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### Andrea Yates: A Continuing Story about Insanity

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# The Insanity Defense

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# The Insanity Defense

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## Multidisciplinary Views on Its History, Trends, and Controversies

Mark D. White, Editor



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# Andrea Yates: A Continuing Story about Insanity

*Deborah W. Denno*

In 2001, Andrea Yates did the unthinkable: she drowned her five children one by one in a bathtub within the course of minutes. Immediately thereafter she called 9-1-1 and then her husband Rusty to confess.<sup>1</sup> “No,” she did not hate her children, she explained to the police. Nor was she angry at them.<sup>2</sup> She had, however, considered killing her children for two years because she did not want them “tormented by Satan” as she was.<sup>3</sup> She revealed that Satan had been conveying “bad thoughts” to her and she was concerned he would entice her children into his evil ways. She believed Satan was “inside [her] giving [her] directions . . . about harming the children . . . about a way out—to drown them.” If she successfully killed her children, however, they “would go up to heaven and be with God, be safe.”<sup>4</sup> She also realized that she was not a good mother and “that it was time to be punished” by the criminal justice system. In Yates’ mind, Satan had selected her children because of Yates’ own personal “weaknesses.”<sup>5</sup> Only later would her defense uncover a substantial array of evidence showing her long history of postpartum depression and postpartum psychosis, along with her many cries for help from the mental health system.<sup>6</sup>

Less than a year after the drownings, in 2002, a jury in Harris County, Texas, convicted Yates of capital murder and sentenced her to life in prison.<sup>7</sup> Although the prosecution had requested the death penalty, Yates

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avoided it because the jury did not consider her a “continuing threat to society.”<sup>8</sup> At the same time, the jury did not accept the defense’s argument that Yates was insane, or that Yates thought she was under Satan’s influence at the time she drowned her children. Rather, they sided with the prosecution’s account that Yates was sane and acting intentionally when she killed her children even though the prosecution’s experts also believed that Yates was often psychotic.<sup>9</sup> The most persuasive proponent of this account was Park Dietz, M.D., the prosecution’s star expert witness.<sup>10</sup> He pushed the view that Yates had rationally planned the murders and had manipulated postpartum stress and hospitalizations to get Rusty to buy her a house (the family was living in a cramped school bus) and to take a break from caring for her children.<sup>11</sup> Yet the extent of Dietz’s speculation about Yates was troubling. There was little, if any, empirical basis for his conclusions, and he clearly lacked expertise in postpartum depression and postpartum psychosis.<sup>12</sup>

In 2003 I published an article on the Andrea Yates trial and sentencing in which I focused on Dietz’s questionable and undocumented testimony, particularly as it pertained to postpartum illnesses.<sup>13</sup> As it would so happen, Yates’ defense attorneys discovered an additional problem with Dietz’s testimony. After the verdict but before the punishment phase of the trial, the defense learned that Dietz had introduced false testimony during the trial. Although the defense moved for a mistrial based on this newly found information, the trial court denied the motion and allowed the trial to proceed.<sup>14</sup>

The error involved Dietz’s testimony during cross-examination in which Yates’ defense attorney, George Parnham, asked Dietz if he was a consultant for the television show, *Law & Order*.<sup>15</sup> Dietz said that he was a consultant on two of the *Law & Order* programs. When the defense asked if either program concerned “postpartum depression or women’s mental health,” Dietz responded as follows: “As a matter of fact, there was a show of a woman with postpartum depression who drowned her children in the bathtub and was found insane and it was aired shortly before [Andrea Yates’] crime occurred.”<sup>16</sup> Yet the defense discovered no such show existed. The producer of *Law & Order* and his lawyer could not verify such a show ever aired, and Dietz ultimately admitted “he had made an error.”<sup>17</sup> Unaware of Dietz’s error, the prosecution used Dietz’s incorrect statement in the cross examination of a defense psychiatrist, who stated, when asked, that she would have questioned Yates differently had she known of the show.<sup>18</sup> The prosecution also used Dietz’s reference in closing arguments, suggesting that Yates was not only influenced by the *Law & Order* episode but that she also viewed its strategies as a “way out.”<sup>19</sup>

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Concern over Dietz's testimony prompted a grand jury investigation of whether he should be charged with perjury.<sup>20</sup> In 2003, however, a year after Yates' sentencing, a Harris County grand jury declined to indict Dietz for perjury after Dietz appeared before them and answered questions about his testimony.<sup>21</sup> Grand jury members accepted Dietz's explanation that his *Law & Order* testimony was an "innocent mistake."<sup>22</sup> Regardless, the defense appealed Yates' sentence. In 2005 the Texas Court of Appeals acknowledged the degree of Dietz's impact on the jury. Given that Dietz "was the only mental health expert who testified that [Andrea knew] right from wrong" and that the prosecution relied on the error during trial, the Texas Court of Appeals determined that Dietz's "testimony was critical to establish the State's case."<sup>23</sup> There was also "a reasonable likelihood that Dr. Dietz's false testimony could have affected the judgment of the jury" and that "the trial court abused its discretion in denying [Andrea's] motion for mistrial."<sup>24</sup> As a result, the Texas Court of Appeals reversed the trial court's judgment and remanded the case for further proceedings.<sup>25</sup>

The second trial of Andrea Yates during the summer of 2006 showed substantial differences from the first trial, particularly because the death penalty was no longer an option.<sup>26</sup> Because the jury in the first trial had sentenced Yates to life, prosecutors in the second trial could not ask for death.<sup>27</sup> While "[t]he basic thrust" of Dietz's testimony and that of the key defense expert, Phillip Resnick, M.D., "was unchanged from the first trial,"<sup>28</sup> the jury and the social-legal atmosphere were different.<sup>29</sup> In the first trial, for example, Yates' jury was "death qualified."<sup>30</sup> *Death qualification* means that the prosecution could exclude potential jurors for cause if they were so ambivalent or negative about the death penalty that it would impair their decision making and ability to apply the law.<sup>31</sup> Research shows that death qualified juries are generally more punitive and more likely to convict than juries that are not death qualified.<sup>32</sup> In Yates' second trial, however, the jury was not death qualified and thus presumably more inclined to support an insanity defense.<sup>33</sup>

There were other differences between the two trials. After Yates' 2002 conviction, there was an enormous amount of publicity accompanying her case and life circumstances. News articles accentuated the medical and social underpinnings of postpartum depression and psychosis as well as the need to better educate the public and mental health professionals about mental illness and the health care system. The legal and medical community also rallied for more information and training, which resonates to the present day.<sup>34</sup> In addition, by this time, Yates was housed in Skyview Penitentiary, where the warden provided her the best mental health care available in his facility. Therefore the defense could more easily present

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Yates as an inmate with mental health issues.<sup>35</sup> Finally, two other women in Texas had been found not guilty by reason of insanity for killing their children between the time of Yates' first and second trials. Because these women's circumstances were so similar to Yates', their more lenient treatment raised further questions about why Yates' case was treated so differently.<sup>36</sup>

The momentum of this publicity and support for Yates bolstered the defense and most likely influenced the jury in her second trial. After 12 hours of deliberation, the jury unanimously found Yates not guilty by reason of insanity.<sup>37</sup> It appeared this second jury could distinguish between Yates' true mental state and what seemed to be her planned and rational conduct on the day that she killed her children.<sup>38</sup> As the jury foreman explained, "We understand that she knew it was legally wrong. But in her delusional mind . . . we believed that she thought what she did was right."<sup>39</sup>

After the second jury trial, Yates was initially committed to North Texas State Hospital, Vernon Campus, a high-security mental health facility.<sup>40</sup> She was transferred in 2007 to Kerrville State Hospital, a low-security mental hospital, where she remains.<sup>41</sup> In 2012, Yates applied to the Houston district court to leave the hospital for two hours each week to attend church services; however, the judge denied her request.<sup>42</sup> Similarly, in 2015, Yates and her doctors requested a judge to allow her to leave Kerrville for supervised group outings with other patients, such as picnics.<sup>43</sup> Yet Yates' doctors revoked the request in light of a rash of negative commentary about her from the press and the public; they "fear[ed] that any good that would come from the outings would be outweighed by the crush of criticism over the decision."<sup>44</sup> For now, Yates comes up for review in the district court every year until the time she may be discharged (if ever).<sup>45</sup>

The Andrea Yates case produced a mixed impact on the world of law and medicine. On the one hand, the case helped wake the world to the reality and pervasiveness of postpartum depression and psychosis.<sup>46</sup> After Yates' first trial, for example, George Parnham and his wife established the Yates Children Memorial Fund. The purpose of the Fund is to provide guidance to medical professionals on how to detect potential symptoms of postpartum depression and psychosis in new mothers.<sup>47</sup> The Parnhams were also instrumental in the creation of the Andrea Yates Law. Enacted in 2003, the law mandates hospitals and medical personnel to notify patients about postpartum challenges.<sup>48</sup>

There are other areas of law and medicine, however, where the Yates case has shown no impact. Most critically, there have been no substantive changes in Texas insanity law<sup>49</sup> since the time of Yates' first trial even though the Texas standard is among the narrowest in the country.<sup>50</sup> As the rest of this chapter explains in more detail, the state's definition of



insanity influenced the first trial and both constrained and confused how the jury could view her actions. For example, both the prosecution and the defense agreed that Yates was mentally ill and, in general, that she knew her actions were legally wrong. Yet the issue of whether her mental illness rendered her unable to control her actions, although hotly debated, was moot under the extreme confines of the Texas insanity statute. Therefore, in both the first and second trials, only one key question was left for the jury to resolve: Did Yates know that her actions were morally wrong? The following pages provide the backdrop for answering that question.\*

## 1 Andrea Yates, the Original Story

In 2003, everyone knew the story about the highly publicized case of Andrea Yates. Or at least they thought they did. Yates, high school valedictorian, swim team champion, college graduate, and registered nurse married Russell (“Rusty”) Yates in 1993 after a four-year courtship. Both were 28. Over the next seven years, Andrea gave birth to five children and suffered one miscarriage, all the while plunging deeper into mental illness. Then on June 20, 2001, in less than an hour, Andrea drowned all of her children in the bathtub, one by one. Months later, she was convicted of capital murder in Harris County, Texas, where she now serves a life sentence.

Some may think that a mentally ill mother who committed such an act should be judged insane. Yet, news accounts and court records suggest that Yates impaired her attorneys’ efforts to plead insanity. Such defense plans were already encumbered by the unusually strict Texas insanity standard and the state’s renowned retributive culture. After a jury found her competent to stand trial, she resented the efforts that her attorneys mounted on her behalf even as she faced possible execution. Yates insisted there was nothing wrong with her mind and that she deserved to die. She seemed to be awaiting punishment for her sins.

To those closest to Yates, this self-blaming reaction came as no surprise. They could testify that she had been tormented by bouts of mental illness, and, in fact, both the prosecution and defense agreed that she was mentally ill. Yates’ life was also distinguished by religious obsession and a steadfast devotion to tales of sin and Scripture, a “repent-or-burn zeal” that led her to believe she was a bad mother with ruined offspring. According to Yates, she killed her children to save them from Satan and her own evil maternal

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\*What follows is adapted from Denno, “Who is Andrea Yates?” (The footnotes and appendices have been removed to enhance narrative flow; the interested reader is referred to the original article for those details.)

influences, delusions that did little to help her defense because they fueled her own desire for punishment.

Public opinion on the Yates killings helps explain some of the more contradictory themes in the case. On the one hand, the public had much sympathy for Yates and the life that she led. Yet, her composed behavior on the day she killed her children stirred a strong retributive response. Many were unable to comprehend such violence except by declaring it intentional and evil. According to this view, it could be said that Yates was supremely sane—her acts rational and premeditated—despite her unquestioned history of postpartum psychosis. She propelled this account, spurring the public, her “jury,” to see her as the Satanic mother she believed herself to be.

These complex and conflicting aspects of the Yates case fed into the prosecution’s depiction of her mental state on the day she killed her children. But, one psychiatrist’s testimony seemed to have a greater impact than the others on the case’s outcome. The prosecution’s star expert, Park Dietz, appeared particularly adept at persuading the jury to accept the prosecution’s assertion that Yates was sane and acting intentionally when she killed her children. Because the Yates case is on appeal, many of the court records are not available. In addition, the defense team still lacks funds to pay for the entire trial transcript so it too cannot be examined. Dietz’s testimony, however, is now accessible and it warrants a thorough analysis in its own right.

What is most striking about Dietz’s testimony is how his opinions about Yates’ mental state could carry so much authority with the jury. Criminal trials commonly involve different sides presenting competing legal “stories” about their version of the facts. The law’s role is to ensure that just verdicts result from these conflicting representations. Courts must be perceived “as fair and disinterested, capable of rising above the self-serving and adversarial narratives by which cases are presented.” While the law provides evidentiary standards and procedures to oversee what information is released in court and how, an immense amount of discretion exists nonetheless in the ways stories can be told. It remains unclear who is to police these narratives—beyond the structures already in place—or whether such oversight is even needed.

In the Yates case, the defense claimed that her mental illness caused her to believe that killing her children was the right course of action. Although Yates’ attorneys called a number of experts to prove their argument, each expert had a different twist on this central viewpoint. Therefore, the defense’s story about Yates, while emphasizing her insanity, was still somewhat muddled. In contrast, the prosecution’s story about Yates’ sanity was clearer and also apparently consistent with the cultural norms of Harris

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County, Texas. The prosecution argued that Yates may have been gripped by her belief in some demonic command, but she was still fully capable of knowing she was doing something wrong. And Yates seemed to concur, damningly perhaps. Her story was congruent with the prosecution's. She had sinned and deserved punishment for acting out the devil's dictates. In all likelihood, however, Yates' own story was indicative of her mental illness, not evidence of the disposition she felt she most deserved. Nonetheless, both her narrative and that of the prosecution were accentuated by courtroom storyteller, Park Dietz.

