

## **TRIAL TEAM TRYOUT INSTRUCTIONS**

TO: PROSPECTIVE TRIAL TEAM MEMBERS  
FROM: JULIAN T. EMERSON, ESQ., AND KATIE LYNN ZORC, ESQ  
RE: TRIAL TEAM INFORMATION [2016-2017]

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### *WHEN ARE TRYOUTS?*

**Saturday, April 9, 2016 from 9:00am until 6:00pm** in the Mock Trial Courtroom. Please sign up for an audition time in Student Services. First come, first serve. If you are interested in trying out but have a conflict on that date, please email [jemerson@reminger.com](mailto:jemerson@reminger.com) and/or [kzorc@reminger.com](mailto:kzorc@reminger.com) to schedule an alternate tryout time.

### *WHAT DOES THE TRYOUT ENTAIL?*

You will have the option of giving an opening statement on behalf of either the State as a Prosecutor or on behalf of the Defendant based on the attached mock file, **STATE OF LOAN STAR V. JOHN QUINCY DRATH** (Please disregard the discrepancy in page numbers, and assume the Trial is brought in 2016. We have intentionally excluded some of the referenced Exhibits, as they are not needed). **Your opening statement should be 4-6 minutes long.**

There will be a Trial Team Exhibition / Open House in the Mock Trial Courtroom on Wednesday, March 30, 2016 starting at 5:00 p.m. Please stop by for a few minutes to talk with coaches and current team members about how trial team works, why we believe trial team is the best activity you can do in law school, and how you can make your tryout successful.

### *IS TRIAL TEAM WORTH IT?*

If you are interested in trial work and want to learn, develop and hone the kinds of skills that trial lawyers have, it is more than worth it. It is a learning and skill developing experience that is not available to you anywhere else. It will put you light years ahead of your colleagues. Most former members will tell you it was the best, most intensive, fulfilling, and rewarding learning experience they had in this institution.

### *WHERE ELSE CAN I GET INFORMATION ABOUT THE TEAM?*

From the coaches ([jemerson@reminger.com](mailto:jemerson@reminger.com), or [kzorc@reminger.com](mailto:kzorc@reminger.com)). Also, most important of all, talk to current/former trial team members-- names and numbers available upon request.

No. CR-11-2444

STATE OF LONE STAR

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IN THE DISTRICT COURT

v.

IN AND FOR

JOHN QUINCY DRATH, Defendant

TRAVIS COUNTY, LONE STAR

**Prepared by:**

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This case file was commissioned by the Texas Young Lawyers Association and was prepared by Marvin W. Jones for the 2013 National Trial Competition

STATE OF LONE STAR	§	IN THE DISTRICT COURT
	§	
	§	
v.	§	IN AND FOR
	§	
	§	
JOHN QUINCY DRATH, Defendant	§	TRAVIS COUNTY, LONE STAR

**INDICTMENT**  
June 2011 Term

THE GRAND JURY CHARGES THAT:

**COUNT ONE**  
(MURDER)

1. On or about May 14, 2011, in Armadillo, Travis County, Lone Star, John Quincy Drath did intentionally and knowingly cause the death of an individual, to wit: Steppen Walker a/k/a Step Walker, in violation of Lone Star Penal Code, Section 19.01.

\*\*\*\*\*

A TRUE BILL

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\_\_\_\_\_  
GRAND JURY FOREPERSON

TIM "TIMMY" WILLIAMS  
TRAVIS COUNTY DISTRICT ATTORNEY

By: Donna D. Melby  
Donna D. Melby, Assistant District Attorney

## **Statement of the Case**

This is a criminal action against John Drath. The State's allegation is that on or about May 14, 2011, John Drath caused the death of Steppen Walker by shooting Walker twice in the chest and once in the head with a small caliber pistol after learning that the 22 year old Walker was in a relationship with Drath's 17 year old daughter, Sally. Mr. Drath has asserted a defense of not guilty by reason of insanity.

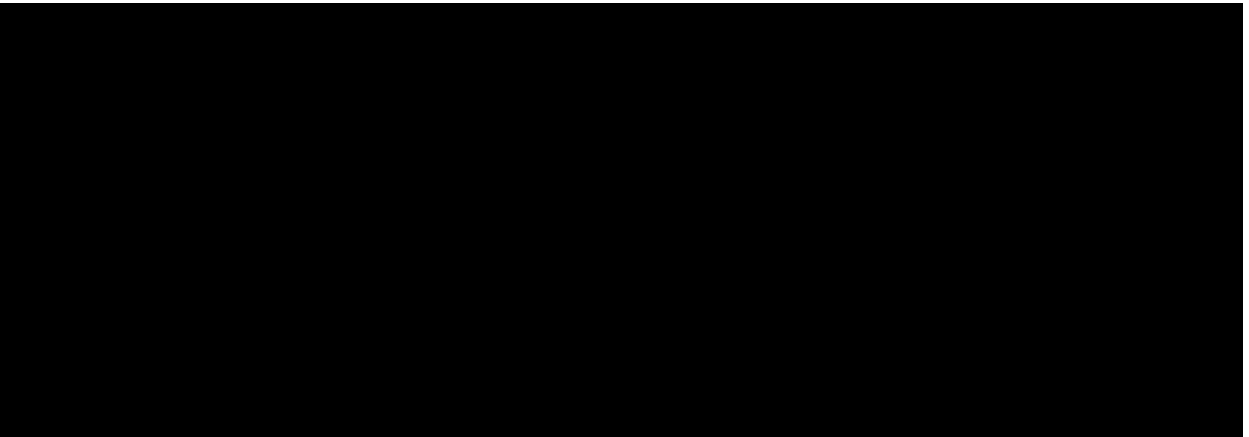
Witnesses will include:

1. Dusty Stockard, an investigator with the Travis County District Attorney's Office
2. Dr. Kris Chacona, M.D., an expert witness who will testify on behalf of the State.
3. John Drath, the defendant, who will testify on his own behalf.
4. Dr. Chris Johnson, M.D., who will testify as the defense expert.

## STIPULATIONS AS TO EVIDENTIARY MATTERS

### Procedural Matters

1. Federal Rules of Criminal Procedure and Federal Rules of Evidence apply.
2. All witnesses called to testify have identified the parties, other individuals, or tangible evidence in prior testimony and will, if asked, identify the same at trial.
3. All witnesses testified at a prior trial, the result of which was a mistrial. The testimony of the witnesses shall conform to the testimony given by them at the earlier trial. Each witness who gave prior testimony agreed under oath at the outset of his or her testimony to give a full and complete description of all material events that occurred.
4. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.
5. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.



### Substantive Matters

1. Defendant John Drath has entered a plea of “not guilty by reason of insanity.”
2. Defendant’s plea of insanity shall be governed by Lone Star Penal Code Section 99.357. Specifically:
  - a. The person asserting the affirmative defense of insanity bears the burden of proof, and the standard is by a preponderance of the evidence;
  - b. A defendant is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks *substantial capacity* either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.

**TESTIMONY OF DUSTY STOCKARD  
APRIL 23, 2012**

1 Q: Please state your name.

2 A: My name is Dusty Stockard.

3 Q: What is your occupation?

4 A: I am an investigator for the Travis County District Attorney's Office.

5 Q: What is your background for that particular position?

6 A: Well, I was raised at Bethlehem, Lone Star, where I graduated from high school. I then  
7 attended a community college over in Nevada for two years.

