recognized as a mental disorder that could excuse criminal responsibility occurred in *State v Milligan* (1978).¹⁰ The court declared serial rapist Billy Milligan insane due to lack of one integrated personality and therefore not culpable of the crimes he committed. Public outrage was extraordinary. Since this case, most DID defenses have not been successful (*Table 2, page 39*).¹⁰⁻¹⁶

In *State v Darnall* (1980),¹¹ a defendant charged with murdering his father pleaded NGRI due to having multiple personalities. The court found that the defendant likely was malingering his alters, and even if they did exist, having alter personalities was not necessarily a mental disease that would preclude responsibility for the murder.

In *State v Grimsley* (1982),¹² the defense used NGRI due to multiple personalities in a drunk driving case. The court ruled that it is immaterial what state of consciousness or personality the defendant was in as long as the personality controlling the behavior was conscious and aware of his or her actions.

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Table 2

Using dissociative identity disorder* as a basis for not guilty by reason of insanity

Case	Year	Charge	Defense	Court ruling
State v Milligan ¹⁰	1978	Rape	NGRI-MPD	Lack of an integrated personality meant the defendant was not culpable
State v Darnall ¹¹	1980	Murder	NGRI-MPD	Multiple personalities do not preclude criminal responsibility
State v Grimsley ¹²	1982	Drunk driving	NGRI-MPD; primary personality had no control over the 'alter'	State of consciousness or personality of defendant is immaterial
Kirkland v State ¹³	1983	Bank robbery	NGRI-psychogenic fugue	Law does not inquire about other personalities, fugue states, or moods in cases of criminal liability
State v Jones ¹⁴	1988	Murder	NGRI-MPD	Alter personalities will not be an excuse for inability to distinguish right from wrong
State v Greene ¹⁵	1998	Murder	NGRI-DID; primary personality was 'unconscious'	Evidence of DID, including expert testimony, was not admissible because it did not meet reliability standards
State v Lockhart ¹⁶	2000	Sexual assault	NGRI-DID	DID was not allowed into evidence by the West Virginia Court due to lack of scientific evidence

*Dissociative identity disorder formerly was referred to as multiple personality disorder
 DID: dissociative identity disorder; MPD: multiple personality disorder; NGRI: not guilty by reason of insanity

In *Kirkland v State* (1983),¹³ attorneys for a woman who committed a bank robbery asserted an insanity defense based on a psychogenic fugue, which is sudden, unexpected travel away from home accompanied by inability to recall one's past and confusion about identity or assumption of a new identity.³ The court found that the law adjudges criminal liability according to the person's state of mind at the time of the act and will not inquire whether an individual possesses other personalities, fugues, or even moods in which he would not have performed the crime.

In *State v Jones* (1988),¹⁴ the court found the defendant guilty of murdering a woman he met at a bar despite expert testimony that his multiple personalities "paralyzed" him from knowing right from wrong.

More recently, courts have rejected the admissibility of DID evidence, including expert testimony, because the scientific evidence failed to meet reliability standards, and therefore is not ultimately useful to

the judge or jury. In *State v Greene* (1998),¹⁵ the defendant claimed that 1 of his 24 alters was responsible for killing his therapist. The Supreme Court of Washington affirmed that evidence of Mr. Greene's DID, including expert testimony, was not reliable and not admissible.

Similarly, in *State v Lockhart* (2000),¹⁶ Mr. Lockhart contested his conviction of first degree sexual assault on the basis that he was not permitted to present evidence of DID to support his insanity defense. The West Virginia Court held that the diagnosis of DID was speculative and therefore did not meet reliability standards for evidence.

Evaluating DID

Because the courts may ask psychiatrists to provide expert opinion on DID to assist with legal rulings, clinicians must remain vigilant to the possibility of DID as well as to defendants who may malingering multiple personalities to evade punishment. In

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Courts have rejected the admissibility of DID evidence because the scientific evidence failed to meet reliability standards



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The introduction of pseudomemories and potential for iatrogenic DID may complicate presentation and diagnosis

Related Resource

- West S, Noffsinger S. Is this patient not guilty by reason of insanity? *Current Psychiatry*. 2006;5(8):54-62.

Disclosure

Dr. Farrell reports no financial relationship with any company whose products are mentioned in this article or with manufacturers of competing products.

Table 3

Tools for diagnosing dissociative identity disorder

Structured Clinical Interview for Dissociative Disorders

Dissociative Disorder Interview Schedule

Dissociative Experiences Scale

Childhood Trauma Questionnaire

such situations, factors to consider include the mental status examination, data and history collection, collateral information, criminal background, mental health history, history of abuse, and objective assessment tools.

Extensive field testing has shown that the Structured Clinical Interview for Dissociative Disorders (SCID-D) has good reliability and excellent validity.¹⁷ The SCID-D allows a trained interviewer to assess the severity of 5 dissociative symptoms: amnesia, depersonalization, derealization, identity confusion, and identity alteration.¹⁷ Other tools that may help assess a patient with suspected DID are listed in *Table 3*.

The role of hypnosis in evaluating DID is controversial. The introduction of pseudo-

memories and potential for iatrogenic DID may complicate the clinical presentation and subsequent diagnosis.¹⁸

Patients who commit criminal acts while in a dissociated state may assert a defense of NGRI due to DID, but rarely has this defense been successful. Although a patient may have distinct personalities that control his or her behavior, this condition does not preclude criminal responsibility.

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Bottom Line

A defense of not guilty by reason of insanity due to dissociative identity disorder rarely has been successful. Courts generally have found that although an individual may have distinct personalities that control his or her behavior, the condition does not preclude criminal responsibility.