This chapter analyzes the problematic aspects of Dietz's testimony in an effort to contribute some balance to the Andrea Yates story. While Dietz's comments may have confirmed the Harris County jury's preconceptions, they were virtually unsubstantiated. Dietz also has no significant expertise in postpartum depression or psychosis even though both sides agreed that Yates severely suffered from the disorders and that they significantly affected her conduct.

Of course, expert witnesses are routinely used in litigation. Dietz is simply one of the more prominent and prolific examples of what the criminal justice system seeks. Despite the long history of expert witnesses in criminal trials, the justice system should question the fairness and efficacy of such an unregulated storytelling process. The potential for inequity is all the more pronounced in a case where the prosecution's story lacks factual justification, both sides agree the defendant is mentally ill, and the death penalty is at stake.

Section 2 of the rest of this chapter briefly discusses Yates' life up to her marriage to Rusty as well as the outcome of her trial. Section 3 provides an overview of the insanity defense and the strict Texas insanity standard. Section 4 examines Dietz's background, his reputation, and his psychiatric philosophy, in addition to his proclivity to testify for the prosecution. Section 5 describes Yates' history of mental illness, especially her postpartum psychosis that started with the birth of her first child and ended with a severe psychotic episode. Section 6 focuses on Dietz's testimony in the Yates trial, beginning with his pre-trial interview with Yates and ending with an analysis of his conclusions. The discussion emphasizes the speculative nature of many of Dietz's statements and their lack of connection to Yates' history of mental illness. Section 7 presents the other perspectives and experts in the Yates case, and considers how the case might have reached a different result with a more consistent defense strategy or a less rigid insanity standard.

The Andrea Yates case is a vast, book-length narrative. This commentary covers just a part of the trial. It is beyond this chapter's scope, for example, to scrutinize the general role of psychiatric experts in the criminal

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justice system or to review the research on postpartum depression and postpartum psychosis, which is available elsewhere. Nonetheless, examining one piece of the Yates story can be enlightening. “Narrative, we are finally coming to realize, is indeed serious business—whether in law, in literature, or in life.”

## 2 The Early Life and Trial of Andrea Yates

### 2.1 Meet the Yates Family

Andrea Yates was raised in the Houston area. Her family background appeared to be middle-American and middle class. Her father was a retired auto shop teacher who died of Alzheimer’s disease shortly before the killings. Her mother, Jutta Karin, was a homemaker. Yates, the youngest of five, was expected to be a high achiever and, in high school, she succeeded: she was captain of the swim team, a National Honor Society member, and valedictorian of her 1982 graduating class. Upon completing a two-year pre-nursing program at the University of Houston, she went on to the University of Texas School of Nursing in Houston, graduating in 1986. From 1986 to 1994, she was employed as a registered nurse at the University of Texas M.D. Anderson Cancer Center. Andrea’s nursing career ceased entirely, however, soon after her marriage to Rusty.

Andrea and Rusty first met in 1989 at the Houston apartment complex where they both resided. Both were 25 at the time. Rusty, “a popular jock” in high school and a summa cum laude graduate of Auburn University, was designing computer systems for NASA. Andrea approached him first in conversation—an uncharacteristically bold move for her, Rusty would later reveal. Only after Andrea’s arrest would Rusty learn that she had never dated until she had turned 23, that she was recuperating from a romantic break-up at the time they met, and that her directness in initiating contact with him was prompted by intense loneliness and, perhaps, depression. Andrea and Rusty spent the next few years becoming acquainted, “living together, reading the Bible, and praying.”

Their April 17, 1993, wedding ceremony was small and simple. Surprisingly, it was also nondenominational, perhaps because of the influence of Rusty’s spiritual mentor, Michael Woroniecki, from whom “he had learned the faults of organized religion.” The couple confidently announced to wedding guests that they would not use birth control—they wanted as many children as nature would provide. Their desire for children was immediately fulfilled. Within three months, Andrea was pregnant with the first of five children. Eight years later she would kill them all.

## 2.2 The Yates Trial

On July 30, 2001, Yates was indicted on two counts of capital murder for the deaths of Noah (seven), John (five), and Mary (six months), but not for the deaths of her other two children, Luke (three) and Paul (two). All of the indictments were for capital murder because they involved more than one person and victims less than six years old. On the same day, Yates' attorneys, George Parnham and Wendell Odom, filed a "notice of intent to offer evidence of the insanity defense," based upon the testimony of two psychiatrists claiming that Yates was, at the time of the killings, "mentally insane" as defined by the Texas Penal Code.

The insanity defense for Yates would ultimately dissolve. Within eight months following her indictment, one jury decided that Yates was sufficiently competent to stand trial for killing her children and another refused her insanity plea. Although this second jury declined to impose the death penalty, Yates received a mandatory life sentence for the killings. Under the Texas capital felony statute, an inmate must serve forty years in prison before becoming eligible for parole. The case is currently on appeal.

Many theories could explain Yates' conviction. Of course, the primary theory would speculate that the jury was so horrified by her acts that any psychiatric evidence offered on her behalf paled in comparison. Yet, the continuing controversy and debate over Yates' conviction suggest that there may be other, more complex, explanations.

Additional rationales primarily point to the retributive aspects of Texas law and culture. As one Harris County resident explained, "There's the rule of law, and there's the rule of law in Texas. . . . The rule of law in Texas is kind of cowboy law." For example, Texas consistently executes more individuals than any other state; annually it accounts for one-third of all executions in the country, a pattern that conflicts with both national and international abolitionist trends. Harris County in particular is responsible for over one-third of the state's death row inmates, making it the harshest death penalty jurisdiction in the country and one of the most punitive in the Western world. If Harris County were considered a state, it would follow only two other states (Texas and Virginia) in its number of executions since 1977.

Because the Yates prosecution sought the death penalty, the jury was "death qualified." In other words, the prosecution could exclude potential jurors for cause if their negative views toward the death penalty were so strong they "would 'prevent or substantially impair the performance of [their] duties as [jurors]'" and therefore render them "unable to faithfully and impartially apply the law." Research shows that death qualified juries

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are more anti-civil libertarian in attitude, particularly with respect to such principles as presumption of innocence and burden of proof, and they are significantly more likely to convict than juries that are not death qualified. Presumably, then, Yates' jury was far less able to "comprehend the inconceivable" in evaluating an insanity defense relative to a jury that had not been death qualified.

The Texas insanity standard is a comparably strict rule of law; in the eyes of one legal commentator, it is "one of the most stringent" in the United States. The Yates jury judged psychiatric testimony not only by Texas culture but also by that culture's narrow legal view of what constitutes insanity.

### 3 The Insanity Defense

#### 3.1 A Brief Overview of the Insanity Defense

This section explores only the very basics of the insanity defense and how it is applied in the state of Texas. The insanity defense is considered one of the most controversial criminal law doctrines, not only because of intense debate over how "insanity" should be defined, but also because of increasing conflict over whether the defense should exist in any form. Statistics show that insanity pleas are seldom raised or successful in states throughout the country, including Texas. Nonetheless, the defense rankles social and community tensions over two conflicting goals: the desire to punish the horrendous, highly publicized crimes that the public typically hears about versus the need to understand that some mentally ill people should not be held responsible for what they do.

##### 3.1.1 The Major Legal Standards for Insanity

The legal standard for insanity varies across the 50 states. The first and strictest insanity test of modern usage was introduced in 1843 by the English House of Lords in the M'Naghten case. Under M'Naghten, a person is insane if, because of a "disease of the mind" at the time she committed the act, she (1) did not know the "nature and quality of the act" that she was performing; or (2) if she was aware of the act, she did not know that what she "was doing was wrong," that is, she did not know the difference between right and wrong. The M'Naghten Rule, which soon became the most widely accepted insanity test in the United States, considers only cognitive ability and not volitional conduct.

Concern over the narrowness of the M'Naghten test prompted attempts over the years to replace it. The most successful attempt was the American

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Law Institute (ALI)'s 1962 insanity test, which rapidly gained support from legislatures and courts; by the 1980s, the ALI standard was adopted nearly unanimously by the federal circuit courts and over one-half of the states. Under the ALI test, an individual is not responsible for her criminal conduct if, because of mental disease or defect, she either lacked "substantial capacity" to appreciate the "criminality" (or, at the opting of the state legislature, the "wrongfulness") of her conduct, or she failed to "conform" her conduct "to the requirements of law."

The differences between the ALI and M'Naghten tests are striking. For example, the ALI test accepts both cognitive and volitional impairment as an excuse. In other words, the test considers a defendant's cognitive ability to "appreciate" the criminality or wrongfulness of her conduct as well as her ability to "conform" her conduct to the law. This added "conform" requirement is often characterized as a "lack-of-control defense," pertaining to those individuals whose mental disease or defect leads them to lose control over their actions at the time they commit an offense.

The ALI and M'Naghten standards vary in other important ways. The ALI test requires only that defendants "lack substantial capacity," not total capacity. In turn, the ALI applies the broader term "appreciate" rather than "know" when specifying the type of cognitive impairment that leads to insanity; hence, the defendant's lack of emotional understanding can be incorporated into the defense. The ALI test also allows the state legislature to consider "wrongfulness" rather than "criminality." This choice enables a finding of insanity if the accused does not know the act was illegal and also if she believes the act was "morally justified" according to community standards. At the same time, both the ALI and M'Naghten tests skirt any set definition of the term "mental disease or defect." According to the ALI, such an open-ended approach allows the term "to accommodate developing medical understanding" and therefore avoid the constraints of old science.

The popularity of the ALI test dwindled in 1981 when a jury found John Hinckley not guilty by reason of insanity, based on an ALI standard, for his attempted assassination of Ronald Reagan. The effects of the public furor over Hinckley's acquittal were immediate: the federal government and several of the ALI test states abolished the volitional component of the test entirely and imposed other limits, in some cases reverting back to a M'Naghten-type standard. According to a 1995 survey of insanity laws, about twenty states still use the ALI test while nearly half of the states apply "some variation of the M'Naghten/cognitive impairment-only test." A handful of states have abolished the insanity defense entirely.

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### 3.1.2 Modern Problems with the M’Naghten Insanity Standard

The return to a M’Naghten-type standard spotlights the problems that the test has always had and why there have been continuing efforts to change it. For example, the word “know” and the phrase “nature and quality of the act” can be defined either very broadly or narrowly. Such vagueness gives legal actors little guidance for interpreting the test and heightens the chance that they will apply it inconsistently across different cases. Likewise, it is not clear whether the “wrong” in the right-and-wrong prong pertains to legal or moral wrongdoing because the language in M’Naghten itself could bolster either approach. England has since established that the right-and-wrong element represents the defendant’s recognition that an act is legally wrong. Yet, American law sides in the opposite direction. Most American courts have interpreted the word “wrong” to mean “moral wrong,” not “legal wrong.” This issue was important in the Yates case because Texas law does not specify a particular approach and a moral wrong approach would have benefited her. According to some defense experts, Yates knew that her acts were illegal but she believed they were morally right, given the context of her delusional circumstances.

In American states that apply the moral right-and-wrong test, questions typically concern whether the defendant knowingly transgressed society’s standards of morality, not whether the defendant personally perceived her acts to be morally acceptable. In other words, even if a defendant is mentally ill and, as a result, commits an offense that she believes is morally correct, she is considered sane if she is aware that her conduct is condemned by society. As one commentator notes, however, this difference can “be blurred to near extinction” depending on how the particular circumstances in a case are pitched. For example, a mentally ill individual “is apt to know that society considers it morally wrong to kill, but if she is acting pursuant to a delusionary belief that God wants her to kill, she might now believe that society would agree with her God-endorsed actions.”

Interpretation of the moral-right-and-wrong standard can vary somewhat in the few M’Naghten jurisdictions that have a “deific decree doctrine,” in other words, a rule that allows a mentally disordered defendant to be judged legally insane if she believes that she is acting under the direct command of God (for example, a belief that God commanded the defendant to kill someone). Two primary rationales explain the origins of the deific decree doctrine. First, the doctrine “was merely a logical extension of the Judeo-Christian belief that God would not order a person to kill another” because the Sixth Commandment prohibits murder. Therefore, a person thinking that God is commanding her to kill is entertaining a false



belief and thus should not be held accountable. Likewise, 19th-century courts and juries would not grant the insanity defense to individuals contending that they acted under the command of the Devil or some other religiously corrupt figure because people accepted only “the One True God.” Second, the doctrine may have been a vehicle for inserting a volitional component exception to the cognitive-only limitations of the M’Naghten Rule so that M’Naghten could incorporate at least a narrow category of uncontrolled individuals.

The exceptions and qualifications for the deific decree doctrine apparently still apply today for defendants experiencing such “command hallucinations.” The doctrine presumes that the defendant’s behavior results from a delusion (a “false belief based on incorrect inference about external reality”), and not from a religious conviction, although determining the difference between the two can be very difficult. While some jurisdictions treat the deific decree rule as an exception to the general insanity standard, other jurisdictions view it as a major factor in assessing an individual’s capability to tell right from wrong. Irrespective of a jurisdiction’s particular approach, these right-wrong issues were key in the Andrea Yates case. Yates’ command hallucinations were a focus of the expert testimony and what was supposed to be considered “wrong” was neither specified, nor constrained, in the jury charge.