8 Q: Nevada, the state?

9 A: No, Nevada, Lone Star. While I was there at the junior college, I got an associate's  
10 degree in criminal justice.

11 Q: What did you do then?

12 A: I went on to the University of Lone Star in Ohio.

13 Q: State of Ohio?

14 A: No, Ohio, Lone Star. You weren't raised around here, were you?

15 Q: No, but that's not important now. What kind of degree did you get at the University of  
16 Lone Star?

17 A: I got dual degrees in computer science and criminal justice.

18 Q: What did you learn in connection with a computer science degree?

19 A: Well, we specifically focused on forensic examination of computers, with emphasis on  
20 retrieving information that might relate to the prosecution of crimes.

21 Q: What did you do after you graduated from the University of Lone Star?

22 A: I went to work for the Travis County District Attorney's Office as a copy room attendant,  
23 and worked my way up to investigator.

24 Q: What kinds of duties do you have as an investigator for the Travis County District  
25 Attorney's Office?

TESTIMONY OF DUSTY STOCKARD - 1

**TESTIMONY OF DUSTY STOCKARD**  
**APRIL 23, 2012**

1 A: I investigate crimes. I am routinely called to the scene of the crime to begin the  
2 investigation. I interface with the forensic team, and pretty much direct what they do at  
3 any given crime scene.

4 Q: How often have you been to a crime scene to investigate a homicide?

5 A: I have investigated 40 homicides in the past five years. Convicted every one of those  
6 lowlife scums.

7 Q: Were you called to the scene of the death of one Steppen Walker?

8 A: Yes, I got a call at 1:37 a.m. on Saturday, May 14, 2011.

9 Q: What were you told at that time?

10 A: I was told there was an apparent homicide at the Remington Apartment Complex in  
11 Armadillo. In case you were unaware, Armadillo is in Travis County, Lone Star.

12 Q: What did you see upon arriving at the scene?

13 A: Well, the Travis County Sheriff's Department was already present and had their crime  
14 scene people there. Although I am not a member of the Travis County Sheriff's  
15 Department, my position as investigator with the Travis County District Attorney's Office  
16 gives me the authority to be at a crime scene and to direct the Sheriff's Department's  
17 forensic team. Because of that, they let me past the crime scene tape.

18 Q: Did you go to the Walker apartment?

19 A: Yes, upon arriving at the scene, I determined which apartment Walker lived and died in,  
20 and I went immediately to that location. When I got there, I observed Mr. Walker lying  
21 on the floor in front of a blood-stained sofa.

22 Q: What else did you observe?

23 A: Well, Walker was shirtless and shoeless, and had been shot twice in the chest and once in  
24 the forehead by what appeared to be a small caliber pistol. There did not appear to be  
25 any evidence of gunshot residue on his hands, nor was there any powder burning near the

TESTIMONY OF DUSTY STOCKARD - 2



**TESTIMONY OF DUSTY STOCKARD**  
**APRIL 23, 2012**

1 wounds that would indicate that they were self-inflicted, as though one could actually do  
2 that. Based on that evidence, I declared that this was a probable crime of some kind, and  
3 directed the forensic team to treat the scene as such.

4 Q: Did you find any evidence of forced entry into the apartment itself?

5 A: No, the door did not appear to have been forced. There was a deadbolt, but it was not  
6 locked, and the passage way lock did not appear to have been tampered with and did not  
7 appear to have been locked.

8 Q: What did you do next?

9 A: Well, after Mr. Walker's body was removed, I took steps to further secure the scene,  
10 specifically securing all of the computer equipment that was in the apartment.

11 Q: Was there quite a bit of computer equipment there?

12 A: No, there was a single laptop computer, a wireless broadband router, a printer, and a  
13 webcam, all of which were actually in the bedroom of the apartment.

14 Q: Did you examine the laptop computer you found in Mr. Walker's bedroom?

15 A: Yes, even before I left the scene I set about the task of examining that laptop. I wanted to  
16 make sure that there was nothing about it that required any special equipment that I might  
17 have missed.

18 Q: What did you determine in examining the laptop computer?

19 A: I got the laptop started and immediately noticed that Mr. Walker had the usual panoply of  
20 social media accounts, including Facebook, My Space, LinkedIn, MyLife, and Twitter.

21 Q: Were you able to examine any of those accounts?

22 A: Yes, I discovered that Mr. Walker had uncleverly left the machine logged onto all the  
23 social media accounts that he used. I was therefore able to look at all of them, including  
24 his Twitter account.

25 Q: What did you find with respect to the Twitter account?

TESTIMONY OF DUSTY STOCKARD - 3

**TESTIMONY OF DUSTY STOCKARD**  
**APRIL 23, 2012**

1 A: Well, I found that Mr. Walker had been exchanging messages with John Drath's  
2 daughter, Sally.

3 Q: Can you identify Exhibit 1?

4 A: Yes, it's a print out of a Tweet that I found on Walker's computer.

5 Q: Once you discovered the information in the Twitter account, what did you do?

6 A: I immediately asked the crime scene tech to determine Walker's age by looking at his  
7 driver's license in his billfold, which was lying on the table in the bedroom. I discovered  
8 that Walker was 22 years of age at the time of his homicide.

9 Q: What did you do then?

10 A: I made a phone call to John Drath to determine the age of his daughter, Sally. Drath told  
11 me that Sally was 17 years of age at that time.

12 Q: When you spoke with Mr. Drath, did you tell him about Walker's demise?

13 A: Yes, I told him that I was standing over the dead cold body of Steppen Walker, and I  
14 needed to know how his daughter was. Mr. Drath immediately said, "I didn't do that."

15 Q: Did he say anything else to you?

16 A: Yes, he asked me what the score of the game was between Dallas and Green Bay.  
17 Because this was May, it was not football season, so I told him that I didn't know.

18 Q: Did he respond to that in anyway?

19 A: Yes, he then asked me if I could buy a couple of lottery tickets on my way to see him,  
20 because he had figured out the system.

21 Q: In examining the laptop computer belonging to Mr. Walker, what else did you discover?

22 A: Mr. Walker was maintaining a Gmail account in which I found approximately 450 e-  
23 mails in an inbox.

24 Q: Can you identify Exhibit 2?

25 A: Yes, Exhibit 2 is an e-mail from John Drath to Steppen Walker.

TESTIMONY OF DUSTY STOCKARD - 4

**TESTIMONY OF DUSTY STOCKARD**  
**APRIL 23, 2012**

1 Q: While you were in the Walker apartment, did you conduct a search for any small caliber  
2 weapons?

3 A: Yes, we went over the apartment with a fine-tooth comb and found no firearms of any  
4 kind in the apartment. I then checked with a national registry of firearms, but found that  
5 Mr. Walker did not have any firearms listed in that registry.

6 Q: Do all firearms have to be registered?

7 A: No, in Lone Star you can buy a small caliber pistol at a gun show without registering it.  
8 Or, you can buy a small caliber pistol from a friend without having to register it. In fact,  
9 you can buy a small caliber pistol at a convenience store without registering it, and then  
10 hold up the convenience store with it. It's a pretty loose system.

