

## PSYCHOPATHS AND MORAL RESPONSIBILITY

MORAL CAPACITIES: PSYCHOAPATHS AND MORAL RESPONSIBILITY

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## LAY ABSTRACT

The commonly held view in philosophy is that psychopaths are not morally responsible. Psychopaths amount to about 1% of the current population and up to 25% of male criminal offenders. While these numbers seem rather small in comparison to the total population, philosophers, psychologists and behavioural psychologists regularly point to psychopaths for insight into the moral realm. The main aim of this dissertation is to block the Emotionist argument that emotions are necessary for moral knowledge and argue that psychopaths, despite their affective disorder, possess three of the capacities considered by many to be necessary for moral responsibility. The three capacities are the capacity to acquire moral knowledge, the capacity to be reason-responsive to moral demands, and the capacity to control one's actions in light of moral demands and reasons. I conclude by arguing that psychopaths are capable of moral responsibility from a cognitive standpoint and that the Emotionist argument must seek another route to establish its conclusion that emotions are necessary for moral knowledge.

## ABSTRACT

Psychopaths have traditionally been excluded from the moral realm and have regularly been used as a paradigm case for explaining why emotions, or emotional knowledge, is necessary for the acquisition of moral knowledge. Psychopaths possess an affective deficit that results in an almost total lack of empathy. Emotionists argue that emotions (specifically empathy) are central to moral understanding, and that, since the psychopaths possess this affective deficit, they lack the capacity to acquire moral knowledge which is necessary to be morally responsible. Given recent neurological findings regarding psychopaths, I argue that Emotionists cannot use the psychopath as a case example supporting their argument that emotions are necessary for moral knowledge. I argue that despite psychopaths' affective disorder, they possess three of the capacities (via cognitive mechanisms) considered by many to be necessary for moral responsibility. Those three capacities are the capacity to acquire moral knowledge, the capacity to be reason-responsive to moral demands, and the capacity to control one's actions in light of moral demands and reasons. The upshot of my analysis is a rethinking of what it means to possess the right kind of emotional knowledge and a rethinking of the capabilities of psychopaths in relation to the moral realm.

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## Chapter One: The Psychopath

In this thesis I argue that primary psychopaths<sup>1</sup>, despite their inability to experience empathy (i.e., their alleged affective deficit) may possess three of the capacities considered by many to be necessary for moral responsibility. The three capacities in question are: the capacity to acquire moral knowledge, the capacity to be reason-responsive to moral demands and requirements, and the capacity to control one's actions in light of moral demands and reasons. The ability to experience empathy is deemed to be necessary for all three of these capacities. All the authors that argue the psychopath is not morally responsible emphasize the psychopath's lack of empathy (the capacity to empathize) as the reason for excluding them from the moral community. Empathy acts as an information tool. It helps those that have the capacity for it to learn morally correct behavior because it allows for a mirroring or sharing of emotional states and aids in reinforcing morally correct behavior because of the emotional connection created with others. The type of empathy the psychopath lacks, according to these authors, is affective empathy. The condition of lacking affective empathy is what is commonly referred to as the psychopath's affective disorder.

The three capacities that I highlight may not be sufficient on their own for moral responsibility, but they figure prominently in the literature and are commonly used to argue for the position that psychopaths are not morally responsible. In the following chapters, I will clearly explain how the thinkers that I argue against rely on appeals to one or more of these three capacities to argue that psychopaths are not morally responsible

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<sup>1</sup> I will explain this distinction below.

agents. In each case, I will argue that their arguments do not succeed.<sup>2</sup>

While the acquisition of moral knowledge, the ability to be reason-responsive, and possessing the right kind of control may not constitute an exhaustive list of the sufficiency requirements for moral responsibility, this does not compromise the two main goals of the dissertation. The first goal is to combat what I believe is a commonly held view in current philosophical and psychological discourse, namely that psychopaths are not morally responsible given their affective disorder. In the received view of moral responsibility, moral emotions play a central role, so a finding that the psychopaths' affective disorder is not in itself a major impediment to moral responsibility is a significant challenge to current thinking. I will argue that psychopaths are capable of another type of empathy, cognitive empathy, which grants them the necessary knowledge or information for moral responsibility. My second goal is to advance a more general critique of the view that emotions are necessary for moral knowledge.

For the purposes of this dissertation, I will be speaking about empathy in two ways, as outlined by Simon Baron-Cohen.<sup>3</sup> Baron-Cohen argues that empathy has two dimensions, one cognitive, one affective. Affective empathy can be defined as the ability to respond to others' emotions with an appropriate emotion of one's own. Cognitive empathy is the ability to imagine others' thoughts and feelings, or to know the state of mind they are in. For Baron-Cohen, psychopaths have more or less intact mechanisms for

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<sup>2</sup> Each thinker I will be discussing holds that psychopaths are not morally responsible and does so based on a variation of the three capacities noted above. For example, Neil Levy argues that the psychopath lacks the capacity of moral knowledge; David Shoemaker argues that they are not capable of being reason-responsive; and Lloyd Fields claims that psychopaths lack the control capacity.

<sup>3</sup> Baron-Cohen, Simon. *The Science of Evil: On Empathy and the Origins of Cruelty*. New York: Basic Books, 2012.

cognitive empathy, but lack the required mechanism for affective empathy.<sup>4</sup> My claim is that cognitive empathy is sufficient for the empathetic understanding necessary for moral responsibility. Unlike Baron-Cohen, who believes that affective empathy is more important to moral understanding, I argue that cognitive mechanisms play an equally important role, since the ability to identify the emotional state of others is of more importance to social interaction than the ability to experience a shared or mirrored emotion. It is this social interaction which is important for my overall argument, since, if possessing the ability to identify, predict, and even mimic the emotional states of others is sufficient for moral understanding, the psychopath does indeed have access to the emotional weight of moral demands and reasons, albeit from a purely cognitive empathetic standpoint.

Though all three capacities are important to my argument, the capacity to acquire moral knowledge is fundamental, and I will show that it is necessary for the other two capacities - the capacity to be reason-responsive and the control capacity. For an agent to have moral knowledge, they must understand that moral rules, principles and norms are a class of reasons for action. What this means is that simply knowing that there exists something called ‘moral rules’ is not enough. The agent in question must be able, first, to categorize moral and non-moral norms and rules. Second, the agent should be able to understand that moral rules are a unique class of reason-giving rules which have their own weight and exist at the top step in a hierarchy in moral deliberation. The reason-responsive and control capacities require moral knowledge. To be reason-responsive requires one to recognize the affective weight (any moral demand or moral choice should

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<sup>4</sup> Baron-Cohen, *The Science of Evil*, 18-19, 109, 125, 132. Baron-Cohen does not differentiate between the two groups in his work.

elicit an emotional response which acts as a pushing force to comply with the demand) of moral demands, moral reasons, and the value that these demands and reasons have for other people. To be reason-responsive, then, requires moral knowledge, recognition of the values and reasons of others, and being open to giving weight to those values and reasons in one's own moral deliberation. To be in control of one's actions also requires an understanding of the demands of moral norms, rules and reasons; however, control also requires that one be properly motivated to act according to moral reasons. This motivation can be driven by affective mechanisms, such as when an individual is moved to do X after they feel Y. However, in the case of the psychopath, I argue that motivation can come from a rational standpoint (such as when they understand or recognize that X will lead to Y, and Y is favorable) and still be considered proper moral motivation.<sup>5</sup>

To reiterate: the three capacities I am arguing the psychopath possesses may not be a complete list of capacities relevant to moral responsibility. There may well be other capacities or factors that come into play. For instance, throughout the dissertation I will address other factors that may be relevant to moral responsibility, such as the distinction between caring for specific individuals and caring for people in general, actually wanting to provide justification for one's actions, and being in a moral community with some shared moral values. Although I will refer to these additional factors, the focus of my argument will be on the psychopath's supposed lack of capacity for moral knowledge, for reason-responsiveness, and for appropriate behavioural control, since these are the main capacities that Emotionists take to disqualify the psychopath from being considered a moral agent.

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<sup>5</sup> The distinctions between the three capacities will be explained in more detail in each of the proceeding chapters.

*Responsibility: Where my account fits*

When we talk about responsibility, we tend to group together different ‘types’ of responsibility ascriptions: attributability, answerability, and accountability.

The three types of responsibility are defined by David Shoemaker as follows:

Attributability-responsibility: an agent is attributable-responsible if his actions and attitudes can properly be attributed to him. An agent’s actions and attitudes must reflect his evaluative commitments. “This would mean that he is subject to aretaic appraisal, for given their connection to his evaluative commitments, his attitudes and actions are expressions of his self.”<sup>6</sup>

Answerability-responsibility: “Insofar as some of [an agent’s] actions and attitudes flow from evaluative commitments themselves grounded in [that agent’s] reasons... [said agent] may be an intelligible target of demands for justification, for he may have (and have access to the) considerations he took to ground his actions and attitudes.”<sup>7</sup>

Accountability-responsibility: “an agent is accountable if s/he is a susceptible target of sanctions or rewards in relationship-defining demands. These demands get communicated via reactive attitudes (such as resentment and indignation). The crux of this type of responsibility is that the agent be open to these relationship-defining demands, but open in the sense of being sensitive to the interests of the person making those demands. These demands must constitute a form of constraint on the other’s

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<sup>6</sup> David Shoemaker, “Attributability, Answerability, and Accountability: Toward a Wider Theory of Moral Responsibility,” *Ethics* 121 (2011): 628.

<sup>7</sup> Shoemaker, “Attributability, Answerability, and Accountability,” 628.

deliberation regarding potential actions or held attitudes.”<sup>8</sup>

I will argue that the psychopath does possess all three types of responsibility, but that accountability-responsibility is the most challenging, given that the interests and demands of others must act as a possible constraint on their actions. In other words, the interests and demands of others must be reason-giving. I will spend a great deal of time in Chapter Three defending my view that the psychopath can be reason responsive in the relevant sense.

### *Clinical Features of Psychopaths*

A psychopath can be defined in several ways. For the purpose of this dissertation, I will be using the definition of a psychopath provided by James R. Blair, which is largely based on Robert Hare’s clinical definition. The reason for using Blair over Hare is that Blair argues that psychopathy is a developmental disorder with its roots in an emotional dysfunction. So, whereas Hare gives a clinical definition, Blair’s account adds a clear neurological explanation for those clinical symptoms, including their possible origin, developmental track, and environmental factors that may bring about the early onset of many of the clinical symptoms. This emotional root cause theory is consistent with the affective-based theories of morality that will be discussed in the later sections dealing with the three aforementioned capacities (moral knowledge, reason-responsiveness, and behavioral control).<sup>9</sup>

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<sup>8</sup> Shoemaker, “Attributability, Answerability, and Accountability,” 628-29.

<sup>9</sup> Blair’s definition of psychopathy is in line with classical uses of the diagnosis. For example, Cleckley noted that the psychopathic personality is marked by disorganization, amorality, lack of emotion and antisocial behavior that crosses over into criminal behavior. Sociologists William and Joan McCord narrowed antisocial behavior to mean a lack of guilt along with reactive aggression. The DSM lists psychopathy under Antisocial Personality Disorder and contains the same personality traits that Blair uses. Finally,

Blair argues that psychopathy is a “...developmental disorder marked by emotional dysfunction and anti-social behaviour...” and that the disorder’s root cause is the emotional dysfunction which leads to antisocial or criminal behavior.<sup>10</sup> A distinct feature of the disorder is an increased risk of instrumental and reactive aggression. Instrumental aggression is purposeful and goal oriented and need not be accompanied by any emotional state such as anger or hate. It is this lack of emotional accompaniment that marks instrumental aggression as ‘cold’. Reactive aggression is triggered by a situation that one may find threatening or frustrating, and is cashed out in unplanned rage-filled acts on either the object or perceived source of the frustration or threat. As such, this type of aggression is considered ‘hot’, given the accompaniment of an emotional state such as hate or anger.<sup>11</sup> Furthermore, there is a strong suggestion that the disorder is rooted in genetic issues that contribute to the emotional dysfunction. There are no known environmental factors that cause the disorder, but environmental factors may play a major role in how the disorder presents itself in each individual as it develops.<sup>12</sup>

Blair argues that dysfunction in the amygdala and ventromedial prefrontal cortex (vmPFC) are the main contributing factors for the emotional and behavioral issues found in the psychopath. Blair argues that the dysfunction results from problems with the

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Robert Hare’s definition or map of psychopathic personality is also in line with, and is used by, Blair. So, while Blair’s theory of the origin of the disorder may be different from others, he follows in the tradition of those before him regarding how he defines the psychopathic personality. On a final note, many of the thinkers that will be examined in the dissertation directly cite Blair’s findings, research and experiments. The emotional dysfunction is partly the reason why psychopaths are not deemed morally responsible in the emotional root cause theory.

<sup>10</sup> R. J. R. Blair, “The Amygdala and Ventromedial Prefrontal Cortex: Functional Contributions and Dysfunction in Psychopathy,” *Philosophical Transaction: Biological Science* 363 (2008): 2557, accessed February 3, 2014. doi: 10.1098/rstb.2008.0027.

<sup>11</sup> Blair, “The Amygdala and Ventromedial Prefrontal Cortex,” 2557.

<sup>12</sup> *Ibid*, 2557.

transmission of stimuli from the amygdala to the ventromedial prefrontal cortex, resulting in characteristic antisocial behavior and poor decision-making.

The vmPFC is also involved in emotional regulation and instrumental learning, which are both critical for decision-making.<sup>13</sup> The dysfunction in the vmPFC makes it difficult for psychopaths to alter their behavior in light of negative consequences. The reduced emotional priming in the amygdala when dealing with cases of adverse conditioning results in a failed or incomplete signal to the vmPFC (in the case of Blair's experiments, this was mostly done by showing psychopaths and non-psychopaths pictures of fearful or threatening faces or neutral and emotionally loaded words such as "murder"). Given this signal failure, it becomes less likely that the psychopath will change or alter their response in light of the negative consequences of their actions.<sup>14</sup>

There have been many studies that attempt to show this difficulty in responding to adverse conditions.<sup>15</sup> The basic model of many of these studies is a type of betting system where players are required to either split the pot or take it all for themselves. If, however, both players decide to take the pot for themselves, neither player receives any money. In many of these studies, psychopaths failed to alter their decision to take the pot once the

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<sup>13</sup> Blair, "The Amygdala and Ventromedial Prefrontal Cortex," 2559.

<sup>14</sup> Blair, "The Amygdala and Ventromedial Prefrontal Cortex," 2560-61.

<sup>15</sup> Inti A. Brazil et al, "Psychopathy-related traits and the use of reward and social information: a computational approach, *Front Psychol* 4 (2013): 952. Anna Katinka Louise von Barries et al, "Psychopaths lack the automatic avoidance of social threat: Relation to instrumental aggression," *Psychiatry Research* 200 (2012) 761-766. Stefan Schulreich et al, "Fearless dominance and reduced feedback-related negativity amplitudes in a time-estimation task-Further neuroscientific evidence for dual-process models of psychopathy," *Biological Psychology* 93 (2013) 352-363. Yvonne Rothermund et al, "Fear conditioning in psychopaths: Event-related potentials and peripheral measures," *Biological Psychology* 90 (2012) 50-59. Takahiro Osumi et al, "The positive side of psychopathy: Emotional detachment in psychopathy and rational decision-making in the ultimatum game," *Personality and Individual Differences* 49, (2010): 451-56.



other participants caught on and began to punish the psychopath by also deciding to take the pot, thus resulting in a loss to all players. What these results showed was that the psychopath was slow to respond to negative results, unlike the non-psychopaths tested, who altered their behavior in light of the negative consequences. These tests were meant to highlight the psychopath's instrumental learning deficit.

Finally, a three-factor model can be used to sum up psychopathic personality. This three-factor model is in line with Blair's definition. Given that psychopathy is diagnosed partly by the behavior which stems from an underlying personality disorder, the three-factor model is used by Blair because of its ability to link the underlying emotional disorder to the three capacities of moral knowledge, reason-responsiveness, and control. The main advantage of this model over what is found in the DSM-IV is that it considers emotion and identifies a population that shares a common etiology (dysfunction in emotional processing).<sup>16</sup> The DSM-IV diagnosis, on the other hand, identifies a larger category of individuals that engage in antisocial behavior who do not share a common etiology.

The first factor in the three-factor model is a Callous and Unemotional Dimension (abnormal affect mechanisms), the second is a Narcissism Dimension (interpersonal issues), and the third is an Impulsivity Dimension (antisocial behavior component). These three core features also align with the three capacities (capacity to acquire moral knowledge, reason-responsiveness and control) noted above. The Callous and Unemotional Dimension is important when dealing with the attainment of moral knowledge. This factor tracks concern for others (promise keeping, concern for the feelings of others, feeling of

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<sup>16</sup> James Blair, Derek Mitchell, and Karina Blair, *The Psychopath: Emotion and the Brain* (USA: Blackwell Publishing, 2005), 8,12.

guilt, showing emotions, and length of friendship) and the self (concern for one's future wellbeing). As we will see in the later chapters, the psychopath's affective deficit is the largest contributing factor to their exclusion from the moral realm. The items that make up this callous and unemotional factor map onto many of the arguments that claim the psychopath is not morally responsible.<sup>17</sup>

The Narcissistic Dimension factor corresponds with the reasons-responsiveness capacity. The items that make up this factor are “seemingly shallow emotions, teases or bully others, charming but insincere, uses or cons others, think he/she is superior to others and, excessive bragging.” These items map on to the sensitivity that is needed to appropriately respond to others and indicate that a highly narcissistic personality may not be able to view others as equal or worth their concern.<sup>18</sup>

Finally, the Impulsivity Dimension factor tracks items such as how often they blame others for mistakes, how often they act without thinking, how easily they bore, how often they engage in risky or dangerous activities, and poor future planning. This aligns with the control capacity. Many of the items in the impulsivity dimension map onto the reasons many philosophers give as to why the psychopath is not fully in control of their actions. As we will see in Chapter Four, the psychopath's control capacity is challenged at a functional level and moral level, both of which are itemized in the impulsivity factor.<sup>19</sup>

In sum, the root cause of psychopathy is an affective (emotional) disorder which causes difficulty in learning from social cues and adverse conditioning. We can now move on to the distinction between primary and secondary psychopaths, and explain why the

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<sup>17</sup> Blair, *The Psychopath*, Table 1.3

<sup>18</sup> Ibid.

<sup>19</sup> Ibid Sic.

former group is interesting when dealing with moral responsibility.<sup>20</sup> Secondary psychopaths are highly neurotic, which means that they have high levels of anxiety and are prone to impulsive and emotional outbursts. In other words, secondary psychopaths show more reactive aggression and less instrumental aggression, given their lack of impulsivity control. This high level of anxiety and emotionality does make them more sensitive to risky situations, personal and impersonal harms and rewards. However, because of their lack of control stemming from this very high level of neuroticism, they are prone to impulsive actions and a lack of self-control.<sup>21</sup> The increased behavioral difficulties present in secondary psychopaths are associated with the Impulsivity and Narcissism factors noted above. This results in manifestations of "...behavior impulsivity, social awkwardness, and a lack of moral sensibility."<sup>22</sup> In contrast, primary psychopaths exhibit low levels of anxiety, little to no empathy, are more deliberate and purposeful in their actions, and exhibit less impulsive and reactive outbursts. In other words, primary psychopaths are not emotionally driven, are not affectively sensitive to others, and are far less impulsive than secondary psychopaths.

As noted, psychopathy is marked by an emotional impairment, namely an empathetic impairment, which results in a reduced response to the distress (sadness, anger, threat) of others. Psychopathy is also marked by antisocial goal-oriented behavior

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<sup>20</sup> This distinction is widely accepted see (Lyken, 1995; Harpur, Hare, & Hakstain, 1989; Newman, MacCoon, Vaughn, & Sadeth, 2005; Benning, Patrick, Hicks, Blonigen, & Kruger, 2003; Levenson, Kiehl, & Fitzpatrick, 1995).

<sup>21</sup> Michael Koenigs et al., "Utilitarian moral judgment in psychopathy," *SCAN* 7 (2012): 712. This distinction is also shown in Bruce Bower's article, "Psychopaths may come in two varieties." *Science News* 160 (2001):117.

<sup>22</sup> Heather Gordan, "Functional differences among those high and low on the trait measure of psychopathy," *Biol. Psychiatry* 54 (2004): 516.

and instrumental and reactive aggression, although social factors can moderate or help curb the behavioral manifestations associated with psychopathy. To compound matters, the emotional deficit interferes with proper socialization because the prospects of the rewards of antisocial behavior are not felt as adverse. However, the deficit itself does not motivate an individual to commit offences; rather, social circumstances may either enable wider options of choice or limit those choices.<sup>23</sup> This contingency can be traced back to several factors: parents, upbringing (was the child cared for or abused, neglected, etc.), intelligence, and socioeconomic status (SES). Psychopaths with a healthier background, higher intelligence and higher SES are less likely to consider antisocial behavior useful to attain goals. These individuals are also less likely to display instrumental aggression or reactive aggression when attempting to attain their goals, because the relative amount of reward is not sufficient to overcome the possible punishment or negative consequences. Individuals with this healthier background may consider or entertain the antisocial options open to them because they do not find them aversive, but, as was noted, are less likely to act in antisocial ways to attain their goals.

To be clear, many of the thinkers that I will be arguing against do not make the distinction between primary and secondary psychopaths. The fact that many thinkers do not make this distinction (or, in some cases, appear not to be aware of it) does not affect the quality and strength of their core argument for a necessary connection between emotions and morality, which I take to be the emotionist position<sup>24</sup>. If anything, the current primary/secondary distinction is actually beneficial to my opponents' arguments, given that the secondary group possesses little to no self-control and the primary group

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<sup>23</sup> Blair, *The Psychopath*, 29-38.

<sup>24</sup> Emotionism will be discussed further below.

possesses no affective empathy, since both self-control and affective empathy are generally taken as necessary for moral responsibility in much of the current literature. I believe it is charitable to assume that if my opponents knew of the distinction in psychopathic personalities, their arguments would pertain mostly to the primary group. The psychopaths found in the primary group possess the intellectual and cognitive capacities (on the whole) that members of the secondary group do not.<sup>25</sup> So, from this point forward, I will be using the term “psychopath” to apply to primary psychopaths, unless specifically stated otherwise.

*A Case Study: M.E. Thomas*

“I am a sociopath. Through dual quirks of genetics and environment, I suffer from what psychologists now refer to as antisocial personality disorder, characterized in the *Diagnostic and Statistical Manual of Mental Disorder* (DSM) as “a pervasive pattern of disregard for and violation of the rights of others.” Key among the characteristics of the diagnosis are a lack of remorse, a penchant for deceit, and a failure to conform to social norms. I prefer to define my sociopathy as a set of traits that inform my personality but don’t define me: I am generally free of entangling and irrational emotions, I am strategic and canny, I am intelligent and confident and charming, but I also struggle to react appropriately to other people’s confusing and emotion-driven social cues. *Psychopathy* and *sociopathy* are terms with an intertwined clinical history, and they are largely used interchangeably... I have chosen to call myself a sociopath because of the negative connotations of *psycho* in popular culture. I may have a disorder, but I am not crazy.”<sup>26</sup>

These are the words of Thomas, taken from her book *Confessions of a Sociopath: A Life spent hiding in plain sight*. Thomas is described as possessing a prototypical psychopathic personality. She possesses a clear lack of empathy, is ruthless and analytic

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<sup>25</sup> To be clear I am speaking in general terms here. Not all secondary psychopaths are irrational and lack control, nor are all primary psychopaths highly intelligent and fully functioning, cognitively speaking. My intention here is to show that the distinction in groupings is not critical to the core belief that my position argues against; that position being the Emotionist position.

<sup>26</sup> M.E. Thomas, *Confessions of a Sociopath*, 3.

in social and interpersonal relationships, is highly egocentric, verbally aggressive, and interpersonally dominant. She also scores very low on measures of negative affective experiences such as traumatic stressors, anxiety stressors, and phobias, which are hallmark traits of a psychopath.<sup>27</sup>

Thomas is not a murderer (by her own admission), nor is she un-liked, un-loved or un-trusted. She has a close circle of friends and family, is a successful attorney, legal professor, and even donates a large portion of her income to charity.<sup>28</sup> In other words, she is a functioning, productive member of society. Yet Thomas possesses a highly psychopathic personality, which means that she (purportedly) lacks empathy, is not particularly bothered by the notion of hurting others (either emotionally or physically), and does not experience the same type of affective responses to stressors that non-psychopathic individuals experience.<sup>29</sup> Thomas describes her upbringing as relatively normal. She was not abused or brought up with a lack of moral direction. She notes,

“[m]y upbringing promoted my genetic propensities, but not in the ways that you would expect...I was not a victim of child abuse, and I am not a murderer or criminal. I have never skulked behind prison walls...I am an accomplished attorney and law professor... I donate 10 percent of my income and teach Sunday school every week. I have a close circle of family and friends whom I love and who very much love me.”<sup>30</sup>

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<sup>27</sup> M.E. Thomas, *Confessions of a Sociopath*, xi.

<sup>28</sup> M.E. Thomas, *Confessions of a Sociopath*, 4.

<sup>29</sup> As will be explained, psychopaths' affective mechanisms (the physiological responses to stressor stimuli such as sweating when nervous or having an increased heart rate when encountering something dangerous) do not function in the same manner as those of non-psychopathic individuals. In other words, the psychopath is denied the unconscious anatomic physiological responses that help determine behavior in non-psychopathic individuals. See Meffert et al., “Reduced spontaneous but relatively normal deliberate vicarious representations in psychopathy,” *Brain* vol 136, 2013. This will be discussed in more detail in the chapter on the capacity for moral knowledge.

<sup>30</sup> M.E. Thomas, *Confessions of a Sociopath*, 4.

Thomas' personality is one of a harsh if not sometimes cold individual. She does not stand out in a crowd, nor does she seek to exploit those around her on a continual basis. She also takes the opinions and viewpoints of others into account in her deliberation, though she is not emotionally inclined to give those considerations *prima facie* authority or weight. So far, Thomas' life sounds rather 'normal' in the sense that she is attempting to navigate her way through life with the tools at her disposal. She also seems to be well socialized (in the sense that she has strong ties to family and friends). However, there is more to her story that should be noted before we move on.