### 3.2 The Texas Insanity Standard

In 1973, Texas joined the ranks of other states and adopted the more lenient ALI definition of insanity. A decade later, however, the state returned to a M’Naghten-type standard, partly in response to developments surrounding the Hinckley verdict. Yet, a critical feature of the Texas test is that it is even narrower than M’Naghten, although comparably confusing. The typical M’Naghten standard refers to two parts: the defendant’s ability to know (1) the “nature and quality of the act committed” or (2) whether the act was “right or wrong.” The Texas standard, however, eliminates the first part and refers only to the second, that is, whether the defendant knew the act was right or wrong. Texas also limits the defense to cases of severe mental illness and puts the burden of proving insanity on defendants. As legal commentators rightly contend, the Texas standard “could hardly be narrower” or more “impossible to meet.”

Similar to the M’Naghten standard, defining the terms “right” and “wrong” is a problem. For example, the Texas insanity statute does not clarify whether “wrong” should be considered from a legal or a moral standpoint. This ambiguity was a key issue in the Yates case, both for the law and the

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psychiatric profession. As one psychiatric expert commenting on the case said, there is still no “test” available to determine who is genuinely controlled by command hallucinations; rather, psychiatrists must rely on “a certain degree of approximation” in their assessments. Likewise, the Yates jury charge did not specify what “wrong” should mean and expert testimony did not seem to restrict the definition of “wrongfulness.” The Yates jury was free to use the term’s “common and ordinary meaning” and apply “the statutory language to the facts as it saw fit.”

Such a legally muddled circumstance prompted conflicting approaches to interpreting the Texas insanity standard. As the Yates case evolved, for example, it became clear that both the prosecution and the defense would define the legal-or-moral wrong issue because of the statute’s silence. Both sides agreed that Yates was mentally ill and, in general, that she knew her actions were legally wrong. The issue of whether Yates’ mental illness rendered her unable to control her actions, although hotly debated, was moot under the narrow confines of the Texas insanity statute. Thus, only one significant question was left for the jury to resolve: Did Yates know that her actions were morally wrong?

#### 4 Park Dietz’s Expertise and Psychiatric Philosophy

There was little legal or psychiatric clarity guiding the determinations to be made in the Yates case. For this reason, the opinions of expert witnesses were especially important. According to a synopsis of the ethical guidelines established by the American Academy of Psychiatry and the Law, “the medical expert is expected to provide a clinical evaluation and a review of the applicable data in light of the legal question posed and in the spirit of honesty and striving for objectivity—the expert’s ethical and professional obligation.” The Academy specifies that such an obligation “includes a thorough, fair, and impartial review and should not exclude any relevant information in order to create a view favoring either the plaintiff or the defendant.”

According to some legal commentators, Park Dietz’s expert testimony was considered “crucial” for the conviction of Andrea Yates—the “defining moment” of the trial. Section 4 examines Dietz’s background, experience, and psychiatric philosophy in an effort to explain why Dietz’s story about Yates seemed so much more compelling than the other stories experts had to offer. Notably, much of the information about Dietz derives from interviews with Dietz himself, or from his supporters, in magazines and newspapers. Dietz is commendably forthright about his views in general

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and was immediately open to commenting on the Yates case as soon as she was sentenced. What becomes apparent is how his own self-described, pro-prosecution leanings could mesh so well with a death-qualified Harris County jury.

#### 4.1 Dietz's Background and Reputation

Park Dietz is considered one of the most “prominent and provocative” psychiatric expert witnesses in the country. In one professional capacity or another, he has been involved with a long list of famous homicide defendants: John Hinckley, Jr., Jeffrey Dahmer, Susan Smith, Melissa Drexler, the Menendez brothers, O.J. Simpson (in the civil case), and Ted Kaczynski, to name a few. He can now add Andrea Yates to that list. As the prosecution's star witness in the Yates case, he both interviewed and videotaped her, and he subsequently testified in court about his evaluation.

Dietz also has extensive professional credentials. He acquired a BA from Cornell University in biology and psychology, an MD from Johns Hopkins School of Medicine, and a Masters in Public Health and PhD in sociology, both from Johns Hopkins. He has held academic posts at Johns Hopkins, the University of Pennsylvania, Harvard, and the University of Virginia. His professional experience is substantial, including consulting positions with the Department of Justice and the Federal Bureau of Investigation. In addition, Dietz has over one hundred publications, “nearly all” of which concern violent or injurious behavior, and he has examined “thousands” of criminal defendants for forensic psychiatric purposes, including sanity determinations.

Currently (and at the time he testified in the Yates trial), Dietz runs two businesses in Newport Beach, California. He is the president and founder of Park Dietz & Associates, Inc., forensic consultants in medicine and the behavioral sciences, as well as president and founder of Threat Assessment Group, Inc. (TAG), which specializes in the prevention of workplace violence. Before arriving in Houston to testify in the Yates case, Dietz mailed his business brochure (describing his companies and the types of cases on which they work) to a wide range of members of Houston's legal community—prosecutors, defense attorneys, attorneys specializing in premises liability for violent crime, and lawyers representing elder abuse victims. Although the Yates defense brought forth evidence of Dietz's brochure distribution during cross-examination in an effort to portray Dietz as a “professional testifier,” Dietz did not seem apologetic. Nor did such a revelation appear to dent the perceived validity of his testimony.

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#### 4.1.1 A Desire to Emphasize “Facts”

Media articles about Dietz claim he is known for emphasizing “facts” rather than “theoretical conjecture” when evaluating a case. Indeed, both Dr. Jonas Rappeport, a renowned professor of Dietz’s at Johns Hopkins Medical School, as well as Roger Adelman, one of the prosecutors in the Hinckley case, credit Dietz’s precision and “focus on the facts” as major contributions Dietz has brought to modernizing the field of forensic psychiatry.

In line with this facts-driven orientation, Dietz seems to be more concerned with the physical evidence linked to a crime than with the defendant’s history that can be acquired in an interview. According to Dietz, for example, interviews with defendants have typically “been the linchpin of forensic assessments”; yet, there are “serious risks” associated with them because the “natural human techniques for gaining information from an interview unthinkingly cut corners by suggesting answers or guessing at the answer or offering multiple choices.” Such leading or suggestive procedures are comparable to crime scene evidence that has been contaminated or corrupted. Dietz favors instead the second source of mental evidence, which includes examining the crime scene, analyzing autopsies and weapons, and interviewing witnesses to the crime. Although “the ideal” would be to have both types of evidence when making an evaluation, Dietz has stated that, “If I had to choose between the interview [with the defendant] only or everything except the interview as a means of getting to the truth, I’d prefer everything except the interview because it would get me to the truth more often.”

Dietz’s apparent stress on facts, combined with what even Rappeport views as a “rigid” approach towards defendants, has prompted criticism. According to an article about Dietz in *Johns Hopkins Magazine*, “some forensic psychiatrists” have accused him of presenting “mere informed opinion as solid fact, and [complain] that his standard of criminal responsibility is harsh and unforgiving of mentally ill defendants.” For example, during his testimony in the Yates case, Dietz indicated that because Yates claimed that Satan, rather than God, told her to kill her children, she knew her actions were wrong. Yates also failed to act in a way a loving mother would if she really thought she was saving her children from hell by killing them. As Dietz stated, “I would expect her to comfort the children, telling them they are going to be with Jesus or be with God, but she does not offer words of comfort to the children.” However, there appears to be no empirical support for this kind of interpretation of the deific decree doctrine, if in fact that is what Dietz was referencing. Rather, if Dietz’s explanation has any

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source at all, it seems to derive from the centuries-old, Judeo-Christian origins of the doctrine itself. As one legal critic asked in response to Dietz's comments, "Is one to infer that it is somehow more loving to invoke the name of Jesus while you drown your children than to drown them without any religious commentary?" In other words, Dietz appears to be stressing religion, not facts, a focus more aligned with Southern Bible belt culture rather than with a medical assessment of Yates' mental state.

Even Dietz's supporters have admitted that his inflexible approach may prevent him from being able (or willing) to comprehend "some of the psychological nuances of human behavior." According to Rappeport, a strong advocate, Dietz has the capability to understand and apply knowledge of human behavior, he simply chooses not to. As Rappeport explained, "I have a suspicion he may not like to do that. So he may find himself more frequently on the side of the prosecutor, who doesn't like to do those things either." Such an omission is a troubling handicap in a field where "50 percent or more of medicine is emotional." It is particularly problematic given that the cases that typically involve Dietz's testimony often turn on the very "nuances" that Dietz discounts.

Indeed, in media interviews and his testimony in the Yates case, Dietz has made clear that he does not treat patients in a psychiatry practice. This lack of engagement with patients is "rare" among medical expert witnesses. Rather, Dietz opts to concentrate on research and one-time interviews with criminal defendants. Yet, such a view of the psychiatric world is distorted. For example, it is difficult to comprehend how Dietz can evaluate an individual's normality or abnormality if he only engages in short-term interviews with highly abnormal people. By encountering briefly only the most extreme criminal cases, all Dietz sees is pathology. He has no "control group" as a comparison, no in-depth evaluations of individuals from whom he can learn nuances. Such an approach may explain additional criticisms concerning where Dietz draws the line for distinguishing sanity from insanity. According to Fred S. Berlin, associate professor of psychiatry at Johns Hopkins and one of the defense's psychiatric experts in the Jeffrey Dahmer case, Dietz's line is too stringent. "He has a high threshold for evidence that tends to suggest impairment. A narrow range for what he defines as psychiatric disorder."

Consistent with this view, in the Yates case Dietz minimized the defense expert witnesses' testimony that Yates had suffered years of delusions, auditory hallucinations, and visions of violence. Instead, Dietz claimed that she had, at most, experienced "obsessional intrusive thoughts." Yet, contrary to other high-profile defendants pleading insanity, Yates had a substantial and documented history of mental illness before she killed her children.

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Not only had she twice attempted suicide, she had also been hospitalized and prescribed anti-psychotic drugs after the birth of her fourth and fifth children. The defense could call experts who had actually treated Yates, some repeatedly, in sharp contrast to Dietz's relatively brief interview. As one scholar on expert testimony emphasizes, "the legal system assumes that the treating doctor is more credible than a nontreating doctor"; therefore, the treating physician "is frequently sought to provide expert testimony."

Nonetheless, Dietz's effectiveness as a witness appears to be due to his alleged emphasis on fact. Because jurors received conflicting expert testimony during the Yates trial, minimal statutory guidance, and unclear stories from both the prosecution and defense, they were left with little to rely on other than the supposed "facts." Compounding this dilemma, the multiple defense psychiatrists gave somewhat contradictory analyses of Yates' mental state, presumably in part because she had been treated or assessed by a number of them during different stages of her illness. Such a multiple-theory defense narrative contrasted with the more uniform "factual" narrative presented by Dietz. Given a choice, Dietz's story may have been the preferred alternative; the jury could base a decision on something tangible—"facts"—rather than confusion.

#### 4.1.2 A Prosecutorial Bent

Almost immediately, Dietz's testimony and post-trial commentary about the Yates case sparked notoriety for the views he expressed both inside and outside the courtroom. In an interview with the *New York Times* six weeks after his trial testimony, Dietz stressed that his involvement in the Yates case was "troubling," both "professionally and personally." As he explained, "it was obvious where public opinion lay, it was obvious she was mentally ill, it was obvious where professional organizations would like the case to go." Therefore, while "it would have been the easier course of action to distort the law a little, ignore the evidence a little, and pretend she didn't know what she did was wrong," it also would have been "wrong . . . to stretch the truth and try to engineer the outcome" in that way.

Dietz also tried to justify his career-long tendency to appear primarily for the prosecution. According to Dietz, prosecutors, like good forensic psychiatrists, strive "to seek truth and justice" and therefore to make available all the information important in a case. In contrast, defense attorneys attempt to help their clients—a goal that conflicts with a thorough search for data. "Often there are pieces of evidence that are not in their client's interest to have disclosed or produced." Of course, Dietz's statements imply that defense attorneys and their witnesses want to distort information in some way and shield the truth.

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The irony of Dietz's points, however, were spotlighted a week later by Yates' attorneys. They discovered a factual error that Dietz had made during cross-examination. As the next section discusses, their research showed that Dietz had testified incorrectly about the existence of a television episode about postpartum depression that never aired.

#### 4.1.3 A Mistake in Testimony

Dietz is a technical advisor to two television shows: *Law & Order* and *Law & Order: Criminal Intent*. In his advisory capacity, he has viewed nearly 300 episodes of both shows. During the Yates trial, Dietz mistakenly testified that, shortly before Yates killed her children, *Law & Order* aired an episode involving a postpartum depressed mother who successfully won an insanity appeal after drowning her children in a bathtub. The episode never existed. When Dietz learned of his error, he wrote prosecutors Joe Owmbly and Kaylynn Williford and informed them that he had confused the insanity episode he testified about with other *Law & Order* episodes and infanticide cases. Dietz's mistake about such a fact, however, may be part of the grounds for Yates' appeal. It is not a stretch to think the jury may have been affected by Dietz's implication that Yates was somehow influenced by the show.

Dietz's statements about the "truth seeking" differences between the prosecution and the defense were also problematic in other ways totally beyond his control and, presumably, his awareness. For example, trial testimony revealed that the defense was not able to acquire copies of particular documents, including Andrea's police offense report. George Parnham, Andrea's attorney, was allowed only to read her police report but not to photocopy it. Therefore, Parnham resorted to taking notes on the report, based only on what he could remember of it. As one defense expert later revealed, having only Parnham's notes on Yates' report put the expert "at a real disadvantage."

Dietz also claimed that the defense experts asked "shocking examples of leading questions" of Yates and provided only partial, and biased, videotapes of their interviews with her. Predictably, his accusation prompted a response. According to Lucy Puryear, a Houston psychiatrist who testified for Yates' defense, Dietz did the same. Puryear added that Dietz edited his eight hours of videotaped interviews with Yates and only "showed the jury portions that supported his testimony."