11 Q: After you finished looking at the Walker apartment, what did you do?

12 A: I went with the Travis County Sheriff to John Drath's home.

13 Q: Was Mr. Drath there?

14 A: Yes, Mr. Drath answered the door when we knocked. The sheriff announced that he  
15 needed to talk to Drath about the death of Steppen Walker.

16 Q: What did Drath then say?

17 A: Drath said that he figured something bad must have happened if I was standing over his  
18 dead cold body in his apartment. He then laughed and said, "There's been a dearth of  
19 death around here, this should be interesting."

20 Q: Did he say anything else to you and the sheriff at that time?

21 A: No, he got kind of a loopy grin on his face and didn't say anything else for the rest of the  
22 night or for a couple of days after that, for that matter.

23 Q: Did you subsequently execute a search warrant on Mr. Drath's house?

24 A: Yes, we executed a search warrant specifically looking for firearms.

25 Q: Can you identify Exhibit 3?

**TESTIMONY OF DUSTY STOCKARD**  
**APRIL 23, 2012**

1 A: Yes, that is the return on a search warrant that we executed on Mr. Drath's house at 12:50  
2 p.m. on Saturday, May 14, 2011.

3 Q: What did you find as a result of the execution of this search warrant?

4 A: We did not find a small caliber pistol, or any other pistol for that matter. But we couldn't  
5 get into a safe that he had in the closet of his guest room.

6 Q: Can you identify Exhibit 4?

7 A: Yes, Exhibit 4 is something we found in Mr. Drath's house. It is a receipt for ammunition  
8 for a .32 caliber handgun.

9 Q: Is a .32 caliber handgun considered to be a small caliber weapon?

10 A: Well, it's bigger than a .22, but smaller than a .38, so yes, we regard it as a small caliber.  
11 Wouldn't really want to walk into a gunfight with it, but it's a pretty good weapon in a  
12 knife fight.

13 Q: What is Exhibit 8?

14 A: One of the items we found in searching Drath's house. It's a printout of a map from  
15 Google. Point A to Point B is the route from Drath's house to Walker's apartment.

16 Q: After the arrest of John Drath, did you follow up on any other leads or look at any other  
17 suspects in connection with the death of Steppen Walker?

18 A: No, we had our man, and I went on to the next problem.

19 Q: Can you identify Exhibit 10?

20 A: That's a piece of paper we found in Walker's living room, pretty close to his cold dead  
21 body.

22 Q: Did you follow up on this note?

23 A: No, we had our man, and I went on to the next problem.

24 Q: Is it true that for the past two years you have been dating Pamela Drath?

25 A: Hey, what Pam and I are doing has nothing to do with the fact that John's guilty

**TESTIMONY OF DR. KRIS CHACONA  
JANUARY 20, 2012**

1 Q: Can you state your name for us?

2 A: My name is Kris Chacona, M.D.

3 Q: And what is it you do for an occupation or profession, Dr. Chacona?

4 A: I am a medical doctor with a speciality in psychiatry.

5 Q: Where were you raised Dr. Chacona?

6 A: Uncertain.

7 Q: You're uncertain as to where you were raised?

8 A: No, I was raised in Uncertain, Lone Star. Over near Caddo Lake. I went to Uncertain  
9 High School.

10 Q: Did you then go to college somewhere?

11 A: Of course, otherwise I couldn't have become a medical doctor. I went to Lone Star State  
12 University in Humble, Lone Star.

13 Q: You went from Uncertain to Humble?

14 A: Yes, where I majored in microbiology and chemistry, graduating in three years rather  
15 than the usual four because of the stellar education I had received in high school.

16 Q: Where did you go after Lone Star State University?

17 A: I went to Lone Star Medical School in Wealthy, Lone Star. That's near Normangee, if  
18 you're trying to Google it.

19 Q: So you went from Uncertain to Humble to Wealthy?

20 A: Not an unusual path for a doctor. I graduated from medical school in 2001, and then  
21 served a residency at John Hopkins, where I specialized in psychiatry and earned the  
22 right to call myself a psychiatrist.

23 Q: Are you familiar with John Drath?

24 A: Yes, I have met and examined Mr. Drath.

25 Q: Under what circumstances?

**TESTIMONY OF DR. KRIS CHACONA  
JANUARY 20, 2012**

1 A: The Court ordered a psychiatric evaluation of Mr. Drath, and I performed that evaluation.

2 Q: How did you go about performing this evaluation?

3 A: Well, I interviewed Mr. Drath for approximately 30 minutes. I also reviewed the email  
4 that Mr. Drath had sent to the decedent, and I reviewed the pattern of wounds in Mr.  
5 Walker's lifeless body. And I took a look at the MMPI results as well, for what they  
6 were worth.

7 Q: Based on your education, training, experience and investigation with respect to this  
8 matter, did you form an opinion as to whether, at the time of the shooting of Steppen  
9 Walker, John Drath lacked substantial capacity to appreciate the criminality of his  
10 conduct?

11 A: I formed an opinion that he did not lack substantial capacity to appreciate the criminality  
12 of his conduct.

13 Q: And based on those same things, did you form an opinion as to whether as a result of  
14 mental disease or defect, John Drath lacked substantial capacity to conform his conduct  
15 to the requirements of the law?

16 A: I formed an opinion that Mr. Drath did not at the time of Walker's death have a mental  
17 disease or defect such that he lacked substantial capacity to conform his conduct to the  
18 requirements of the law.

19 Q: Tell us if you would what these opinions are based on?

20 A: Well, first, I took a look at the email that Mr. Drath had sent to Mr. Walker.

21 Q: Is that marked as Exhibit 2?

22 A: Yes, that is correct. In that email, you see a very rational expression of frustration and  
23 anger, acting out in a rational manner given the circumstances. Although he doesn't  
24 threaten Walker with physical harm, he makes a very specific threat to Walker that  
25 indicates a good degree of rationality.

**TESTIMONY OF DR. KRIS CHACONA  
JANUARY 20, 2012**

1 Q: Did you review Exhibit 1, the Twitter messages between Mr. Walker and John Drath's  
2 underage daughter?

3 A: Yes, I did. I concluded that a person such as Mr. Drath would rationally become quite  
4 angry as the result of reading those Twitter messages.

5 Q: You indicated that you reviewed the pattern of wounds in Mr. Walker's body; how did  
6 that pattern of wounds illuminate your opinion?

7 A: Well, there is a very specific pattern of wounds here that indicates specific deliberation  
8 on the part of the shooter. There are two shots to the chest and one shot to the forehead.  
9 This is a classic assassination pattern. It takes a very rational person, a person of sound  
10 mind, to be able to form the requisite intention to shoot someone in such a deliberate and  
11 well-documented pattern. It's almost like Mr. Drath was a professional assassin. But the  
12 point is, someone who's acting under the burden of a mental disease or defect would not  
13 have the requisite capacity to shoot someone in such a deliberate pattern. This is what we  
14 call a classic triple tap.

15 Q: What in the interview with Mr. Drath led you to believe that he did not suffer from a  
16 mental disease or defect at the time of the killing of Mr. Walker?