Thomas notes that she is, at times, awkward around strong emotions; however, over her lifetime she has learned which emotions are expected of her in response to these foreign and strong emotions. Thomas notes, "I can cycle through possible emotional choices very quickly and come up with acceptable responses like a computer playing chess. But like chess, there is a practically infinite number of pathways and variations in human social and emotional interactions, and I'll never be as fast as an empath in intuiting emotions or applying the appropriate (natural) responses."<sup>31</sup> Even with the vast number of possible choices in emotional responses, Thomas, for the most part, seems to

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<sup>31</sup> M.E. Thomas, *Confessions of a Sociopath*, 208. Thomas refers to non-psychopathic individuals as 'empaths', meaning that they can experience empathy with others and share in their emotional state. Humans naturally empathize with each other; we mirror emotions and take the perspective of others naturally. Naturally here simply means without having to actually concentrate or key in on the emotional states of others. In this selected passage Thomas is highlighting the fact that she cannot recognize the emotional state of others as quickly as 'empaths'. The process of recognition, as well as generating the correct response, does not come easily or naturally to her, but she is capable of recognition and response given time. For example, if a non-psychopath witnesses a co-worker stubbing her toe on a chair their immediate response may be to wince in pain yell 'ouch' (empathetic response), or ask if their co-worker is ok (the appropriate response to the co-worker's pain). These reactions do not come intuitively to Thomas, but she does get to them with time.

hit upon the correct responses, albeit without the emotional genesis of the response. In other words, she can match the expected emotional response without the actual emotion. While it is true that she will never be able to respond ‘naturally’, as she puts it, she has the means to learn what emotional responses are appropriate in situations. This situational awareness is important to note. As will be discussed, the psychopath has an uncanny ability to read and learn about people at a very detailed level. In the case of Thomas, this allows her to understand what emotional states others are experiencing, and, consequently, what emotional response is expected in return. The lived experience is central to Thomas. She notes,

“[i]t’s through experience that normal-gened people can be desensitized to things like killing, and sociopathic-gened people can be sensitized to things like being aware of the needs of others.... I was sensitized to spirituality- I was taught to be self-reflective in prayer and other forms of worship... I cultivated an awareness of the needs of others. Like the children laying facedown on the floor attempting to see the world through a baby’s eyes, I was often forced to engage in perspective-taking focused on service and care for others. Even though my mind was not naturally directed to recognizing and responding to the needs of others, my parents [and others]...actually did make a difference in making me acknowledge and address these issues [the needs of others].”<sup>32</sup>

So it would seem that at least some psychopaths can be sensitized to, and learn to acknowledge, the needs and emotions of others. Beyond this, it would seem that some psychopaths can want to help others (either those that they care for or those that have value) for other than self-regarding reasons.

The final point to note about Thomas’ experience living as a psychopath concerns her moral code of conduct. Thomas notes that she does have a moral code to which she

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<sup>32</sup> M.E. Thomas, *Confessions of a Sociopath*, 278.



tries to adhere, even though she does stray.<sup>33</sup> She claims that there is a part of her that enjoys ‘ruining’ people, but that aspect can be controlled. Ruining people for Thomas is akin to exercising the ability to change another’s relationships or mood. She claims that this is her way of exercising control over others and expressing her need to dominate another’s life, at least for a short time. Thomas claims that growing up she, much like other young girls and boys, enjoyed conjuring drama to pit friends against each other. There is nothing too psychopathic about these kinds of acts, but Thomas claims that this was, and is, a part of her life, even if it is a diminishing one.<sup>34</sup> Why bring up these deviations? Thomas’ answer to that question is rather clever and fitting. She claims that while ‘ruining’ people is a practical aspect of her life, it is no different from how many people treat their religious beliefs. She notes,

“I was recently at a conference with a woman who is Jewish. We went to a burger joint and she ended up ordering a grilled cheese sandwich. Why? She says that she keeps kosher, but when she travels she just tries to approximate. To her, kosher eating is an important moral goal... but she accepts that no one can be perfect in everything. She understands that she is just human...and that people will fail no matter what sort of code they set for themselves. If you didn’t fight constantly to maintain the code despite slipping up here and there...you wouldn’t need a code in the first place.”<sup>35</sup>

Individuals will slip and, despite their best efforts, will slip again and again. The goal in having a code is to genuinely try and to want to keep it in light of failures. For Thomas, her compulsion to break from her moral code is an issue of impulse control. In

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<sup>33</sup> Baron-Cohen notes on page 127 of *The Science of Evil* that one can still develop a moral code without the use of empathy. These individuals develop their codes via systemizing. They live by a sense of fairness or justice and desire others to follow suit. Though Thomas does not explain her code in this manner, there is a sense of the Golden Rule at play in her own code. She wants to live in a world where others do not harm her, and she does not harm them.

<sup>34</sup> M.E. Thomas, *Confessions of a Sociopath*, 217-18.

<sup>35</sup> M.E. Thomas, *Confessions of a Sociopath*, 219-20.

other words, Thomas longs to act in whatever way she wants; yet she knows that would be harmful to herself, others, and contrary to her genuine desire to want to adhere to her moral code. Thomas' moral code is not born from emotion; rather, its genesis is rational. Since psychopaths cannot experience morality emotionally, Thomas claims that she attained this moral code via rational reasons. She notes,

“[a]lthough hardwired emotional moral compasses typically help people to do what is good and avoid what is bad, there should be other reasons that people would do good things besides a sense of [emotional] morality. It is rational for me to obey the law, because I do not want to go to jail; it is rational for me not to harm or injure other people, because a society in which everyone acted harmfully would inevitably cause me harm too. If there are legitimate, rational reasons for the moral choices we should make, we should be capable of choosing the right without relying purely on gut instinct. If there are not rational reasons for our moral choices, why should we continue to make them...”<sup>36</sup>

While there may be no emotional pull urging Thomas to do good things, there are other reasons at play (i.e., personal advantage and safety) which help urge her to the right and the good.

Thomas' story is an interesting case study for several reasons. First, Thomas presents herself as basically just like everyone else, or at least the majority of people in the Western world. She was raised in a more or less Christian conservative household of moderate income, is mildly self-absorbed, has close family and friends whom she loves and cares for, has a rather good and important career as a lawyer and legal scholar, and recognizes her downfalls and flaws and tries to mitigate any negatives those traits may cause. While she may lack a fully functioning affective response system, she is doing the best she can to live more or less normally in the world. Second, Thomas seems to follow a type of moral code. She knows what is considered right and wrong by society, but is not

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<sup>36</sup> M.E. Thomas, *Confessions of a Sociopath*, 136.

pushed to those conclusions by emotional waves and inclinations. Not only does she seem to possess a moral code that helps guide her actions (in the sense that she tries to stay within the boundaries of the code, but accepts that she will stray at times), she also arrives at her moral code by reasons.<sup>37</sup> Finally, Thomas is not guided or pushed by some form of unalterable compulsion that drives her to commit offensive acts. She is in control of her actions, and, while she openly admits at times to wanting to harm others in her uniquely emotional way, this action is under her control.

If her narrative can be believed, Thomas seems to possess the three capacities under discussion in this dissertation: moral knowledge, reason-responsiveness and control. She seems to possess moral knowledge, even though she suffers from a clear and documented lack of empathy, which is commonly thought to be necessary for moral knowledge.<sup>38</sup> Thomas appears to understand moral rules and concepts from a rational perspective. So long as there is good reason to continue to hold a particular moral belief or to follow a certain moral rule, she will. She also seems to be reason-responsive. Reason-responsiveness has two elements. The first is that one be open to changing one's mind when presented with reasons (moral and rational) to do so. The second is that one can deliberate about morality. Thomas seems to also do this. She has been able to develop and follow her own moral code, which she follows for rational reasons. She is also able to deliberate with others regarding moral requirements and does not outright dismiss their

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<sup>37</sup> M.E. Thomas notes that there must be non-moral rational reasons for our moral code. Furthermore, these rational reasons should be as privileged as the emotional route if the end result is reaching the same understanding that X is morally wrong and Y is morally right.

<sup>38</sup> To be clear here, no philosopher mentioned in this dissertation excludes psychopaths from possessing moral knowledge only because they lack empathy or affective responses. Their arguments are that because of this lack of emotionality, the psychopath lacks a necessary capacity for moral knowledge and moral responsibility.

moral claims on her or others. The final capacity is the control condition. Clearly, Thomas is not under any compulsion to act. She claims that she is able to control her impulses (just like a non-psychopath) and act according to her will and desires. Furthermore, her lack of emotionality does not prevent her from making an informed choice. She is in control and knows her possible options. She seems to take the demands and perspectives of others into account in her moral and non-moral deliberations. Part of the control condition is that the agent is fully aware of all the information before making a decision, and she appears to meet this condition.

If it was not clear from the case study, I believe that Thomas is a primary psychopath, given that her actions, attitudes and personality seem to fall into the general primary grouping, as opposed to the secondary grouping. I also believe that she is a morally responsible agent, who possesses the capacity to acquire moral knowledge, is reason-responsive, and is in control of her actions.

### *Structure of Thesis*

The remainder of this dissertation will be broken up into four chapters. Chapter Two will be dedicated to discussing the capacity to acquire moral knowledge. Here, I argue against Jesse Prinz' and Jonathan Haidt's emotionist position by exploring the views of Neil Levy, Shaun Gallagher, Anthony Duff and David Shoemaker, all of whom link Emotionism to moral responsibility. The emotionist position I consider in Chapter Two is that emotions (specifically, empathy) are necessary for moral knowledge and the psychopath's lack of emotionality means that the psychopath is incapable of proper moral development. A key aspect of moral development is learning through socialization. Given the psychopath's instrumental learning impairment, they are less likely to alter their

negative behavior (negative in the sense that it harms themselves or others) in light of information informing them to do otherwise. This learning impairment, coupled with the emotional deficit, results in the psychopath having difficulty learning from negative social cues.<sup>39</sup> The emotional aspect that helps non-psychopaths quickly adapt and assimilate to moral rules is not present or is severely diminished in the psychopath, resulting in failed learning processes needed for proper moral development.<sup>40</sup>

Levy, Gallagher, Duff and Shoemaker all claim that the psychopath is incapable of moral knowledge on the grounds that the psychopath's emotional incapacity results in the inability to grasp morality with anything deeper than a linguistic understanding. The missing emotional aspect is key to the psychopath's failure to truly grasp and appreciate moral concepts. In other words, the psychopath lacks moral knowledge given that their affective disorder prevents him from appreciating what makes moral rules and principles essentially moral and worth following.

Chapter Three is dedicated to the capacity to be reason-responsive. In this chapter I argue against the emotionist position held by David Shoemaker, Lloyd Fields and Eric Matthew, who all argue that psychopaths are not reason-responsive, given that they do not see moral demands as reason giving. Once more, the issue involving psychopaths is their affective deficit and how this hinders actual deliberation about moral rules and demands, given that the psychopath allegedly cannot appreciate the affective weight of moral demands. According to Prinz and others, psychopaths lack the necessary tools to

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<sup>39</sup> Haidt, Jonathan. *The Righteous Mind: Why Good People Are Divided by Politics and Religion* (New York: Pantheon Books, 2012), 61-63.

<sup>40</sup> On a similar note, the psychopath's lack of emotional capabilities means that they are not able to effectively take the perspective of others. This results in a failure to grasp another aspect of moral development.

view moral demands and requirements as reason giving in and of themselves. While psychopaths may be able to nominally debate the merits of moral demands and requirements, they entirely miss the force behind those demands and thus are not properly capable of responding to those demands.

My position, in contrast, is that psychopaths *are* reason-responsive. Following the work of Lei Zhong, I argue that psychopaths can provide genuine justification for their moral actions and can engage in moral reasoning.<sup>41</sup> I also argue that it is cognitive empathy which allows this understanding to take place. I argue that Zhong's study, along with the example of Thomas, highlights that understanding another's point of view from a cognitive perspective is sufficient to appreciate their reasons (moral or otherwise) in the sense needed in order to be reason-responsive.

Chapter Four is dedicated to the capacity for control. I argue against the emotionist position that psychopaths lack the relevant kind of control needed for moral responsibility. This control capacity requires that the psychopath possess moral knowledge, but it also requires that the psychopath be properly motivated to act in accordance with moral demands. It is not enough that the psychopath knows that there are moral demands and rules at play; they must also be able to be motivated by those rules and demands so that they can be in control of their actions. The common emotionist argument is that the psychopath's affective disorder means that some relevant information (in this case, the information provided by affective mechanisms) needed for control is missing.

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<sup>41</sup> Lei Zhong, "Internalism, emotionism, and the psychopathy challenge," *Philosophy, Psychiatry, & Psychology* 20 (2013): 333, accessed February 19, 2015. doi:10.1353?ppp.2013.0054.

My position is that the psychopath does possess the relevant control needed to be morally responsible, and that moral conformity is possible without the need for affective motivation. The crux of my argument against the emotionist position is that the affective information that is missing in the psychopath does not result in the absence of the relevant knowledge. The psychopath can be motivated to act according to moral demands, not from affective motivation, but from another kind of concern: namely, the general concern for close family and friends, and the concern for their own moral identity as defined by others.

In summary, I argue that psychopaths have several capacities commonly denied to them by those who deny they should be regarded as morally responsible agents. If my account is correct, the psychopath's lack of affective mechanisms does not prevent him from obtaining the information needed to learn, understand, and appreciate moral rules and demands. Through a system of assimilation and observation, the psychopath can come to learn what moral rules are and why they should be followed. Although the emotionist thinkers I argue against believe that moral development requires emotional processes, I argue that functioning cognitive mechanisms are sufficient to grow and learn. Psychopaths have no difficulties learning and adapting to conventional rules, regulations and the demands that come with them. If I am correct, many of the arguments currently presented for why the psychopath is not morally responsible fail.





## Chapter Two: Moral Knowledge

The aim of this chapter is to dispute two widely held views. The first is the view that emotions are necessarily linked with the moral concepts which are necessary for moral knowledge (this represents a variety of Emotionism).<sup>42</sup> The second is the view that the psychopath is incapable of acquiring moral knowledge. I will also be arguing that emotions, while beneficial to the holder in the sense that they can act as an internal guiding system, are not necessary in order for one to have access to the moral concepts needed for moral knowledge.<sup>43</sup> In this chapter I introduce a distinction put forth by Simon Baron-Cohen, between affective and cognitive empathy, and argue that cognitive empathy is sufficient for understanding the emotional states of others. According to this distinction affective empathy is the real-time mirroring of another person's emotional state, while cognitive empathy is understanding the other's emotional state without actually experiencing or mirroring it in real time. I argue that the psychopath can take the perspective of others, albeit in a cognitive sense, and can also understand the normative force that seems to be attached to moral rules. I also argue that the psychopath can understand that this normative force is behind our moral rules.

The chapter will be structured in the following way. I begin by explaining the emotionist position, which necessarily links emotions and morality. The two main emotionist thinkers that will be discussed here are Jesse Prinz and Jonathan Haidt. Although Prinz and Haidt reach their positions in different manners, both thinkers share

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<sup>42</sup> I should also make it clear that I use the terms moral knowledge and moral understanding interchangeably.

<sup>43</sup> Emotions such as shame, guilt etc., act as internal guides that help guide individual's choices. More will be said about the role of emotions later on in the paper.

the core idea that emotions are necessarily or essentially linked to morals. The second section of this chapter will be dedicated to refuting the emotionist arguments put forth by Neil Levy, Antony Duff and Shaun Gallagher, all of whom claim, in one form or another, that the psychopath is incapable of understanding morality given their affective disorder.<sup>44</sup> To refute these claims, I will be relying on the distinction between affective and cognitive empathy introduced by Baron-Cohen. I argue that psychopaths can possess the capacity for moral knowledge, because moral concepts and rules are not learned solely via emotional mechanisms. Rather, I argue, emotional mechanisms help *reinforce* moral rules, rather than anchoring them. To support my argument, I will challenge the claim by Prinz and Haidt that psychopaths' instrumental learning impairments and affective disorders result in a moral development failure.

To begin, I briefly outline strong Emotionism as defined by Prinz, and explain some of its key components. My position is that emotions (affective mechanisms) are not necessary for one to come to understand moral concepts and rules as reason giving.

### *Emotionism*

Emotionism is defined by the belief that moral concepts are essentially related to emotions and can best be understood as this: “that in order to completely token a moral concept one must have (or have had) a certain kind of emotional episode, or at least be

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<sup>44</sup> Levy, Duff and Gallagher all argue that the psychopath is not morally responsible, given that their affective disorder hinders their ability to acquire moral knowledge, which is necessary for moral responsibility. Implicit in their arguments is the emotionist core belief that emotions are linked with moral understanding. The psychopath is incapable of grasping moral concepts given their affective disorder. The lack of emotional capacities results in their lack of moral understanding.

disposed to have that emotion.”<sup>45</sup> This is to say that moral concepts are essentially related to emotions. Prinz defines the relationship throughout the first chapter of his book in several ways; “moral concepts... are constituted by emotions”<sup>46</sup>, “moral concepts incorporate emotions”.<sup>47</sup> While Prinz argues that moral concepts are partly constituted by emotions, the central aspect of Prinz’s argument that I wish to focus on is the idea that to understand a moral concept one must have experienced or be the kind of person that is disposed to experience certain emotional responses when presented with that concept.<sup>48</sup> This is the central claim at the heart of an emotionist account.

According to Prinz’s emotionist theory, our capacity to grasp moral concepts is standard (similar across the board), and that the standard capacity is an affective capacity (i.e., that person has certain emotional responses such as anger, guilt, shame, happiness etc.).<sup>49</sup> Another key aspect of Emotionism is the link between emotions and motivation. Emotions exert psychological pressure, which motivates us to act. For the emotionist, “if moral concepts contain emotions, then moral judgments will promote behavior that aligns

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<sup>45</sup> Richard Joyce, review of *The Emotional Construct of Morals*, by Jesse J. Prinz, *Mind* 118, n. 470 (April 2009): 508.

<sup>46</sup> Jesse Prinz, *The Emotional Construction of Morals* (Oxford: Oxford University Press, 2007), 16.

<sup>47</sup> Prinz, *Construction of Morals*, 92.

<sup>48</sup> To truly grasp a moral concept, say wrongness, one would have to be able to detect the property of wrongness in an action, person, or thing. That property comprises a sentiment that disposes us to experience certain emotions of disapprobation. The key here is that we are disposed to experience these emotions; overexposure to stimuli (say for example corporal punishment) may mitigate the emotion surfacing when presented with the stimuli but we remain the kind of person that is disposed feel those emotions. Psychopaths for example, are not the kind of person that is capable of being disposed to certain emotional responses and thus cannot grasp moral concepts according to Prinz. They may be able to recognize a list or group of actions that most deem ‘wrong’ but will never be able to truly grasp wrongness given that they cannot experience the accompanying emotions. Those accompanying emotions are what make a moral stance or attitude possible.

<sup>49</sup> Prinz, *Construction of Morals*, 16.

with those judgments”.<sup>50</sup> The final aspect of Emotionism I want to highlight is its view of moral development. Here, Prinz follows the work of Lawrence Kohlberg and his analysis of the stages of moral development. Kohlberg’s stages are:

*Pre-Conventional stage*

- (1) Obedience and punishment orientation
- (2) Self-interest orientation

*Conventional stage*

- (3) Interpersonal accord and conformity
- (4) Authority and social order maintaining orientation

*Post-Conventional stage*

- (5) Social contract orientation
- (6) Universal ethical principles.<sup>51</sup>

Where Prinz and Kohlberg part ways is in relation to Kohlberg’s fourth stage in the Conventional level (authority and social order maintaining orientation). For Kohlberg, individuals at the conventional stage will justify why we accept moral norms or rules by conventional means (i.e., I do what the rules demand of me because that is what a member of society does). So, at this fourth stage, individuals will justify their moral reasoning by appeal to law and order. Prinz believes that the conventional appeal that Kohlberg cites at the fourth stage is misleading. For Prinz, when the individuals in the fourth stage appeal to law and order it does not necessarily mean that they regard law and

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<sup>50</sup> Prinz, *Construction of Morals*, 18.

<sup>51</sup> Kohlberg’s view is nicely summarized by Gareth Matthews and Amy Mullin in "The Philosophy of Childhood", *The Stanford Encyclopedia of Philosophy* (Spring 2015 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/spr2015/entries/childhood/>.

order as conventional; rather, at this fourth stage, people actually regard these rules as possessing intrinsic value. The appeal to law and order is not an appeal to the conventional; rather, it is an appeal to a set of emotionally grounded norms.<sup>52</sup> Prinz reaches this alternative view of stage four because individuals at the fourth stage will eventually fall back to a point in their justification which bases itself solely on the fact that it just feels wrong to violate, or even to think about violating, a rule, whereas it feels good to follow or uphold those same rules.<sup>53</sup>

For the emotionist, then, moral development and education are partly a matter of proper emotional training and experience. The training gets cashed out in mundane and simple ways, for example, punishment or threats of punishment to curb negative behavior. Parents or caregivers often punish or threaten to punish children that behave badly. The punishment or threat of punishment promotes fear in the child, and, by imitation, the child that has been punished is more likely to become angry with others that behave badly as well. The same acquisition and imitation takes place with sympathy. When caregivers are sympathetic to the child's loss or suffering, that child is more likely to imitate that behavior in the future with others.<sup>54</sup> For emotionists, then, emotions are key to acquiring moral concepts, being motivated to act morally, and developing into members of the moral community.

### *Emotionism and the Psychopath*

In this section, I will address the emotionist position that psychopaths lack some key emotional capacity which limits their moral development. The purpose of this section

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<sup>52</sup> Prinz, *Construction of Morals*, 35.

<sup>53</sup> Prinz, *Construction of Morals*, 34.

<sup>54</sup> Prinz, *Construction of Morals*, 35.

is to act as a bridge between the psychological/ behavioural accounts of Haidt and Prinz and the philosophical accounts put forth by Levy, Duff and Gallagher, which will be discussed in the following sections.<sup>55</sup> Both Prinz and Haidt hold Emotionsit positions that emotions are essentially related to moral concepts, but this section will primarily be outlining the position Prinz puts forward. Their accounts do differ and the differences will be explained further below, but the core Emotionsit position is present in both.

Both Prinz and Haidt claim that the psychopath fails to grasp moral concepts. Prinz initially points to research done by James Blair to highlight the psychopath's failure to grasp moral concepts, though he does not rely solely on Blair's findings for his argument.<sup>56</sup> The research Blair conducted was aimed at showing that psychopaths cannot make the moral-conventional distinction.<sup>57</sup> In Blair's research, psychopathic and non-psychopathic inmates were asked a series of questions about moral and conventional violations and shown images designed to elicit an emotional response. One series of questions was designed to illuminate the difference between a moral and conventional transgression. Blair asked inmates if 'it was ok for a boy to wear a dress to school?' and 'would it still be ok for the boy to wear the dress to school if his teacher told him and everyone else that it was ok?' From here subjects were asked whether 'it was ok for a student to hit another student' and 'would having the teacher permit the student hitting

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<sup>55</sup> The reason I will be focusing on both Haidt and Prinz is because they both believe that the psychopath is lacking in moral development, in large part due to the affective disorder, but Prinz argues that the affective disorder somehow effects the psychopath's rational faculties where Haidt believes those faculties remain intact. The reasons for highlighting both accounts is that philosophical literature seems to be split on which side to take and my own argument does take the view that the psychopath's rational faculties are intact.

<sup>56</sup> Prinz, *Construction of Morals*, 43-47.

<sup>57</sup> James Blair, "A Cognitive Developmental Approach to Morality: Investigating the Psychopath," *Cognition* 57 (1995).

the other make the act ok?’<sup>58</sup> The questions and images were designed to test whether the subjects could differentiate between moral and conventional violations and whether the subjects responded appropriately to emotional images and situations. For example, subjects were shown a photograph of a crying child while their bodily reactions were being monitored. This monitoring was designed to test individuals’ automatic responses to stimuli and to test whether their affective mechanisms were working properly.<sup>59</sup> The psychopaths tested failed to properly categorize the two groupings, while the non-psychopathic inmates completed the test successfully. The psychopaths tested also failed to register physiological responses to the images and questions they were presented with. If the psychopaths tested truly knew the difference between the two types of violations, they should have been able to complete the task.<sup>60</sup>

Prinz sees the psychopath’s moral shortcomings as stemming from an emotional deficit. For Prinz, the psychopath suffers from a global affective disorder, resulting in emotional and moral retardation, which means that psychopaths simply cannot grasp morality in anything above a superficial sense.<sup>61</sup> Furthermore, the global affective disorder results in a failure in the inhibitory process in cognition.<sup>62</sup> What a lack of cognitive inhibition means, in general, is that psychopaths do not possess the same

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<sup>58</sup> Blair, “A Cognitive Developmental Approach to Morality,” 1.

<sup>59</sup> Shaun Nichols, “Introduction,” in *Moral Psychology: Historical and Contemporary Readings*, ed. Thomas Nadelhoffer, Eddy Nahmias and Shaun Nichols (UK: Blackwell Publishing, 2010), 9.

<sup>60</sup> In Blair’s original test the psychopaths tested actually claimed that all or most of the violations were moral in nature given that they believed that was what the researchers wanted to hear.

<sup>61</sup> Prinz, *Construction of Morals*, 42-46.