Such media debates simply seem to accentuate the general problems associated with incorporating psychiatric testimony in an adversarial process, as well as the weaknesses of the profession itself. Legal commentators emphasized the extent to which both sides in the Yates case differed

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in their conclusions about her mental state given that they were purportedly examining the same evidence. As the following sections suggest, however, the backgrounds of the experts appeared to have an impact on what kind of evidence they believed was most significant and why.

## 4.2 Dietz's Limitations in Expertise and Investigation

This section examines the extent of Park Dietz's background and experience for testifying in a case involving a defendant with an undisputed history of postpartum depression and postpartum psychosis. As one scholar on expert witnesses has emphasized, "medical professionals who undertake the role of expert witnesses are generally expected . . . to be knowledgeable and experienced in the area in which they are functioning as a medical expert."

### 4.2.1 *Postpartum Depression and Postpartum Psychosis*

The Yates trial revealed the degree to which Dietz was unfamiliar with patients diagnosed with postpartum depression or postpartum psychosis and his admitted void in treating patients. This observation is not meant to elevate the psychiatric classification of postpartum disorders to a level of scientific precision and sophistication that it does not deserve. Rather, this section makes clear that there is still much to be learned about postpartum disorders and how much they can justifiably mitigate criminal culpability, if at all. At the same time, what is known medically about the disorders—especially their neurobiological aspects—should not be ignored. Two postpartum experts highlighted the problem of such informational inadequacy specifically with respect to the prosecution's approach in the Yates case: "The real challenge for psychiatry is to educate the legal profession and juries about the physiological underpinnings of postpartum disorders and other psychoses . . . and, ultimately, to encourage verdicts based on facts."

Of course, Park Dietz was not responsible for such a lack of education. It is not the role of the expert witness to provide answers to questions that are never asked or to draw conclusions without a foundation. Yates' defense attorneys could have more aggressively revealed Dietz's gaps and confronted him with the history of Yates' illnesses that Dietz bypassed in his evaluations. Nonetheless, without a fuller expertise on postpartum issues, Dietz's story about Yates offered a much simpler mental landscape—and a greater level of speculation—than may have been warranted given her background.

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Direct and cross examinations in the Yates trial made clear that Dietz has been asked to consult on an “unusually high proportion” of cases concerning mothers who kill their children. Yet, according to his testimony, the last time he had treated a female patient with postpartum depression was 25 years ago (in 1977). Nor was Dietz “sure” that he ever treated a patient for postpartum depression with “psychotic features.” Dietz conceded that he stopped treating patients totally “many, many years ago,” in “1981 or 1982” and that he has no expertise in women’s mental health. Dietz’s error concerning the showing of a *Law & Order* episode on postpartum depression came about when Parnham was cross-examining him to assess two issues: the sources of Dietz’s income, but also whether Dietz had any more expertise in postpartum disorders, even at the level of consulting for television shows, than what he indicated in his testimony on direct examination. It appears Dietz did not have more background because he did not offer any information other than his consultancy on a nonexistent episode. Such inexperience does not comport with accepted diagnostic principles of psychiatry.

Dietz’s lack of expertise in postpartum depression and postpartum psychosis is striking given the psychiatric community’s recognition of postpartum disorders and the acceptance by both sides that Yates was afflicted with one. At the time that Dietz testified, the disorders were included in the *Diagnostic and Statistical Manual of Mental Disorders* (DSM), published by the American Psychiatric Association, then in its fourth (text revised) edition (DSM-IV-TR). (The fifth edition of the DSM was not published until 2013 and therefore was not in existence at the time.) As courts and professionals have noted, “the DSM is often referred to as ‘the psychiatric profession’s diagnostic Bible.’” DSM-IV-TR also clearly recognized the link between postpartum-related mental disorder and infanticide in the context of delusions. Notably, however, postpartum psychosis was not presently treated as an individual diagnostic classification in the DSM-IV-TR. Rather, the symptoms are categorized according to the established criteria used to diagnose psychosis (for example, major depressive, manic, or mixed episode). The “postpartum onset specifier” applied if symptoms occur within four weeks after childbirth.

#### 4.2.2 Yates’ Postpartum Risk Factors and Life Stressors

It appears that Dietz never really adequately investigated or acknowledged Yates’ postpartum risk factors—most particularly in the context of the postpartum period’s “unique . . . degree of neuroendocrine alterations and psychosocial adjustments,” which the DSM emphasizes. In other

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words, the medical literature stresses that the risk factors for postpartum disorders cover a broad scope of biological, psychological, and social influences. These factors include an individual's personal and family history of depression, biochemical imbalances, recent stressful events, marital conflict, and perceived lack of support from the partner, family, or friends.

Yates experienced all of the postpartum risk factors that the DSM mentions. She was also subject to a host of family and environmental life stressors shown to be linked to postpartum depression and postpartum psychosis. Dietz only occasionally alluded to these stressors if he mentioned them at all in his testimony. Even if it could be argued that the direct and cross examinations of Dietz did not prompt further references to Yates' disorders, it would be expected that they would be part of Dietz's evaluation of her, independent of his courtroom testimony.

Yates' stressors were numerous. First, over the course of her marriage to Rusty (during which she was nearly always either pregnant or breast-feeding), Yates consistently demonstrated DSM-listed criteria for postpartum mood disorder: "fluctuations in mood, mood lability, and preoccupation with infant well-being." Like the DSM specification, these feelings "ranged from overconcern to frank delusions" and they also took the form of suicide attempts related to the other circumstances in Yates' life—uprooted living conditions and transiency, home schooling her five children, her father's death, depressive illnesses throughout her family, Rusty's own bizarre behavior and pressure for more children, as well as Yates' increasing obsession with religious doctrine, particularly as it was pitched by Michael Woroniecki and his wife, Rachel. As the DSM notes, "the presence of severe ruminations or delusional thoughts about the infant is associated with a significantly increased risk of harm to the infant." Section 5 considers in further detail how Yates wove such delusional thoughts into a highly stressed life that seemed to spur the thoughts all the more.

## 5 Andrea Yates' History of Postpartum Disorders

### 5.1 The Early Years of Andrea's Marriage

Yates' postpartum difficulties appeared with her first pregnancy. Soon after Noah's birth in 1994, for example, Yates experienced hallucinations—a striking vision of a knife and her stabbing someone. She dismissed the image and never revealed it to anyone until after her arrest, when she told Rusty. As research shows, postpartum depressed or psychotic women often feel ashamed or embarrassed to admit to others their thoughts about harming their infants.

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When Yates became pregnant a second time in 1995 (with John), she gave up swimming and jogging and also saw less of her friends. Her lifestyle switched yet again in 1996, when Rusty was offered work on a six-month NASA-related project in Florida—an event that prompted the leasing of their four-bedroom suburban house and a drive to Florida in a 38-foot trailer. That trailer would become their “home” in a recreational-vehicle community where Yates would care for Noah and John while Rusty worked. In Florida, Yates miscarried but then became pregnant a third time just when Rusty had completed his job and was ready to move back to Houston.

The return to Houston did not mean re-inhabiting their house even though in 1997 Yates gave birth to a third child, Paul. Rusty had other ideas. In an effort to live “light” and “easy,” the family rented a lot for their trailer. By 1998, after several months of trailer living, Rusty’s “easy living” philosophy took a new twist. He learned that a traveling evangelist, Michael Woroniecki, whose advice had inspired Rusty in college, was selling a motor home that Woroniecki had converted from a 1978 Greyhound bus. Woroniecki, his wife Rachel, and their children had used the 350 square feet of bus for home and travel for their mobile lifestyle. Because Yates and son Noah preferred the bus to the trailer, Rusty bought it. Noah and John slept in the luggage compartment, while Yates, Rusty, Paul, and now Luke, who was born in 1999, slept in the cabin.

While her brood expanded, Yates also became devoted to helping her father, who now had Alzheimer’s disease. This task was overwhelming for her. At the same time, Yates became further isolated from everyone. When she did choose to see people, she always visited them, never reciprocating by inviting them to the trailer.

Rusty’s role in Yates’ increasing aloneness, oddity of lifestyle, religious obsession, and continual state of pregnancy should not be downplayed with respect to any facet of Yates’ behavior. And it may never be known to what extent her pregnancies were based on a mutual decision with Rusty or primarily a product of Rusty’s desire for a large family. A number of people, including Yates’ mother and her friend Debbie Holmes, suggested Rusty was a dominating force in the Yates family, including the decision to have babies.

## 5.2 The Start of Yates’ Breakdown

On June 16, 1999, Yates called Rusty at work, sobbing and hysterical. He returned to find her shaking uncontrollably and biting her fingers. His efforts to calm her to no avail, Rusty took Yates to her parents’ home that evening. The next day, while her mother was napping and Rusty was out

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doing errands, the full force of Yates' troubles became unmistakably clear. She attempted suicide by taking 40 pills of her mother's antidepressant medication. An unconscious Yates was rushed by ambulance to Methodist Hospital, with Rusty following behind.

Yates told the staff at Methodist Hospital that she had consumed the pills to "sleep forever," but afterwards she felt guilty because she had her "family to live for." At the same time, her recovery was slow. According to notes taken by a hospital psychiatrist and a social worker, Yates was evasive about the reasons for her suicide attempt and deflected questions. Although she was still depressed, the hospital discharged her for "insurance reasons," the explanation written on her medical chart. The psychiatrist prescribed Zoloft, an antidepressant, and Rusty took Yates back to her parents' home to rest.

Yates did not like taking the medication, however, and her condition only worsened. She would stay in bed all day and self-mutilate. At one point, she scratched four bald patches on her scalp, picked sores in her nose, and obsessively scraped "score marks" on her legs and arms. Later, she would tell psychiatrists that during this time, she saw visions and heard voices, telling her to get a knife. She also watched a person being stabbed, although she would not identify the victim. At the same time, Yates refused to feed her children or nurse her baby Luke, claiming that they were "all eating too much." Such delusions and thoughts about her children are consistent with the criteria listed for postpartum disorders in the DSM.

It was only after Yates' attempted suicide that her relatives discovered the extent of her family history of mental illness: Andrea's brother and sister had ongoing treatment for depression, another brother was bipolar, and, in hindsight, her father also suffered from depression. According to the DSM, this family history of mental disorder (particularly bipolar disorder), along with Yates' pre- and post-pregnancy experiences with depression, are all factors that would heighten the likelihood of postpartum psychotic features. As the DSM explains, "once a woman has had a postpartum episode with psychotic features, the risk of recurrence with each subsequent delivery is between 30 percent and 50 percent."

At different times, Yates also experienced bizarre delusions and hallucinations. She believed that there were video cameras in the ceilings watching her in various rooms in the house and that television characters were communicating with her. She told Rusty of these hallucinations; however, neither of them informed her doctors, even though she was continually asked whether she had hallucinations.

Of all of her family members, Yates seemed to suffer the most and her condition continued to deteriorate. The day before she had an appointment

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with one of her psychiatrists, Eileen Starbranch, Rusty found Yates in the bathroom looking at the mirror with a knife at her throat. Rusty had to grab the knife away. When Rusty told Starbranch of the incident, she insisted that Yates be hospitalized again, this time at Memorial Spring Shadows Glen, a private facility in Houston.

The initial results of this hospitalization were disastrous. Yates was virtually catatonic for ten days. According to clinicians, catatonia is an objective sign of mental disorder whether or not an individual reveals what he or she is thinking. It was also only during Yates' stay at Memorial Spring Shadows Glen that there would ever be any record suggesting that she experienced hallucinations. This record was based on a doctor's report and observations by the doctor's assistant.

Starbranch gave Yates a multi-drug injection that immediately improved her behavior, according to Rusty. After a sound sleep, she seemed much more like the person he had first met and they had in the evening what he thought was one of their best conversations. Only later did Yates assert that she considered the injection a "truth serum" that led her to lose self-control in a way she abhorred. Her view of the injection as a "truth serum" could be considered yet one more bizarre delusion on her part.

When Yates returned to her family after treatment, "home" was neither her parents' house (which was too small) nor the bus, which her parents considered unhealthy for her and the children. With her parents' urging, Rusty, a well-salaried (\$80,000 a year) project manager at NASA, bought a three-bedroom, two-bath house in a tree-lined, residential neighborhood. The house even had a place to park the bus, which was still very important to Rusty. In the more serene surroundings, Andrea apparently prospered—swimming laps at dawn, baking and sewing, playing with her children, and fostering an environment for home schooling, which Rusty encouraged despite the past stress on his wife. At this point, Yates admitted to Rusty that she had "failed" at their life in the bus; this new phase in their life was a chance to succeed.

During this period, the family was engaging in three nights per week of Bible study in the living room because Rusty did not like any of the churches in their area. Again, the views of the bus-selling traveling minister Michael Woroniecki would come to have a profound effect on the lives of the Yates family. Through Woroniecki, Rusty came to doubt organized religion, even though Rusty was not in complete agreement with Woroniecki's views. Yates was another story, however. Woroniecki's "repent-or-burn zeal" captivated her and she corresponded with Woroniecki and his wife for years after she and Rusty bought their bus. Indeed, at times, the Yates family seemed to imitate the Woronieckis—a bus-living, home-schooling,

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Bible-reading brood relishing the isolation of itinerancy. According to Woroniecki, “the role of woman is derived . . . from the sin of Eve.” Likewise, he thought that “bad mothers” create “bad children.” There came a time when Woroniecki’s “hell burning” influence on Yates was so great, it distressed both her parents and even Rusty.