17 A: We had a very nice chat. I asked Mr. Drath what he recalled prior to the shooting  
18 incident, and he told me his last recollection was going to Walker's apartment to confront  
19 him. I asked him what his most recent recollection was after that shooting, and Drath  
20 told me that he did not recall anything else until about a week later. But in the course of  
21 that conversation, Drath alluded to the fact that he was aware of another shooting three  
22 days after Walker was killed involving a small scale criminal named Debra Pole. This  
23 other shooting occurred in Armadillo, and was only publicized in the paper on the day  
24 that it happened. Never saw another article about it at all. Since Drath has been isolated  
25

**TESTIMONY OF DR. KRIS CHACONA  
JANUARY 20, 2012**

1 from all news since the moment he claims to have suddenly awakened, his recollection of  
2 the Pole shooting while he was “in a coma” tells me that he is faking it.

3 Q: Have you examined the results of the psychological testing done by the defense expert in  
4 this case, identified as Exhibit 6?

5 A: Yes, I looked at Exhibit 6, the results of the Minnesota Multiphasic Personality  
6 Inventory, or MMPI as it is more popularly known among lawyers.

7 Q: What, if anything, did the MMPI results indicate to you regarding Mr. Drath’s insanity  
8 plea?

9 A: Well, there are three scales in the MMPI that are designed to determine the authenticity  
10 of responses. These scales are the L, F and K scales. These scales will tell you if the  
11 subject is dissembling.

12 Q: Dissembling?

13 A: You know, lying, trying to be deceitful, trying to hide the truth, faking.

14 Q: And in looking at the MMPI results for Mr. Drath’s testing, what did you conclude?

15 A: His L, F and K scores are very interesting. The L Scale, for example, is elevated. The  
16 Lie scale is intended to identify individuals who are deliberately trying to avoid  
17 answering the MMPI honestly and in a frank manner. The clear indication is that he was  
18 lying significant portions of his anatomy clean off.

19 Q: What else do you see in the MMPI results?

20 A: The F Scale, also known as “Fake,” is at 65 which is very elevated. It means he is faking  
21 the answers.

22 Q: Based on all of your evaluations, investigations, and conversations in connection with  
23 this case, did you form a conclusion as to whether John Drath, as the result of mental  
24 disease or defect, lacked substantial capacity either to appreciate the criminality of his  
25 conduct or to conform his conduct to the requirements of the law?



**TESTIMONY OF DR. KRIS CHACONA  
JANUARY 20, 2012**

1 A: Look, John Drath was as mentally fit as anyone I've ever seen in jail. He absolutely was  
2 able to appreciate the criminality of his conduct and he was absolutely able to, but did  
3 not, conform his conduct to the requirements of the law. He was NOT insane.

4 Q: How many people have you examined in jail in the past?

5 A: Well, Drath is actually the first, but I've read a lot of scholarly articles on the subject.

6 Q: Can you identify Exhibit 7?

7 A: Yes, that is an excerpt from a professional paper that I read in connection with this case.

8 Q: Is it from a scholarly journal that is well-recognized among professionals such as  
9 yourself?

10 A: It is a peer reviewed, scholarly paper that is published in a peer reviewed, scholarly  
11 journal. It doesn't get much better than that.

12 Q: And how many times have you handled a psychiatric evaluation for the purposes of  
13 rebutting an insanity plea?

14 A: Well, again, there is a first time for everything, and this one's it.

15 Q: You mention this idea of a triple tap pattern of shots; do you have any reason to believe  
16 that Mr. Drath was either a professional hitman or had knowledge of this particular  
17 pattern of shooting?

18 A: Yes, in Dusty Stockard's examination of Drath's house, they found a cheap airport  
19 paperback novel called "Trippple Tappp."

20 Q: Can you identify Exhibit 5?

21 A: Yes, that's the cover of the book Trippple Tappp, which is an action novel based around  
22 the exploits, as it were, of a professional hit man.

23

24

25

**TESTIMONY OF JOHN DRATH  
JUNE 12, 2012**

1 Q: Can you state your name for us?

2 A: Yes I can.

3 Q: Will you state your name for us?

4 A: Yes, I will.

5 Q: State your name, please?

6 A: Oh, my name is John Drath.

7 Q: Are you the same John Drath that stands accused of murdering Steppen Walker?

8 A: I have been accused of that but I am crazy.

9 Q: Tell us something about your background. Where were you raised?

10 A: I was raised in Rising Star, Lone Star. Went to Rising Star High School.

11 Q: Did you then attend an institution of higher learning?

12 A: I don't know if it was an institution of higher learning, but I went to Lone Star A&M  
13 University in Cuba.

14 Q: Cuba the country?

15 A: No, Cuba, Lone Star.

16 Q: Did you get a degree at Lone Star A&M?

17 A: Yes, I got a degree in civil and mechanical engineering.

18 Q: What did you do then?

19 A: I went to work for a large construction company in Lone Star, a place called Brown &  
20 Root. I worked there for ten years, and then quit to establish my own engineering  
21 business.

22 Q: And do you still own that business?

23 A: Yes, I have that engineering business right here in Armadillo. We now employ sixty  
24 people, and we do projects around the world.

25 Q: We are here because of the death of Steppen Walker, do you understand that?

**TESTIMONY OF JOHN DRATH  
JUNE 12, 2012**

1 A: That much I understand.

2 Q: Let's go back to the day Mr. Walker was killed. Do you remember anything about that  
3 day?

4 A: What I remember about that day is I was out at the local mall bidding on a job, when I  
5 saw this Walker character and my seventeen year old daughter walking hand-in-hand and  
6 laughing. When I saw that, I began to get suspicious about the relationship that might  
7 have existed between them.

8 Q: Had you ever known Mr. Walker prior to this date?

9 A: No, I'd never seen or heard of him prior to this date.

10 Q: What did you do next?

11 A: Well, I remember going to the house and accessing her iPad. On that iPad I found  
12 several Tweets in her Twitter account that had been exchanged between her and Walker.

13 Q: Can you identify Exhibit 1?

14 A: Yes, these are some of the Twitter messages I found in her account on her iPad.

15 Q: What do you recall next after seeing these Twitter messages?

16 A: I recall becoming incredibly ill. It felt like my blood pressure had dropped completely  
17 off the face of the earth. I was dizzy, I was nauseous, and I think I fell to the floor and  
18 struck my head.

19 Q: What is the next thing you remember after that?

20 A: I remember waking up in a jail cell a week and a day later. Everything in between there  
21 is a complete black hole.

22 Q: Let me ask you specifically whether you remember killing Steppen Walker?

23 A: No, I don't remember anything like that. You'd think I would.

24 Q: Do you remember being held in a maximum security facility for your own safety during  
25 that week and day following Walker's death?

TESTIMONY OF JOHN DRATH - 2

**TESTIMONY OF JOHN DRATH**  
**JUNE 12, 2012**

1 A: I don't remember any of that. I don't remember anything that happened that week.

2 Q: Mr. Drath, do you own a 32-caliber semi-automatic pistol?

3 A: I inherited a 32-caliber semi-automatic pistol from my father.

4 Q: When is the last time you fired that weapon?

5 A: I actually haven't fired that gun in five years. I don't even know if I have ammunition for  
6 it.

7 Q: Can you identify Exhibit 4?

8 A: Well, it appears to be a receipt for ammunition for my 32-caliber pistol.

9 Q: Do you recall purchasing this ammunition?

10 A: I have no recollection of that.

11 Q: While this question seems somewhat absurd, I need to ask it: Have you ever been a  
12 professional assassin?

13 A: No, I have not had any special training as an assassin. I did not serve in the Army  
14 Special Forces, I have not served on any police force SWAT team, never been to  
15 Chicago.