<sup>62</sup> Blair’s research provides the framework from which Prinz builds his argument. Prinz partly agrees with Blair’s inhibition argument, but extends that inhibition to the psychopath’s other cognitive abnormalities, given the multitude of evidence to suggest a more global dysfunction.

emotional inhibitory process that non-psychopaths do. In other words, psychopaths have severe difficulty responding and changing their behavior in light of negative feedback, both emotional and non-emotional.<sup>63</sup>

For Haidt, the story is much the same. Haidt argues that psychopaths suffer from an emotional disorder. He notes that the psychopath's rational faculties are functioning, but claims their lack of emotionality results in a failure to develop emotions relating specifically to care and concern for others.<sup>64</sup> For Haidt, the lack of caring emotions means that the psychopath cannot properly develop morally. Developing those caring feelings is necessary for proper moral development, and thus proper moral understanding or knowledge. Both Haidt and Prinz note that the psychopath can very well learn what others take as moral and conventional rules, and can store those findings away for later use. The key difference between the psychopath who can file away these rules and non-psychopaths is that the non-psychopath understands what makes moral rules essentially moral (i.e., there is a feeling that is accompanied by these moral rules, which gives non-psychopaths insight into what essentially is morally right and wrong).<sup>65</sup>

In sum, the emotionist position on psychopaths is that they are incapable of acquiring moral knowledge due to their emotional disorder. The emotional disorder in question results in a failure to understand what makes moral rules, norms, and concepts

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<sup>63</sup> Prinz, *Construction of Morals*, 45-46.

<sup>64</sup> Jonathan Haidt, *The Righteous Mind: Why Good People Are Divided by Politics and Religion* (New York: Pantheon Books, 2012), 61-63.

<sup>65</sup> This emotional accompaniment is an aspect of what I call the "affective bulwark." The affective bulwark is what I call the initial emotional reaction we experience (most of the time) when presented with a moral scenario. The bulwark acts as initial starting point in many instances. For example, the bulwark acts as a motivational force for your actions. It may repel you or drive you to act. The bulwark also acts as a learning reinforcement tool by eliciting feelings of shame, regret, guilt or happiness when you act or contemplate an act.



essentially moral in nature. For Prinz, the emotional disorder results in an inhibitory failure. What this means is that the psychopath is not aware of the emotional signs put out by others that trigger inhibition processes in non-psychopathic persons. In addition to noting the psychopath's cognitive and affective impediments to moral understanding, Haidt focuses on the psychopath's failure to develop other-regarding emotions such as care or concern. For him, such emotions are necessary for proper moral maturity.

In the remainder of this chapter I first outline the specific arguments put forth by Levy, Duff and Gallagher against the idea that psychopaths can acquire moral knowledge, and explain how these arguments relate to either Haidt or Prinz. I then present my positive argument, which is that the psychopath may possess the capacity to acquire moral knowledge using solely cognitive mechanisms. I begin with Levy's argument about the psychopath's failure to distinguish between conventional and moral transgressions, a capacity that can be found even in young children.

*Levy: The Moral vs. Conventional Distinction*

Levy argues that the psychopath lacks the capacity to acquire moral knowledge partly due to the fact that they fail to appreciate the distinction between moral and conventional transgressions. For Levy, psychopaths lack the capacity to distinguish moral from conventional transgressions because they are morally underdeveloped. I believe that Levy's argument is consistent with the emotionist position presented by Haidt. Both Levy and Haidt argue that the psychopath's failure is due to an affective deficit which stunts or limits the psychopath's moral development.

I will begin by explaining in greater detail the testing done on children to determine if they have the capacity to distinguish moral from conventional

transgressions. The reason for the focus on children here is that even at a young age children are able to distinguish between moral and conventional transgressions, a feat which, as Levy argues, is not possible for psychopaths. Developing the ability to identify and categorize moral transgressions is a key step in moral development, according to Levy, and he is therefore interested in tests showing when children acquire this skill.

Levy refers to the moral/conventional distinction experiments done by Blair as the baseline test to determine the ability to properly categorize the moral/conventional distinction in children. The experiments done by Blair were set up in the following manner. Children are asked a series of questions about the rightness or wrongness of an action and if said rightness or wrongness would change depending on an authority figure stipulating that the action was appropriate or not. Children were asked the same questions that Blair presented to psychopaths in his testing. For example, children were asked: ‘would it be ok for a boy to wear a dress to school?’ Initially the children in the study believed that it would be inappropriate for the boy to wear a dress to school, but when the tester informed the children that the boy’s teacher said it was ok for him to wear the dress, the children changed their answer. In another example, children were asked, ‘is it ok to pull your classmate’s hair?’ Initially the children indicated that pulling your classmate’s hair was not ok. However, when the children were then informed that their teacher told them it was ok to pull the other child’s hair, the children did not change their response. Levy points to this basic distinction between authority dependent rules and moral rules which are not authority dependent as identifying a key capacity needed for

one to properly morally develop.<sup>66</sup> The children tested were seemingly able to identify the special type of harm that comes along with moral violations.

Levy notes that the incarcerated psychopaths tested in Blair's experiments could not make the moral/conventional distinction. What this means, for Levy, is that the psychopath does not actually know what makes moral rules essentially moral. For Levy, if this basic moral/conventional distinction is missing, the psychopath cannot possibly have the requisite moral knowledge for moral responsibility.<sup>67</sup> Why, according to Levy, do psychopaths fail to make this moral/conventional distinction? Levy claims the answer lies in the psychopath's affective disorder, which results in difficulties in emotional processing. The psychopath's emotional dysfunction causes them to have difficulty recognizing fearful and sad expressions, which results in an inability to categorize harms in terms of their emotional effects on others.<sup>68</sup> The psychopath thus fails to internalize particular expressions and their intended emotional psychological affect. Where normal or non-psychopathic children come to categorize harms as inherently or intrinsically bad, the psychopath lacks this ability, given his emotional dysfunction.<sup>69</sup>

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<sup>66</sup> Neil Levy, "The Responsibility of the Psychopath Revisited," *Philosophy, Psychiatry, & Psychology* 14 (2007): 131.

<sup>67</sup> Levy, "Psychopath Revisited," 132.

<sup>68</sup> Levy, "Psychopath Revisited," 131. For Levy, properly registering fearful or distressful facial expressions acts as reinforcement for preventing negative social behavior. The psychopath fails to register the severity of the harm in the sense that they do not appreciate the harm they have committed, given that they will not experience the emotional pushback that non-psychopaths do when presented with fearful or distressed facial expressions. The idea here is that the psychopath does not experience the negative emotional side effects of seeing those expressions, which normally trigger the understanding that the harms that brought about those expressions are intrinsically bad.

<sup>69</sup> It may help to revisit what was said in Blair's findings noted above regarding the physiological effects that certain stimuli will have on the body. In cases where your actions are causing another harm, that person is likely to show signs of distress and fear.

Levy's argument is similar to the one presented by Haidt in that both arguments hold that working affective mechanisms are necessary for moral understanding. Both Haidt and Levy claim that psychopaths do not suffer from any rational defects; rather, they suffer from an affective defect that limits their moral development. Where Haidt differs from Levy is that Levy's focus is on failure to internalize the emotional feedback received from others, whereas Haidt's focus is on the caring aspect (or lack thereof) in the psychopath. In both arguments, the psychopath is missing some piece of information due to his affective disorder. Furthermore, in both arguments the idea is that *emotions* provide the key piece of information that cannot be accessed by the psychopath.

*Duff: A Lack of Care*

Anthony Duff's argument that the psychopath lacks the capacity to acquire moral knowledge also rests on the idea that the psychopath's emotional dysfunction is to blame for this failure.<sup>70</sup> According to Duff, the psychopath fails to grasp the essential nature of moral concepts. While the psychopath may be capable of telling you the criterion that defines some cases of what it is to hurt or harm someone, and of claiming that it is wrong to cause that harm, they cannot extend that definition to new cases, given their lack of emotion.<sup>71</sup> I believe that Duff's position is consistent with Prinz's view. Like Prinz, Duff believes that the psychopath has failures in other areas (in this case, in their rational faculties), given the psychopath's emotional disorder. For Duff, the psychopath is incapable of understanding why harming another is wrong and why possessing this

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This fear or distress stimuli causes a physiological change in the body, in this case an emotional change.

<sup>70</sup> Antony Duff, "Psychopathy and Moral Understanding," *American Philosophical Quarterly* 14 (1977): 194, accessed May 11, 2015, doi:130.113.111.210.

<sup>71</sup> Duff, "Psychopathy and Moral Understanding," 193.

understanding would give us a reason not to harm.<sup>72</sup> The psychopath does not understand that we value not harming others (and we value not harming another because we either care for that person or we have a general concern for them); in fact, the psychopath cannot see how the things that we value have any importance, according to Duff. For Duff, genuine concern or care is necessary for understanding. The psychopath cannot be concerned with the emotional underpinning of morality, given his affective disorder. His affective disorder prevents him from experiencing emotions such as love and care.

Psychopaths cannot experience these emotions in their own lives because they lack the capacity to do so. They also cannot understand these emotions in the lives of others, nor can they understand the nature and quality of their acts (which include moral violations), because they cannot grasp the emotional weight (they do not understand that people care for morality and that a key aspect of following a moral rule is actually caring for that rule).<sup>73</sup>

The main idea here is that the psychopath is incapable of proper understanding of our core moral values and of the interests and emotions that go along with those values.<sup>74</sup> Psychopaths are not concerned with moral values and the emotional underpinning that those values may have for others, and this results in their inability to be motivated by those values. According to Duff, in the psychopath's own life there is no discernible dimension of value. The psychopath cannot understand that his actions represent a violation and harm, not just to others, but also to values that they hold and care for. His

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<sup>72</sup> To put this in affective terms, the more severe the harm the more intense or severe the emotional discomfort we experience and the more we condemn these behaviors as immoral.

<sup>73</sup> Duff, "Psychopathy and Moral Understanding," 191-92.

<sup>74</sup> Duff, "Psychopathy and Moral Understanding," 192.

lack of care is a result of his emotional dysfunction. For Duff, it becomes clear that although psychopaths may say that harming others is wrong or that they care about someone deeply, they do not understand the values that they may claim to hold or understand, given that their very actions reflect a complete lack of regard for those values they claim to hold.<sup>75</sup> If psychopaths did have the proper emotional underpinnings for their values, which are feelings of concern or care, those values would inform their lives and actions.

*Gallagher: Emotional Wisdom*

Shaun Gallagher argues that the psychopath lacks proper emotional development. For Gallagher, this emotional underdevelopment results in a stunted moral development. This lack of moral development can be seen when psychopaths are presented with new or unfamiliar moral cases. Gallagher believes that the psychopath can memorize a list of moral concepts or rules, but cannot extend that list to new situations. The reason for this is that the psychopath's moral development is missing a key emotional ingredient. For Gallagher, this missing ingredient is present in non-psychopaths, and allows them to determine the approximate right or wrong action in new cases. What Gallagher is referring to here is something like practical wisdom (emotional practical wisdom). He notes that this wisdom is developed over years from childhood. For this wisdom to develop, a person must have the right kind of upbringing, the right kind of formation, be surrounded by people who do the right thing, and also practice doing the right thing

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<sup>75</sup> Duff, "Psychopathy and Moral Understanding," 192, 194-95. Duff also argues that a 'true' understanding of emotions and values requires that person to share in those emotions or values. The psychopath is only able to recognize our factual beliefs and pro or anti attitudes are.

themselves.<sup>76</sup> Just like any muscle, emotional development needs the right conditions to grow. What Gallagher sets up is a picture on which the emotions that one is typically born with can develop. For example, most humans are born with some level of empathy (we may not want to call it empathy right away, we may refer to it as feelings which are hard to articulate and are still open to shaping). At the very least, most humans are born with the ability to develop that capacity. As a child you are taught to be understanding and empathetic towards others. You are taught to look for signs of distress (crying for example) and you are taught to avoid those actions that typically cause distress.<sup>77</sup> For Gallagher, it seems that if you are taught more or less correctly to do this, you do develop this ‘emotional wisdom’ that allows you to see these signs of distress in others and predict what actions may cause that distress in others even in new situations. This type of emotional wisdom is not an exact guide like a GPS; rather, it acts like the North Star giving you a general direction to follow.

I believe that Gallagher’s position is consistent with Haidt’s, given that the notion of emotional practical wisdom seems to be something that is based on intuitive feelings. Haidt argues that our moral judgments, at their core, are based on intuitive feelings about the good or bad nature of an act.<sup>78</sup> Gallagher’s view seems to mirror this idea that we can intuit, to some degree, the good or bad nature of an action. Clearly this is not the end of

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<sup>76</sup> Shaun Gallagher, “Phronesis and Psychopathy: The Moral Frame Problem,” *Philosophy, Psychiatry, & Psychology* 20 (2013): 347-348, accessed May 25, 2015, doi:10.1353.2013.0058. Gwen Adshead also mentions the importance of emotional experience and reflection in her article “The Words but Not the Music”. He notes that emotional experience and reflection are essential processes that make up the capacity for moral reasoning.

<sup>77</sup> I do not take this to be a controversial view, as much of the literature seems to follow this belief.

<sup>78</sup> Haidt, *The Righteous Mind*, 46-49.

the story for either Haidt or Gallagher. Both also use the idea of repetition and training in moral development.

According to Gallagher, the psychopath lacks practical wisdom due to his flawed emotional development (either from poor upbringing, poor role models, or some brain injury), and suffers from a correspondingly flawed or damaged moral development. For Gallagher, practical wisdom begins as an inclination that becomes developed over time and with experience, which allows us to see and understand what the approximately good or bad action would be. This is an example of the relevance of what I called the affective bulwark. Individuals with working affective mechanisms should feel unease towards actions that are, for lack of a better word, bad. Here we can refer to Levy to fill in some of the gaps left in Gallagher's argument. If the failure in the psychopath results in him not perceiving the particulars of a situation as we do, the reason for this failure is emotional. As Levy notes, psychopaths' perception is flawed, given that they cannot register key expressions of others. So, according to Gallagher, the reason why the psychopath fails at extending a list of moral concepts and rules to new cases is that they cannot see the severity of the harm in the new cases, given their failure to register these signs in others.

*Creating a Positive Picture: M.E. Thomas and Moral Preconditions*

Rather than discuss each of these authors in turn, I intend to respond by incorporating their individual arguments into a larger whole. Each author agrees that the psychopath is missing a key capacity or component in his moral development, which compromises his ability to attain moral knowledge. The limiting factor in question is the psychopath's emotional disorder, which prevents him from truly experiencing, and thus knowing, what is morally right and what is morally wrong.



*M.E. Thomas: Preconditions for Moral Knowledge*

Having a good upbringing, support system, and long history of doing the right things is all contingent on the agent's environment and situation. The psychopath, as was noted in Chapter One, has a disorder which may lead to antisocial behavior. However, their condition does not *necessarily* mean they will pursue antisocial actions to attain their goals. Thomas is an example of a psychopath who claims to come from a more or less common upbringing who, if we believe her, acts morally, or at the very least, acts with moral concerns in mind. She notes that she had a more or less common upbringing and some role models to follow that helped guide her and instill some moral and non-moral values. These moral figures included her mother and her siblings, with all of whom she had a strong relationship. It is also clear from her story that she does try to do the right things, even though her particular struggle to do good is harder than most, given her disorder. At a cursory glance, Thomas does seem to have some understanding of value that goes beyond the recognition of others' factual beliefs and attitudes. Her emotional dysfunction has certainly made her moral development more difficult. However, it has not made it impossible. What I wish to convey by telling the story of Thomas is that *some* psychopaths may have the preconditions for moral knowledge and moral development that Levy, Duff and Gallagher have noted. The psychopath should therefore not be automatically excluded from the moral conversation based on their emotional dysfunction.

Psychopathy is not created by environmental factors, but the condition itself can be exacerbated by environmental factors. A child that has psychopathic tendencies may not act on those tendencies if they have ready access to some goods. For example, a child

with psychopathic tendencies growing up in an upper-class home will have greater access to goods such as money than a child growing up in a lower-class home, and so would not need to employ antisocial means (i.e., theft) to attain them. Thomas's situation meant that she did not have to resort to antisocial means to attain many goods. I do not wish to lay out a blueprint for a good upbringing or a good support group, or to state how often one must practice doing the right things. All I wish to show is that some psychopaths have the kind of role models that they can look up to, who can act as a moral compass by their actions and teaching. Just like non-psychopaths, some psychopaths grow up in extremely good circumstances, some live in terrible situations which exacerbate their disorder, and some live in relatively normal environments.

The key precondition for moral knowledge that I want to discuss is emotional development. The psychopath's emotional development is stunted and limited compared to that of non-psychopaths, on the whole. As Haidt and Prinz note, the psychopath is missing a key factor for acquiring moral knowledge. As Prinz argued, the psychopath's emotional disorder results in an inhibitory failure. Thus, for Prinz, the psychopath is not aware of, or able to process, the emotional signals that trigger inhibition processes. This inhibition failure is a result of an affective disorder that is not normally found in non-psychopaths. For Prinz, proper development of this inhibition process is a key step in one's moral development. Haidt's focus, on the other hand, is on the psychopath's failure to develop other-regarding emotions such as care or concern. Haidt claims such emotions are necessary for proper moral maturity and development, and that the psychopath's affective disorder limits his ability to develop morally.

Nevertheless, I argue that the psychopath's cognitive empathy skills, if intact, allow them to develop an understanding of emotion that gives them access to moral knowledge. I argue that psychopaths' moral development may run along a different, cognitive track, and that this track is another route to attaining moral knowledge and understanding.

Levy argues that the psychopath cannot distinguish between moral and conventional transgressions. This failure results from a disorder in recognizing the facial cues of others in distress or fear. However, recent findings by Meffert et al. have shown that the psychopath is actually able to identify these facial cues when prompted. In these experiments, psychopaths' spontaneous and vicarious mirroring mechanisms were tested. The test results indicate that when prompted to look for particular emotional cues, psychopaths reacted similarly to non-psychopaths; however, when not prompted to seek out these cues, the psychopaths tested did significantly worse than the non-psychopathic control group.<sup>79</sup> Normally, psychopaths have difficulty picking out fearful or distressed faces; they simply do not process these cues emotionally (they do not register them, and do not experience any empathetic response). However, when prompted to look for these emotional cues, psychopaths test as basically normal. What these findings mean is that the psychopath's emotional disorder does not *prevent* information about emotional cues from registering; rather, the psychopath's default position is to ignore the cues unless prompted.<sup>80</sup> In other words, the propensity to miss the signals from others is not a sign of incapacity, or even a lack of care; rather, it is a sign of an attention disorder. What this

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<sup>79</sup> Harma Meffert et al, "Reduced spontaneous but relatively normal deliberate vicarious representations in psychopathy," *BRAIN A Journal of Neurology* 136 (2013): 2558-2560, accessed May 20, 2015, doi.10.1093/brain/awt190.

<sup>80</sup> Meffert, "Representations in Psychopathy," 2558-2560.

means is that the psychopath *is* capable of registering the emotional cues of others that allow non-psychopaths to categorize moral from conventional transgressions. This research also casts doubt on Levy's argument that the psychopath is morally underdeveloped, given that the dysfunction Levy points to may not be a dysfunction at all. It should also be noted that research conducted after Blair's initial findings indicates that some psychopaths *can* make the distinction between moral and conventional at a satisfactory level. What this seems to mean is that although the psychopath *does* have a defect in his emotional development, it is not one that completely hinders such development.<sup>81</sup> So, at a functional level, the psychopath still has control. Furthermore, Meffert's findings indicate that when prompted to look for facial expressions that relate to certain emotional states, psychopaths can not only register those expressions, but also experience similar physiological reactions to those expressions as non-psychopaths do. Levy's point is that the psychopath is dysfunctional, but there is evidence that shows the contrary. When prompted to look for facial expressions, psychopaths can not only register them, but can also show similar physical responses. The aim of the Meffert study was not to show that psychopaths have no disorder in their empathetic responses; rather, it was to test how hindered those responses are. What the study shows is that psychopaths have a harder time registering emotional responses and mirroring those responses, but that it is not *impossible* for them to do so, as Levy argues.

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<sup>81</sup> Lei Zhong, "Internalism, emotionism, and the psychopathy challenge," *Philosophy, Psychiatry, & Psychology* 20 (2013): 331, accessed February 19, 2015, doi:10.1353.2013.0054. Blair's 1995 findings indicated that psychopaths fail to distinguish the moral from conventional, but research conducted in 1997 (Blair), 2001 (Blair) and 2010 (Dolan and Fullam) provide counterexamples to that claim.

Duff argues that psychopaths lack proper emotional development in the sense that they cannot care for moral values. The psychopath shows this in his lack of motivation to adhere to moral rules or norms. This lack of motivation highlights the fact that the psychopath does not *understand* the true essence of moral rules or norms. However, I do not believe that the psychopath's lack of motivation to adhere to moral norms for their own sake is a sign of a lack of understanding. The motivational force that Duff highlights is emotional, not normative. We are drawn to adhere to the moral rule or norm because it makes us feel good or at ease, and because otherwise we literally feel ill or uncomfortable.<sup>82</sup> The feeling of unease that Duff notes is a product of what I have termed our affective bulwark. Non-psychopaths are motivated to adhere to moral rules, in part, because of the bulwark's reinforcement. Normal socialization fosters feelings of shame or unease when we violate, or even think of violating, certain moral rules. As was noted previously, children are taught to be ashamed or angered when these rules are violated. The psychopath cannot develop this bulwark of shame or unease. However, this does not mean that they do not understand why a moral rule is moral.

For example, testing done on psychopaths by Michael Koenigs indicates that psychopaths can learn that most moral rules have a personal harm element to them, which distinguishes them from non-moral rules. The study itself was conducted by Koenigs and documented in his paper "Utilitarian Moral Judgment in Psychopathy".<sup>83</sup> The participants, psychopaths and non-psychopaths, were given a variant of the trolley problem - either save five men by pushing one man off the bridge to stop the runaway

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<sup>82</sup> Zhong and Meffert both argue this.

<sup>83</sup> Koenigs, Michael et al. "Utilitarian moral judgment in psychopathy." *SCAN* 7 (2012): 708-714. Accessed May 20, 2015. doi:10.1093/scan/nsr048.

train or let the five men die. The participants were also given the classic version in which the participants could sacrifice the one man to save the five without pushing him over; rather, a switch could be pulled to divert the train heading towards the five men to instead head towards the single worker. In both cases, psychopaths and non-psychopaths came to the same moral judgments about the permissibility or impermissibility of each action to a point. The psychopaths and non-psychopaths did diverge on the endorsement of personal harms. While both groups understood that personal harm (for example: pushing a man off a bridge to save the lives of five others) was less permissible than impersonal harms, the psychopaths in the Koenig's study endorsed a greater amount of actions that were deemed to be personal in nature. The non-psychopaths were making their decisions in the end by adding emotional weight. Feelings of guilt, disgust, etc., acted as a gain function that swayed their judgment and choice. Emotions did not seem to play a role in the pathways that guided both groups to their judgment about the permissibility or impermissibility of the actions. The psychopaths tested did not have this gain function added on to the judgment. They were aware of the personal harm that they were committing but did not care and thus endorsed the 'strict utilitarian calculus' more often than non-psychopaths.<sup>84</sup> The lack of care does not mean that there is a deficiency in their understanding, rather the lack of caring means they are not motivated to change their course of action. In an earlier study conducted by Maaïke Cima, he argued that "psychopaths make the same kind of moral distinctions as healthy individuals when it

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<sup>84</sup> This aspect of not caring (or not being motivated) is important to clarify. Psychopaths can and do understand the distinction between right and wrong actions but seemingly do not care about the negative consequences or repercussions of their choices. This understanding does not alter their final choice (despite some of the consequences) in the same way that it does for non-psychopaths.

comes to evaluating the permissibility of an action embedded in a moral dilemma. Consequently, these results support the hypothesis that normal social emotional processing does not appear necessary for making these kinds of moral judgments.”<sup>85</sup> The idea that I want to stress here is that psychopaths *are* making more or less utilitarian judgments and not adding emotions as a gain function in the end which would presumably result in them altering their endorsements of more personal harms. The question of motivation does not seem important here given that both psychopaths and non-psychopaths are making moral judgments along a similar pathway and this ability is the focus.<sup>86</sup>

Zhong argues that Koenig’s study indicates that psychopaths can and do understand moral concepts sufficiently well to arrive at the same moral judgments that non-psychopaths reach. Furthermore, the psychopaths in the study provided the same core reasons that non-psychopaths provided when explaining why action X was more

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<sup>85</sup> Cima, Maaïke, et al. “Psychopaths know right from wrong but don’t care.” *SCAN* 5 (2010): 66. Accessed June 15, 2018. doi:10.1093/scan/nsp051.

<sup>86</sup> This warrants a brief stop on another important discussion regarding psychopaths that I do not spend a great deal of time on. A good deal of the discussion regarding psychopaths and moral knowledge is encompassed by the debate around motivational internalism. Basically, this position holds that because psychopaths are not motivated by moral concepts, they do not understand those concepts. While I do touch on this topic at some points in the dissertation (my discussion of Zhong in this chapter and Fields in chapter 4) I do not engage with the literature in detail. First, I believe that my position does make a stand on this matter; namely that I deny motivational internalism and believe that other mechanisms are at play (cognitive mechanisms). Second, I feel as though the debate around motivational internalism is not particularly helpful. There is no clear empirical way of determining the position and the literature is widespread in its findings and arguments. The core of my argument is a cognitive perspective of moral understanding which moves away from the internalist idea that being properly motivated means understanding. Nevertheless, I believe that my dissertation is philosophically interesting in its own right, despite not following what the dominate trend in the literature surrounding psychopaths and moral responsibility.

impermissible than action Y.<sup>87</sup> The reasons provided by the psychopaths why some actions were more impermissible were that those actions were personal in nature (personal being defined by the study as harming someone directly from the agent's will [not edited or filtered] in an up-close and personal manner; for example, hitting someone). Those actions that were deemed permissible or less impermissible were classified by both psychopaths and non-psychopaths as impersonal in nature.<sup>88</sup> The psychopaths in the study, like the non-psychopaths, indicated that killing or harming in personal moral dilemmas was less permissible than killing or harming in impersonal moral dilemmas. As Zhong notes, if emotions are key for this type of perception (i.e., tracking what makes moral concepts or rules truly moral), and given psychopaths' emotional deficit, the only explanation is that psychopaths and non-psychopaths are using cognitive mechanisms to arrive at these moral judgments. If so, they can presumably arrive at the same moral judgments for new or foreign cases, given that the mechanisms required for this can also be cognitive in nature.<sup>89</sup>

Zhong's conclusions pose a serious challenge to the emotionist position held by Duff, Levy and Gallagher. If psychopaths can track what non-psychopaths consider more and less morally permissible, and identify *why* those actions fall into either of those categories, it makes sense to say that the psychopath is not as deficient in detecting moral norms and rules as previously thought. According to Zhong, the psychopath has a clear way to track and categorize what the morally 'best' thing to do would be in a new moral

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<sup>88</sup> Zhong, "Internalism," 332. Impersonal here could be defined as not directly harming an individual (i.e., you harm someone in some mediated sense which was not directly from your will).