By the spring of 2000, Yates became pregnant again, a decision seemingly made with Rusty when Yates started to improve so markedly. Yet, the news greatly alarmed Starbranch, who had warned that Yates’ problems could be far more serious if they returned, as well as Yates’ mother, who had believed all along that Rusty’s demands prompted her daughter’s breakdown. Debbie Holmes, a former nursing colleague of Yates, echoed this view of Rusty, claiming that Yates continually depicted Rusty as manipulative and controlling and that Rusty pushed her to have the fifth baby.

### 5.3 Yates’ Plunge into Mental Illness

Starbranch’s predictions rang true. Yates’ pregnancy was met by another downward dive into mental illness, this time precipitated by the death of Yates’ father. Yates also became more absorbed with the teachings of the Bible. The effects of the traumatic circumstances surrounding her father’s death were obvious: Andrea stopped talking; she would continually hold Mary but not feed her; she would not drink liquids; she scratched and picked at her scalp until she started to become bald again.

On March 31, 2001, four months after Mary’s birth, Rusty sought to rehospitalize Yates, with Starbranch’s urging. This time, Rusty took his wife to the Devereux Texas Treatment Center Network, a trip that Yates adamantly resisted. Only with much prodding from Rusty and her brother did she finally agree to go to the hospital. Once there, she refused to sign forms admitting herself. Because he thought Yates’ condition was dangerous, her attending psychiatrist, Mohammed Saeed, initiated the process of requesting that a state judge confine Yates to Austin State Hospital. Only after Rusty’s continual pleading did she finally agree to sign the forms admitting herself to Devereux.

Saeed’s account of Yates’ condition appeared to be based entirely on Rusty’s description rather than from Yates’ treating psychiatrists or from Yates herself who, Saeed said, rarely spoke. When Rusty insisted that Saeed put Yates on Haldol, a drug that had been helpful to her in the past, Saeed complied. Saeed discontinued the treatment shortly thereafter because, he said, her “flat face” seemed to be a side effect. Later, Saeed would testify that, based on the little Yates said, she did not seem psychotic, never described the torment she was going through, and denied experiencing hallucinations and delusions.

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After ten days at Devereux, Yates finally started feeding herself again—a behavioral improvement which, in Saeed’s opinion, justified discharging her even though her medication regime was still not stable. Also, Yates wanted to go home and Saeed thought that Rusty could take care of her.

When Yates returned home, Rusty’s mother, Dora, visited from Tennessee to help out during the day while she stayed at a motel in the evenings. Yet, there were clear signals of Yates’ desperate mental state. On May 3, for example, after Yates and her mother-in-law returned from taking the children for a walk, Noah told his grandmother that he saw his mother filling up the bathtub with water. When Dora turned the water off and asked Yates why she was running the water, Yates replied only, “Just in case I need it.” Presumably, Yates’ behavior must have been quite unusual for such an (otherwise) innocuous event to have garnered so much notice from Noah and Dora. Yates also would not allow her friend Debbie Holmes inside the house when Debbie stopped by to leave food that afternoon. Later, Holmes stated that she thought Yates had been re-possessed by the Devil, an issue that both she and Yates had discussed after Yates’ illness in 1999. This time, however, Debbie thought the “the demons had returned a hundredfold.”

Based upon what was happening, Yates returned to Devereux for rehospitalization. Again, Saeed was her chief caretaker. During her entire stay at Devereux, Yates was almost completely silent and lethargic, particularly around Rusty. Apparently, in group sessions, Rusty dominated discussions and always answered questions asked of Yates, who would not even nod her head. While on a combination of Haldol and antidepressants, Yates stayed in her room most of the time on 15-minute suicide checks. By May 14, Saeed suggested that she could go home. Although Yates was still depressed and basically mute (apart from responding with her name when asked), her sleeping and eating had greatly improved and she was no longer expressing suicidal thoughts.

On June 18, a month after Yates’ release from Devereux and after six days of outpatient therapy, Rusty and Yates met with Saeed. Yates’ mental state was sharply declining. At that point, she was off Haldol, and Saeed was experimenting with other drug combinations. As usual, Rusty answered most of the questions addressed to Yates, but he expressed deep concern. She was getting worse and was now having nightmares. Rusty asked that Saeed reconsider applying shock therapy, a strategy Saeed declined, saying it was for far more serious disorders. Also, Saeed did not want to re-prescribe Haldol. Instead, he readjusted Yates’ level of antidepressants, suggested that she see a psychologist, rather than a psychiatrist, and, perhaps most strikingly, “think positive thoughts.”

The next afternoon, Yates watched cartoons on television and then joined Rusty and Noah for a quick round of basketball in the garage. Yet,

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moments later, she returned inside and went to bed without changing her clothes. She slept until the next morning, June 20, but had a nightmare during the night. She would not tell Rusty what the nightmare was about. That morning, while Yates set out cereal bowls and milk for breakfast, Rusty made sure that she had swallowed her dose of antidepressants before he left for work. According to Rusty, his last picture prior to the killings was one of seeing Andrea eating cereal from a box.

#### 5.4 Yates' Killings and the Aftermath

From all accounts, Yates started the drownings nearly as soon as Rusty left because her children were still having breakfast. First, she selected "Perfect Paul," then three years old, apparently her greatest joy (and the "least trouble") of the five. Paul's death took only seconds. She tucked his body in her bed and laid his head on the pillow. Next came Luke (age two), John (age five), and then Mary (age six months), who was nursing a bottle while Andrea was drowning the others. Yates left Mary in the tub.

Seven-year-old Noah was still eating his cereal when Andrea asked him to the bathroom. When he "saw his sister facedown in the water, he asked, 'What happened to Mary?'" Noah then tried to run away. But Yates ran after him, dragging him back to the tub—struggling to drown him while he came up twice for air. Afterwards, Yates put Mary in the bed with her brothers, ensuring that their arms were wrapped around their little sister. She left Noah in the tub.

Yates immediately dialed 9-1-1. While speaking "unemotionally" and hesitating in response to questions, Yates finally requested police and an ambulance. When the dispatcher asked Yates if she was ill, she said that she was. When he asked her if she was "sure" she was alone, Yates responded that her sister was with her when, in fact, she was alone. After Yates called 9-1-1, she called Rusty. "It's time. I finally did it," was her first statement to him. Then she told him to come home and hung up. Rusty called back, alarmed by her tone of voice, and asked Yates if anyone was hurt. "It's the kids," Andrea said. He inquired which one. She said, "All of them."

The police officers who arrived described Yates as "composed." She showed them where they could get clean glasses for a drink of water in the kitchen, for example, and keys to unlock the back door.

But it was Yates' 17-minute confession to Houston Police Sargent Eric Mehl that was to have one of the biggest impacts on the jury. During the jury's brief 40 minutes of deliberation, they had requested the audiotape of Yates' account of what had transpired when she killed her children. To the jurors, it appeared as though Yates' "plan" to kill her children was cold



and methodical. Nearly all of her answers to questions were monosyllabic and the way that Mehl questioned her fostered the impression of matter-of-fact indifference to the killing. “No,” she did not hate her children. “No,” she was not mad at them. She had, however, considered the prospect of killing them for two years. She realized that she was not being a good mother to them and “they weren’t developing correctly,” either in their learning or their behavior. She also “realized that it was time to be punished” and, in response to Mehl’s question, she wanted the criminal justice system to punish her. She added that she had thought of drowning the children two months earlier—and filled the tub with water—but she “just didn’t do it at that time” and also believed that Rusty would have stopped her.

To those who did not “know” Andrea Yates, her attitude would, no doubt, appear indifferent and her behavior calculated. But, as two postpartum specialists have noted with respect to the Yates case, organic psychosis involves a “waxing and waning” of sensation and mood. Simply because Yates called her husband and the police after the killings does not necessarily mean she was experiencing a “normal mental status” and could tell the difference between right and wrong at the time of the killings. That kind of analysis suggests that “we extrapolate backward then ‘predict’ that she had an intact thought process.” Another expert honed the key issue: Crimes based on “deluded moral reasoning” can be “well planned, carefully executed, and . . . have evidenced high degrees of behavioral control.” As section 6 discusses, Dietz’s perspective on Yates’ mental state was entirely different.

## 6 Park Dietz’s Interview and Testimony in the Andrea Yates Case

Park Dietz’s interview with Andrea Yates and his trial testimony provide additional evidence for assessing how Dietz appeared to influence jurors. Section 6 explores one particularly striking feature of Dietz’s testimony: Even though both sides agreed that Yates severely suffered from postpartum depression and psychosis and that it significantly affected her conduct, neither side seriously questioned Dietz’s statements or his knowledge.

### 6.1 Dietz’s Interview with Yates

Dietz interviewed Yates for two days in November 2001, nearly five months after the killings and four months after Phillip Resnick, the defense’s primary psychiatric expert, interviewed her. Over the months after the

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killings, Yates showed substantial progress due to a regimen of antipsychotic medication. Other professionals estimated that by August, her psychosis seemed under control and by September, a jury found her competent to stand trial.

According to Dietz, Yates was grossly psychotic the day after the killings and was suffering from schizophrenia when he met her in November 2001. He still believed, however, that she knew the difference between right and wrong at the time she killed her children. This conclusion, of course, stemmed in part from the November interview he conducted with her and the questions he asked about how and why she planned to kill her children.

In response to Dietz's questions, Yates explained that she did not want her children "tormented by Satan" as she was. She noted that Satan had been conveying "bad thoughts" through the television and the cameras in her home. She was also "afraid Satan would lure [her] children to himself—and maybe that [she] had some Satan in [her]." She believed Satan was "inside [her] giving [her] directions . . . about harming the children . . . about a way out—to drown them." According to Yates, the drowning would be "a way out" because the children "would go up to heaven and be with God, be safe." Basically, "at the time" Andrea thought "this was a good idea" because she "didn't want [her children] ruined—[she] was afraid they would continue to go downhill—and [she] thought [she] should save them before that happened." Yates believed "the children were in torment" from Satan because they were exhibiting relatively "more strife and disobedience"; however, she did not think that Dora, her mother-in-law, was in such torment nor Rusty, whom she believed was a "good man." In Yates' mind, Satan had selected her children because of Yates' own personal "weaknesses"; in fact, she had stopped reading the Bible close to the time of the killings because she "felt like Satan was nearby."

Yates seemed to have been markedly influenced by the 1995 movie *Seven*, a crime thriller about two homicide detectives who strive to solve a series of mysterious murders patterned on the seven deadly sins: gluttony, greed, sloth, pride, lust, envy, and wrath. Yates told Dietz that because "[she] felt [she] had done all the other sins" but murder, she believed that the drowning would constitute her seventh, and last, sin. She claimed that she was thinking of the movie on the day she killed her children—"about what [she] was about to do, and how it fit in there—the deadly sins—and how [she had] done all of them after [she] drowned the children." She "saw [the drowning] as a sin that [she was] going to commit." Although the act of drowning would "condemn" her, it would save the children.

While Yates had ruminated about the seven deadly sins a week before she killed her children, she picked the specific date she was going to drown

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them only the night before. She did not tell Rusty her thoughts about the deadly sins or of her plans to kill because, in response to Dietz's question, she believed Rusty would interfere. As Yates explained, if she had been stopped, "the children would still be alive" and she "would still worry about their soul with Satan around." On the morning of the killings, she tried to act as normally as possible so Rusty would not be alarmed.

Despite Yates' claims of careful planning, however, on the day of the killings, she did not close the blinds or the curtains or take the phone off the hook (the door had already been locked the night before and Rusty left through the garage exit). She also remembers taking her medication. In answer to Dietz's questions, she said she felt "the presence of Satan that morning . . . just helping [her] fill up the tub, and getting ready." Yet, she believed she would be punished ("jail") and she knew the act was illegal. It seemed as though Yates viewed the killing as a balancing test: "Doing it, [the children would] go to heaven; not doing it, there's the risk of Satan messing them up. . . . Probably if I did it, I'd get in trouble."

Notably, in his court testimony, Dietz conceded that he did not interview either Rusty or Dora, both of whom refused to see him. Dietz also stated that Yates had difficulty being viewed by others as mentally ill and that her attitude hindered her recovery. For example, after her first suicide attempt, Yates refused to take the antipsychotic medication prescribed to her and flushed it down the toilet. As Dietz emphasized, "the most consistent story she's indicated is that she didn't think she was psychotic, didn't want to be thought of that way and resented someone calling her that." However, a key issue that was not brought out in Dietz's testimony, either in direct or cross, is that Yates, like many psychotic people, was wrong about her mental status.

## 6.2 Dietz's Empirically Unsupported Conclusions

Dietz's testimony about Yates' condition is full of troubling speculations that sound authoritative but have no empirical support. Of course, the field of psychiatry in general is vulnerable to such criticisms. As the following analysis suggests, however, in a number of instances, Dietz's accounts give Yates' actions a degree of intentionality and manipulation that seem to derive only from Dietz's interpretations and no other source.

### 6.2.1 Yates' Suicide Attempts

Dietz testified that when Yates attempted suicide the first time using pills, she got a "week away from the stressors, only with an overdose," when she was hospitalized (her admission to Methodist Hospital's psychiatric

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unit). In other words, the idea conveyed was that with “only” an overdose, Yates could get a substantial break from taking care of the kids and the house. After her week-long stay at Methodist, however, Yates came back to the same stressful environment in the cramped bus. For that reason, according to Dietz, the second time she attempted to commit suicide, she “upped the ante” by using a knife. Presumably, by employing a more certain and serious instrument of death, Yates could acquire even more help and a bigger break than she got the first time by “only” ingesting pills. Dietz indicated that Yates was successful with this approach. While she was hospitalized the second time, her parents insisted to Rusty that Yates could no longer stay in the bus because it was not healthy for her or the children. As a result, Rusty purchased a nice new house, which was all ready for her to live in when she returned from the hospital. In Dietz’s eyes, a new home was the reward that Yates was seeking: “This time, [the suicide attempt] not only got her hospitalized, it got her a house.”