16 Q: Are you familiar with a classic assassin pattern of two bullets to the chest and one to the  
17 head?

18 A: No, never seen that or even heard of it.

19 Q: Can you identify Exhibit 8?

20 A: Exhibit 8 appears to be a printout from Google showing a map with my residence on it  
21 and also Mr. Walker's apartment.

22 Q: Do you recall looking up this information or printing it out?

23 A: I don't recall anything about that.

24 Q: Do you read books by an author named Gary Winters?  
25

**TESTIMONY OF JOHN DRATH  
JUNE 12, 2012**

1 A: I do read Winters' books from time to time. They are airport fiction, something to read on  
2 an airplane while I'm going from place to place on business.

3 Q: And do you recognize Exhibit 5?

4 A: No, I've never seen that particular book before.

5 Q: Can you explain why it was in your house?

6 A: I believe my daughter reads cheap airport fiction as well. It's probably her book.

7 Q: Do you recall talking to Dr. Chacona while in jail?

8 A: Yes, I remember talking to Dr. Chacona. I found Dr. Chacona to be cynical and  
9 suspicious.

10 Q: Why do you say that?

11 A: Because Dr. Chacona told me that there had never been a successful insanity plea in  
12 Armadillo, and this one was not going to be the first.

13 Q: Do you recall taking a series of tests administered by Dr. Chris Johnson?

14 A: Yes, I have some vague recollection of that. You have to understand, I was on  
15 medications immediately following the moment I came back to lucidity. I found it very  
16 difficult to take Dr. Johnson's tests because of the medications. I couldn't concentrate on  
17 the questions, and so frankly I was guessing on a lot of them.

18 Q: Do you feel remorse with respect to Mr. Walker's death?

19 A: Walker's death to me is like a disconnected reality. I hear you say he's dead, but it just  
20 doesn't have any meaning to me. However, if I catch anybody else writing Tweets to my  
21 daughter like he did, I just don't know what I would do.

22 Q: Have you ever been diagnosed as having any particular mental defect or problem in the  
23 past?

24 A: When I was in college, I saw a doctor after experiencing a very strange break from  
25 reality.

**TESTIMONY OF JOHN DRATH  
JUNE 12, 2012**

1 Q: What was the diagnosis at that time?

2 A: He said I should quit staying up late and drinking copious amounts of beer.

3 Q: Since that time, have you had other psychological or mental problems?

4 A: Only the one's you'd expect trying to raise a teenage daughter by yourself. After her  
5 mother left when she was 12, I've had sole custody, you know.

6 Q: Can you identify Exhibit 12?

7 A: Yes, that's the petition the lying ex-wife filed to get divorced from me.

8 Q: Are the allegations there true?

9 A: There's only lies and damn lies in there, far as I'm concerned. Except the part about my  
10 name. That part's true.

11 Q: Can you identify Exhibit 11?

12 A: Yes, that's a true and accurate printout of a screen shot from a Facebook message my  
13 daughter sent to that cold dead Walker guy. I now remember seeing that about the same  
14 time I hacked her Twitter account.

15 Q: How'd it make you feel?

16 A: I don't remember seeing it until just now. Part of the week I lost while in a coma, I  
17 suppose.

18 Q: Is there any question in your mind that you in fact shot Steppen Walker?

19 A: In some ways, I hope I did. But to answer your question, I don't remember doing that at  
20 all. It just as easily could have been the dude who wasted Debra Pole.

21

22

23

24

25

**TESTIMONY OF DR. CHRIS JOHNSON  
APRIL 19, 2012**

1 Q: Can you state your name?

2 A: My name is Dr. Chris Johnson, M.D.

3 Q: And what is it you do for an occupation or profession, Dr. Johnson?

4 A: I am a medical doctor specializing in psychiatry, and specifically forensic psychiatry.

5 Q: Where were you raised, Dr. Johnson?

6 A: I was raised right here in Armadillo. Went to Armadillo High School, where I graduated  
7 first in my class.

8 Q: What did you do then?

9 A: I went to The University of Armadillo, where I obtained a degree in biology, with a  
10 minor in chemistry, again graduating first in my class.

11 Q: Where did you go after that?

12 A: I stayed right here in Armadillo and attended Armadillo Medical School. It's a branch of  
13 Lone Star A&M University. Lone Star A&M actually got it in a trade for a couple of  
14 football players.

15 Q: And did you graduate from Armadillo Medical School?

16 A: Yes, I got my medical degree and then I went on to a residency in psychiatry.

17 Q: And where did you do that residency in psychiatry?

18 A: I did my residency in psychiatry in Dallas at The Dallas Institute of Higher Mental  
19 Health. It turns out that Dallas is more an attitude than an area code, and the attitude ain't  
20 good.

21 Q: And while you were at Dallas doing your residency, did you have an opportunity to do  
22 psychiatric evaluations of patients who were claiming or asserting an insanity defense to  
23 some crime?

24 A: Yes, it was in fact one of the most popular defenses in Dallas.

25 Q: Were you asked to do a psychiatric evaluation with respect to John Drath?

TESTIMONY OF DR. CHRIS JOHNSON - 1

**TESTIMONY OF DR. CHRIS JOHNSON  
APRIL 19, 2012**

1 A: Yes, I was hired by Mr. Drath to do a psychiatric workup and to testify regarding his  
2 insanity defense.

3 Q: What did you do in order to discharge that assignment?

4 A: I administered a battery of psychological tests to the defendant, including the MMPI. I  
5 talked with Drath extensively, probably for ten or more hours over the course of a couple  
6 of months. And of course, I reviewed all of the exhibits in the case.

7 Q: Based on your education, training and experience, based on your review of all of the  
8 materials relating to the case, and based on your interviews with John Drath, did you  
9 form an opinion as to whether, at the time of the shooting of Steppen Walker, Mr. Drath  
10 had a mental disease or defect such that he lacked substantial capacity either to appreciate  
11 the criminality of his conduct or to conform his conduct to the requirements of the law?

12 A: Yes, I formed an opinion that Mr. Drath, as a result of mental disease or defect, lacked  
13 substantial capacity either to appreciate the criminality of his conduct or to conform his  
14 conduct to the requirements of the law. He was, in short, insane at the time of the crime.

15 Q: Did you administer any psychological tests to Mr. Drath?

16 A: Yes, I administered several, the most significant of which was the MMPI.

17 Q: In your professional opinion, were the results of the MMPI valid?

18 A: Yes, there were no indications of any problem with the testing protocol or the results.

19 Q: How did you score the MMPI—by machine or by hand?

20 A: Well, I was under some time pressure and did not have time to send the score sheet off to  
21 have it machine scored, so I did it by hand.

22 Q: What is it in the MMPI results that tells you that Mr. Drath did not appreciate the  
23 criminality of his conduct?

24 A: There are several scales in the MMPI which will indicate whether a person appreciates  
25 right from wrong and criminality from sanctioned conduct.

TESTIMONY OF DR. CHRIS JOHNSON - 2



**TESTIMONY OF DR. CHRIS JOHNSON  
APRIL 19, 2012**

1 Q: Can you identify Exhibit 6?

2 A: Yes, Exhibit 6 is a chart of Mr. Drath's MMPI results.

3 Q: Can you tell the jury what it is you conclude from these results?

4 A: Yes, I conclude that Mr. Drath was suffering from some kind of personality disorder that  
5 made him susceptible to conduct that was essentially criminal without recognizing or  
6 appreciating the criminality of that conduct.