<sup>89</sup> Zhong, "Internalism," 334.



dilemma. The psychopath could determine which action would cause the least amount of personal harm, or perceived personal harm. This type of recognition could be developed over years of experience of, and learning about, what others generally perceive to be more or less permissible.<sup>90</sup>

At this point, Duff could respond by claiming that this tracking of personal or impersonal harms is just the criterion he speaks of that the psychopath can recite. The fact remains that psychopaths have no real knowledge of morality, given that they are still not motivated to act in accordance with the moral rule *for its own sake*. Gallagher could add to Duff's reply that the personal/impersonal distinction is not as clear-cut as Zhong makes it out to be. Moral dilemmas are not as black and white as Zhong's findings suggest.

However, I believe I can respond to these possible objections. First, it may be true that the psychopath does not feel motivated to act in accordance with his moral judgments. As Zhong noted in his article, the main difference between the psychopaths and non-psychopaths in the study was that once each group reached their moral judgment about a particular moral dilemma, the non-psychopaths were at times repulsed or put off by their own judgment and changed their mind given that emotional feeling.<sup>91</sup> In other words, emotions for non-psychopaths alter their final choice. However, those emotions were not necessary in order to reach their moral judgment. Emotions only titrate the severity of moral judgments. These emotions act as a kind of emotional tipping point for actions, which drives non-psychopaths. It is not that the psychopath misses the point

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<sup>90</sup> In cases of holding someone responsible in a particular relationship this kind of learning is easier, given that clear parameters are set and the psychopath only needs to focus on the one person.

<sup>91</sup> Zhong, "Internalism," 333.

because they are not motivated by the judgment; rather, their lack of motivation stems from the fact that their affective socialization (the affective bulwark) does not function as it does in non-psychopaths. This does not mean that the psychopath does not understand or care. However, his care or motivation must come from some other source. (Think of Thomas when she notes “I do not refrain from harm because the thought of harming compels me not to; I refrain from harm because I do not wish to endorse a world where others will be free to also harm me.”)<sup>92</sup>

In response to the possible objection by Gallagher, which was that moral dilemmas are not as black and white as simply tracking personal over impersonal harms, I want to reassert a distinction I made in the Introduction regarding affective and cognitive empathy. With affective empathy, the agent experiences a sharing of emotions themselves. In other words, the agent actually experiences an emotional state that mirrors the other’s state. Cognitive empathy, on the other hand, is the understanding of the other’s emotional state, without the mirroring effect. Psychopaths possess working cognitive empathy, but experience severe limitations in affective empathy. I believe the emotional development that Gallagher discusses is affective rather than cognitive. The reason for this is that Gallagher’s argument focuses on extending our knowledge or experience to new cases. He argues that psychopaths cannot do this extension (even though they can generate and memorize a list) because they are incapable of understanding the underlying similarities between past cases and new ones. Given what Gallagher argues about psychopaths, it makes sense to say that affective empathy is his focus. Finally, while he does not use the term “affective empathy,” his account seems to

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<sup>92</sup> The motivation to act may also come from other sources. The agent may want to be perceived as a good person and thus act on what the perceived right is.

draw on the self-reflective aspect of affective empathy. In other words, on his view, the more we experience these emotions ourselves, the better we are able to empathize with and register these emotions in others. To put this in Levy's language, our mirroring mechanisms, along with self-reflection on those experiences, allow us a better understanding of those same experiences in others. The more robust our affective empathetic skills are, the more clearly we can see the harm done to others, and the more we will try to prevent actions that would bring about similar harms.

However, I want to argue that affective perspective-taking can be replaced by well-developed cognitive empathetic skills. What I am arguing for here is the idea that cognitive empathy can fill many of the same roles affective empathy plays in non-psychopaths. While the two are not the same, the information provided by the cognitive side allows for an equivalent (albeit different) kind of emotional development.<sup>93</sup> While affective mechanisms allow an individual to share, in real time, the emotional states of others, cognitive mechanisms allow the individual to *understand* and *appreciate* the emotional state of others, without sharing in that state in real time. The appreciation of the other's state is also present, given that the psychopath understands what brings that state about, how to relieve it, and what one is likely to do while in the state.

Now, Gallagher and others can say that the cognitive side of empathy does not provide true understanding or appreciation, given that one cannot take the perspective of the other without sharing their emotional state. However, I do not believe that this

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<sup>93</sup> The simplest way I can explain my reasoning here is with a math analogy. Many university core math courses have equivalents. For example, Statistics 201 and Math 101 may be interchangeable and equivalent even though Statistics 201 is different, but covers much of the same ground. I believe that the perspective taking that takes place in cognitive empathy is equivalent in the same way. Some information is missing, but there is a core similarity.

mirroring is necessary for one person to understand the other's emotional state; a cognitive perspective can be taken. In both cognitive and affective empathy, one must take the perspective of the other: in one type (affective) you actually share in the emotion, whereas in the other type (cognitive) you do not share in the emotion, but still understand the emotional state of the other from an outside perspective. The key difference is that in cognitive empathy, one takes the perspective of an outsider, not actively sharing (experiencing) in the emotional state of the other person.<sup>94</sup>

The agent I'm describing is one that has satisfied the preconditions for acquiring moral knowledge via cognitive empathetic mechanisms. As I said before in this chapter, psychopaths come from many different kinds of families and family structures. Some come from homes and parents that provided them with good upbringings and good support groups, and some do not. What I have in mind is a psychopath that has had a more or less good upbringing, a good support system, has at least tried to do the right things growing up, and hence has developed emotionally from a cognitive perspective.<sup>95</sup> In other words, they is developed enough to recognize and interpret the emotional states of others, even though they may not be able to experience those states in real time. I have in mind psychopaths very much like Thomas. She does not come from a spectacular

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<sup>94</sup> Kevin Dutton, *The wisdom of Psychopaths* (Canada: Anchor Canada, 2012), 16-18. There is a variation between hot and cold empathy here that I think helps illuminate the point. There is the objective experience of cold empathy defined by rational thought and reasoning and hot empathy which is governed by emotions. Cold empathy is common in impersonal dilemmas, whereas hot empathy is common in personal dilemmas. What I am claiming in this passage is that psychopaths take the impersonal approach as default, given their affective disorder.

<sup>95</sup> I do not believe that this is being too specific. Clearly there are psychopaths that, given their upbringing, could not foster any moral training. While non-psychopaths have an affective capacity (for the most part), psychopaths do not. What the psychopath does have is a cognitive capacity that needs to be fostered, just as the non-psychopath's affective empathy does.

upbringing, but she nevertheless knows the emotional states of others, understands why those states hold so much value or weight for others, and attempts to do what is expected and right when presented with those states. Even if morals or moral concepts are partly defined by the emotions that come with them or confer some value to them, the psychopath can recognize this information in the sense that they know the core distinction between personal and impersonal harms and can track and predict the emotional responses of others. The psychopath's understanding of morals is different from the 'normal' version put forth by Prinz. However, it is still moral knowledge, albeit arrived at in a different way.

### Chapter Three: Reason-Responsiveness

For agents to be morally responsible they must be responsive to an appropriate range of reasons for or against a course of action. Agents who are reason-responsive are able to take relevant reasons (moral and non-moral) into consideration before they act. Agents who are unresponsive to this appropriate range of reasons are not really responsible for their actions. The likely cause of their unresponsiveness is either some external compulsion, psychological condition, or an underlying defect (rational or affective) which limits or stunts their reason-responsive capacity, thus making them not morally responsible. Furthermore, agents must be able to deliberate about appropriate reasons, which means that they must also be able to take into consideration the reasons that others may view as pertinent or appropriate in any given situation.

Reason-responsiveness requires moral knowledge, thus at times in this chapter I will be referring to moral knowledge or understanding while making claims about reason-responsiveness. Many of the philosophers I am referring to in this section also require moral understanding for reason-responsiveness. This is not to say that reason-responsiveness is not a capacity in its own right; rather, it seems to act as a more refined capacity that stems from a more general or basic capacity for moral understanding. The philosophers that I reference in this chapter deny that the psychopath can be reason-responsive because they do not possess moral knowledge. Thus, to fully address their arguments against reason-responsiveness, I must address their arguments regarding moral understanding. In this chapter, I will argue that psychopaths have the capacity to be reason-responsive, even though they themselves do not experience the affective weight of

moral reasons. In other words, I argue that an agent does not need affective mechanisms in order to be reason-responsive.<sup>96</sup>

The view that I am arguing against in this chapter is one that claims that the psychopath is incapable of being reason-responsive, given his affective disorder. According to this view, the psychopath's affective disorder prevents him from appreciating the full weight (which includes affective weight) of moral reasons. This lack of appreciation results in a failure to understand and properly take into account moral reasons.<sup>97</sup> In other words, given psychopaths affective disorder, they are incapable of being reason-responsive, given that they are blind to the weight of moral reasons.

This chapter will be broken down into the following three sections. Section one will consist of an overview of three accounts which claim that the psychopath is not capable of being reason-responsive to moral reasons. The three philosophers that will be discussed here are David Shoemaker, Lloyd Fields and Eric Matthews. Each of these philosophers holds, in their own way, that the psychopath is not reason-responsive. Both Shoemaker and Fields claim that the psychopath is morally blind, and thus cannot properly deliberate about moral reasons, while Matthews claims that a true understanding of moral reasons or requirements requires understanding the affective weight of those moral reasons. Given the psychopath's affective disorder, it is clear, according to Matthews, that the psychopath is incapable of being reason-responsive. In the second section, I will argue that psychopaths are *not* morally blind and that they can take the moral point of view, albeit from a cognitive perspective. From the psychopath's cognitive

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<sup>96</sup> Ted Bundy, for example, was a model worker for a suicide hotline and crime prevention hotline. He was able to help individuals going through extreme distress, even though he was psychopath.

<sup>97</sup> This includes taking into account the moral reasons of others.

moral point of view, they are able to understand the moral reasons of others, and, while they may not acquiesce to the demands of these moral reasons, they are not setting them aside simply out of hand. In the third and final section, I argue that psychopaths *do* possess the capacity to be reason-responsive. Specifically, I argue that psychopaths' affective deficit does not prevent their reason-responsive capacity from forming and growing. Psychopaths can recognize moral considerations and the moral considerations of others from a cognitive standpoint. This cognitive standpoint allows psychopaths to have a moral point of view from which to deliberate. While this cognitive point of view does have difficulties when it comes to care or motivation, I argue that psychopaths can learn to care about morality and be motivated to act in accordance with moral reasons without the use of affective mechanisms.<sup>98</sup>

*Section one: Shoemaker: Morally Blind Aliens*

In “Attributability, Answerability, and Accountability: Toward a Wider Theory of Moral Responsibility,” David Shoemaker claims that psychopaths are morally blind in the sense that they are unable to grasp moral rules, principles and concepts, given their affective disorder. Psychopaths lack any moral sense, according to Shoemaker, because they are not responsive to moral reasons.<sup>99</sup> Psychopaths are morally blind because of their affective issues (affective dysfunction or disorder) result in an inability to see moral

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<sup>98</sup> Even if psychopaths do not endorse those reasons internally the same way that we do (a rational and emotional endorsement - for example, we typically feel unease when violating a moral norm), the psychopath can endorse a rule because it has benefits for its adoption without the emotional endorsement.

<sup>99</sup> David Shoemaker, “Attributability, Answerability, and Accountability: Towards a Wider Theory of Moral Responsibility,” *Ethics* 121 (2011): 628, accessed May 27, 2015, doi:130.113.111.210.



demands as reason-giving and an inability to be sensitive to (in the sense of caring about) the interests and reasons of others.

According to Shoemaker, psychopaths are aware that there are demands (some of which are moral) being made of him, but they cannot understand that these demands are at all reason-giving.<sup>100</sup> The demands being made of the psychopath (particularly the moral demands) are irrelevant and dismissed out of hand, given the incomprehensible nature of moral demands for the psychopath; thus moral demands fail to curb psychopaths' actions and deliberations.<sup>101</sup> Shoemaker attributes this dismissal of moral demands to the psychopath's affective disorder. Demands made of psychopaths fail to be reason-giving because psychopaths cannot come to care for the individual making the demand. The psychopath's lack of fellow-feeling results in two failures. The first is that the psychopath lacks a moral sense. The second is that they cannot stand in any kind of moral relationship with non-psychopaths, which makes any kind of mutual moral understanding, expectation or deliberation impossible.<sup>102</sup>

*Fields: Moral Blindness and a Lack of Motivation*

In "Other-Regarding Moral Beliefs," Lloyd Fields argues that the psychopath cannot act for other-regarding moral reasons even though they have some moral understanding in his view. For Fields, the psychopath lacks a key component in the

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<sup>100</sup> For Shoemaker, psychopaths are aware that there are such things as 'moral demands' and that at times there are moral demands being made of them; however, the psychopath is incapable of understanding that moral demands are reason giving and thus must be taken into consideration. Psychopaths lack this deeper understanding or appreciation given their affective disorder. So, at a deeper level, psychopaths do not understand the nature and force of moral demands, even though they are aware that there exists a class of demands known as moral demands.

<sup>101</sup> Shoemaker, "Attributability, Answerability, and Accountability," 628-29.

<sup>102</sup> Shoemaker, "Attributability, Answerability, and Accountability," 629-30.

process whereby one comes to take a moral principle as practical.<sup>103</sup> On this view, while psychopaths have some moral understanding but are nevertheless incapable of acting on other-regarding moral beliefs. In his view, moral beliefs are action guiding if one takes them to be practical in nature. So, for example, if I claim I care for my parents, I ought to show that care in my actions towards them by taking their wellbeing into consideration before I act. According to Fields, the psychopath is incapable of forming such beliefs. As such, the psychopath is incapable of responding appropriately to other-regarding moral reasons.<sup>104</sup>

The reason for this failure must, according to Fields, be affective in nature. The psychopath does not possess the same kind of motivation to act as non-psychopaths do. For Fields, if one holds a moral principle as practical (that is, reason-giving), one should be motivated to act in accordance with that reason (because one cares about the moral principle). Furthermore, according to Fields, one should believe that said moral principle is its own justifying reason and that it should take priority over non-moral reasons.<sup>105</sup> The psychopath fails to take other-regarding moral principles as justifying reasons for action or restraint because psychopaths seemingly do not care for the object of that moral belief (i.e., the other person). As such, the psychopath is not motivated to place the moral principle high up in his hierarchy of reasons, and is most likely going to abandon the principle in favor of self-regarding desires. For Fields, moral principles are action guiding and (normally) ought to take precedence over non-moral desires.

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<sup>103</sup> Lloyd Fields, "Psychopath, Other-Regarding Moral Beliefs, and Responsibility," *Philosophy, Psychiatry, & Psychology* 3 (1996): 266-67.

<sup>104</sup> Fields, "Psychopath, Other-Regarding Moral Beliefs," 268-69.

<sup>105</sup> Fields, "Psychopath, Other-Regarding Moral Beliefs," 267.

What Fields seems to be saying is that the psychopath cannot take the demands of others seriously, but not in the sense that Shoemaker claims. For Fields, the psychopath has access to moral concepts and can use them effectively; what the psychopath is missing is a relationship of care or respect when it comes to other people and the moral demands that they may make on one.<sup>106</sup> What I take Fields to be claiming is that the psychopath cannot take the moral demands of others as reason-giving because they cannot be in a moral relationship with others (even though, according to Fields, psychopaths have access to moral concepts and some moral understanding). The psychopath's lack of care means that they cannot see others as reason givers in their own right. This lack of care, again, is an affective issue. Psychopaths have enough understanding of moral concepts to use them effectively, they know that others may hold particular types of actions as good or bad, they even know that others consider certain ends as desirable and others not and that other people disapprove and approve of certain types of characters.<sup>107</sup> <sup>108</sup>What is holding the psychopath back from being reason-responsive, for Fields, is his affective disorder, specifically his lack of care or concern for the moral demands of others.

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<sup>106</sup> Fields, "Psychopath, Other-Regarding Moral Beliefs," 266.

<sup>107</sup> Fields, "Psychopath, Other-Regarding Moral Beliefs," 266.

<sup>108</sup> Fields notes, "[the psychopath's] understanding of moral concepts and descriptions may be limited and superficial, but this understanding is sufficient for him to make use of them...in manipulating others." Fields, "Psychopath, Other-Regarding Moral Beliefs," 266.

*Matthews: Affective Weight*

In “Psychopathy and Moral Responsibility,” Eric Matthews argues that the capacity to recognize moral considerations or reasons is not found in the psychopath.<sup>109</sup> I take the ‘capacity to recognize moral considerations’ to be akin to the capacity to be reason responsive; for if one does not possess the ability to register moral considerations, one would not be able to reason about said considerations. Matthews claims that we can see this lack of recognition in psychopaths in two ways. The first is via the psychopath’s actions, which are contrary to moral standards. The second is in the psychopath’s justification (or lack thereof) for their behavior. The psychopath fails to recognize that in certain situations a moral justification for their action is required. Another way to put this would be to say that the psychopath does not recognize that in some situations there exist

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<sup>109</sup> Eric Matthews, “Psychopathy and Moral Rationality,” in *Being Amoral*, ed. Thomas Schramme (London: MIT Press, 2014), 73, 77. What sets Matthews’ and Shoemaker’s accounts apart is that Matthews believes that the psychopath’s justifications for their actions are unintelligible to us. Given that, according to Matthews, psychopaths cannot register moral considerations, when asked to justify their actions psychopaths provide us with explanations that make no sense. Psychopaths are not aware that their actions require moral justification; they are not aware that they are actually violating a moral rule and this is clear when they provide explanations for their actions that only reference their own desires, interests, etc. without referencing or acknowledging the harm they committed. Shoemaker also notes that the psychopath is incapable of registering when a moral demand is being made of him, although Shoemaker does grant that psychopaths are aware that moral demands and reasons exist. The reason for using both Shoemaker and Matthews is that while they both claim the psychopath is incapable of registering moral demands made of them, Matthews makes the link between registering moral demands and providing valid (intelligible) justification for your actions explicit. Furthermore, Matthews’ account of moral insanity speaks to the psychopath suffering from more than a mere affective disorder. Matthews’ account is similar to Prinz’s view that the psychopath suffers from a global disorder that affects their rational capacities as well.

moral considerations that should apply to his actions and reasons for acting or refraining from action.<sup>110</sup>

The psychopath is ‘morally insane’, according to Matthews, given that they cannot engage in real moral discourse because they fail to recognize the force of moral considerations.<sup>111</sup> The psychopath is morally insane in the sense that they suffer from failed practical rationality or moral rationality (as Matthews puts it). Matthews defines moral insanity as different from simply being immoral. Immoral individuals are “capable of understanding that certain actions, including some of their own, are normally considered to be morally wrong... but are not sufficiently constrained by this knowledge to avoid acting in morally wrong ways”.<sup>112</sup> To be morally rational (and thus not insane) is to have the capacity to recognize what count as moral reasons in appropriate cases, while being morally insane is lacking this capacity.<sup>113</sup> The dual combination of the psychopath’s lack of empathy and poor moral upbringing, which according to Matthews is devoid of correct moral and social development, results in the psychopath being unable to recognize the force of moral considerations.<sup>114</sup> The psychopath is unable to grasp said force because the affective mechanisms needed (empathy and sympathy among others)

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<sup>110</sup> Matthews, “Psychopathy,” 77.

<sup>111</sup> Moral considerations being the moral demands of others or moral demands and obligations in general.

<sup>112</sup> Matthews, “Psychopathy,” 78.

<sup>113</sup> Matthews, “Psychopathy,” 78, 84. There is a longer story to this capacity that Matthews notes. Matthews believes that we are able to build our moral rationality over time from habits of behavior starting in early childhood. Habits become instilled in us and a key habit is the recognition that one ought to feel guilt or shame for certain actions and reasons for actions. While Matthews does not want to rest his argument on the psychopath’s lack of empathy as the primary cause of their lack of responsibility, Matthews does note that empathy is a key factor given that it does serve a role in instilling correct habits of behavior.

<sup>114</sup> Matthews, “Psychopathy,” 84-87.

are not present. Added to this, the psychopath also failed to develop morally, which results in a failure to grasp or appreciate moral reasons as reason giving in their own right. Psychopaths are morally irrational or insane according to Matthews on these grounds (lack of empathy and poor moral upbringing), and thus cannot be reason-responsive.

*Section Two: Reply to Shoemaker and Fields: A defense of not caring*

I will begin by responding to Shoemaker, then Fields. Shoemaker makes a strong argument when he claims that the psychopath cannot be in a moral relationship because they are incapable of caring for the demands and values of others, given his affective disorder. In this reply, I will tackle two issues. The first is the claim that the psychopath cannot recognize moral concepts. The second is the claim that, given this incapacity, psychopaths cannot be sensitive to the demands of others (or, in other words, cannot be responsive to moral reasons).

My main argument can be summed up by the following idea, “Just because I don’t care doesn’t mean I don’t understand”.<sup>115</sup> Psychopaths do not care about moral considerations in the same way that non-psychopaths do. However, this is not because there is a failure to grasp or recognize moral demands; rather, psychopaths do not care about these moral demands because they do not see moral demands as having any special significance over non-moral demands or reasons. In the previous chapter, I argued, with Zhong, that psychopaths have moral understanding and knowledge. Zhong argued that psychopaths and non-psychopaths both come to the same moral judgments prior to their use of affective mechanisms. As was noted in the Meffert study (cited by Zhong),

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<sup>115</sup> Simpsons 1991, Lisa’s Substitute.

psychopaths in the study were able to identify and recognize the significance of the relevant moral considerations (the psychopaths tested in the study tracked moral violations by the personal, as opposed to non-personal, nature of the wrong committed). However, they were not swayed by those considerations as the non-psychopaths were.<sup>116</sup> Another way to put this point about lack of normative force for the psychopath is to say that the psychopath is aware of the morally relevant effects of his actions, but does not regard these effects as holding sufficient importance for his choices.<sup>117</sup>

The second claim, which I have not previously contested, is that psychopaths cannot be sensitive to the demands of others. I take ‘sensitive’ to mean ‘able to register the demand and the demand’s weight’. However, I believe that Shoemaker’s use of the term implies a registering and an affective trigger which makes one feel the weight of the other’s demands. Once more, I will argue that the psychopath *can* be sensitive to the demands of others (in the sense that they can register the demands and the weight of the demands) without the need of affective mechanisms. Shoemaker claims that the psychopath is aware that demands are being made of him; however, is unaware and incapable of being aware that those demands are sometimes moral in nature (i.e., a significant or special affective weight attaches to the demand). Given the psychopath’s affective disorder, the affective significance of the demand is lost. The question that

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<sup>116</sup> This is because the psychopaths in the study made no significant differentiation in the importance of moral considerations and non-moral in their final judgment, though they understood that moral considerations do hold more weight in society when determining the positive viability of an action.

<sup>117</sup> The view that psychopaths do not take moral considerations as relevant is partly taken from Matthew Talbert in his reply to Shoemaker in “Accountability, Aliens, and Psychopaths: A Reply to Shoemaker,” *Ethics* 122 (2012): 572-574.

needs to be addressed is: ‘how can a psychopath appropriately respond to moral demands if their moral awareness or recognition is purely cognitive and devoid of feeling’?

I argue that if the psychopath’s moral recognition is functioning in the sense I outlined (following Zhong) in the previous chapter (i.e., if they are aware that there are moral concepts, rules and principles, which apply to certain situations), then being responsive to those reasons is a matter of rationality, and hence is not necessarily reliant on caring for the individual making the demands, which is affectively driven.<sup>118</sup> In fact, being sensitive to the moral demands of others seems to be a three-step process. The first is actually registering that some demand is being made of you. The next is registering that some of those demands are moral demands. The third and final step is recognizing that those moral demands hold special or significant weight. Shoemaker admits that psychopaths know that demands are being made of them. I believe I have shown in the last chapter that they also know what moral demands are, and are capable registering them. I now want to argue that the third step is also possible for the psychopath. Given that psychopaths know that some demands being made of them are moral demands, and that they know that moral demands have a special or significant weight, it seems to follow that they could recognize that the moral demands being made of them by another person would hold special or significant weight, without the need of affective mechanisms. The recognition of the weight or special consideration of moral demands

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<sup>118</sup> In other words, one understands that there are demands being made of them and that some of those demands hold ‘special’ weight given that they are moral demands; however, you understand this without feeling the weight of the demand yourself. The affective mechanisms that help drive the weight of the demand and the perceived importance are not present. Not having this affective weight present does not take away from the fact that one is still registering that a demand (moral or not) is being made of them.



need not be affectively driven. The psychopath can know that moral demands constitute a class of reasons which hold special or significant weight to their holder. However, this does not mean that the demand must hold special or significant weight for the psychopath. The psychopath will not experience the affective “hit” non-psychopaths do when presented with a moral demand, which hints at the demand’s importance.

Even if Shoemaker granted me the first two steps, it is likely that he would not agree with me regarding the third step (the recognition that moral demands hold special or significant weight). Shoemaker may say that simply being aware that these demands hold weight to the holder is not the same as recognizing that those demands should hold significant weight for you. In other words, the significance of moral demands is still lost on the psychopath, given his affective disorder. Hence, the psychopath would still not be able to respond to reasons effectively, given his disorder.