The implication, of course, is that Yates somehow realized that she would get both a long break and material benefit—“a house”—for her more dramatic second suicide attempt. But, that view contradicts everything we know of Yates: that she hated to be hospitalized, that she continually resisted psychiatric help, that she resented any kind of psychiatric label. Indeed, Yates was so opposed to being re-hospitalized at Devereux Texas Treatment Center on March 31, 2001, that Saeed had to start the process of involuntarily committing her to a state hospital. For Dietz to suggest, even indirectly, that Yates’ suicide attempts were strategic efforts to gain a better home derides the reality of her psychosis and the severity of her postpartum disorders. As the defense noted, Yates “never told any doctor that, ‘I wanted a new house.’” Her marital history suggests just the reverse—that Yates was enamored (perhaps even more than Rusty) with the Woronieckis’ bus-living existence and later apologized to Rusty for not being able to handle it.

It is also questionable, even by Dietz’s own account, whether Yates was in fact “upping the ante” by using a knife rather than pills. Only moments before making that statement, Dietz claimed that it was unclear what level of severity Yates’ knife-using episode entailed (“varying degrees of intent”); in contrast, her ingestion of pills would most likely have resulted in her death if her mother had not awakened her. Most important, as Dietz conceded on cross-examination, Yates’ overdose and knife threat could be “interpreted by medical experts as an alternative to hurting her children.” Psychological research suggests that “aggression against others and aggression against self frequently co-occur” and that “risk assessment for suicide and homicide should go hand in hand.” Yates’ psychiatric history and

her final act of killing her children support, rather than contradict, this suicide-homicide relationship.

### 6.2.2 Yates' Pregnancies

Dietz also portrayed Yates as manipulative and controlling in her decision to discontinue medication and become pregnant again with Mary, her fifth child. Initially, Dietz emphasized that Yates did not want to admit her mental illness and therefore did not take her medication for that reason; yet, he depicted her motives very differently when he discussed the medication issue in the context of Yates and Rusty's apparent efforts to have another child. According to Dietz, her pregnancy was "one of the repeated examples of Mrs. Yates not following the advice of her doctor and thinking she knows best and maintaining control." Dietz suggests that Yates directed the entire decision to conceive: "She's the one deciding what to do. She will not take the medicine unless she wants it. She will get pregnant when she wants to. She's not taking the medicine during pregnancy."

Dietz's analysis assumes realities of Yates' life that did not exist. First, all accounts of Yates' marriage indicate that Rusty was the one in control, the one making decisions, and the one pushing for more children. Second, testimony revealed that both Yates and Rusty had been advised by multiple staff members "on the importance of staying on medications and on the importance of not having another pregnancy." Dietz's conclusions suggest that Rusty had nothing to do with the decision. Indeed, Rusty continually joked (even at his children's funeral) that he always wanted enough boys "to make up a basketball team." Likewise, Debbie Holmes testified that Yates complained to her about the continual pregnancies. Third, noncompliance with taking medication is the norm among psychiatric patients for a variety of reasons, but often because the mentally ill are paranoid or delusional about what doctors give them. By his comments, Dietz implied that Yates' behavior was anomalous and that her refusal of medication related to her need to "control." Yet, recent research suggests that "more serious mental illness is a cause not a consequence, of [a patient's] refusal of treatment" with antipsychotic medication. In fact, when Yates was being evaluated for her competency hearing, she expressed concern that her medication may be contributing to her psychotic episodes. Resisting medication was also a matter of pride. Fourth, many women reject medication while they are pregnant; the DSM entry on postpartum disorders discusses this very issue and makes recommendations to medical personnel about how to counteract it. Finally, Dietz never acknowledged that more than 50 percent of all pregnancies are unplanned, irrespective of what

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couples want or the decisions they make. Throughout his testimony about Yates' last pregnancy, Dietz attributes a level of intentionality to events that may well have simply been an accident.

### 6.2.3 Yates' Knowledge of Right and Wrong

In an interview with *Time Magazine* on the day that Yates was sentenced, Dietz stated that despite Yates' mental illness, her "thought process" still permitted her to know right from wrong. "Her mind recognized murder as wrong or she would not have sought the death penalty to get rid of her inner demons and protect her children from falling into [Satan's] grasp." Also, "by wanting to dispose of Satan, she had to believe Satan had evil ideas. Therefore, she still comprehended evil to be wrong. She also "knew that society and God would condemn her actions." Of course, Dietz's analysis of Yates, both in this interview and in court, presumes that Satan actually exists.

Frequently during his testimony, Dietz would strain the interpretation of an incident to support the view that Yates knew the difference between right and wrong. For example, on May 3, when Yates filled the home bathtub with water while Dora Yates was present, the incident was perceived to be so bizarre, it sent Yates back to Devereux. According to Dietz, Yates "doesn't give a reasonable account of why she did that [fill the tub], and they [Devereux] take her back the next day or the day after." But, in the months following the incident, Andrea gave several accounts of why she filled the tub that day, including what seemed to be the most reasonable (and defense-oriented) one—she had thoughts of drowning her children. A portion of the direct examination of Dietz seemed to recognize that this explanation could support the defense's position. If Yates were contemplating drowning her children with Dora present, it would fuel the defense's argument that she may not have known that what she was doing was wrong. While this interpretation of Yates' motives is purely speculative, it is the most rational account that Yates herself provides. It is also congruent with the vague statement that Yates made in response to Dora's question of why she was running the water, that is, "Just in case I need it."

Indeed, at a later point in his testimony, Dietz downplayed the fact that Yates told others that she was considering drowning her children while Dora was present. Dietz's story is intertwined with Yates' own conflicting accounts. As Dietz explained, "sometimes she told doctors that she was thinking of drowning the children then. Sometimes she said she thought she might drown the children then. Sometimes she said that she might need it [the tub water] because they might have their water cut off by the

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utility company; and at those times, she said that she wasn't thinking of drowning the children then." However, the explanation that Yates gave Dietz while he was interviewing her is the least reasonable one: "the utility company truck explanation rather than drowning the children."

The more pointed question to ask is, why did Yates tell Dietz the company truck answer when she told others she was thinking of drowning her children? Does it really make sense for a woman to fill her family tub in such an odd manner on May 3 because of a possible water shortage but then fill it again on June 20 to drown her children? It seems unlikely that Yates' disruptive actions on May 3, which were sufficiently disturbing to hospitalize her again, appeared due to her concern over a water shortage, particularly in light of the other evidence.

In sum, Dietz's testimony was too focused on trying to explain Yates' illogical thinking, which basically stemmed from her mental illness. His analysis was not based on "facts" but rather pure speculation about her delusional thought patterns. According to one legal scholar, "medical expert witnesses are not advocates for either side in the litigation, but may advocate their opinion." Yet, there were a number of aspects of Dietz's testimony where his prosecutorial bent came through quite obviously. For example, despite his level of experience, Dietz repeatedly referred to the drownings as "homicides" or "crimes," even though at the time, Yates had not been convicted of anything. Likewise, at certain points, it was Dietz who directly led the prosecution to a criminal conclusion about Yates. For example: "Q. Now, you noted that—or Dr. Saeed told Mr. Yates that someone must be with his wife, but she was left alone; was that correct? A. Yes. And, of course, the significance of that is that it gives her the opportunity to commit the crimes."

### 6.3 Dietz's Attempts to Give "Logic" to Yates' Illogical Delusions

A major portion of Dietz's testimony was analyzing Yates' "homicide" in three phases: (1) the pre-homicide phase, (2) the homicide phase, and (3) the post-homicide phase. The pre-homicide phase was key for Yates' defense because it went to the issue of whether she knew the difference between right and wrong. Dietz conceded that Yates told both Rusty and her friend Debbie Holmes about "her concerns for the presence of Satan, the influence of Satan." Even in Dietz's opinion, Yates was open about her fears and did not attempt to hide them.

What Dietz emphasizes, however, is that despite Yates' openness about Satan, she concealed the thoughts of harming her children from other people. If, for example, she was concerned that by mentioning the harm

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to other people it would actually happen, Dietz responds that this fear would be even more reason for Yates to talk about it. Dietz's "legal-like" logic applied to the thinking of a mentally ill Andrea Yates goes as follows:

If it's true that she believed that killing the children would save them, then why would she not want it to happen. She would want to talk about it so it came true and the children would be saved. So, I concluded at that point that she's keeping it secret, she knows that other people are going to stop her, that it's wrong, that it's a bad idea; and she admits as such. She admits that she knows people will stop her.

Yet, there is no factual support for anything Dietz says. Dietz also rather bizarrely analyzes Yates' statements as real and "debates" her theories about Satan even though everyone agreed that Yates was mentally ill and delusional. Delusions are by definition illogical. As a key text on delusional disorders emphasizes, "in the delusional mode, thought form is relatively normal but the abnormal content predominates and is associated with profound, but focused illogicality." Dietz's story is based on applying a logical analysis to Yates' truly illogical ruminations. There is really no diagnostically acceptable point to it. Nor is it even clear that Yates intended what Dietz said because she never articulated it, he did.

Perhaps anticipating this criticism, Dietz explained that he is entitled to apply such an inordinate amount of logic to the thinking of a mentally ill person because Yates seemed to him to be "psychologically ready" to engage in the act of killing. Yet again, Dietz does not provide any empirical support for this very vague explanation. Parenthetically, the field of psychiatry does not encourage members of its profession to engage in logic-applied analyses of the illogical ramblings of mentally ill people.

But, for Yates, there was no escape from Dietz's testimony; he seemed to have cut off every avenue with some explanation based entirely on speculative presumptions. Dietz showed striking confidence in his conclusions, despite the conjecture. Comparably noteworthy was Dietz's complete disregard of the literature on postpartum depression, which indicates that women generally do not tell others that they are thinking about harming or killing their children; they are afraid and embarrassed and disturbed by such thoughts. Dietz's sweeping generalizations about Yates' mental state are consistent with his ignorance of the subject matter.

#### 6.4 Dietz's Criticism of Yates' Inability to Nurture Her Dead Children

Dietz also focused on the easiest emotional target of Yates' illogicalities—how she treated her children after she killed them. For example, Dietz

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queried why Yates did not try to “comfort the children, telling them they are going to be with Jesus or be with God.” Again, however, such comments were guesswork on Dietz’s part. In other words, is it typical for mentally ill people to give their children religious words of comfort before they kill them, particularly if they think Satan is their guide?

While being cross-examined, Dietz acknowledged that Yates had been nurturing toward her dead children. She had placed her children’s heads on pillows, for example, with Mary’s head “resting on her older brother’s shoulder” and Mary’s hand “cupped by her older brother’s hands.” According to the police officers who arrived on the scene, the children’s bodies appeared “posed,” as though the “older brother were taking care of the younger sister.” Such arrangements are perhaps a more objective gauge of Yates’ thoughts than the speculative hindsight Dietz offered. At the very least, the way that Yates situated her children suggested that she may have believed they were going to take care of one another; in contrast, Dietz had nothing to support his comments apart from sheer conjecture.

Similarly, Dietz noted that Yates seemed to cover each of her children’s heads and faces as she put them on the bed. He suggested that she may have covered them so that the remaining children, who were still alive, would not discover the bodies. Later in his testimony, however, Dietz stated that Yates’ covering of her children’s faces was “an indication of her feeling guilt or shame.” Dietz’s explanation for Yates’ behavior is perplexing; there is a social norm to cover the faces of the deceased for reasons of respect or reverence. It would have been just as reasonable for Dietz to have pitched Yates’ motives in an alternative way, in other words, to state that covering the children was Yates’ way of showing care and comfort to them, given that all of these explanations are speculative anyway. Nonetheless, Dietz did resist supporting one of the prosecution’s more damning insinuations—that Yates’ decision to leave Noah in the bathtub after he died was cold hearted. Instead, Dietz noted that, at 50 pounds, Noah was too heavy for Yates to lift. “Nurses know not to lift heavy weights.”

Lastly, Dietz explained that Yates seemed “grossly psychotic” and mentally disturbed from June 21 to some period thereafter, so “very sick” that she was hearing “growls and voices” and seeing “teddy bears and ducks and marching soldiers” that she believed were satanic. Yet, he claimed there was not “nearly as much evidence of that kind of extreme sickness or gross psychosis on June 20th as [there is] for the period beginning June 21st.” Dietz attributed his impression that Yates was “different in a sicker way” to the rapid changes in her life after she was arrested. However, there is an alternative explanation. Yates did not receive nearly as much medical attention on June 20 as she did on June 21, when she became the object of intense evaluation. On June 20, she was with police for much of the day

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whereas on June 21, she was surrounded by psychiatrists who were able to assess her mental state. Given these day-to-day differences in the amount of time Yates spent with medically trained professionals, Dietz's conclusions are unwarranted.

This analysis of Dietz's testimony could extend even further, continually assessing every word in the way that Dietz evaluated Yates' every move. However, this chapter is not intended to be an indictment of Dietz *per se*. Rather, it is a commentary on how swayed and fragile insanity determinations can be in the heat of litigation and how inadequate the criminal justice system is to handle them. Dietz did not create this situation; he merely responds to the many who want him to be part of it. As the following discussion makes clear, other aspects of the Yates trial as well as the law and culture of Harris County also appeared to be critical contributors to Yates' conviction.

## 7 Other Viewpoints on the Andrea Yates Case

Up to this point, discussion of the Yates trial has focused on Park Dietz. Of course, there were other perspectives and experts involved in the case. Section 7 examines briefly only a selected number of these additional people and issues to give a glimpse of a broader story about Andrea.