7 Q: What specifically leads you to that conclusion?

8 A: Exhibit 6 shows an elevated score on Scale 6. That shows that Mr. Drath was both  
9 suspicious of others and hostile toward anyone posing a threat to his secure little world.

10 Q: What does the score on Scale 7 tell you?

11 A: Scale 7 is elevated to the degree that I conclude he was unable to resist specific actions or  
12 thoughts, including strong impulses like the impulse to kill another.

13 Q: What else did you conclude from the MMPI results?

14 A: There is an elevated result on Scale 8, from which I conclude that Mr. Drath would have  
15 poor perceptions and, again, poor impulse control.

16 Q: Is there any significance to the pattern of Mr. Drath's MMPI scores on these three scales?

17 A: You bet. The three scales taken together show a very significant pattern. The 6-7-8  
18 scores are in the shape of an inverted "V," which those of us in the business refer to as a  
19 "psychotic V." This pattern reflects thought disorders, delusions and perhaps  
20 hallucinations. This V configuration shows that Mr. Drath was enraged at the perceived  
21 attack on his offspring by a predator, that his perception of reality then shifted so that he  
22 no longer knew right from wrong and acted on his impulse to do harm to the predator,  
23 even though Mr. Walker was not posing a direct or immediate threat to Sally Drath.

24 Q: You indicated that you had interviewed Mr. Drath extensively; what did you draw from  
25 those interviews that support your opinion?

TESTIMONY OF DR. CHRIS JOHNSON - 3

**TESTIMONY OF DR. CHRIS JOHNSON**  
**APRIL 19, 2012**

1 A: For one thing, Mr. Drath told me that he and his seventeen year old daughter had a very  
2 special relationship. This relationship was formed as a result of the divorce when Sally  
3 was 12. Mr. Drath had sole custody and was especially protective of his daughter.

4 Q: And how does that relate to the insanity defense?

5 A: Well, Mr. Walker was twenty-two years of age, and Drath's daughter was seventeen  
6 years of age. The nature of the communications passing between them on Twitter was  
7 such that any self-respecting father would have snapped. Drath, because of his  
8 predisposition toward criminal conduct, and because of his highly protective impulses  
9 regarding his daughter, just simply snapped when he saw those communications.

10 Q: What happened then?

11 A: Drath lost complete touch with reality. His actions from that point forward were robotic  
12 and not within his conscious control.

13 Q: Can you identify Exhibit 8?

14 A: Yes, that's a Google map showing Mr. Drath's residence at 701 Taylor in Armadillo, and  
15 showing the location of Mr. Walker's apartment at the intersection of 45<sup>th</sup> and Coulter.  
16 This map indicates that it is 6.9 miles from Mr. Drath's house to Mr. Walker's apartment,  
17 and the "walking distance" option was chosen for this specific map. I understand this  
18 map was found in Mr. Drath's house by a deputy sheriff.

19 Q: What significance does this have to Mr. Drath's insanity defense?

20 A: Well, Mr. Drath was an extremely sedentary person. It is quite doubtful that he could  
21 walk 0.69 miles, much less 6.9 miles in one setting. Yet, from all indications, Drath  
22 actually walked the 6.9 miles from his house to Walker's apartment, shot him, then  
23 returned home. That's 13.8 miles. These are the actions of someone who is not in a  
24 normal state of mind.

25 Q: Did you examine the pattern of the bullet wounds to Mr. Walker's body?

**TESTIMONY OF DR. CHRIS JOHNSON  
APRIL 19, 2012**

1 A: Yes, I saw the bullet pattern.

2 Q: What did you conclude from that pattern?

3 A: It just seemed to me to be more the result of random firing than some kind of deliberated  
4 action.

5 Q: Can you identify Exhibit 9?

6 A: Yes, Exhibit 9 is a target from a local pistol range. It appears to have John Drath's name  
7 on it and it appears to be dated several years before Walker's death.

8 Q: And doesn't it appear to have this same pattern of bullets, some to the chest, some to the  
9 head?

10 A: It's a fairly meaningless pattern because there's so many shots in this particular target.

11 Q: Can you identify Exhibit 7?

12 A: Yes, Exhibit 7 is an excerpt from a professional article that I wrote some years ago.

13 Q: What else did you learn in this case that supports an insanity defense?

14 A: Well, I am aware that Drath apparently returned home after shooting Walker, and then  
15 apparently cleaned his pistol and put it back in a safe from which he had removed it  
16 sometime before the shooting. Again, that sort of careful deliberate action is not seen in  
17 persons who are sane. They tend to panic and just dump the gun, not put it back where it  
18 belongs. Look, if Drath had been really sane, he'd would've dumped the pistol in a  
19 dozen different storm drains along that route he apparently took over to Walker's house.  
20 Keeping the gun is just crazy. Insane, even.

21 Q: In talking with Mr. Drath, were you able to determine whether he knew Steppen Walker?

22 A: Mr. Drath told me that he had no idea who Walker was or where he worked or what he  
23 looked like until he saw Walker with Sally at the mall.

24

25

Messages

New Message

Direct Messages



TeenAngel Sweet Sally Drath  
May 10 2011 10:09 am

4



Send CoolDude a message



TeenAngel Sweet Sally Drath  
I'm kinda worried... What if Dad finds out about us? He'd kill me.  
May 9 2011 6:09 am



CoolDude Step Walker  
How about a repeat performance tonite?  
May 9 2011 6:09 am



TeenAngel Sweet Sally Drath  
What a night!!!! OMG! Didn't know love could be so intense!!!!  
May 9 2011 6:04 am



CoolDude Step Walker  
Could not sleep thinking about you  
May 9 2011 6:01 am

## Step Walker

---

**From:** John Drath  
**Sent:** Saturday May 14, 2011 12:02 AM  
**To:** Step Walker  
**Subject:** My Daughter

Hey, pervert. I saw you with Sally this evening. If you don't stay away from her, I will get your sorry butt fired. And I mean without benefits, buddy.