Nevertheless, I believe that psychopaths do understand that when someone makes a demand of them (moral or otherwise), that person expects that their demand will hold some weight in the psychopath’s deliberation. The psychopath is sensitive to the demands of others in the sense that the demand can have some influence on the psychopath’s decision making. Reason-responsiveness requires that the agent in question be open to the demands (reasons) of others in a genuine sense, not that one have an emotional reaction to the demands. While the psychopath will not have the normal affective mechanisms (the affective bulwark being one of those mechanisms) which allow agents to share in the feeling of the weight of the other’s moral demands, the psychopath still has the cognitive ability to understand that the demands being made of them are moral in nature and have a special weight for the individual making them. Being sensitive to the

moral demands of others is understanding that those moral demands have a special weight and place for the individual making the demand. Psychopaths are conscious of the fact that a moral demand should, in the mind of the demand maker, hold more weight, given the demand's increased significance. Admittedly, awareness of the demand's importance for the maker does not necessarily place that moral demand on the top of the list of reasons for or against an action. Nevertheless, if 'being sensitive' is defined as being aware, conscious or affected by something (in this case, a moral demand), then, I argue, psychopaths *are* sensitive to moral demands and thus have the necessary capacity, given that the demand does serve as a factor (even if it is only a small one) in their deliberation.

In the case of moral demands, the expectation is that the demand will be given a higher priority than other non-moral reasons, but this expectation is not normatively significant to the psychopath. This can be seen in the psychopath's moral deliberation. In the Koenigs study, psychopaths did not give special weight or value to 'moral reasons'. For example, in the various trolley problems given to the psychopaths and non-psychopaths, psychopaths did not show special preference to the moral value of not personally (literally pushing a person over a bridge) harming another individual. The non-psychopaths in the test group doubled back on their initial responses and highlighted the unease they felt actually pushing another person over the bridge. The value of not personally harming another seemed to override their initial judgment of the situation and choice of action.<sup>119</sup> For the psychopath, the moral demand being made of him is just one factor among many. While psychopaths may know that the particular moral consideration

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<sup>119</sup> Michael Koenigs, "Utilitarian moral judgment in psychopathy," *SCAN* 7 (2012): 708-714, accessed May 20, 2015, doi:10.1093/scan/nsr048.

in question holds special weight for the other person, and that this consideration needs to be addressed in their own reasoning, that moral consideration may not necessarily affect the psychopath in the same manner it would typically affect non-psychopaths. Even if the demand being made is ‘morally obligatory’, the psychopath, or anyone else for that matter, could knowingly choose to violate that demand because there is a perceived alternative course of action which they believe is more important at this time than fulfilling a moral obligation.<sup>120</sup> If a moral demand is not satisfied, it does not necessarily mean that the individual that denied the demand is insensitive. Here, I refer the reader to the quote that began this section, “Just because I don’t care doesn’t mean I don’t understand.” While psychopaths may not care about a particular moral demand being made of them, they are still capable of understanding that the demand has some weight or importance for the individual making that demand. It may be the case that the moral demands placed on the psychopath are not important enough to dictate his actions. They may not care enough about those demands to fulfill them. However, this lack of care is not indicative of a lack of understanding.<sup>121</sup>

Now, my opponents could say that knowing that a particular moral consideration will motivate another person to act given that consideration’s importance to them is not the type of understanding necessary for moral responsibility. It would then be the case that even if the psychopath were to act in accordance with that moral consideration, they would still not be doing anything morally praiseworthy, given his lack of proper motivation. However, I believe this is mistaking motivation for understanding. What I am

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<sup>120</sup> Harry Frankfurt, *The Importance of What We Care About* (Cambridge: Cambridge University Press, 1998), 81.

<sup>121</sup> Frankfurt, *The Importance of What We Care About*, 82.

arguing for in this section is that psychopaths *can* respond to moral reasons appropriately, which means that moral reasons are given an elevated standing in their moral deliberations. If psychopaths are capable of understanding that moral considerations (for the most part) hold special weight, or have a higher standing than non-moral considerations in moral deliberation for other people, then when the psychopath is presented with these moral considerations and yet decides to forgo those considerations after deliberating, it is not the case that they are insensitive to them; rather, other considerations simply held more sway. The psychopath may not be motivated to act on these moral considerations in the same manner that non-psychopaths are. However, his reliance on non-affective motivation does not alter the fact that the psychopath was aware of the importance of the moral considerations and took those considerations into account. Moral considerations are one kind of reason; non-moral considerations (though not always ideally) can trump or supersede them. What Shoemaker claims is that the psychopath has no access to moral considerations, given that they are not sensitive in the appropriate manner. However, I believe that there is ample evidence to suggest that being sensitive to the demands of others, in the case of being reason-responsive, is being aware that a moral demand is being made of you and being sensitive (in the sense that one is taking that demand into consideration) to that demand in your own moral deliberation. The psychopath is capable of being sensitive to the demands of others in this way.

#### *Fields - Moral Blindness*

Lloyd Fields claims that the psychopath is morally “blind” to the demands of others. The psychopath’s lack of care towards others is the problem here. If one cannot care for the wellbeing of another, one cannot stand in a moral relationship with them.

Fields seems to believe that the psychopath's lack of care is total in nature. I, on the other hand, believe that some level of care is possible. Thomas, for example, seems to be capable of caring for individuals (in her case, siblings and close friends) for more than their perceived or imagined utility. Thomas notes that she cares enough for some of her close friends and family to actively seek to promote their wellbeing with no selfish or ulterior motive in mind.<sup>122</sup>

If we are to take Thomas' biography of her life seriously – and I see no real reason why we should not, given her overall account – it would seem that at least some psychopaths are capable of caring for others in genuine ways. Even if psychopaths fail to register some cues or hints that the other is giving them regarding their needs and wants, so long as the psychopath can consistently try to orient their actions for the enhancement of another, I believe it is fair to say that psychopaths can be in a caring relationship. What it means for a person to care for something or someone is characterized by Harry Frankfurt as follows:

“A person who cares about something is...invested in it. He *identifies* himself with what he cares about in the sense that he makes himself vulnerable to losses and susceptible to benefits depending on whether what he cares about is diminished or enhanced...he concerns himself with what concerns it, giving particular attention to such things and directing his behavior accordingly...”<sup>123</sup>

Insofar as psychopaths are partly devoted to something or someone in this manner, it can be said that they genuinely care for that thing or person.

Even if this level of care is possible in particular relationships, one could still be hard-pressed to claim that individuals that are not friends or family can stand in a moral

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<sup>122</sup> M. E. Thomas, *Confessions of a Sociopath* (New York: Crown Publishers, 2013), 4.

<sup>123</sup> Frankfurt, *The Importance of What We Care About*, 83.

relationship with psychopaths in general. I argue that there is a general level of care and concern that the psychopath is capable of, which places him in a moral relationship with others. A general level of care or concern can be made up of ideal norms, obligations and expectations that dictate expected behavior in any relationship. At this general level, individuals are just required to not harm or hinder another individual.<sup>124</sup> Thomas notes that at this general level affective mechanisms are not needed. I can care enough about these general rules to follow them because they make rational sense. For example, I do not harm others because I do not want others to believe that harming me is ok. Part of her life is devoted to care at this general level, as her actions and beliefs clearly show. I believe that it is at this general or basic level of care for others that psychopaths can stand in moral relationships with others.

*Section Three: Reply to Matthews: More Than a Feeling*

As noted previously, Eric Matthews argues that psychopaths cannot recognize moral considerations or reasons. This lack of recognition can be seen in two ways. The first is via the psychopath's actions, which are contrary to moral standards. The second, which is I believe more important than the first, is that psychopaths do not understand that some of their actions require a moral justification. Given psychopaths' poor moral development and affective disorder, they are effectively morally insane, according to Matthews.

I will respond to the claims made by Matthews in the following manner. First, I will argue that not all psychopathic actions reflect a complete lack of understanding of

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<sup>124</sup> This general level of moral relationships is akin to the general or specific level of moral ideas, norms, and demands that T.M. Scanlon sets up in *Moral Dimensions*, 2008. This is also consistent with Koenig's conventional level of understanding, where individuals refer to rules, regulations and authority when seeking to justify their actions.

moral standards.<sup>125</sup> Second, I will argue that psychopaths *do* understand that at times a moral justification is demanded of them; however, they may freely choose not to provide one. I believe the first claim, that psychopaths express a lack of moral understanding via their actions, has already been addressed in this dissertation, but I will repeat the point here once more. I believe that Matthews is addressing the actions of secondary psychopaths when he says their actions reflect a lack of moral understanding. Recall that I am addressing the actions of primary psychopaths in this dissertation. Psychopathic actions are not consistently contrary to moral standards. Thomas is an example of this, but there are others. In the previous chapter, I discussed the findings of Zhong, who noted that psychopaths tend to use highly utilitarian methods in their moral deliberations. Furthermore, research conducted by Daniel Bartels and David Pizzaro also indicates that psychopaths tend to favor utilitarian responses and actions.<sup>126</sup> So, it is not that psychopaths act in ways that disregard any moral standard; rather, they are capable of following some understandable version of utilitarian moral standards.

What I believe Matthews is referring to when he claims that the psychopath's actions are contrary to moral standards is that the psychopath's actions fail to take into consideration affective weight. However, this is different from not understanding moral standards. Psychopaths, like others, may fail to conform to moral standards, but this does not mean that psychopaths lack an understanding of those standards.

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<sup>125</sup> I use the term psychopathic here to refer to actions done by psychopaths, not solely those actions which normally we refer to as psychopathic given the severity and justification of the harm.

<sup>126</sup> Daniel Bartels, David Pizarro, "The mismeasure of morals: Antisocial personality traits predict utilitarian responses to moral dilemmas," *Cognition* 121 (2011): 156-157.

Matthews' second point is that psychopaths do not recognize that in some instances a moral justification is required of them. Can someone know that a moral justification – or any justification, for that matter – is demanded and not feel compelled to provide one? I think the answer is yes. Furthermore, I do not believe that not feeling compelled to give a moral justification for your action means that you do not understand that one is being asked of you. I argue that the psychopath has the capacity to know when a moral justification is needed, but is not compelled to provide such a justification.<sup>127</sup> I believe this unwillingness is due to psychopaths' affective disorder. Thomas gives us a clear example of this when she writes that she feels no obligation to give a justificatory reason (at times), although she is fully aware that one is being demanded of her.<sup>128</sup> For Thomas, as well as other psychopaths, the affective weight or need to respond to these demands is not present. What *is* present though is the understanding that a moral justification – or any justification – is needed. I believe that capacity vs. willingness or compulsion is the real issue here. Psychopaths possess the capacity to register when a moral justification is needed, but may not always be willing or feel compelled to provide such a justification, given their affective disorder and the fact that they do not view moral demands and justifications as any more important than non-moral demands and justifications. In other words, for the psychopath there is nothing particularly special about moral demands which obligates them to respond with a moral justification.

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<sup>127</sup> To be clear, when I say 'compulsion' or 'compelled' to provide a justification I am referring to the affective push we get to provide one. This push is affective, is natural, and is socially reinforced from childhood (i.e., we are forced as children to explain ourselves and our actions and as adults this process continues).

<sup>128</sup> M.E. Thomas, *Confessions*, 8.



With all this being said, Matthews could respond by saying that part of being reason-responsive to moral demands is having the willingness or inclination to provide moral justifications when prompted.<sup>129</sup> Matthews could then say that if psychopaths are unwilling to provide a moral justification, they cannot be considered reason-responsive, given that they are failing to appropriately respond to moral demands. Once more, Matthews could say that part of recognizing moral demands is being aware of one's obligation to provide a moral justification for one's action or inaction, and being inclined to provide a justification. This compulsion to respond is linked with the earlier discussion on moral training and education. As children, we are forced to justify our actions, and sometimes we are forced to provide a moral justification. This demand for justification becomes an expected practice, and, given what I have called our affective bulwark, this practice becomes something we feel obligated to do. Non-psychopathic individuals, for the most part, feel this need to respond when a response is asked of them. Psychopaths, on the other hand, do not experience this compulsion, given their affective disorder. So how do we reconcile the fact that psychopaths do not experience the same internal push or motivation to provide a justification for their actions with the fact that they are required to be able to provide a genuine justification? Being reason-responsive requires that the agent be capable of providing a genuine justification, in this case a genuine moral justification. As I argued in Chapter Two, and argue throughout the dissertation,

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<sup>129</sup> Part of the willingness or inclination I argue stems from the affective bulwark. As was noted in chapter three, part of moral learning is habituation and reinforcement. Part of the reason we are inclined to provide justification for our action is because of the habituation of doing something that is perceived as wrong and being forced to answer for it. I argue that the bulwark here acts as a early emotional warning to justify yourself given that you are either in the moral right (righteousness for example), or wrong (shame, indignation, etc.).

psychopaths are capable of making moral judgments. Their judgments are informed by moral concepts, though they do not experience the final affective push that non-psychopaths do. If psychopaths do make moral judgments, it seems clear that they *could* provide a moral justification for their actions that would be intelligible. In other words, psychopaths can provide justificatory reasons for their actions that make reference to the moral norm or rule that they may have violated. As Zhong argues, psychopaths can provide moral justifications for their actions that are intelligible and make clear reference to why they may or may not commit a harm. In the trolley examples in the experiment conducted by Koenigs, psychopaths provided justifications for their choice of action or inaction that not only addressed the harm in question, but were also consistent with the justifications that non-psychopaths provided.

So, I believe that I have given an account of the type of justification that psychopaths could provide. Now I will give an account of why they would provide it without the motivation internal to most non-psychopaths. If psychopaths lack the affective motivation that normally drives non-psychopaths, what could make psychopaths want to provide justifications (moral or otherwise)? I believe the answer rests in the idea that a moral identity is not something one can create independently. While I may do what I believe is right and avoid what I believe is wrong, a key part of my moral identity is how the moral community views me. Being a member of this moral community means that one is capable of being held accountable and answerable and can have one's actions attributed to them. Psychopaths have a vested interest in not being detected and fitting in; and while social pressure in the form of shame or guilt does not work on psychopaths, the desire for social acceptance may provide them with the necessary motivation to act in

socially acceptable ways (in this case, by providing a moral justification if asked). So, while psychopaths may not feel obligated or motivated to respond to moral demands as such, because they do not believe that moral demands require special justification, they may well be motivated to respond given that a justification is necessary if they are to keep their moral identity intact in the community.

In this chapter, I have argued that psychopaths are responsive to an appropriate range of reasons, some of which are moral reasons. I have also argued that psychopaths are capable of registering moral considerations without having to rely on affective mechanisms. What this means is that the psychopath knows that moral considerations and demands have a special or significant weight. Furthermore, they know this even though they may not endorse the view that moral considerations *should* have more weight than non-moral considerations. So, while psychopaths may not endorse the view that moral considerations should have priority over non-moral considerations, they are still aware that for others (and society at large) there exists a hierarchy. I do not believe that the affective bulwark, which partly drives non-psychopaths' compulsion to respond to moral demands, is necessary in order for genuine moral deliberation to take place.<sup>130</sup> The bulwark acts as a social tool which reinforces expected social practices. To be reason-responsive is to have the capacity to be open to reasons, moral and non-moral, which should factor into one's own moral deliberations. The psychopath is capable of grasping moral demands as a distinct class, even though they may not believe that they hold any more significant weight than non-moral demands on a personal level. The fact that psychopaths may not endorse the view that moral considerations should have priority

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<sup>130</sup> This has already been discussed in detail in previous chapters, thus it will not be discussed here.

over non-moral factors does not mean that they are not capable of taking moral reasons as reasons for or against action.

Thus far, I have argued that psychopaths possess the relevant capacity for the acquisition of moral knowledge and that they are also capable for being reason-responsive to both non-moral and moral demands. The aim of this chapter was to show that affective mechanisms are not needed for one to be *sensitive* (in the sense that one feels a certain way) to moral demands. In the case of the psychopath, I have argued that being sensitive amounts to being capable of being aware that moral demands are being made and being open to those demands having influence in your own moral deliberations. This reason-responsive capacity is possible for a psychopath, given that moral knowledge can be attained via cognitive mechanisms, as was discussed in Chapter Two. Chapter Four will focus on the capacity to control one's actions, and on how the psychopath can be motivated to act in accordance with moral demands.



## Chapter Four: Control

Chapter Four is intended to show that the psychopath has control over their actions, notwithstanding their affective dysfunction, which prevents him from affectively empathizing with others. I accept that for an agent to be held morally responsible for their actions they must be in control of their actions. Now ‘control of their actions’ must be explained further. In this Chapter I will be discussing the arguments put forth by Neil Levy, Anthony Duff and Lloyd Fields, all of whom claim that it is the psychopath’s lack of emotion or emotional understanding that prevents them from controlling their actions. As I see it, there are two relevant factors that Levy, Duff and Fields consider when determining if an agent is in control of their actions.<sup>131</sup> The first is whether the agent has the ‘independent’ ability to choose a course of action for himself. What this means is that the agent in question is not under some foreign compulsion. Foreign here means an influence other than that desired by the agent. Foreign compulsion can be cashed out in many ways. The agent may be physically forced to act in a manner that is not of their own choice, the agent may be manipulated into believing false evidence resulting in an action that was not desired, or the agent may be under some internal compulsion over which they have no control. Second it is important to determine if the agent possessed all the relevant knowledge to make a fully informed, and thus, fully controlled choice.<sup>132</sup> For

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<sup>131</sup> I understand that there is extensive literature on control, but since my aim is to undermine the arguments that psychopaths lack moral responsibility I do not think it necessary to give an account of control that goes beyond what my opponents have presented.

<sup>132</sup> This is clearly an ideal situation. In the real world, we are not always presented with all the relevant information that is needed to make a fully informed choice. The reason for this strong language is that my opponents believe that moral choices have an emotional aspect to them that psychopaths do not possess. The emotional understanding

Levy, the psychopath is missing the capacity or ability to differentiate moral from conventional transgressions. This incapacity results from a functional failure, given that the psychopath lacks the necessary ability to process certain emotional cues. So, at a functional level, the psychopath is not registering and factoring some relevant information. Duff argues that the psychopath is missing emotional knowledge. For Duff, the psychopath is incapable of understanding value, which results in him missing some relevant knowledge in their decision making process. Finally, Fields argues that the psychopath lacks the type of resistance or self-control over what he calls self-regarding desires.

### *Informed Choice*

Neil Levy claims, rightly, that having control over one's actions has rather demanding epistemic conditions. One of these conditions is the capacity to differentiate between moral and conventional transgressions.<sup>133</sup> Levy takes this capacity to be rather basic in nature, given the fact that young children can easily distinguish the two types of transgression. Moral transgressions are violations that are deemed wrong even in the absence of a direct authority figure claiming that the transgressions are immoral, while conventional transgressions are authority dependent. So, for example, hitting another classmate, even with the teacher's permission, would still be wrong, while a male student wearing a dress to school is only wrong because his teacher says as much. Levy takes

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here is relevant information that is not accessible to the psychopath when deciding a course of action, thus their choice is constrained beyond their control.

<sup>133</sup> I am uncertain if the "capacity to differentiate between moral and conventional transgressions" is a capacity in its own right, or one factor among many when we gain moral knowledge. At this time I will treat this 'capacity' put forth by Levy as a mechanism which we use, along with others, to attain moral knowledge.

these two categorizations (moral and conventional) as natural or implicit.<sup>134</sup> This categorization is something that a psychopath is incapable of doing, according to Levy. The psychopath categorizes all transgressions as conventional, and, thus, authority-dependent in nature. For Levy, the psychopath does not have the relevant knowledge needed for proper categorization of moral and conventional transgressions. This incapacity is because of the psychopath's lack of ability to process certain facial cues of distress, pain and fear. In other words, it is the psychopath's emotional processing deficit that excludes them from this knowledge.<sup>135</sup>

With the psychopath's cognitive incapacity in mind, Levy can move to his conclusion that the psychopath does not have the relevant knowledge needed for moral knowledge. Psychopaths have no understanding of reasons why a particular action is considered wrong, and, in light of this, cannot be in full control of their actions. For Levy, control is at functional level; the level of behavior and cognition.<sup>136</sup> The psychopath cannot control their behavior in light of a failure to recognize the emotional cues of others. So, when it comes to control of morally impermissible actions, the psychopath is unable make an informed choice because at the functional level they cannot control their actions (could not have done otherwise). They is unable to take in and process the cues from others that, typically, non-psychopaths can. Once more, these

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<sup>134</sup> Neil Levy, "The Responsibility of the Psychopath Revisited," *Philosophy, Psychiatry, & Psychology* 14 (2007): 131, accessed Jun 30, 2017, doi.10.1353/ppp.0.0003.

<sup>135</sup> For Levy, part of what it means to come to know some act is wrong is derived from the reactions you get from others. Levy links the psychopaths' propensity to violate moral rules with their lack of ability to process facial signals - particularly facial cues of fear and distress. This inability means that part of the natural social learning that takes place when you do violate a moral rule is lacking.

<sup>136</sup> Neil Levy, "Norms, Conventions, and Psychopaths," *Philosophy, Psychiatry, & Psychology* 14 (2007): 168, accessed February 16, 2016, doi:10.1353/ppp.0.0002.



cues act as a type of reinforcement and initial stopping point for actions. Typically, if we are committing or have committed an action that drew negative facial cues, such as distress, we stop the action or refrain from doing it in the future, given the effect that those cues typically have on us. The psychopath is not equipped with this emotional processing of information via facial cues, and as a result, cannot, according to Levy, make an informed choice. So, at a functional level, the psychopath's inability to process and understand emotional cues from others results in an upstream failure - because they lack the emotional processing ability, they cannot inform himself as a non-psychopath typically can.

#### *Emotion and Epistemic Knowledge*

Anthony Duff's view, simply put, is that in the psychopath's life "[one] cannot find...any intelligible dimension of value, emotion, or rational concern: and that this lack is logically connected to an inability to understand this dimension of the lives of others; the values, interests, and emotions which inform their lives and actions; the moral prudential, and emotional aspects of his own actions."<sup>137</sup> Simply put, the psychopath has no sense of value in their life to guide or aid their decision-making. They have no values to follow or uphold which can help sway and guide their choices. Because of this, they also lack the ability to perceive these values in others. What this will mean in the long run, for Duff, is that the psychopath does not have 'full' or 'complete' control over their actions because they are lacking any sense of value in their decision-making process, nor can they appreciate the inherent value in others' decision-making processes.

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<sup>137</sup> Antony Duff, "Psychopathy and Moral Understanding," *American Philosophical Quarterly* 14 (1977): 191.

For Duff, the psychopath is disordered, which means that they have an abnormal or harmful impairment. Duff claims that the particular capacity that is lacking is the capacity for rational human life. The capacity for rational human life can be broken down into two further capacities. The first is an intellectual capacity to reason about empirical facts (their surroundings, their actions and the consequences of those actions). The second is a control capacity: a capacity to control contrary impulses in light of reason (in other words, the agent can control their impulses in light of reasons to do otherwise).<sup>138</sup> It is this latter capacity which is of interest in this section.<sup>139</sup>

Duff claims that the psychopath is incapable of emotional or moral responses such as love, remorse, or concern for others. Although the psychopath may not be intellectually incompetent, they are still unable to grasp the moral and emotional aspects of the lives of others.<sup>140</sup> What I take this to mean is that the psychopath is incapable of empathetic responses to emotions such as love, or concern for others. As was stated in the opening section of the work, although the psychopath has an affective dysfunction which affects their ability to process negative emotions in others (fear being the most obvious), the psychopath *is* capable of processing positive emotions in others. As for whether the psychopath can experience those positive emotions, there is not enough data to argue conclusively either way. I believe Duff argument takes an emotionist position here by

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<sup>138</sup> Duff, “Psychopathy,” 189.

<sup>139</sup> As an aside, I believe that Duff would be suspect of the story Thomas gives us regarding her emotional control. Thomas does express times of rage or anger that would typically not engage non-psychopaths to the same degree. She notes that she has had moments where anger has taken momentary control, but she manages to temper her anger. In addition, she gives us an account of mistreating and undervaluing some of her past partners. So, there is an emotional callousness present; however, this is not the norm. Thomas gives us several other accounts of helping friends and family in need, donating to charity and experiencing some connection to religious beliefs.

<sup>140</sup> Duff, “Psychopathy,” 191.

arguing that the psychopath is missing a key emotional ingredient to life. Psychopaths cannot fully grasp the nature of their actions or the action of others because they cannot understand the emotional significance of those actions. While Duff claims that the psychopath knows what they are doing factually;

“he can see that *others* find such matters as death, love friendship, career, important, and that they are irritated or annoyed by his actions and responses. But his understanding is still deficient; for he cannot see *how* these things can be important, how they can provide reasons for action and judgment; he cannot understand the emotional and moral significance these aspects of life have for others. And thus he cannot understand the “nature and quality” of his actions, since he has no grasp of these aspects of them... [h]e is not a man living by unconventional or unusual values; for he has no rational values, concerns, or interests at all; that dimension of thought and experience which he cannot understand in the lives of others is equally missing from his own... [h]e is more like a mental defective than a psychotic; his grasp of values and concepts is *lacking*, not distorted.”<sup>141</sup>

The life of a psychopath is not connected to any metaphysical or ethical tradition; their actions and choices are unintelligible to us.<sup>142</sup> In other words, the psychopath’s actions are only intelligible if the values they uses to guide their actions are shared values. Even though the psychopath can give a factual account of their actions, knows that other people in society find moral and non-moral reasons important (here Duff points to love, friendship, and one’s career), and knows that others are annoyed or offended by their actions and responses, they cannot understand why these values (love, friendship, concern for others, career, etc.) are important, or how they could provide reasons for

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<sup>141</sup> Duff, “Psychopathy,” 193.

<sup>142</sup> Duff, “Psychopathy,” 192-3. I believe that Duff is not referring to a strict ethical tradition such as deontology; rather, I think he means some common or shared ethical value system. For example, Duff notes that love, friendship and concern for others are shared ethical values. The psychopath, according to Duff, does not share in any ethical value system that could help guide or make sense of their actions.

one's actions and judgments. They cannot understand the emotional and moral significance of those reasons in others, or in themselves.<sup>143</sup>

From here, Duff claims

“...we cannot find in a psychopath's life any intelligible dimension of value, emotion, or rational concern: and that this lack is logically connected to an inability to understand this dimension of the lives of others; the values, interests, and emotions which inform their lives and actions; the moral, prudential, and emotional aspects of his own actions... thus... there is a close logical connection between two commonly identified features of psychopathy: firstly, that it involves an incapacity for such emotional and moral responses as love, remorse, and concern for others...[and] that a psychopath, although not intellectually incompetent, is unable properly to understand the 'nature and quality' of his acts, since he cannot grasp those emotional and moral aspects which are as much a part of them as their empirical features...a psychopath is not a rebel, who *rejects*...conventional values and emotion...he is a man who has never come to understand, or to share in, this dimension of human life.”<sup>144</sup>

While psychopaths are able to intellectually recognize the criteria others use to make moral judgments, they simply are not capable of being concerned for the values that make up those criteria. The psychopath cannot see why these moral values are practical.<sup>145</sup> Understanding, as Duff sees it, requires that we possess shared moral values, have a moral language of our own, and seek to find the connections between our values and the values of others. Unless we possess moral values of our own and are committed to those values as practical guiding values, we cannot understand similar practical values in others. It is here where the psychopath fails to understand. For Duff, understanding a value means that one cares for that value, and that one is moved to act or make a moral

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<sup>143</sup> Duff, “Psychopathy,” 193.