### 7.1 The Overall Defense and Prosecution Perspective

In general, the defense contended that Yates' mental illness led her to believe she made the right choice when she killed her children. Her long history of illness and her many visits to doctors created a situation in which a number of defense experts were called to testify about her condition at the time they treated her or her mental state at the time she killed her children. Yet, because of the numbers of medical specialists involved in the case who had evaluated Yates at different times and for different purposes, some offered seemingly conflicting narratives of her perception of right and wrong. This range of opinion for the defense contrasted with the prosecution's more consistent argument that Yates' acts were sane and intentional because the prosecution primarily relied only on Dietz's narrative.

Ironically, then, the severity and extent of Yates' mental illness may have undercut her defense. There was one story of sanity from the prosecution and several stories of insanity from the defense. For example, Dr. Melissa Ferguson, a psychiatrist at the Harris County Jail, testified that Yates told her in a post-arrest interview that drowning her children was "the right

thing to do” since it saved them from a life of torment and eventual damnation in hell. Defense expert Dr. Phillip Resnick testified that although Yates knew her actions were illegal, “she did what she thought was right in the world she perceived through her psychotic eyes at the time.” Describing Yates’ motives as “altruistic,” Resnick explained that she believed that she was sending her children to heaven and, in setting herself up for execution, ridding the world of Satan. Another expert witness for the defense, Dr. George Ringholz, explained that in the midst of her “acute psychotic episode,” Yates “did not know the actions she took on that day were wrong.” Dr. Steve Rosenblatt further elaborated: “She was out of contact with reality, did not know right from wrong, and in my opinion, clearly was within what’s considered the legal definition of insanity.”

Jurors struggling to make sense of it all would be additionally taxed by the open disagreement between Resnick and another defense expert, Dr. Lucy Puryear. According to Puryear, Yates was too sick to know that her actions were wrong. In contrast, Resnick stated that Yates knew her acts were illegal, but believed they were right because they saved her children from eternal damnation. Granted, these two positions are not entirely mutually exclusive; however, Puryear acknowledged during cross-examination that there were conflicts between her testimony and Resnick’s and stated merely that they had “differing opinions.”

Prosecutor Joseph Owmbly claimed, on the other hand, that determining insanity did not come down to “‘a battle of the experts,’” but rather was “‘a question of common sense[.]’” According to Owmbly, the experts simply “present the evidence from the medical side” while the jurors, though unable to diagnose mental illness, “can tell you whether they believe a person knew right from wrong at the time.” Similar to Dietz’s testimony, the prosecution downplayed Yates’ history of mental illness as well as the neurobiological underpinnings of her disorder.

Yet, most of the expert testimony offered in the Yates case did little to abate the confusion surrounding Yates’ mental state. Not surprisingly, the testimony of expert witnesses for the prosecution directly clashed with the testimony of expert witnesses for the defense. As one psychiatric journalist explained, although prosecution expert Park Dietz and defense expert Phillip Resnick are well known in their mutual fields, they nonetheless viewed Yates’ insanity defense “in polar opposite ways.”

Overall, it appeared to be a tactical problem for the defense to deal with so many psychiatric experts. Their contrasting analyses blunted the defense’s theory. Which story should the jurors choose? Assuming that Resnick was probably one of the stronger psychiatrists in terms of his demeanor and experience and was therefore more equal to Dietz, the

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defense may have been better off presenting just Resnick (in addition to the psychiatrists who actually treated Yates). With this approach, the defense would have had a clearer, more linear, story that Yates was indeed insane. As it so happened, Dietz probably appeared better with his single theory in contrast to the defense's multiple theories concerning Yates' mental state.

The defense also would have benefited from questioning Dietz more aggressively about the facts of Yates' history of postpartum depression and psychosis. Such a "detailing to death" tactic could have accomplished two goals: (1) it would have accentuated Dietz's lack of expertise in the area, and (2) it would have stressed the neurological and biological aspects of the disorders. The jury would perhaps more fully appreciate that insanity determinations are based on far more than just "common sense" or speculation. The jurors' own comments indicate that this kind of psychiatric evidence had little to no impact in their forty minutes of deliberation before deciding to convict Yates.

## 7.2 The Jurors' Comments

The jurors' explanations for their verdict suggest that they were heavily swayed by the prosecution's presentation of the case. In their view, Yates' manner of killing her children seemed "premeditated and methodical." They cited her videotaped confession and the photographs of her children, alive and dead, as "the most compelling evidence" of their unequivocal belief that Yates knew right from wrong. According to one juror, for example, because Yates called the police immediately after the killings and could converse with them and account for her behavior, "it seemed as if she was thinking pretty clearly." Another juror emphasized that Yates "was able to describe what she did. . . . I felt like she knew exactly what she was doing." These "objective" actions of Yates' are the kinds of factual evidence that Dietz stressed in his determination that she was sane.

The jurors also appeared to take seriously the prosecution's depiction of Yates' religiosity and her perception of her conduct as sinful. Indeed, religion was an important force throughout the trial in a number of different ways. For example, prosecutor Owmbly claimed to have prayed before deciding to seek the death penalty for Yates, and he expressed his firm belief that she was aware that she had sinned. He also elicited testimony from one of the defense's expert witnesses admitting that Yates knew she had sinned. Surely, her own statements supported that view.

On the surface at least, the jury seemed predisposed to embrace such religious characterizations. In a television interview with four of the jurors

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conducted shortly after the Yates verdict, the jurors' comments indicated that they all shared some Christian convictions. As the interviewer emphasized, "in a case [the Yates jurors] found emotionally draining, they say prayer got them through." According to one juror, for example, all the jurors "held hands and prayed . . . [the] Lord's prayer, most mornings" and they "did the same thing before and after the verdict." Another juror affirmed the prosecution's sentiment that Yates "knew it was wrong in the eyes of God." During the trial, there appeared to be little left for the defense to hold on to other than evidence of Yates' mental illness, and the nature and severity of her illness did not come across adequately.

Dietz also accentuated sin and religion generally throughout his testimony, far more than the "facts" of Yates' mental history. Of course, on the surface, Yates' explanations for why she killed were laced with religion. Yet, given the severity of her mental illness, the religious aspects of her delusions were symptoms of her disorder, not a substantive issue for Dietz to "debate" with her. Delusions and hallucinations about the devil are not uncommon among women with postpartum psychosis and those who end up killing their children. In turn, all mental illnesses are contextually based, reflecting the culture and day-to-day circumstances of the mentally ill person. In other words, mental disability is interlinked with other influences in a person's life, including the community where that person lives.

### 7.3 Religion and Culture

Given the Yates family's intense interest in the Bible and the Woronieckis' lifestyle, it is understandable that such themes would provide the foundation for Yates' delusional thoughts. While the Yates family was not affiliated with any church, Rusty decided to hold the children's funeral close to their home at the Clear Lake Church of Christ, which Rusty now regularly attends. Over a two-century history, Churches of Christ have divided into eight primary branches, now totaling nearly two million members worldwide. The majority mainstream wing of the Churches of Christ is especially strong in the region of the United States spanning from Middle Tennessee to West Texas. The tenets of this mainstream branch give some perspective on Rusty's current religious views and what he may have believed in the past.

Consistent with Rusty's prior distance from organized religion, Churches of Christ purport to be nondenominational and therefore are not Catholic or Protestant. Rather, followers of the Church simply call themselves "Christians." Commonly, members contend "that they have restored the primitive church of the apostolic age and are therefore nothing more or

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less than the true, original church described in the New Testament.” Indeed, Churches of Christ have essentially “denied that they had a defining history other than the Bible itself” and many members have no knowledge of the Church’s original founders. “Biblical authority,” therefore, is paramount and Church members defy “hierarchy or headquarters or national program.” As a result, each congregation is an independent body and “practices vary widely” among them.

The Clear Lake Church of Christ has an extensive website, which offers a range of lessons. The Church also sponsors the White Stone Ministry, whose mission is in part to aid “those who do not know Christ” by introducing them to Jesus and the Bible’s scriptures. In addition to posting specific scriptures, the White Stone Ministry offers a number of instructive articles, which appear to focus on “sexual sin” and the hazards of pornography, particularly in comparison to a good marriage.

The importance of religion in the south and Harris County in particular should not be downplayed when analyzing the reasons for Yates’ conviction, especially because religious themes were highlighted by the prosecution. According to one legal scholar’s analysis of the literature on “the southern subculture of punitiveness,” a key “facet of American Southern exceptionalism is the South’s distinctive embrace of Protestant fundamentalism,” which is why the South is commonly referred to as “the Bible belt.”

In turn, a substantial body of research shows a link between Southern fundamentalism and support of the death penalty. While the precise explanation for this association is not clear, it is “real” nonetheless and exists along with other evidence of the South’s disproportionate proclivity to violence.

With respect to the Yates case specifically, it seems that the prosecution and Dietz were in religious sync with the jury, presuming the jurors were in any way representative of Harris County, the heart of the Bible belt. While the role of the jury is to reflect community values, Dietz’s “Bible thumping” may have merely reinforced what could have been the jury’s own initial, moral, thesis about Yates’ mental state. The defense should have detailed Dietz to death to separate the religion from the “real” facts of the case. As it stands, religion appeared to dominate much of the testimony, and the medical aspects of postpartum psychosis and Yates’ history of mental illness took a substantially smaller role.

## 7.4 Andrea Yates’ Competency

One of the most significant problems that the defense confronted was Yates’ resistance to assisting in her own case. From the moment she completed the killings, she seemed intent upon seeking punishment for her

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actions. This kind of thinking may have been a symptom of her particular mental illness—her suicidal and homicidal ideas—and it is not unusual.

In an interview with the police who responded to her call immediately after the killings, for example, the only question Yates asked was when she would be tried. The next day, she told her prison psychiatrist, Melissa Ferguson, that she was guilty and deserved punishment. Dr. Gerald Harris, the clinical psychologist who testified for the defense at Yates' competency hearing, recalled that when he first spoke to Yates shortly after the killings, she made troubling comments regarding Satan. In arguing that Yates was not yet competent to stand trial, Harris emphasized that people are not going to adequately defend themselves if they believe that their death will eliminate Satan.

In his competency report, Harris also noted that even though Yates was experiencing both auditory and visual hallucinations, she claimed that she was "fine and has no mental problems." In turn, Yates "admitted only that she was depressed in the past and had some irrational thoughts"; yet, she "appeared to believe" that her medication "helped the depression" but may also "have caused the psychotic symptoms." Likewise, she "repeatedly expressed an aversion to taking any medication because of her 'pride.'" Harris found Yates incompetent to stand trial, given that "her denial of mental illness and reluctance to provide information about it prevents access to information that could be important to her defense." He further observed that "she is easily confused and manipulated and has a diminished emotional capacity, likely preventing her from presenting herself appropriately in court."

Dr. Steven Rubenzer, the state's forensic psychologist, found Yates competent to stand trial despite the fact that she denied her mental illness and downplayed her depression. When Rubenzer asked her about her use of the insanity defense, Yates "stated she does not believe she is mentally ill and should be punished for her actions." This response supported her attorneys' claim that "she has consistently expressed the desire to plead guilty" and "has expressed reluctance to use an insanity plea." In addition, Rubenzer reported that Yates evidenced feelings of "depression, social isolation, suspiciousness of other people" as well as a "feeling that her thoughts are blocked, or taken away, or can be heard by other people." Yates also stated that "she has heard voices that others cannot hear in the past." However, while Rubenzer acknowledged that Yates' desire for punishment could hinder her ability to assist in her own defense, this factor did not preclude his determination that she was competent to stand trial.

The transient nature of Yates' postpartum psychosis contributed to the defense's hurdles because she was being treated and her mental state therefore improved. Ferguson observed that Yates continued to show signs of

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psychosis for a full month after the drownings, but by early August the psychosis had lifted. Legally, the fact that Yates no longer suffered from psychosis at the time of trial should not have posed a problem. The Texas insanity statute clearly states that defendants need only have lacked knowledge as to the wrongfulness of their actions “at the time of the conduct charged.” Nonetheless, jurors may have been skeptical of a mental illness that allegedly existed during the commission of the crime, but seemed to have disappeared by the time of trial.

The defense introduced psychiatric testimony and a vast array of medical records to establish Yates’ history of mental illness and post-arrest psychosis. But the only person who could genuinely testify to her state of mind at the essential moment, the moment of the killings, was Yates herself. In an interview with Rubenzer, Yates claimed that she thought her actions were right during the time she drowned her children, and only “realized they were legally wrong after the fact when she called the police.” Given that her knowledge of right and wrong was at the crux of her entire case, it would have been helpful if Yates had elaborated upon this statement for the jury’s benefit. Rubenzer testified that as Yates’ mental health improved, she would become better able to appreciate her actions; one can only wonder whether part of her reluctance to assist in her own defense was due to her growing guilt and horror at the enormity of what she had done.

## 7.5 Final Comments

The Yates case concerned a multitude of legal and social issues; this chapter focused on just a few. There is no in-depth discussion, for example, of potential solutions for the problems that the case revealed although, of course, improvements are clearly needed. While it is beyond the bounds of this chapter to consider this topic in any more detail, a few points merit brief mention.

A critical point pertains to the narrow nature of the Texas insanity standard. According to Dietz, Yates most likely would not have been convicted if the insanity standard had been more lenient, such as the ALI test. Indeed, in a postpartum depression case that followed Yates’ conviction, Dietz successfully testified as an expert for the defense in an ALI test state (Illinois). The mother, a pediatrician who killed one of her sons with a knife and severely assaulted the other son, was found not guilty by reason of insanity based largely, it seems, on Dietz’s testimony.