EXHIBIT 2

## MMPI RESULTS JOHN Q. DRATH

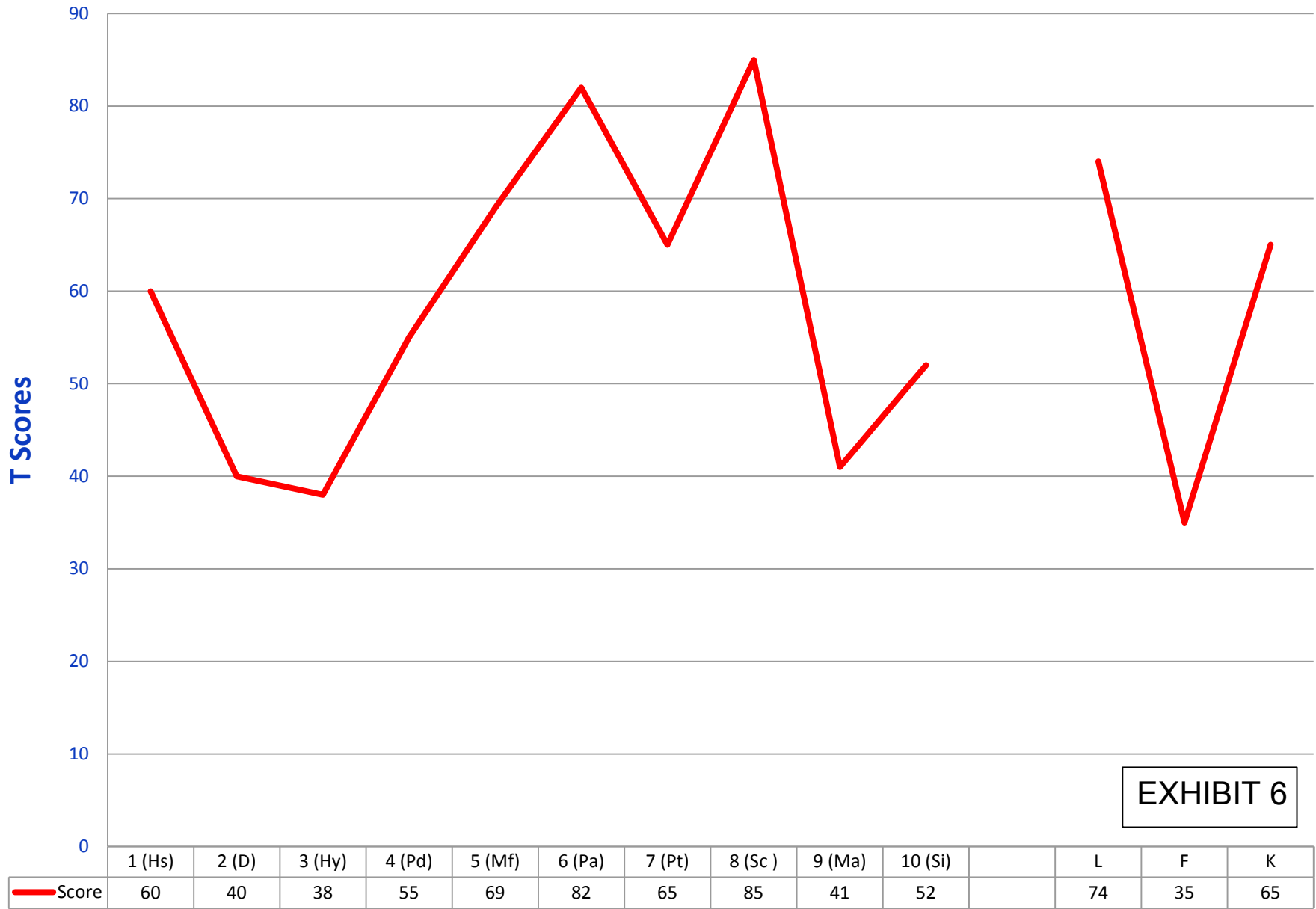


EXHIBIT 6

## MURDER ON THE MMPI EXPRESS

### Use and Abuse of the MMPI in Criminal Trials

(Excerpts from a peer reviewed professional paper by Dr. Chris Johnson)

#### I. INTRODUCTION

Those accused of murder are commonly subjected to extensive psychological evaluations. The MMPI-2 is, by far, the most common of all the psychological assessments employed. When used correctly, the MMPI-2 can be a valuable tool in the assessment of those charged with or convicted of murder.

In order to discuss the use of the MMPI-2 in murder cases, it is important to define "murder." Murder is "the unlawful killing of a human being with malice aforethought." "Malice aforethought" is the "requisite mental state for common-law murder." In the legal system, murder involves two distinct elements, the *actus reus* and the *mens rea*. Actus reus can be defined as the "guilty act." Thus, the actus reus of murder is the act of causing the death of another human being. The mens rea element is not always associated by the lay public as a necessary criterion for the crime of murder. Mens rea can be defined as the "guilty mind" and is also commonly referred to as the mental element, the guilty state of mind, or the criminal intent. The mental element is what distinguishes first degree murder from some lesser offense, or no offense at all, such as where the accused lacks the requisite mental capacity to for "guilty intent."

...

#### II. VALIDITY

Validity on the MMPI-2 is complex because it is assessed using its own internal measure: the four "validity scales." The validity scales measure the test-taking attitudes of the test-taker. Specifically, the validity scales measure the test-taker's consistency and tendency to answer falsely or inaccurately. Responding falsely or inaccurately to MMPI-2 items is often referred to as "faking good" and "faking bad." "Faking good" refers to the test-taker's tendency to respond to items in a manner intended to make him or her appear to have less psychopathology. Conversely, "faking bad" refers to the test taker's tendency to respond to

items in a manner intended to make him or her appear to have more psychopathology.

The L, K and F scales reflect the validity of a given test. Scores above 60 on the "L" scale indicate an error may have occurred in scoring. Scores at this level indicate persons with rigid moralistic attitudes who are repulsed at even the most common human faults.

Scores above 65 on the "F" scale may indicate an invalid profile, or may indicate that the individual is subject to extreme distress.

Scores in the 30 to 35 range of the "K" scale are found in persons who have either fabricated or greatly exaggerated their problems to create an impression of a severe emotional disturbance. These scales should raise concerns about the validity of self-reported symptoms. Scores above 70 should raise very significant concerns about the validity of self-reported symptoms, particularly with individuals for whom relevant physical injury or medical problems have been ruled out.

#### III. CODETYPES AND CONFIGURATIONS

There are ten scales that comprise the MMPI-2:

1. Hypochondriasis: Hs
2. Depression: D
3. Hysteria: Hy
4. Psychopathic Deviate: Pd
5. Masculinity/Femininity: Mf
6. Paranoia: Pa
7. Psychasthenia: Pt
8. Schizophrenia: Sc
9. Hypomania: Ma
10. Social Introversion: Si

Once plotted, the scores on the scales represent the examinee's "profile." The combinations of the two highest elevated clinical scales are called "codetypes." A single elevated clinical scale is called a "spike" codetype. The MMPI Sc

...

An inverted "V" pattern on scales 6, 7 and 8 is sometimes called a "psychotic V" and is typical of persons who are suspicious, hostile, unable to resist impulses and perhaps subject to thought disorders, delusions and hallucinations.

#### **IV. COMMON MISTAKES**

Simply quoting a computer-generated printout of MMPI-2 results constitutes a common misapplication. If using a computer-generated printout of MMPI-2 results, the forensic psychologist should use information gathered from all sources and clinical judgment in interpreting the results. Computer generated results provide hypotheses about the individual based on the profile of scores. Not all hypotheses apply to every individual. In other words, the forensic psychologist must actually use clinical judgment in interpreting the results of an individual's MMPI-2. Simply quoting the computerized interpretation constitutes a misapplication of the MMPI-2.

...

Common misapplications of the MMPI-2 during scoring include incorrectly scoring the test. This error usually occurs when the MMPI-2 is scored manually. The author is often asked to evaluate the administration, scoring, and interpretation of the MMPI-2 by other psychologists. I have never evaluated an MMPI-2 in court that was scored correctly. Incorrectly scored MMPI-2 tests may result in inaccurate findings. Thus, incorrect scoring of the MMPI-2 is a problem and an obvious misapplication of the MMPI-2 in court.



Walker U Scum -

U think we're gonna  
forget about your little debt?  
U think U can play the  
ponies and not pay the  
price? We have Friends  
who may want to meet  
U up close.

Up and close !!