<sup>144</sup> Duff, “Psychopathy,” 191-92.

<sup>145</sup> Duff, “Psychopathy,” 194.

judgment based on it. Understanding values in this sense means possessing emotional and imaginative capacities which the psychopath lacks.<sup>146</sup>

For Duff the psychopath is not a moral rebel who has an understanding of conventional moral values, but chooses to rebel against them. Rather, the psychopath's life is devoid of all notions of value, moral and non-moral concern. Psychopaths simply cannot understand 'our' values because they possess none of their own. They cannot understand the meaning behind their actions or the actions of others; they cannot control their actions in light of any values because they have not developed the emotional capacity to fight their impulses and be guided by moral values and judgments. The psychopath has no conception of these values as providing any reason in and of themselves for action<sup>147</sup>. To put this in Duff's own words, "...we can legitimately extend the notions of rational understanding and control, and say that a psychopath *is* unable to understand the nature and quality of his acts, or to control them rationally..."<sup>148</sup> What we have here is a failed rational connection. The psychopath fails to understand that holding a value requires us to be concerned for that value when we are acting or making a moral or non-moral judgment. Psychopaths simply act on their impulses and are not able to see that holding a value, as Duff notes, provides reason for acting on that value. They are not able to see this in themselves or in others, which means that our lives are unintelligible to the psychopath. They are not rebelling against our values; they are unaware of them in an essential way - emotionally.

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<sup>146</sup> Duff, "Psychopathy," 194-5.

<sup>147</sup> Duff, "Psychopathy," 198-9.

<sup>148</sup> Duff, "Psychopathy," 190.

*Acting on a whim*

Lloyd Fields proposes another argument for the view that the psychopath is incapable of controlling their actions in light of an epistemic incapacity. Fields argues that the psychopath is incapable of forming other-regarding moral beliefs. This inability means that while the psychopath may have the capacity to acquire moral concepts, they are incapable of acting for ‘other-regarding moral reasons’<sup>149</sup> For Fields,

“[t]o have a moral belief is to accept a practical principle as a moral principle. A "principle" is universal in form: it predicates something of *any* item of a certain kind. The kind of item in question may be described in terms of a greater or lesser generality or specificity. A principle is practical if it carries some implication concerning what actions are to be performed or what actions are to be avoided. Thus, that one ought not to run away with other people's belongings is a practical principle in this sense...”<sup>150</sup>

So, for Fields, possessing a moral belief as a practical principle comes with the expectation that the holder have reasons internal to the principle that are motivating him to act or to refrain from acting. Fields then goes on to claim that there are three conditions that are each individually necessary and collectively sufficient for accepting any principle as a moral principle. The first is that the holder be motivated to act in accordance with that principle. The second is that the holder takes this principle, which they believe is a moral principle, as supplying the basis of a justifying reason for an action, because that reason should have higher priority than non-moral reasons for action of forbearance.<sup>151</sup> In other words, this second condition makes a normative claim about the priority of what

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<sup>149</sup> Lloyd Fields, “Psychopath, Other-Regarding Moral Beliefs, and Responsibility,” *Philosophy, Psychiatry, & Psychology* 3 (1996): 266.

<sup>150</sup> Fields, “Other-Regarding Moral Beliefs,” 267.

<sup>151</sup> Fields, “Other-Regarding Moral Beliefs,” 267.

one believes are moral reasons to act or refrain over non-moral reasons.<sup>152</sup> The final condition is that the individual be “disposed to experience certain emotions and to have certain attitudes in certain situations”<sup>153</sup> In other words, if I claim that stealing another’s belongings is morally wrong, I should find instances of theft reprehensible, or if I myself steal I should feel guilt.

Fields notes that according to his account of moral principles, accepting a principle as a moral principle requires attaining a disposition to be motivated to act according to that principle, which means taking that principle as providing the basis of a justifying reason for action which should have high priority over non-moral reasons for action. Furthermore, one should also be expected to experience certain emotions and attitudes when confronted with certain situations. Fields argues that,

“ [when the principle in question requires ] other-regarding conduct, the psychopath lacks the emotional and motivational resources that are (conceptually) necessary to enable one to accept such a principle in the sense that I have indicated. That he is incapable of feeling guilty means that he is incapable of forming an other-regarding moral belief, for part of what it is to have such a belief is that one is disposed to feel guilty when one has knowingly violated it. That he inevitably gives way to self-regarding impulses means that he is incapable of forming an other-regarding moral belief that would provide the basis of a justifying reason for action, the recognition of which would motivate him to perform that action in spite of self-regarding impulses to do otherwise.”<sup>154</sup>

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<sup>152</sup> Fields, “Other-Regarding Moral Beliefs,” 272. While this hierarchy ought to be the case in all situations ideally, Fields does allow for non-moral reasons to trump the moral ones if the pull of those non-moral reasons is too strong. As I see it, this second condition provides the holder with a moral reason to act or refrain which in many cases can be rightly trumped by non-moral reasons. Fields implies that this moral reason should be given priority, but never provides the reader with a clear reason why, other than the ‘fact’ that moral reasons seem to have the backing of either the majority of people in a society or the majority of people in a particular group.

<sup>153</sup> Fields, “Other-Regarding Moral Beliefs,” 267.

<sup>154</sup> Fields, “Other-Regarding Moral Beliefs,” 272-73.

Furthermore, given this apparent lack of emotional and motivational resources, the psychopath is not subject to social pressure, which serves as a means of reinforcing and teaching shared moral principles.<sup>155</sup>

What Fields has developed is a picture in which an individual's moral beliefs provide them with a type of resistance or self-control over what he calls self-regarding desires, which will inevitably come into conflict with one's moral beliefs. When an individual makes a moral judgment, that judgment provides them with a reason to act or refrain, which is necessarily a motivating reason. In other words, if one adheres to a principle *as* a moral principle, and forms a moral judgment about some prospective action, that moral judgment is necessarily motivating, in so far as it provides the highest kind of reason (moral reasons) for action or forbearance. It is the capacity of restraint or self-control that the psychopath lacks. They simply acts on the whims of their desires, even if the desires they follow holds no special bearing or are not even particularly strong.<sup>156</sup> There is no weakness of will at play here, because the psychopath has no moral principles to uphold, they simply acts and are, in a very real sense, acted upon by their desires. The psychopath's lack of emotional understanding again means that they are incapable of respecting moral demands, because the emotional reaction which Fields believes is necessary for one to hold a moral principle is lacking. In other words, according to Fields, the psychopath cannot understand why a moral principle is motivating, in and of itself, cannot be motivated by a moral principle, and does not

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<sup>155</sup> Fields, "Other-Regarding Moral Beliefs," 273.

<sup>156</sup> Fields, "Other-Regarding Moral Beliefs," 270.



understand why any moral principle should be taken as having more priority than self-regarding desires.<sup>157</sup>

*Reply to Levy: Emotional hints and rational choice*

Levy claims that psychopaths are unable to distinguish conventional transgressions from moral ones, given their incapacity to process and understand the emotional weight or motivation behind a rule. The psychopath is incapable of assessing the moral reasons to act or stay their hand. However, while the psychopath does have difficulties processing emotional cues, such as fear and anxiety in others, as Levy maintains, this is a difficulty that can be overcome. Refer back to the spontaneous mirroring system discussed in chapter Two. When asked to focus on the emotional reactions of others, the psychopaths tested showed little to no difference in their ability to pick up the other's emotional state from non-psychopaths. Both groups were roughly even in their ability to register the emotional state that the actors were trying to convey. In other words, the psychopath was able to empathize (in the sense that they could register the emotional state, but not experience that state) with the actors when prompted.<sup>158</sup> What this implies for Levy's argument regarding the incapacity to process emotional cues is that the incapacity is really a dysfunction in propensity to emphasize,

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<sup>157</sup> According to Fields, the psychopath cannot hold moral principles because they fail to register the practical nature of holding such a principle. They fail to understand that holding a principle means that one have the motivation to act on that principle built into the principle itself. The psychopath fails to register this motivation condition and thus fails to be motivated by the principle and acts on a whim.

<sup>158</sup> Harma Meffert et al., "Reduced spontaneous but relatively normal deliberate vicarious representations in psychopathy," *BRAIN A Journal of Neurology* 136 (2013): 2550-2562, accessed May 20, 2015, doi.10.1093/brain/awt190. There are some potential flaws to the study. First, the particular sub-group in question was not specified. However, given the results of the control test vs. the focus test, it would seem that the participants were primary psychopaths. The second potential flaw is that the test does not clearly delineate between affective empathy and cognitive empathy.

not that the capacity to empathize is not present. The fact that the psychopath does not spontaneously mirror the emotional states of others does not mean that some information is blocked off or inaccessible. Rather, it means that the information is harder to attain, given that it does not come ‘naturally’. This idea of working for the right empathetic response was highlighted by Thomas in the introductory chapter, where she claims that it does take her some time to cycle through the possible responses that come naturally to an empath; and while she may never be as good at mirroring as others, or as fast to respond appropriately, this capacity is not completely absent in her.

As for the conventional vs. moral transgression categorization, the psychopaths tested did fail to clearly distinguish between the two types. Most of the justificatory reasons provided for their choice were conventional in nature, meaning the psychopaths tested believed that *all* transgressions were rule or authority dependent. Side-stepping the question of whether or not a moral rule is defined at least partly by some authority figure, be it in its inception or dispersion in society, I argue that psychopaths can in fact distinguish what makes a moral transgression moral by its essential nature vs. what makes a conventional transgression conventional. I again refer back to Chapter Two and the work of Zhong. Some psychopaths can and do distinguish personal from impersonal harms and permissible from impermissible actions. I believe that what essentially defines moral transgressions (at least those committed in a relationship, i.e., cheating, stealing, or showing a lack of care) is that they are personal in nature and are thus less permissible. Without having to generate a list of moral violations, it is rather clear that most, if not all, moral violations strike the victim and third parties as being personal violations. The reasoning (for psychopaths and non-psychopaths) for why an action was either wrong or

more permissible was based on the notion of personal vs. impersonal harm.<sup>159</sup> So, while the psychopath may not distinguish between moral and conventional transgressions on an affective level, they are still able to do so on a cognitive level. Psychopaths have the relevant information to make their choice - that relevant information being the distinction between personal and impersonal harms, which generates those uneasy (affective) feelings in others.

Thomas is a good example of a psychopath who has the relevant information and options to make an informed choice. The ability to feel the emotional pull of an emotional state for one's self does not seem necessary in order to understand what that emotional state is, or why it has such weight.<sup>160</sup> Thomas, like other psychopaths, is neither under some compulsion to act nor missing the relevant knowledge to properly inform her actions. The difference between how the psychopath and non-psychopath view their choices is not relevant to the control condition that I present in this chapter. The lack of emotional response on the part of the psychopath does not prevent them from understanding the emotional weight of another's response. To put this in Levy's terms, lacking the fully functioning emotional processing system non-psychopaths have does not mean that a relevant choice (in this case, one based on emotional reasons) is not available to psychopaths. The choice is open to them, but from an external standpoint, rather than

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<sup>159</sup> Lei Zhong, "Internalism, emotionism, and the psychopathy challenge." *Philosophy, Psychiatry, & Psychology* 20 (2013): 330, accessed February 19, 2015, doi:10.1353ppp.2013.0054.

<sup>160</sup> Refer back to the original outline of Thomas' life in the Introduction. She claims that determining the emotional state of others and selecting the socially appropriate response is not beyond her capabilities, nor is it something that comes naturally either. She will never be able to naturally mirror another's emotional state as empaths can, but this does not mean that she cannot come to learn what those states are and come to understand why those states hold particular salience with non-psychopaths.

an internal one. The relevant information can be accessed externally, via observation and assimilation. The psychopath, as we can see with Thomas, is able to come to learn the particular weight non-psychopaths place on emotion externally, and can factor those reasons into their decision-making process. Hence, they have access to all the information required to satisfy the control condition for moral responsibility.

In response, Levy may claim that the empirical work only shows, at best, that some psychopaths can empathize with others, notwithstanding the fact that some emotional states are just not present in them (incapacity to experience affective empathy). So, while the psychopath may be able to ascertain what emotional state the other is in, and even come up with the correct mirroring response, they still miss the affective point and motivation that those emotional states elicit. So, even with the empirical data, at a functional level the psychopath is still dysfunctional given that they do not, and cannot, function as a non-psychopathic individual can. Furthermore, it is this internal emotional processing system that is relevant, not the external assimilation model that I have presented.

I am willing to concede the point to Levy that the psychopath is functionally impaired and thus does not have the same robust natural capabilities as the non-psychopath. However, as was stated earlier, I argue that all of the relevant information needed to have an informed choice is still available externally to the psychopath. While the psychopath may not be able to internally distinguish moral from conventional transgressions (in the sense that they cannot experience the affective weight of moral transgressions), the necessary information for drawing this distinction can be found externally to them via observation and assimilation. As the psychopaths in Zhong's case

study highlight, psychopaths are able to distinguish personal from impersonal harms, as well as provide reasons for why the former are considered less permissible. The reasons provided were not simply that society thinks that those acts are impermissible, but rather that society thinks this because of the more unpalatable nature of those acts. The psychopaths in question were able to distinguish the relevant information to explain *why* some examples of moral violations were considered moral, and why the violations bring about an emotional reprimand. So, it would seem that the psychopath has access to all of the relevant information required to make an informed choice, albeit from an externalized standpoint. Hence, again, the psychopath satisfies the control condition.

*Reply to Duff: Externalizing Reasons*

Duff's three main points can be summarized as follows: 1) the psychopath does not possess an affective bulwark (my term) which operates as a first line of defense when the agent either acts, contemplates, or witnesses something deemed unacceptable from a moral standpoint. This affective bulwark gets cashed out as a 'gut feeling' that triggers further contemplation on the matter at hand.<sup>161</sup> 2) The psychopath cannot assign value to their choices or our moral choices, since they cannot understand the inherent value of one's moral choices, and 3), given this lack of value and of an affective bulwark, psychopaths cannot control their impulses in light of moral reasons. As a result, they act always on self-regarding impulses, never following a rational course of action in the long-term.

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<sup>161</sup> Duff does not use the term 'affective bulwark' in his work, but the process of controlling or abating behavior can be traced back to these gut feelings of revulsion or disgust. This mechanism of internal aversion is what I refer to as the affective bulwark, given that it stands as the first line of defense.

Although the crux of Duff's argument rests on the second point above, I argue that he can only come to this position from an emotionist standpoint. Duff believes that psychopaths act from impulse because they cannot understand that having values (moral and not moral) provides reasons to act. Duff claims that the psychopath can provide all of the factual details explaining why they act the way they do, and the factual reasons why others may act the way they do; psychopaths can even provide factual details about why their actions are perceived as wrong. What the psychopath is missing, though, is a true *understanding* of the violations they commit and a true understanding that the values behind choices are reason giving. The reason for this is the psychopath's emotional dysfunction.

I believe Duff would be correct were he discussing only secondary psychopaths. In fact, it was probably secondary psychopaths he had in mind when he wrote. Still, explaining why his arguments do not apply to primary psychopaths is worthwhile, since it will allow me to clarify my reasons for thinking primary psychopaths satisfy the control condition for moral responsibility.<sup>162</sup> Duff argues that the psychopath possesses no moral values (or, indeed, any values) in their life. Their lives are as unintelligible to us as our lives are to them. Now, this *may* be the case for the secondary group (I take no stand on this here). However, as I will argue, the values that are held by the primary group are intelligible to us, and vice versa.

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<sup>162</sup> Why present Duff's argument just to knock it down? While Duff may be referring to another group of psychopaths, his argument provides insightful detail into what is necessary for control and understanding (i.e., shared values and reason-responsiveness). Duff's argument, which I find rather compelling, is not counter to my own work; rather, it provides me with a template to place over the top of my own work.

Thomas presents us with a clear case in which a psychopath does in fact hold values. As was noted previously, Thomas does value her friends, family, careers, etc. More to the point, she holds particular religious values and follows a moral compass. As Thomas herself notes,

“I think it’s more interesting why I chose to buy a house for my closest friend, or gave my brother \$10,000 the other day, just because. I recently got an e-mail from a friend with terminal cancer, saying I give the most thoughtful and useful gifts and how she is so grateful to know me. I am considered a very helpful and considerate professor and I am consistently rated one of the best in the school. I am devoutly religious. I am functionally a good person and yet I am not motivated or constrained by the same things that most good people are. Am I a monster? I prefer to believe that you and I simply occupy different points on the spectrum of humanity”<sup>163</sup>

According to Duff, if Thomas holds these values, she should see them as reason giving, which seems to be the case. For example, she speaks of the bond that she and her siblings shared growing up. Collectively, they fought for each other’s success and preservation. She valued the bond that she had with her siblings and would act in ways to promote their interests. Thomas is no saint, nor is she a monster. While she may not be able to empathize with others in the same way non-psychopaths can, she is capable of a type of love and a general concern for family and friends. In other words, given her lack of empathic responses, Thomas, like any other primary psychopath, cannot experience the emotional significance attached to a particular value (no internal experience given the affective deficit), and thus cannot care for that value in the same way a non-psychopath can. However, as Thomas shows, primary psychopaths are capable of coming to care for their values as reason-giving from an external point of view (they can see that these

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<sup>163</sup> M. E. Thomas, *Confessions of a Sociopath* (New York: Crown Publishers, 2013), 24.

values, some of which they claim to hold, are accompanied by a certain kind of emotional weight that differentiates those values from non-moral values). This can be accomplished via the other side of empathy, which is cognitive. Once again, cognitive empathy is the awareness or understanding of another's emotional state, without being driven to mirror that state. Psychopaths have the capacity of cognitive empathy and are rather adept at perceiving and interpreting others' emotional states. Duff is clear that he believes that psychopaths can provide you with all these factual details as well. However, he argues that the facts are not enough. If the psychopath does not feel the emotional force, they are not capable of concern. By contrast, I argue that the emotional aspect Duff highlights as significant does not have to be experienced to be understood as a reason for action. The fact the one understands that holding X implies that one has a built-in reason for acting on X is sufficient to understand that X is reason giving. To use Thomas as an example, while she is not Jewish she does understand that her Jewish friends have a reason not to eat pork (they value their faith and the rules and regulations that come with it, thus they hold 'not eating pork' as a practical moral principle) and that the principle 'not eating pork is morally right' is itself reason giving.

Thomas and other psychopaths have values that are not unintelligible to non-psychopaths. Love (self-love mostly, and perhaps some other form of love), family, friends, career, self-promotion, etc., are all values that the psychopath has to some degree or other. In some cases, the values do become fetishized in the sense that they are pursued excessively. Here, think of the career lawyer that values their career at the expense of their marriage or friends. This may seem odd to some, but it is not unintelligible. Values are not static. The values that some psychopaths may hold may well end up on the



excessive side of normal (for example, self preservation at the cost of some loved one), but those values come from a shared core set. In the modern Western world, wealth, power, control (here I basically mean the promotion of autonomy in one's life) and self-preservation (even at the cost of others) are highly valued and common. These values are commonly associated with psychopathic personalities. So, rather than valuing nothing, the psychopath may just be valuing a non-traditional value hierarchy. What this means is that the psychopathic life is not unintelligible to us.

So, the psychopath *does* possess some values. But do they possess moral values? I take it that moral values are guidelines or standards of good and evil which help govern an individual's actions, behavior and life.<sup>164</sup> Early on in childhood, particular things (actions, behaviors, words, expressions, etc.) are forbidden or deemed bad by caregivers. Later on in life, the law, religion and other social institutions add to the list of forbidden things.<sup>165</sup> Once an individual has been reprimanded enough after committing morally bad actions, a sense of discipline is fostered. This discipline is a kind of control that the individual has gained and develops overtime. Once this discipline or control is generated, the individual has the tools within himself to distinguish the morally good from the morally evil. This cultivation of discipline is one way foster values (some of which could be moral values) and I argue that at least some psychopaths (Thomas included) are capable of this cultivation.

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<sup>164</sup> Good here refers to morally good actions and evil refers to actions deemed morally bad.

<sup>165</sup> Some of the dichotomies that exist are between the forbidden and acceptable, kind or cruel acts, and selfishness or selflessness. This list is not exhaustive by any means but it does help paint the distinction between morally good and morally bad acts

*Reply to Fields*

Fields' conclusion, like Duff's, is that the psychopath lacks control over their actions. For Fields, the incapacity in question is also one of emotional inability. The psychopath's lack of emotional understanding is tied to their lack of self-control in the sense that the psychopath sees no reason to follow other-regarding moral principles over their own self-regarding impulses. For Fields, the psychopath does not satisfy any of these conditions necessary for one to hold a moral principle as a practical principle. The main thrust of my reply to Fields is two-fold. First, I reject his third condition (in order to have control over their actions, individuals must be disposed to experience certain emotions and attitudes towards said moral principle). Second, I argue that the psychopath *can* control their self-regarding impulses in light of external and internal reasons, which have no connection (for the psychopath) to emotional capacities.

Fields' third condition seems misplaced. I believe that Fields is making a normative claim, not offering a true precondition for agential control. This normative claim is that if one claims to hold a particular principle (in this case, a moral principle that stealing is wrong), one should feel guilty or uneasy if one stole. Indeed, I take this feeling of guilt or unease to be a character trait or disposition that is beneficial and socially reinforced. However, for one to claim that an emotional accompaniment *must* be present to hold a moral principle is to necessarily link morals with emotion without justification. Perhaps, Fields would reply to this by saying that holding a principle as a moral principle requires a level of concern that gets cashed out in emotional reactions, which may include changes in attitude. One cannot truly say they love their car but have no anger at its needless destruction. This disposition, however, does not seem to be

necessary if the first two conditions are met. The third component seems to be an addition designed for behavioral reinforcement in two ways. It reinforces the fact that having these feelings acts as a deterrent for committing the act again, and it acts as a social deterrent in the sense that the emotional response becomes necessary (or it can be inferred that one did not really care for the principle in the first place). To be clear, I am not claiming that, given the variable nature of the emotional responses of different individuals, we cannot make normative claims. Rather, I am saying that individuals react differently. In addition, I am not claiming that given the relative nature of emotional reaction we cannot make normative claims. Rather, what I am saying is that the third condition Fields presents is at best a trait or disposition that one should foster, given its deterrent nature, not a necessary condition for agential control.

Can psychopaths accept principles as practical? In other words, can they be motivated to act according to a practical principle? If, as Fields notes, ‘practical’ implies a concern for the actions one takes or avoids, then, yes, the psychopath can accept principles as practical. If principle here means either a foundational truth or proposition that guides reasoning, psychopaths can be motivated to act in accordance with those principles that they deem necessary or beneficial. This seems rather intuitive given our discussion so far. The more interesting claim is that psychopaths can be motivated to act in accordance with moral principles from external endorsement. As Thomas has shown us, psychopaths can learn what motivates others and why. Thomas also notes that there must be a rational reason(s) behind morals, otherwise the sole motivation and justification for them would be emotional, with no rational grounding.<sup>166</sup> Thomas can see

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<sup>166</sup> Thomas, *Confessions of a Sociopath*, 8.

that morals (in this case more specifically moral principles) have value to her and others. While she may see moral principles are instrumental, particularly if what they dictate suits her needs (long-term and short), she also understands that they have a value all on their own (though she cannot directly experience the affective weight). This is a rather insightful and important claim. It is this external understanding of reason or motivation that I argue allows psychopaths to hold moral principles as practical principles. While psychopaths may not internally endorse the moral principle, they can endorse the moral principle externally. Thomas is a clear example of how a psychopath, if so inclined, is able and willing to follow moral dictates for reasons not related to an internal emotional motivation stemming from the moral principle itself. In other words, the psychopath may not feel inclined to follow a moral principle because of the affective weight it carries; rather, they follow the principle because there are rational reasons for its endorsement.<sup>167</sup> I may not want to harm others physically because I do not want to live in a world where others feel that they can harm me; in other words, I do not want to act in ways that will later bring harmful consequences to me. There are rational reasons for moral principles, and those reasons are open to the psychopath.

I believe that the psychopath also fulfills the second condition that the individual takes a given principle to supply the basis of a justificatory reason to act, or not. Again, so long as the moral principle has a rational backing (there are reasons for its adoption), it seems that the psychopath can take the principle as providing a justificatory reason for action or avoidance. The key here is that the principle is *a* justificatory reason, not *the*

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<sup>167</sup> As I argued in Chapter Two, this is not to say that one follows a moral rule only for the affective weight, but as was explained previously, the affective weight of moral rules does help sway an individual in their decision making.

justificatory reason. As Fields notes, there are times when moral principles can be trumped by self-regarding desires. However, the psychopath, according to Fields, cannot overcome these self-regarding desires, given their lack of emotional understanding, which gets cashed out as an inability to respect moral demands. This does not seem to be the case though. Fields has imagined an individual who acts on mere whims without the ability to exhibit self-control in pursuit of long-term goals. The psychopath does not experience weakness of will when they deviate or break a principle; rather, they simply act on their impulses, with no regard for the demands of others, or even their own desires. However, this is simply not an accurate description of what primary psychopaths are like. Thomas is an example of a psychopath who does take others' demands into consideration. While she may not always accept their demands as satisfactory reasons, she understands that those reasons are reasons that need to be factored into a decision. If and when she does go against the moral demands of another, it is not because she does not see the moral demand as a reason; she sees it as a reason for another, but not necessarily a reason for her at this time, given other demands. Furthermore, while Thomas, and all psychopaths, must battle with self-regarding impulses, it is the battle itself that highlights their control. The fact that doing the right thing (or not doing the wrong thing) is a struggle is a clear sign that the agent has some control over their actions, at least to the degree that they do not just act on whatever whim comes to mind. One should have moral principles or a code of conduct to aid in one's decision making. It is the struggle that defines control in the sense that the agent in question can see that there are reasons for acting or avoiding the course they are taking. Nor is the struggle just the preamble to the rejection of moral demands out of hand. While the psychopath may fail

more often than non-psychopaths, it not because they lack the necessary capacity for control.