Most states, like Texas, follow a M’Naghten-type standard, not an ALI test. Dietz has suggested that one possible solution to any injustice that

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the Yates case may have created is to adopt the approach applied in Great Britain. Under the British Infanticide Act of 1922, which was amended in 1938, a mother who evidences a postpartum disorder and kills her infant during the first year of its life can only be convicted of manslaughter, and not murder. Postpartum disorders are recognized as a form of diminished capacity that reduces murder to manslaughter, thereby providing a trial court some range in determining sentencing (anywhere from life imprisonment to a psychiatric sentence).

Of course, Great Britain does not have the death penalty, which was a key element in the Yates case irrespective of the insanity defense.

Other kinds of reforms have also been suggested for incorporating postpartum disorders as evidence for a defense or mitigation. Yet, the British Infanticide Act is an established illustration of how infanticide can be treated as a separate category of crime when there are medical problems associated with the killing. As it stands, American law has neither a separate criminal category nor any legislative recognition of postpartum psychosis as a mitigating factor, although the disorder can be used as a defense in criminal cases.

Notably, one key issue potentially on appeal in the Yates case could have had a major impact on the outcome apart from any kind of new reform proposal involving postpartum disorders. Under Texas law, Yates' attorneys were unable to explain to the jury the consequences of Yates being found "not guilty by reason of insanity." The state has a provision requiring that a defendant not be automatically released from the trial court's jurisdiction when acquitted under the insanity defense. In fact, the trial court has the "continuing jurisdiction to impose involuntary commitment for a defendant acquitted by reason of insanity" as well as "maintain jurisdiction to involuntarily commit an acquitted defendant to the state mental hospital for the rest of the defendant's natural life." Because of the stringent nature of the court's control over a defendant determined to be insane, it is conceivable that the Yates jury would have been influenced by knowing that Yates could not possibly have "walked free" if they had accepted her insanity plea. It also seems likely that Dietz's expert testimony would not have had the same effect if Texas did not have such a harsh insanity provision.

Debates abound on how psychiatric experts like Dietz should be treated in cases involving insanity determinations. Historically, the criminal justice system encouraged experts to become involved in insanity cases because it was believed that doctors and lawyers working together would produce a higher form of justice for defendants. By the mid-1800s, however, conflict between the two professions was rampant and the strategy of using experts was both expensive and commonly unproductive. As this

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chapter's analysis of Dietz's testimony indicates, these problems remain today. Some legal scholars have recommended that judges appoint experts approved by both sides to avoid the potential biases that arise because of the experts' partisanship. Those skeptical of the contention that any expert can be unbiased, however, have other suggestions. For example, the criminal justice system could (1) require that the experts be hired by one party but have their role limited or (2) mandate that the experts serve only as a consultant to an attorney. While other kinds of reforms have been suggested, the law remains quite static in terms of any changes, despite the obvious difficulties.

The issue of bias among experts perhaps becomes especially provocative in cases involving gender specific criminal defenses as well as gender differences in the context of the death penalty. As legal commentators have insightfully noted, the Yates case evokes sensitive subjects that arise when mothers are charged for killing their children. Dietz's testimony specifically targeted Andrea's role as "mother" both before and after she killed her children; it is no leap to suggest this issue was significant in her conviction.

This overview provides some inkling of the broad range of factors bearing on the Andrea Yates case. For this reason alone, it appears that the case is one of the most significant and complex insanity stories in the past few decades.

## 8 Conclusion

This chapter examined the different stories behind the Andrea Yates death penalty case—the defense's, the prosecution's, and the explanation that Yates herself provided. The jury did not accept the defense's story that Yates was insane and thought she was under Satan's influence at the time she drowned her five children in the bathtub. Rather, the jury convicted Yates and sentenced her to life in prison based on the prosecution's story that she was sane and acting intentionally when she killed her children, even though she was mentally ill. Yates herself fueled the prosecution's account and, of course, to her detriment. She felt that she had sinned and that she deserved to die.

The most persuasive storyteller of them all, however, was Park Dietz, the prosecution's star expert witness. His singular, consistent narrative of Yates' sanity contrasted sharply with the multiple, inconsistent portrayals provided by defense experts. Ironically, the severity of Yates' mental illness appeared in some sense to be a negative force in her case. It constituted the underpinnings of her wish to be punished (even executed) and

it also produced the numbers of doctors who became involved in her life and, consequently, her trial. All of these factors contributed to a psychiatrically muddled snapshot of who Yates was.

There were other apparently key influences in Yates' case—the punitive nature of Harris County and Yates' death-qualified jury, for example, as well as the atypically strict and ambiguous structure of the Texas insanity standard. The power of Dietz's testimony, however, was the primary focus of the discussion. Despite his reputation for emphasizing "facts" and his ability to offer a much simpler landscape of Yates' mental state, Dietz's level of speculation was troubling. There was little, if any, empirical basis for his conclusions, and his sweeping conjecture spotlighted his lack of expertise in postpartum depression and postpartum psychosis.

Dietz's version of "Who is Andrea Yates?" was convincing to the jury, although it is difficult to discern how much reality was behind it. At the same time, legal scholars and policy makers have yet to offer substantial improvements on the way expert testimony is treated in court. The Park Dietzes of the expert testimony world are not simply invited to be part of the criminal justice system, they are avidly embraced. It is not up to them to change a system in which they are providing what is viewed to be a necessary service. They should, however, comport with the ethical requirements of their profession. And legal procedures should also control what kinds of stories can be told.

This chapter's analysis of the Andrea Yates case makes no claim to have the "right" story about Yates, whatever that may be. Based on the limited amount of information yet available on the case, it had other goals. For example, an examination of the Yates trial shows "how unsettled and unsettling narratives from life are" and how many different views of a person can arise depending on who holds the lens. As one scholar emphasizes, "it is not just who and what we are that we want to get straight but who and what we might have been, given the constraints that memory and culture impose on us." It seems that the legal system did not "get straight" the Andrea Yates story during the trial. Maybe it will get it right when the case is appealed.<sup>51</sup>

## Notes

1. Denno, "Who is Andrea Yates?", 2, 34–35; *Yates v. State*, 171 S.W.3d 218 (2005). This chapter consists of a new introduction followed by excerpts of this author's previous article ("Who Is Andrea Yates?") about the Yates case, which serve as the backstory describing how Yates reached where she is today. For purposes of clarity, this chapter generally calls the members of the Yates family by

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their first names only: Russell (“Rusty”), Russell’s mother (Dora), and the five children.

2. Denno, “Who is Andrea Yates?,” 36.
3. *Ibid.*, 37.
4. *Ibid.*
5. *Ibid.*, 36, 38.
6. See Denno, “Who Is Andrea Yates?,” *Yates v. State*, 171 S.W.3d 216–18 (2005).
7. See Denno, “Who Is Andrea Yates?,” 1; *Yates v. State*, 171 S.W.3d 216 (2005).
8. *Yates v. State*, 171 S.W.3d 215, 216 (Tex. App. 2005).
9. See Denno, “Who Is Andrea Yates?,” 37–60.
10. *Ibid.* 17–47, 56–60.
11. See generally *ibid.*, 37–47.
12. See generally *ibid.*, 37–51.
13. See generally *ibid.*, 1–139.
14. *Yates v. State*, 171 S.W.3d 216, 222 (Tex. App. 2005).
15. *Ibid.*, 218.
16. *Ibid.*
17. *Ibid.*, 219.
18. *Ibid.*, 218, 219.
19. *Ibid.*, 219, 220.
20. Interview with George Parnham by Deborah W. Denno, October 12, 2015.
21. Khanna and McVicker, “Expert No-Billed in Yates Case”; Parker, “Yates’ Murder Conviction Tossed.”
22. Khanna and McVicker, “Expert No-Billed in Yates Case”; Morris, “Civil Commitment vs. Life in Prison.”
23. *Yates v. State*, 171 S.W.3d 222 (Tex. App. 2005).
24. *Ibid.*
25. *Ibid.*
26. Shannon, “The Time is Right to Revise the Texas Insanity Defense,” 68.
27. *Ibid.*
28. Resnick, “The Andrea Yates Case,” 153.
29. *Ibid.*
30. Denno, “Who Is Andrea Yates?,” 10.
31. *Ibid.*
32. *Ibid.*; Resnick, “Andrea Yates Case,” 152–53.
33. Resnick, “Andrea Yates Case,” 153.
34. Langford, “Years After Tragedy, Calls for Mental Health Screening”; Resnick, “Andrea Yates Case,” 147; Koenigs, “Lawyer Argues for Andrea Yates Release.”
35. Interview with Parnham.
36. Resnick, “Andrea Yates Case,” 153;
37. Shannon, “Time is Right,” 67–70.
38. Resnick, “Andrea Yates Case,” 153.

39. Ibid.
40. Koenigs, "Lawyer Argues for Andrea Yates Release."
41. Hlavaty, "13 Years Later, the Yates Drownings Still Haunt."
42. Langford, "Andrea Yates" (noting Parnham's confidence in Adrea's ability to live on her own); Hlavaty, "Kerrville" and "13 Years Later."
43. Hlavaty, "13 Years Later."
44. Ibid.
45. Ibid.
46. See *supra* note x.
47. Cohen, "How Andrea Yates Lives, and Lives With Herself, a Decade Later"; Langford, "Years After Tragedy."
48. Langford, "Years After Tragedy."
49. Shannon, "Time is Right," 67–68; Blumoff, "Rationality, Insanity, and the Insanity Defense," 179–180. See also McCoy, "Trial of 'American Sniper' Chris Kyle's Killer" (using the same standard to compare present-day Texas insanity law to the Andrea Yates case).
50. Blumoff, "Rationality, Insanity, and the Insanity Defense," 179–80; Denno, "Who is Andrea Yates?," 16.
51. I thank Marianna Gebhardt and George Parnham for insightful comments and Alissa Black-Dorward for excellent reference research. Devavrat Chaudhary provided careful research assistance, for which I am grateful.

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## Resources

- Blumoff, Theodore Y., "Rationality, Insanity, and the Insanity Defense: Reflections on the Limits of Reason." *Law & Psychology Review* 39(2014): 161–203.
- Cohen, Andrew, "How Andrea Yates Lives, and Lives With Herself, a Decade Later." *The Atlantic*, March 12, 2012, available at [www.theatlantic.com/national/archive/2012/03/how-andrea-yates-lives-and-lives-with-her-self-a-decade-later/254302/](http://www.theatlantic.com/national/archive/2012/03/how-andrea-yates-lives-and-lives-with-her-self-a-decade-later/254302/).
- Denno, Deborah W., "Who Is Andrea Yates? A Short Story About Insanity." *Duke Journal of Gender Law & Policy* 10(2003): 1–139.
- Hlavaty, Craig, "Kerrville; Doctors: Andrea Yates OK for Group Outings." *The Houston Chronicle*, Feb. 16, 2014, at B1.
- Hlavaty, Craig, "13 Years Later, the Yates Drownings Still Haunt." *The Houston Chronicle*, April 25, 2015, available at [www.chron.com/neighborhood/bayarea/crime-courts/article/Andrea-Yates-Rusty-Yates-5567726.php](http://www.chron.com/neighborhood/bayarea/crime-courts/article/Andrea-Yates-Rusty-Yates-5567726.php).
- Khanna, Roma, and Steve McVicker, "Expert No-Billed in Yates Case." *Houston Chronicle*, September 19, 2003, 28A.
- Koenigs, Michael, "Lawyer Argues for Andrea Yates Release." *ABC News*, June 20, 2011, available at [abcnews.go.com/TheLaw/decade-drowning-children-lawyer-claims-andrea-yates-ready/story?id=13883269](http://abcnews.go.com/TheLaw/decade-drowning-children-lawyer-claims-andrea-yates-ready/story?id=13883269).
- Langford, Terri, "Andrea Yates; Lawyer Says Mother Who Killed 5 Children Ready to Rejoin Society." *The Houston Chronicle*, March 28, 2012, at A1.

—1  
—0  
—+1

- Langford, Terri, "Years After Tragedy, Calls for Mental Health Screening." *The Texas Tribune*, Aug. 6, 2014, available at [www.texastribune.org/2014/08/06/andrea-yates-legacy-mandatory-postpartum-screening/](http://www.texastribune.org/2014/08/06/andrea-yates-legacy-mandatory-postpartum-screening/).
- McCoy, Terrence, "Trial of 'American Sniper' Chris Kyle's Killer: Why the Insanity Defense Failed." *The Washington Post*, February 25, 2015, available at [www.washingtonpost.com/news/morning-mix/wp/2015/02/25/trial-of-american-sniper-chris-kyles-killer-why-the-insanity-defense-failed/](http://www.washingtonpost.com/news/morning-mix/wp/2015/02/25/trial-of-american-sniper-chris-kyles-killer-why-the-insanity-defense-failed/).
- Morris, E.G., "Civil Commitment vs. Life in Prison: What Andrea Yates Knew That Deanna Laney Didn't." *Texas Lawyer*, April 12, 2004, available at [www.texaslawyer.com/id=900005405924/Civil-Commitment-vs-Life-in-Prison](http://www.texaslawyer.com/id=900005405924/Civil-Commitment-vs-Life-in-Prison).
- Parker, Laura, "Yates' Murder Conviction Tossed." *USA Today*, January 7, 2005, at 3A.
- Parnham, George, phone interview by Deborah W. Denno, October 12, 2015.
- Resnick, Phillip J., "The Andrea Yates Case: Insanity on Trial." *Cleveland State Law Review* 55(2007): 147–56.
- Shannon, Brian D., "The Time is Right to Revise the Texas Insanity Defense: An Essay." *Texas Tech Law Review* 39(2006): 67–100.