Sally Drath  
Edit My Profile

FAVORITES

- Welcome
- News Feed
- Messages**
- Other
- Events
- Friends 12

GROUPS

Create Group...

APPS

- Ads
- Mobile
- Photos
- Notes
- Questions

Friends on Chat

- 1 Claim your Facebook email
- 2 Turn on text messaging
- Chat is online

Messages

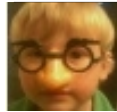
+ New Message

Search Messages



Step: Oops! I seem to have the key to your apartment. You gonna pick me up for ice cream?  
I might give it back.

May 13, 2011



Not a problem. I have a spare. WAIT!! What am I thinking? Gotta have that key!! I'll slip over when  
your dad's not around... Steve

May 13, 2011

View: Unread · Archived    Setup: Email · Text Messaging

**FILED**  
JUNE 16, 2006  
10:34 A.M.  
598TH DISTRICT COURT

NO. \_\_\_\_\_

**IN THE MATTER OF  
THE MARRIAGE OF**

§ **IN THE \_\_\_\_\_ DISTRICT COURT**

§

§

**PAMELA JEAN DRATH  
AND  
JOHN QUINCY DRATH**

§

§

§

**TRAVIS COUNTY, LONE STAR**

**ORIGINAL PETITION FOR DIVORCE**

*1. Discovery Level*

Discovery in this case is intended to be conducted under Level 3 of Rule 190 of the Lone Star Rules of Civil Procedure.

*2. Parties*

This suit is brought by Pamela Jean Drath, Petitioner, who is thirty-six (36) years of age and resides at 1222 Mayan Road, Armadillo, Lone Star 79035. John Quincy Drath, Respondent, is thirty-two (32) years of age and resides at 4081 Sundog Lane, Armadillo, Lone Star 79033.

The parties have one child of the marriage, Sally Ann Drath, age 12 and a minor, who has elected to live with Respondent following the separation and divorce of the parties.

*3. Domicile*

Petitioner has been a domiciliary of Lone Star for the preceding six-month period and a resident of this county for the preceding ninety-day period.

*4. Service*

No service of process is necessary at this time.

*5. Dates of Marriage and Separation*

The parties were married on or about April 24, 1995, and ceased to live together as husband and wife on or about March 2007.

**EXHIBIT 12**

6. *Grounds for Divorce*

The marriage has become insupportable because of discord or conflict of personalities between Petitioner and Respondent that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation. Further, Respondent has frequently and repeatedly engaged in violent conduct directed toward Petitioner, threatening Petitioner with bodily harm on many occasions, and endangering Petitioner by waving firearms around the residence of the parties while intoxicated.

7. *Marital-Property Agreement*

The parties expect to reach an agreement with regard to the division of their marital property. Petitioner owns separate property and requests that the Court confirm such as her separate property.

8. *Prayer*

Petitioner prays that the Court grant a divorce and all other relief requested in this petition.

Petitioner prays for general relief.

Respectfully submitted,

ANGELINI, DEMING AND KRANTZ  
Michael Angelini  
Lone Star Bar No. 24067940  
1127 Judson Road  
Suite 5700  
Armadillo, Lone Star 79044

/s/ Michael Angelini

Michael Angelini

STATE OF LONE STAR	§	IN THE DISTRICT COURT
	§	
v.	§	IN AND FOR
	§	
JOHN QUINCY DRATH, Defendant	§	TRAVIS COUNTY, LONE STAR

**FINAL JURY INSTRUCTIONS**

Members of the Jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

In this case, John Quincy Drath is charged with one count of murder.

To prove the crime of murder, the State must prove beyond a reasonable doubt that John Quincy Drath intentionally or knowingly caused the death of Steppen Walker.

Under the laws of Lone Star, a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result. A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

The intent with which an act is done is an operation of the mind and, therefore, is not always capable of direct and positive proof. It may be established by circumstantial evidence like any other fact in a case.

The State has the burden of proving the following elements beyond a reasonable doubt:

1. The crime with which the defendant is charged was committed; and
2. The defendant is the person who committed the crime.

John Quincy Drath has entered a plea of not guilty by reason of insanity. If you find beyond a reasonable doubt that John Quincy Drath is guilty of the crime of murder, you are to consider whether John Quincy Drath has proved by a preponderance of the evidence that at the time of the alleged conduct he lacked substantial capacity either to appreciate the criminality of that conduct or to conform his conduct to the requirements of the law because of some mental disease or defect.

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable or less reliable than other evidence. In doing so, you should consider how the witness acted as well as what he or she said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness's testimony agree with the other testimony and the other evidence in this case?
6. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?
7. Had any pressure or threat been used against the witness that affected the truth of the witness's testimony?
8. Did the witness at some other time make a statement that is inconsistent with the testimony he or she gave the court?
9. Was it proved that the witness had been convicted of a crime?
10. Was it proved that the general reputation of the witness for telling the truth and being honest was bad?

You may rely upon your own conclusions about the witnesses. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

The defendant in this case has become a witness. You should apply the same rules to consideration of his testimony that you apply to the testimony of the other witnesses.

There are some general rules that apply to your deliberations. You must follow these rules in order to return a lawful verdict:

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending on you to make a wise and legal decision in this matter.

2. This case must be decided only upon the evidence that you have heard from the answers of the witnesses and have seen in the form of exhibits and these instructions.
3. This case must not be decided for or against anyone because you feel sorry for anyone or are angry at anyone.
4. Remember the lawyers are not on trial. Your feeling about them should not influence your decision in this case.
5. Whatever verdict you render must be unanimous; that is each juror must agree to the same verdict.
6. It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited for talking to a lawyer about his or her testimony.
7. Your verdict should not be influenced by feelings of prejudice, bias, or sympathy. Your verdict must be based on the evidence and on the law contained in these instructions.

Deciding a proper verdict is exclusively your job. I cannot participate in that decision in any way. Please disregard anything I may have said or done that made you think I preferred one verdict over another.

Only one verdict may be returned as to the crime charged. This verdict must be unanimous, that is, all of you must agree to the same verdict. The verdict must be in writing and, for your convenience; the necessary forms of verdict have been prepared for you. They are as follows:

**[READ VERDICT FORM]**

In just a few moments, you will be taken to the jury room by the bailiff. The first thing you should do is elect a foreperson who will preside over your deliberations like a chairperson of a meeting. It is the foreperson's job to sign and date the verdict form when all of you have agreed on a verdict in this case and to bring the verdict back to the courtroom when you return. Either a man or a woman may be the foreperson of the jury.

Your verdict finding the defendant either guilty or not guilty must be unanimous. The verdict must be the verdict of each juror as well as of the jury as a whole.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdicts. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For two centuries, we have agreed to a constitution and to live by the law. No one of us has the right to violate the rules we all share.

No. CR-11-2444

STATE OF LONE STAR

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§  
§

IN THE DISTRICT COURT

v.

IN AND FOR

JOHN QUINCY DRATH, Defendant

TRAVIS COUNTY, LONE STAR

**VERDICT OF THE JURY**

We the jury find as to the crimes alleged against JOHN QUINCY DRATH as follows:

As to the crime of murder:

\_\_\_\_\_ GUILTY

\_\_\_\_\_ NOT GUILTY

\_\_\_\_\_ NOT GUILTY BY REASON OF INSANITY

Date \_\_\_\_\_

\_\_\_\_\_  
Jury Foreperson