## Chapter Five: Psychopaths Revisited

I began this dissertation by setting out to argue that at least some primary psychopaths can have the capacity to be morally responsible for their actions, even though they suffer from a clear affective disorder. This disorder has traditionally been the key reason for their exclusion from the moral realm. I have argued that despite their affective disorder, primary psychopaths possess three of the capacities considered by many to be necessary for moral responsibility. The three capacities are the capacity to acquire moral knowledge, the capacity to be reason-responsive to moral demands, and the capacity to control one's actions in light of moral demands and reasons.

The focus of the dissertation is on the primary grouping of psychopaths, given that its members, on the whole, exhibit lower levels of anxiety, are more deliberate and purposeful in their actions, and exhibit less impulsive and reactive outbursts, even though they manifest little to no empathy. I argued that it is the primary grouping that holds the most philosophical interest, given their seemingly normal behaviour and ability to fit in. In addition, the primary group lacks what many have taken to be a basic human quality - empathy. While the secondary group does experience some level of empathy, they also lack basic control of their short and long-term actions. In addition to having basic control over their actions, primary psychopaths on the whole are intelligent members of society, who seem to fit in at a quick glance.

From here, I presented Thomas as a case example of a primary psychopath who seems to possess the three capacities of moral knowledge, reason-responsiveness and control. What we saw from the case of Thomas was a relatively normal individual in the sense that she had close family and friends, had a good career, and generally fit into



society. Where Thomas differed from most of society was that she lacked affective empathy, was not bothered by the notion of harming others (either emotionally or physically), and did not experience the same type of affective responses to stressors that non-psychopathic individuals experience (i.e., she had little to no anxiety). We also learned that she is seemingly capable of learning and following a specific moral code, she is well socialized, she does not act solely for self-regarding desires, and she is able to take the perspective of others from a cognitive empathetic standpoint. From this cognitive empathetic standpoint, she is capable of telling what the emotional state of the other is, and which emotional responses are appropriate and expected of her. The goal of presenting the story of Thomas to the reader was to present a psychopathic individual, much like the rest of us, who still seems to function and prosper in social life. The key difference between her and us is that she is devoid of affective empathy.

I then focused on the capacity to acquire moral knowledge. I argued against the emotionist position that emotions and moral knowledge are essentially linked and that psychopaths, who lack emotions such as empathy, are therefore incapable of attaining moral knowledge. I first looked at the work of Jesse Prinz and Jonathan Haidt, in order to define what I take to be the general emotionist claim that emotions are essentially connected with moral concepts. For Prinz, in order to fully understand a moral concept, one must have experienced a certain accompanying emotion or be disposed to (and able to) feel said emotion. This clearly requires the individual to be capable of a particular affective experience, thus the psychopath is deemed to not have the requisite capacity to understand moral concepts. In other words, on Prinz's view, one cannot say someone

understands a particular moral concept unless they have the ability to feel a certain emotion or sentiment.

With this emotionist position in mind, I moved on to the arguments presented by Neil Levy, Anthony Duff and Shaun Gallagher. Levy, Duff and Gallagher all argue that psychopaths are not morally responsible, given that their affective disorder hinders their ability to acquire moral knowledge, and thus results in them not being morally responsible for their actions.

To review, Levy argued that the psychopath lacks the capacity to acquire moral knowledge due in large part to their failure to appreciate the distinction between moral and conventional transgressions. Levy took this ability to be a basic capacity that even young children possess. This distinction between authority dependent rules and moral rules that are seemingly not governed by authority was a key factor in Levy's understanding of proper moral development. Levy pointed to interviews designed to test for this moral/conventional distinction. The research that Levy cites was done on children and incarcerated psychopaths. The psychopaths tested failed to make the moral/conventional distinction, while the children tested could. Levy argued that it was the psychopaths' affective disorder that limited their ability to make the moral/conventional distinction. Levy also argued that the psychopath's inability to distinguish fearful or distressed facial expressions results in a stunted or failed step in their moral development, given that they were not receiving some necessary information that non-psychopaths received along the way. For Levy, the ability to register fearful or distressed facial expressions helps reinforce the severity and nature of the wrong being done. The fact that the psychopath lacks the ability to register these signals results in

hindered moral development. It is the psychopath's lack of an empathetic response to these facial cues that is critical here when dealing with proper moral development. For Levy, the psychopath is missing this key piece of moral information given their disorder.

Duff and Gallagher also argue that the affective disorder present in the psychopath hinders their moral development. Duff argued that psychopaths failed to grasp the essential nature of moral concepts and lacked the motivation to adhere to moral rules and norms. This defect in the psychopath's moral understanding was also attributed to their affective disorder. Duff argued that the psychopath was incapable of being concerned for others and lived a life devoid of all value.

Gallagher also pointed to the psychopath's hindered emotional development to explain their lack of moral understanding. For Gallagher, individuals need to fulfill certain preconditions that allow them to develop moral sense or wisdom. He concludes that the psychopath lacks this moral wisdom, given their affective disorder, and is thus not capable of tracking what the proximate good or wrong thing to do would be in any given situation.

I argued that the psychopath's moral development may be stunted compared to non-psychopaths, but, so long as their cognitive empathy skills are intact, they can develop an understanding of emotions that allows them access to moral knowledge. As we have seen, recent findings by Meffert have shown that psychopaths are capable of identifying the facial cues that Levy believes are critical for proper moral development. The results of the tests conducted by Meffert indicated that when prompted to look for

these facial expressions psychopaths *could* identify them.<sup>168</sup> However, they failed to identify these signs when not prompted. What these tests indicate is that the psychopath suffers from reduced spontaneous empathetic mirroring. If these tests hold true, it means that psychopaths may be limited in their ability to register emotional cues, not that they lack the ability to register them altogether.

While normal socialization fosters feelings of shame or guilt when one violates a moral rule, psychopaths, who lack this aspect of socialization, may still come to understand moral rules by following another route. Koenigs' study highlighted psychopaths' utilitarian moral judgments when faced with various moral dilemmas. Koenigs' tests noted that both non-psychopaths and psychopaths reached the same moral judgment, even though psychopaths possess an affective disorder.<sup>169</sup> The psychopaths tested by Koenigs also provided the same reasons as non-psychopaths to explain how they reached their conclusion.<sup>170</sup> What this test seemed to show was that psychopaths are using cognitive as opposed to affective mechanisms when deliberating about morality. Psychopaths were able to recognize that moral harms are personal in nature and were able to provide reasons why personal harms are considered less permissible and why in certain cases committing the personal violation was permissible on utilitarian grounds.

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<sup>168</sup> Harma Meffert et al., "Reduced spontaneous but relatively normal deliberate vicarious representations in psychopathy." *Brain A Journal of Neurology* 136 (2013): 2559, accessed May 20, 2015. doi.10.1093/brain/awt190.

<sup>169</sup> Once more, the non-psychopaths referred to emotional feeling of unease after they reached their conclusion. Emotions only came in after the deliberation was done to sometimes sway non-psychopaths' choices. So while emotions or feelings were present in the decision making process, they seemingly were not necessary.

<sup>170</sup> Michael Koenigs et al., "Utilitarian Moral Judgment in Psychopathy," *SCAN* 7 (2012): 712-713, accessed May 20, 2015. doi:10.1093/scan/nsr048.

I then moved to the role cognitive empathy can play. In both types of empathy, one must take the perspective of the other; in one type (affective) you actually share in the emotion (you mirror it), whereas in the other type (cognitive) you do not share in the emotion, but still understand the emotional state of the other from an outside perspective. In this chapter, I painted a picture of an agent with a decent upbringing, who has the capacity to understand the emotional states of others via cognitive empathy, and understands why those states hold so much value or weight for others. The agent that I pictured is one who understands moral concepts, rules and norms from a cognitive perspective without the need of affective mechanisms.

In Chapter three, I then moved to reason-responsiveness. I argued that for an agent to be morally responsible, they must be able to respond to an appropriate range of reasons. Agents should be able to take all relevant reasons into consideration before they act. This also requires the agent to be capable of genuine moral deliberation, which means that they are capable of taking the reasons (some of which are moral) that others provide them with and of using those reasons for their own moral deliberation. In this chapter, I argued that psychopaths *do* have the capacity to be reason-responsive, even though they do not experience the affective weight that commonly accompanies moral reasons.

In this chapter, I argued that the psychopath *does* possess the capacity to be reason-responsive, despite their affective disorder. Specifically, I argued that psychopaths do not care for moral demands in the same manner as non-psychopaths, but that this does not mean that they are incapable of caring for those demands in some sense (cognitive empathetic standpoint). The cognitive standpoint allows some psychopaths to have a

moral point of view from which to deliberate. I argued (following the work of Lei Zhong) that psychopaths have a moral recognition system. They are aware that there are moral concepts, rules and principles that apply to certain situations. They are also seemingly aware that these moral demands hold significant or special weight for others and thus know that any particular demand should hold some weight in their own moral deliberations. This awareness is a sensitivity that was deemed mandatory by my opponents. I argued that the psychopath fulfilled this sensitivity requirement of being reason-responsive in the sense that they are aware of, conscious of, and affected by the moral demands of others. Whether or not the demand holds *significant* weight in their own deliberation has no real bearing on the actual ability to recognize that moral demands carry weight.

In Chapter Four I looked at the argument that the psychopath cannot adequately control their actions in light of moral demands, given their affective disorder. The main issue addressed in this chapter was whether or not psychopaths possess all the relevant information required to make an informed choice. As we saw, Levy argued that the relevant knowledge in this case was the ability to make the distinction between moral and conventional transgressions. Given the psychopath's affective disorder, says Levy, the psychopath cannot make this distinction. Thus they are not aware of an essential piece of information (in this case what makes moral transgressions intrinsically worse than conventional transgressions). Levy argued that given this lack of information, the psychopath cannot make fully informed choices and thus is not in full control of their actions.

Duff argued that the psychopath has no values (moral or otherwise) in their life, nor can they see value in the lives of others. For Duff, the psychopath has none of the values to uphold or follow that normally help sway and guide an individual's choices. When someone holds a value as important, they have reasons for upholding that value; the psychopath does not have this built-in guidance system.

Fields advanced a similar argument to that of Duff. He argued that the psychopath is incapable of acting on other-regarding moral beliefs. For Fields, holding a moral principle implies that one take that principle as practical. As we saw, "practical" means that the principle itself provides the justification for following or upholding it. For Fields, holding a moral principle as practical results in the disposition to act according to that principle and to feeling an emotional pain when one does not follow it. As I explained in this chapter, this emotional pain or discomfort seemed to be the work of the affective bulwark. The accompaniment of this emotional pressure results in habituation through reinforcement. The psychopath, for Fields, cannot possess this emotional accompaniment, given their affective disorder. The result for Fields was that the psychopath failed to develop the necessary self-control to overcome self-regarding desires. Thus, for Fields, the psychopath acts purely on a whim.

In this chapter, I argued that the lack of an emotional response does not prevent psychopaths from understanding the emotional weight and content of another's emotional response. Not having a fully functioning emotional processing system (in the sense of being unable to spontaneously mirror the emotional states of others) does not mean that a relevant choice (picked based on emotional responses) is not open to the psychopath. I argued that this choice is open from an external, cognitive, point of view. I also argued

that the testing done on psychopaths regarding the moral/conventional distinction that Levy grounded his argument on pointed to the opposite conclusion in many cases when replicated.

As I have attempted to show through the dissertation, the argument that psychopaths are not morally responsible is questionable. The focus of the dissertation has been to cast doubt on the emotionist argument that the psychopath is not morally responsible, given their affective disorder. I have also attempted to block the emotionists' use of the psychopath to argue that emotions are somehow necessary for moral understanding and responsibility. Throughout the dissertation, I have argued that despite the clear affective disorder, at least some psychopaths *should* be considered morally responsible agents. I have argued that the capacity to acquire moral knowledge, the capacity to be reason-responsive, and the capacity to control one's actions in light of moral demands, deficits of which are commonly used to argue that the psychopath is not morally responsible, are linked to the emotionist position that emotions are necessary for moral understanding. I also suggested that moral development, care or concern for others, possessing a willingness to be a member of a moral community, and having a willingness to provide justification for your actions or inactions are all attributes that a moral agent would need.

*Some implications and clarifications of my position*

Thus far I have focused on moral responsibility, but now I will turn to legal and criminal responsibility. In this section I will clarify my overall stance on the way in which we should treat and respond to wrongdoing by psychopaths. I have argued throughout the dissertation that primary psychopaths *should* be held morally responsible



despite their affective disorder and based on what I have argued for thus far, one may have the impression that primary psychopaths should be treated no more leniently than anyone else, including under the criminal law. This, however, is not my view. In what follows I will be sketching an argument that psychopathic offenders should be treated with more leniency during sentencing, given that their condition makes it harder for them to do the right thing than it is for non-psychopaths, and hence they should receive a certain leniency in criminal sentencing. First I will outline how psychopaths are currently treated under the law, and outline some of the justifications judges have for the sentencing of psychopaths. Subsequently, I propose that the factors associated with psychopathy that many judges believe to be aggravating factors may well be considered mitigating factors if one takes the perspective that the psychopath's deficits limit their ability to function in standard ways. Psychopathy is a developmental disorder that creates a learning disability. This disability impacts the psychopath's ability to recognize social norms and moral rules. The dampened sensitivity to these norms and rules results in the psychopath being more vulnerable to socioeconomic factors such as 'inappropriate' role modeling, social mobility, and social stigma, because their affective issues result in seeing crime as normal or an acceptable means to attain goals and progress.

*Shift in focus: psychopathy as an aggravating to a mitigating factor*

In my view, even though some psychopaths can be held morally responsible for their actions, they should be treated with some leniency during sentencing under the law. First, while the affective disorder that they possess does not prevent them from understanding and following conventional dictates, it does make following those conventional rules more difficult. Second, the learning impairment they possess means

that incarceration alone may not work as a deterrent to curb future behaviour. There are those that have argued that the psychopath's deficit is akin to a rational disorder, which would result in the psychopath being not responsible for their actions. Antony Duff, in "Psychopathy and Answerability," claims that psychopaths are not responsible given that,

“[c]rucial areas of the realm of reason are...closed to him, in particular those that concern matters of value- the kinds of value that are expressed not in mere desires or impulses, but in normative judgments of worth, and the emotions that such judgments inform: the problem is not that... his emotions and judgments are distorted, but that the whole dimension of practical rationality is absent.”<sup>171</sup>

Stephen Morse believes that much of the psychopath's conduct is unintelligible to us given that we simply cannot understand the possible reason (good reason) that motivated it. Morse claims that, “psychopaths have a generally diminished capacity for rational self-governance that is not limited to the sphere of morality.”<sup>172</sup> The moral incapacity is the core for Morse. For him, psychopaths cannot get the point of morality, despite knowing facts, rules and being able to manipulate others. The interests, values and rights of others have no weight in their reasoning, thus punishing them would be pointless - they are outside of the moral community.<sup>173</sup> I have disagreed with both of these authors in my dissertation, on the basis that the psychopath's disorder is not rational but affective. Psychopaths are responsible for their actions and do not possess a global rational defect that undermines their responsibility and rationality.

As we saw from the moral/conventional tests done on psychopaths, their ability to learn and identify conventional transgressions is normal. We have also seen that psychopaths do have the ability to control their actions in a satisfactory manner, though

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<sup>171</sup> Antony Duff, “Psychopathy and Answerability,” in *Responsibility and Psychopathy*, ed. Luca Malatesti and John McMillian (New York: Oxford University Press, 2010), 209.

<sup>172</sup> Morse, “Psychopathy and Criminal Responsibility,” 208.

<sup>173</sup> *Ibid*, 208-9.

they take longer to change their behaviour in light of negative reinforcement. As we saw in Chapter One, psychopaths suffer from an instrumental learning deficit, which hinders their ability to change their behaviour in light of new negative consequences. Blair noted that during a series of tests designed to encourage players to change their betting behaviour in light of new negative consequences, psychopaths had great difficulty responding appropriately. This much-delayed change resulted from their instrumental learning deficit.<sup>174</sup> Their affective deficit results in the psychopath having a harder time internalizing social norms because they do not possess the same feelings of unease or anxiousness when doing antisocial acts.<sup>175</sup> Despite their instrumental learning impairment and affective disorder, psychopaths are not under some compulsion to act in antisocial ways, nor are they inherently evil or mean spirited. Rather, through a mix of circumstance and upbringing, the psychopath is more likely to commit antisocial and even criminal acts.<sup>176</sup> It is partly because of this increased difficulty caused by their learning impairment and affective disorder that I believe a more lenient stance should be taken towards them, but this does not mean full exoneration.

Though the psychopath's actions are still not constrained enough to warrant total excuse from liability under the law, the psychopath's learning impairment and affective

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<sup>174</sup> R.J.R, Blair, "The Amygdala and Ventromedial Prefrontal Cortex: Functional Contributions and Dysfunction in Psychopathy," *Philosophical Transaction: Biological Science* 363 (2008): 2560-61, accessed February 3, 2014. doi: 10.1098/rstb.2008.0027.

<sup>175</sup> The mitigating nature of the psychopath's learning impairment and affective deficit will be discussed in detail later in the chapter.

<sup>176</sup> As we saw from Blair in the introduction, psychopathic traits such as anti-social behaviour are not guaranteed. As Blair noted, whether adolescence with psychopathic traits becomes anti-social depends on the socio-economic situation, the kind of upbringing and the support group around them. Given the right conditions the traits will not materialize to a large degree, however; given the wrong conditions, those traits can flourish.

disorder result in their having a harder time doing the right thing and avoiding the course of action that would bring about more negative consequences. Psychopaths do not have the natural affective inhibition mechanisms that most others have resulting in a normalization of antisocial behaviour. Once more, in non-psychopaths these mechanisms provide affective support that helps habituate individuals to do the right action or to avoid the wrong one. As I have said throughout the dissertation, this habituation process is one of the many boons of a working affective bulwark.

What I am proposing is a shift in focus on the psychopathic condition- one that moves away from viewing psychopathy as an aggravating factor to a potentially mitigating factor.<sup>177</sup> Ideally we should be holding psychopaths responsible for their actions and taking the public's safety into consideration, while also considering the mitigating factors which are out of their control, thus coming to a middle ground where our desire to punish is justified by the proportionality of their guilt. This is what I believe is missing. Psychopathy as a disorder is a double-edged sword, where brain defects that could be construed as mitigating factors are taken primarily as confirmation that psychopaths are dangerous offenders that will more than likely reoffend. The shift in justification I am proposing calls for a greater emphasis on psychopaths' affective and learning impairments, that should act as mitigating factors when sentencing.

Under Canadian and American law, psychopaths are not considered incompetent, unless some other mental illness is present. The law's justification is simple: psychopaths are responsible because their condition does not prevent them from following the law. If psychopathy is to be treated as a mental illness, it should affect cognition or

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<sup>177</sup> An aggravating factor is any fact or circumstance that increases the culpability or severity of a criminal act.

understanding.<sup>178</sup> Psychopaths possess many rational capacities. Normally, they know facts and are in touch with reality, they are aware and understand that there are rules and consequences for breaking them. Finally, they do not suffer from a total lack of control in the sense that their impulses and desires are not overwhelming or irresistible.<sup>179</sup>

Psychopaths possess emotional and volitional disorders that may result in a higher risk of reoffending. Given that in many cases there is no clear effective treatment for their condition, it is viewed as being in the public's best interest to incarcerate them. Courts take psychopathy to be an aggravating factor and seem to overlook the many disadvantages that psychopaths possess. In a case law survey done in US courts from 1991-2004, in 85% of all the cases that the Psychopathy Checklist-revised was introduced as evidence it was used by the prosecution to bolster their argument that the defendant was a danger to others and should be removed from society.<sup>180</sup> Psychopathy is one of the least-favorable traits a defendant could have, as it exposes the defendant to more severe legal ramifications. The characteristics commonly associated with psychopathy serve as an aggravating factor based partly on the fact that psychopaths have a high recidivism rate. It may also be based partly on the lack of remorse that a psychopath has.<sup>181</sup>

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<sup>178</sup> Mirko Bagaric, "Rich Offender, Poor Offender: Why It (Sometimes) Matters in Sentencing," *Law & Inequality: A Journal of Theory and Practice*, vol 33, no.1 (2015): 35.

<sup>179</sup> Stephen J. Morse, "Psychopathy and Criminal Responsibility," *Neuroethics*, vol 1(July 2008): 208. doi.10.1007/s12152-008-9021-9.

<sup>180</sup> David De Metteo and John F. Edens, "The role and relevance of the Psychopathy checklist-revised in court: A case law survey of U.S courts (1991-2004)," *Psychology, Public Policy, and Law*, vol 12 (2) (2006): 218.

<sup>181</sup> Adam Fox, Trevor Kvaran, and Ried Fontaine, "Psychopathy and Culpability: How Responsible Is the Psychopath for Criminal Wrongdoing?," *Law and Social Inquiry*, vol 38 (1) (2013): 2-3.

Our criminal justice system operates under the assumption that no one should be punished or blamed unless that person deserves punishment and blame. The justice system also has consequential justification for punishment (such as preventing future harm) which seems to be the main justificatory reason used against psychopaths.<sup>182</sup> For consequentialists, the total good produced by punishment must exceed the total evil done. In the case of the psychopath, general deterrence (though subject to much justified skepticism) seems to succeed (if it succeeds at all) as a defense of punishing psychopaths, since psychopaths are responsible members of the community voluntarily making bad choices and the goal would be to deter others from committing crimes. Special deterrence, on the other hand, aims at incentivizing the offender from reoffending, which is problematic when dealing with psychopaths because of their marked learning deficit. Punishment does not have the same effect on the psychopath that it has (or could have) on non-psychopaths. As was noted in Chapter One, the psychopath has a marked difficulty learning from mistakes. Negative reinforcement does not have the same effect on them as non-psychopaths. So where general deterrence may succeed if the goal is to deter others from offending, special deterrence lacks the same force for the psychopath.

The psychopath's brain is abnormal and the neuroimaging being done on psychopathic brains is being used as confirmation by judges that psychopaths are dangerous and that they do pose a threat to society. What is commonly missing in the discussion are the potentially mitigating factors, such as emotional and volitional

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<sup>182</sup> Morse, "Psychopathy and Criminal Responsibility," 208.

dysfunction.<sup>183</sup> In many cases psychopaths are punished more severely or harshly given the confirmation of abnormalities. The question that remains is whether or not they deserve such harsh punishment, given these abnormalities. Judges focus on bringing about some greater good, like the reduction of crime and public safety, rather than focusing on the dysfunctions that psychopaths face.<sup>184</sup> At times, mental illness, even when presented as a mitigating factor in psychopathy, is taken as an aggravating factor.<sup>185</sup> This is odd given that mental illness itself is usually used as a mitigating factor.<sup>186</sup>

The shift that I am proposing focuses more on the individual and the potentially mitigating nature of psychopaths' emotional and volitional dysfunctions. The two areas of particular interest are the ventromedial prefrontal cortex (vmPFC) and the amygdala. As we saw in Chapter One, the vmPFC plays a central role in the inhibition of emotion and in the decision-making process. vmPFC dysfunction results in defects in emotional response and regulation. As we saw in Chapter One, the amygdala is one of the main contributing factors for the emotional and behavioral issues found in the psychopath. A defect in the amygdala can result in an absence of proper fear responses and leaves individuals in a position where they no longer have the tools to detect distress, pain, and fear in others. What this means is that the psychopath lacks some of the standard tools non-psychopaths possess that trigger certain responses to external stress or distress

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<sup>183</sup> Kevin Moustapha, "Psychopathic Disorders and Judges Sentencing: Can Neurosciences Change This Aggravating Factor in a Mitigating Factor?," *International Journal of Psychological and Behavioral Sciences*, vol 9, no.6 (2015): 2092, 2095.

<sup>184</sup> David De Mette and John F. Edens, "The role and relevance of the Psychopathy checklist-revised in court: A case law survey of U.S courts (1991-2004)," *Psychology, Public Policy, and Law*, vol 12 (2) (2006): 218-19. Ortega-Escobar, "Psychopathy," 58. Moustapha, "Psychopathic Disorders," 2095.

<sup>185</sup> Moustapha, "Psychopathic Disorders," 2095.

<sup>186</sup> Bagaric, "Rich Offender, Poor Offender," 24.

stimuli that would normally cause a non-psychopath to stop. Psychopaths' antisocial behaviour can be partly explained by these defects.<sup>187</sup> This information, I contend, must be considered in the future when sentencing psychopaths. Individuals that possess brain abnormalities are generally treated differently. Even though the potential dangerousness of psychopaths has an impact on public safety, courts should recognize that these are individuals with brain abnormalities that may result in them acting in antisocial ways.

#### *A case for mitigation*

In this section I strengthen the case for mitigation when punishing psychopaths by making more explicit their relevant limitations, comparing them to underprivileged offenders, who are sometimes treated with clemency under the law. Currently there is no legal defense related to psychopathy. Criminal law does not recognize psychopathy as an excusing or mitigating factor.<sup>188</sup> Psychopathy is not treated as a mental disorder that limits or hinders one's rational capacities<sup>189</sup>; rather, it is viewed as a way of being in the eyes of the court—a persistent personality type.<sup>190</sup> Psychopaths are thus deemed to be more

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<sup>187</sup> Moustapha, "Psychopathic Disorders," 2094-2095.

<sup>188</sup> There is a history of defense by insanity, but courts have rejected this plea for several reasons.

<sup>189</sup> See Rice, M.E., & Harris, G. T. (2013) Psychopathy and recidivism. Handbook on psychopathy and the law. 231-249.

<sup>190</sup> Maria Isabel Gonzalez-Tapia et al, "A new legal treatment for psychopaths? Perplexities for legal thinkers," *International Journal of Law and Psychiatry*, vol 54 (2017): 47. doi. 10.1016/j.ijlp.2017.04.004. Gonzalez-Tapia makes two claims in her article that I disagree with. The first is that the categories used to distinguish between primary and secondary psychopaths are insufficiently consistent for a legal distinction. The second is her challenge that if the argument for lighter sentences for acculturated psychopaths is based on the judgment that their problem is that they do not *care*, then we would have to exonerate terrorists, idealists, brutal spouses etc. In response to the latter, acculturated or secondary psychopaths are not the group that I am focusing on. However if someone is deemed not responsible for their actions they are not candidates for sentencing, but possibly involuntary confinement in a psychiatric facility. There is a difference between not being in possession of a capacity (either innately or from some



prone to violence, antisocial and impulsive behaviour.<sup>191</sup> Without distinction, all psychopaths are viewed very negatively as dangerous personality types. Add to this the fact that no effective treatment is available to the psychopath, and that courts generally believe that psychopaths are rational beings with no real defect or deficit, and what you have is a very bleak picture. At best, psychopathy is treated as irrelevant, or, as calling for harder penalties, not only in duration but also in the severity and intensity of the execution of those penalties.<sup>192</sup> In Canadian courts in particular, psychopathy, as a disorder, is deemed an aggravating factor given the perceived dangerousness of psychopathy and the likelihood of re-offense.<sup>193</sup> Canadian judges consider psychopaths more dangerous and likely to reoffend. They are justifying their reasoning with article 753(1) of the Canadian criminal code. Article 753(1) specifies that,

“the court shall find the offender to be a dangerous offender if it is satisfied that the offence for which the offender has been convicted is a serious personal injury offence...and the offender constitutes a threat to the life, safety or physical or mental well-being of other persons on the bases of evidence establishing: (i) a pattern of repetitive behaviour by the offender...showing a failure to restrain his

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cause later in life) and not exercising a capacity. An individual, like a terrorist, has the capacity to care, even if it is distorted. Psychopaths, at least primary ones, do not have that capacity, as we know it. In regards to the former claim, I believe that the basis of a legal distinction can be made along the same possession of capacities grounds, along with the general type of aggressive antisocial behaviour the two groups demonstrate. The primary group simply lacks several capacities, including affective empathic understanding. This group also lacks what I have called the affective bulwark-which acts in part as an emotional trigger designed to correct or curb antisocial behaviour based on external stimuli such as expressions of fear, sadness etc. In addition, primary psychopaths, unlike secondary psychopaths, demonstrate instrumental acts of aggression as opposed to reactive aggression that would result in different types of crimes-premeditated vs. in the heat of the moment or unplanned crimes.

<sup>191</sup> I believe that courts should treat psychopathy as a mental disorder. Psychopathy is an affective and learning impairment that has a direct impact on decision-making. While the psychopath's rational faculties are more or less intact, the disorder itself seems to alter their perspective and makes following rules (moral or conventional) much more difficult.

<sup>192</sup> Ortega-Escobar, “Psychopathy,” 58.

<sup>193</sup> Moustapha, “Psychopathic Disorders,” 2092-93.

or her behaviour... (ii) a pattern of persistent aggressive behaviour by the offender... showing a substantial degree of indifference... and (iii) any behaviour by the offender... is of such a brutal nature as to compel the conclusion that the offender's behaviour in the future is unlikely to be inhibited by normal standards of behavioural restraint."<sup>194</sup>

Psychopaths comprise only 1% of the general public and around 16% of the North American prison system.<sup>195</sup> This high incarceration rate can be explained by, "...the severity of the judges in sentencing related to psychopathic offenders... indeed, Canadian courts generally take psychopathy into consideration during the sentencing phase, mainly as an aggravating factor.<sup>196</sup> Judges are trying to balance issues of fairness and protection of the rights of the accused with the protection of society from potentially dangerous individuals that may commit crimes in the future."<sup>197</sup>

What I am proposing is that the law should view psychopaths in a similar manner as the severely underprivileged, given that both groups find themselves in risky situations (psychopathy and poverty) not by choice but by external factors. As was noted in Chapter One, psychopathy does not on its own result in being predisposed to commit violent crimes. Rather, through a mix of upbringing and external factors that limit their choices, psychopaths find themselves more likely to express antisocial behaviour. Both the underprivileged and psychopaths also lack some resources commonly needed to prosper and act in accordance with moral standards. The underprivileged lack economic and social resources, while the psychopath lacks emotional resources. Both groups suffer

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<sup>194</sup> Moustapha, "Psychopathic Disorders," 2092.

<sup>195</sup> Kent A. Kiehl & Morris B. Hoffman, "The criminal psychopath: history, neuroscience, treatment, and economics," *Jurimetrics Journal of Law, Science and Technology* vol 51 (2011): 355.

<sup>196</sup> Moustapha, "Psychopathic Disorders," 2093.

<sup>197</sup> Moustapha, "Psychopathic Disorders," 2093.

disproportionately from these deficiencies and have a strain placed on them to such a degree that one could argue that they are less culpable for infractions.

In the case of the underprivileged, the lack of resources and opportunities can lead to impulse control issues and a stagnated moral development, which could result in a propensity towards criminal behaviour.<sup>198</sup> There is a direct link between poverty and higher rates of incarceration. The link is best represented by race and imprisonment. In many research programs, race is used as a proxy for economic and social disadvantage, and is considered to be a reliable indicator of poverty.<sup>199</sup>

Even if the severely underprivileged had a good moral upbringing, they still have less to lose and more to gain when committing crimes (excluding violent and sexual crimes), making criminal behaviour more tenable.<sup>200</sup> Given the situation they find

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<sup>198</sup> Bagaric, “Rich Offender, Poor Offender,” 10. This is not a one-to-one causal chain. Poverty does not cause criminal behaviour, but the conditions that poverty creates in one’s life can lead to criminal behaviour. Economic and social conditions have an overall impact on the health and wellbeing of individuals growing up. Individuals that experience more economic and social disadvantages suffer greater from limited resources (social and economic). The World Health Organization generated a list of what they called ‘social determinates of health’. While the list has been updated and other nations have adopted and altered the original, the core idea is the same; economic and social disparity are health damaging. Education, early childhood development, housing and social exclusion are just a few of the factors listed (World Health Organization, ISBN 978-92-4-156370-3, 2013). The underprivileged are subject to these disadvantages given their economic and social situation. In addition, these factors have been linked in other studies to a propensity towards crime and delinquent behaviour.

<sup>199</sup> Bagaric, “Rich Offender, Poor Offender,” 5-6. Bagaric cites the Australian indigenous community and the African American community in the United States. The former have the lowest life expectancy, high infant mortality rates, very low high school completion rates (51%), and a 17% unemployment rate. The latter did not fare much better. The African American unemployment rate was nearly double white Americans’, the high school completion rate was 62%, and overall household income was very low. Both groups also represented the highest rate of imprisonment in their given countries (Bagaric, 6-7).

<sup>200</sup> The currently poor (as in those that were not born poor) still find themselves in a situation where crime can become an option to escape their current situation or survive.

themselves in, criminal behaviour poses less of a threat to their quality of life, and may even represent something of a norm for them if they grew up in areas where crime was seen as commonplace or criminal behaviour was in a sense promoted as an avenue of escape or empowerment.<sup>201</sup> Property and drug crimes may also present themselves as a ‘way out’ or a way to better their current situation. It may be the case that some individuals have grown up in situations where they were not exposed to appropriate normative standards. Lack of resources and opportunities that go along with poverty diminish the capacity of parents or caregivers to nurture and correct antisocial behaviour before it becomes destructive. As Bagaric argues, “Poverty is...closely associated with child neglect, which carries associated and considerable independent damaging effects. Lack of exposure to appropriate role models and normative standards are also key catalysts for committing crime.”<sup>202</sup> There are other reports that indicate a strong relationship between growing up in a low-income household and subsequent higher rates of criminal involvement. In low-income households parents are,

“...less likely to be nurturant, less likely to closely supervise their children and more likely to engage in inconsistent erratic and harsh discipline...these effects appear to be exacerbated when low-income families are exposed to social stress (for example, the absence of a supportive partner, depression, drug use)...research also shows a strong relationship between factors such as poor parental supervision of children, inconsistent, harsh and erratic parental discipline, and a weak parent-child bond, and subsequent juvenile and adult involvement in crime.”<sup>203</sup>

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<sup>201</sup> There is a similarity here between growing up in crime-ridden areas where criminal activity is normalized and the impairments psychopaths grow up with. Depending on the conditions psychopaths grow up in, antisocial behaviour can become normal or acceptable means of attaining a goal. Without a good moral compass, individuals that grow up in crime-ridden areas and psychopaths that grow up with a poor moral upbringing can normalize criminal behaviour.

<sup>202</sup> Bagaric, “Rich Offender, Poor Offender,” 11.

<sup>203</sup> Don Weatherburna and Bronwyn Lind, “Poverty, Parenting, Peers and Crime –Prone Neighbourhoods,” *Australian Institute of Criminology: Trends and Issues in Crime and Criminal Justice*, no. 85 (1998): 2.

There is an established link between poverty and development in children, contributing to impulse control issues, low self-esteem, and lower educational achievements. These factors are all conducive to activities such as crime. Poor children are more likely to be in low-income areas, to attend poorer schools, and to receive substandard social services.<sup>204</sup>

There is justification for using poverty as a mitigating factor if it is consistent with an established justifiable legal excuse.

“Impoverished defendants find themselves in situations which are similar to those which attract the defences of necessity or duress, both of which revolve around an absence of true choice. The defences assume that the cause of the criminal act is not the defendant’s autonomous decision, but rather the exigencies of the desperate situation.”<sup>205</sup>

Poverty may place a strain on choice to such a degree that it *inclines* towards crime. As I stated previously, the poor have less incentive to comply with the law, given that they have less to lose. While they may have more incentive, or are more likely, to break the law, this does not mean that they are less blameworthy in *all* cases. Sexual or violent

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<sup>204</sup> Bagaric, “Rich Offender, Poor Offender,” 11. Bagaric also points to research that confirms that traumatic experience in childhood—whether caused by structural forces like poverty, racial discrimination or more direct forms of trauma such as parental abuse and neglect—can be ‘criminogenic’ (persons exposed to them have a higher probability of engaging in crime later in life).

<sup>205</sup> Bagaric, “Rich Offender, Poor Offender,” 35. There is also precedent in Australian courts where the High Court of Australia “stated that individuals raised in disadvantaged circumstances may be less culpable because their formative years may have been marred by being subjected to negative influences, thereby impairing their capacity to mature and diminishing their moral culpability” (Bagaric, 24-25). While poverty should not be used as a blanket mitigation device, it should be used as a lens to view behaviour given the many possible disadvantages present in an impoverished life. Growing up impoverished is not the sole cause of delinquent acts, but it should be considered given the disadvantages they face.

crimes are not means of overcoming their poverty, like property or drug related crimes are.<sup>206</sup>

I believe that some underprivileged and psychopaths are candidates for mitigation because of their deficiencies, but the psychopath's appeal for mitigation would be different. While the underprivileged find themselves in a constrained situation given their lack of resources, psychopaths possess abnormalities in their brains which also result in hindrances to moral upbringing and can incline them towards antisocial behaviour such as crime.<sup>207</sup>

As was mentioned earlier in the dissertation, the psychopath's upbringing can have a dramatic effect on the types of behaviour that become common in adulthood. Psychopaths with a good support system and good socio-economic background are less likely to engage in antisocial behaviour than their not so privileged counterparts. The affective disorder that they possess means that they are not gifted with the natural affective habituation that most non-psychopaths possess. As we have already seen, this affective habituation aids in decision-making. While psychopaths are still able to make the right choices, they do have a harder time than most non-psychopaths through no fault of their own. Psychopaths' moral development is hindered given their affective disorder. While this does not mean that they lack moral development, it results in a compromised position where antisocial acts are not off the table as they normally are for non-

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<sup>206</sup> Bagaric, "Rich Offender, Poor Offender," 36.

<sup>207</sup> As a side note, psychopaths that act out in anti-social ways also *normally* find themselves growing up in low-income households where resources are low and attaining those resources (food, money, clothing etc) is easier to obtain via anti-social acts such as stealing or robbery. If you refer back to Blair's description in Chapter One regarding why some individuals act out more so than others, he notes that if resources are openly available, anti-social means to attain them are normally not used.

psychopaths. These antisocial acts can become normalized, just like the acts of the individual that grows up in a crime-ridden area where crime is so common that it becomes the norm.

Another similarity psychopaths and some underprivileged share is their poor impulse control, which also places a strain on their choices. The psychopath's brain does not operate in the standard manner. Psychopaths' emotional capacities are damaged or not present in many cases. Recently, we have begun to discover that both cognition and emotion help guide rationality, and that emotion is, in many cases, the deciding factor for moral judgments and moral decision-making.<sup>208</sup> Refer back to Haidt and to Koenigs' experiments, where emotions such as disgust or unease altered the moral judgment of non-psychopaths. It may be the case that moral behaviour is guided primarily by unconscious emotional processes, which would make the psychopath's neural impairment in emotional processing a mental disorder. At the very least, their impairment would compromise standard routes to moral judgments.<sup>209</sup> These arguments are in line with what I have been arguing throughout the dissertation. The psychopath suffers from an affective (emotional) impairment that makes operating in the same manner as non-psychopaths very difficult. A psychopathic brain is not standard, nor is their moral reasoning. They are going to have a more difficult time following moral rules or socially accepted behaviour because of their impairment. Thus, the argument could be made that the learning and affective deficits possessed by psychopaths should act as mitigating factors in a global sense, as they have an impact on moral development, reasoning and judgments that makes it more difficult for the psychopath to function normally.

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<sup>208</sup> Gonzalez-Tapia, "A New Legal Treatment," 56.

<sup>209</sup> Gonzalez-Tapia, "A New Legal Treatment," 56.

The underprivileged, similarly, can have impulse control issues. Environmental factors, including where they grew up (in a crime ridden area, for example), role models, moral upbringing (correcting deviant behaviour and promoting socially acceptable behaviour) and parental involvement can “have a profound impact on the decisions choices, and actions they perform”.<sup>210</sup> The factors *can* be deeply criminogenic.<sup>211</sup>

*Final thoughts: personal implications and the moral community*

At a communal level, I believe our attitude towards the psychopath should be altered. I believe it is fair to say that the folk conception of the psychopath is born out of misunderstanding and fear. For the most part, psychopaths are viewed as inhuman monsters or vicious predators that are inherently violent and seek to cause harm to others around them. Even in the criminal system, we tend to associate all psychopaths with certain antisocial behavioural manifestations and overlook the affective disorder than underlies them. However, it is not the case that all psychopaths are violent dangers to society. This view is mistaken and does not do the psychopath justice. While the secondary grouping has a tendency to act out in violent episodes of aggression, given their poor behavioural control, the primary group does not share this trait. This partition should be taken to heart when we, as a community, think about how best to treat and interact with psychopaths. The primary group should be viewed under a different light, given that they can control their behaviour and act as rational agents. There are also other

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<sup>210</sup> Bagaric, “Rich Offender, Poor Offender,” 11.

<sup>211</sup> Poverty itself is not the only reason for delinquent behaviour, rather poverty is important because it represents a living situation where that gives context to the behaviour. Children growing up poor are less likely to live in homes where resources or skills (i.e., intervening mechanisms such as cognitive stimulation, self-confidence, effective parental supervision) that they need to flourish are present. See “Growing Up Poor: Examining the Link Between Persistent Childhood Poverty and Delinquency” by Roger Jarjoura et al, 2002).



particular attitudes that we may have to adopt. Given the dysfunction they possess, it may be incumbent on us to treat psychopaths with some level of forgiveness or understanding akin to those with inhibition control issues. With this in mind, how should we react to the psychopath?

I have argued in this dissertation that the psychopath is capable of understanding morality, is reason-responsive, and is in control of their actions. However, as it currently stands, I believe it is fair to say that most people want to hold psychopaths responsible for their actions, but are not convinced that they have a *full* understanding of the wrongs they commit. One way to approach this issue is via our natural reactive attitudes. According to Angela Smith, reactive attitudes are “essentially emotional reactions to the goodwill or ill will that people manifest towards us (or others) in their behavior.”<sup>212</sup> Reactive attitudes, she continues,

“rest on and reflect, an expectation of, and demand for, an absence of the manifestation of active ill-will or indifferent disregard... (and these attitudes) tend to inhibit or at least limit our goodwill toward the object of these attitudes, tend to promote an at least partial and temporary withdrawal of goodwill.”<sup>213</sup>

So when it comes to holding someone morally responsible, these attitudes are natural reactions to the perceived goodwill or ill will of another, and express the stance of the individual towards the other with whom they are in a relationship.<sup>214</sup>

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<sup>212</sup> Angela Smith, “Moral Blame and Moral Protest,” in *Blame: Its Nature and Norms*, ed. Justin Coates and Neal Tognazzini. (Oxford: Oxford University Press, 2013) 31.

<sup>213</sup> P.F Strawson, “Freedom and Resentment,” *Proceedings of the British Academy* 48 (1962): 84-90.

<sup>214</sup> Andrew Eshleman, "Moral Responsibility", *The Stanford Encyclopedia of Philosophy* (Winter 2016 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/win2016/entries/moral-responsibility/>>.

Psychopaths, like non-psychopaths, can have a significant impact on our lives. The impact is significant enough that we demand justification for their actions and rightly express attitudes such as resentment, blame, and indignation towards them. Whether we believe that psychopaths are capable of being full moral agents or not, the fact remains that we normally do ascribe blame and hold them responsible for their actions by altering our stance towards them via attitudes such as blame or resentment.<sup>215</sup> However, once the nature of their condition and the difficulties they face in making good choices are made clear, we might be forced to temper our negative reactive attitudes towards them.

The question that I began with was ‘can the psychopath be morally responsible despite their underlying affective deficit?’ Having provided what I take to be the three capacities most commonly cited in excluding the psychopath, I then went on to consider each as a different attack, based on lack of affect. My argument has been that despite the lack of affect in the psychopath, moral knowledge is still accessible to him via purely cognitive means. From here, I argued that the psychopath could be responsive to the moral demands of others, given that the demand itself is given a place in the psychopath’s moral deliberation. Even if the demand’s place was not at the top of the hierarchy, this did not mean that it was not taken into consideration. Finally I argued that the psychopath could control their actions in light of moral demands. While I have discussed only these three moral capacities in relation to the psychopath, I would be pleased if my claims about them lead to further research and discussion regarding the necessary capacities for moral responsibility in general. I hope that my research will allow others to look past the

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<sup>215</sup> Luca Malatesti and John McMillan, “Conclusions: psychopathy and responsibility, a rejoinder,” in *Responsibility and Psychopathy: interfacing law, psychiatry, and philosophy*, ed. Luca Malatesti and John McMillan. (New York: Oxford University Press, 2010) 319-320.

folk view of the psychopath as a coldhearted killer and focus on the clinical definition and the capacities that exist behind the mask. If we can do this, we may be able to discover more about moral understanding, social aspects of the brain, and the nature of disorders of the mind.



## Bibliography

- Bagaric, Mirko. "Rich Offender, Poor Offender: Why It (Sometimes) Matters in Sentencing," *Law 7 Inequality: A Journal of Theory and Practice*, vol 33, no.1 (2015): 1-51.
- Bartels, Daniel, Pizarro, David. "The mismeasure of morals: Antisocial personality traits predict utilitarian responses to moral dilemmas." *Cognition* 121 (2011): 154-161. Accessed May 5, 2011. doi:10.1016.20011.05.010.
- Baron-Cohen, Simon. *The Science of Evil: On Empathy and the Origins of Cruelty*. New York: Basic Books, 2012.
- Blair, R. J. R. "The Amygdala and Ventromedial Prefrontal Cortex: Functional Contributions and Dysfunction in Psychopathy." *Philosophical Transaction: Biological Science* 363 (2008): 2557-2565. Accessed February 3, 2014. doi: 10.1098/rstb.2008.0027.
- Blair, James, Mitchell, Derek and Blair, Karina. *The Psychopath: Emotion and the Brain*. USA: Blackwell Publishing Ltd, 2005.
- Blair, James. "A Cognitive Developmental Approach to Morality: Investigating the Psychopath." *Cognition* 57 (1995): 1-29.
- Bower, Bruce. "Psychopaths may come in two varieties." *Science News* 160 (2001):117. Accessed February 3, 2014. doi:130.113.111.210.
- Cima, Maaike, et al. "Psychopaths know right from wrong but don't care." *SCAN* 5 (2010): 59-67. Accessed June 15, 2018. doi:10.1093/scan/nsp051.
- Cudd, Ann and Eftekhari, Seena, "Contractarianism", *The Stanford Encyclopedia of Philosophy* (Spring 2017 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2017/entries/contractarianism/>>.
- De Matteo, David and Edens, F. John. "The role and relevance of the psychopathy checklist-revised in court: A case law survey of U.S courts (1991-2004). *Psychology, Public Policy, and Law* vol 12, (2) (2006): 214-241. doi: 10.1037/1076-8971.12.2.214.
- Duff, Antony. "Psychopathy and Moral Understanding." *American Philosophical Quarterly* 14 (1977): 189-200. Accessed May 11, 2015. doi:130.113.111.210.
- Duff, Antony. "Psychopathy and Answerability." In *Responsibility and Psychopathy*, edited by Luca Malatesti and John McMillian, 199-212. New York: Oxford University Press, 2010.

Dutton, Kevin. *The Wisdom of Psychopaths*. Canada: Anchor Canada, 2012.

Eshleman, Andrew, "Moral Responsibility", *The Stanford Encyclopedia of Philosophy* (Winter 2016 Edition), Edward N. Zalta (ed.), URL = [<https://plato.stanford.edu/archives/win2016/entries/moral-responsibility/>](https://plato.stanford.edu/archives/win2016/entries/moral-responsibility/).

Fields, Lloyd. "Psychopath, Other-Regarding Moral Beliefs, and Responsibility." *Philosophy, Psychiatry, & Psychology* 3 (1996): 261-277.

Fox, Adams, Kvaran, Trevor, and Fontaine, Ried. "Psychopathy and Culpability: How Responsible Is the Psychopath for Criminal Wrongdoing?," *Law and Social Inquiry*, vol 38 (1) (2013): 1-26.

Frankfurt, Harry. *The Importance of What We Care About*. Cambridge: Cambridge University Press, 1998.

Gallagher, Shaun. "Phronesis and Psychopathy: The Moral Frame Problem." *Philosophy, Psychiatry, & Psychology* 20 (2013): 345-348. Accessed May 25, 2015. doi:10.1353.2013.0058.

Gonzalez-Tapia, Maria Isabel et al. "A new legal treatment for psychopaths? Perplexities for legal thinkers," *International Journal of Law and Psychiatry*, vol 54 (May 2017): 46-60. doi. 10.1016/j.ijlp.2017.04.004.

Gordan, Heather, et al. "Functional differences among those high and low on the trait measure of psychopathy." *Biol Psychiatry* 54 (2004): 516-521. Accessed February 15, 2015. doi:10.1016/j.biopsych.2004.06.030.

Haidt, Jonathan. *The Righteous Mind: Why Good People Are Divided by Politics and Religion*. New York: Pantheon Books, 2012.

Joyce, Richard. Review of *The Emotional Construct of Moral*, by Jesse J. Prinz. *Mind* 118, n. 470 (April 2009): 508-518. doi:10.1093/mind/fzp043.

Jarjoura, Roger et al. "Growing Up Poor: Examining the Link between Persistent Childhood Poverty and Delinquency." *Journal of Quantitative Criminology*, vol 18, no. 2 (2002): 159-187.

Kiehl, Kent A. & Hoffman, Morris B. "The criminal psychopath: history, neuroscience, treatment, and economics." *Jurimetrics Journal of Law, Science and Technology* vol 51 (2011): 355- 397.

Koenigs, Michael et al. "Utilitarian moral judgment in psychopathy." *SCAN* 7 (2012): 708-714. Accessed May 20, 2015. doi:10.1093/scan/nsr048.

Levy, Neil. "The Responsibility of the Psychopath Revisited." *Philosophy, Psychiatry, & Psychology* 14 (2007): 129-138. Accessed June 30, 2017. doi:10.1353/0.0003.

Levy, Neil. "Norms, Conventions, and Psychopaths." *Philosophy, Psychiatry, & Psychology* 14 (2007): 163-170. Accessed February 16, 2016. doi:10.1353/ppp.0.0002.

"Lisa's Substitute". *The Simpsons*. Directed by Rich Moore. 1991. Los Angeles: Fox Broadcasting Company.

Malatesti, Luca and McMillan, John. "Conclusions: psychopathy and responsibility, a rejoinder." In *Responsibility and Psychopathy: interfacing law, psychiatry, and philosophy*, edited by Luca Malatesti and John McMillan, 319-323. New York: Oxford University Press, 2010.

Malatesti, Luca and McMillan, John. "Responsibility and Psychopathy." In *Responsibility and Psychopathy: interfacing law, psychiatry, and philosophy*, edited by Luca Malatesti and John McMillan, 185-198. New York: Oxford University Press, 2010.

Matthews, Eric. "Psychopathy and Moral Rationality." In *Being Amoral*, edited by Thomas Schramme, 71-90. London: MIT Press, 2014.

Matthews, Gareth and Mullin, Amy, "The Philosophy of Childhood", *The Stanford Encyclopedia of Philosophy* (Spring 2015 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2015/entries/childhood/>>.

Meffert, Harma et al. "Reduced spontaneous but relatively normal deliberate vicarious representations in psychopathy." *BRAIN A Journal of Neurology* 136 (2013): 2550-2562. Accessed May 20, 2015. doi.10.1093/brain/awt190.

Moustapha, Kevin. "Psychopathic Disorders and Judges Sentencing: Can Neurosciences Change This Aggravating Factor in a Mitigating Factor?," *International Journal of Psychological and Behavioral Sciences*, vol 9, no.6 (2015): 1-7.

Morse, Stephen J. "Psychopathy and the law: the United States experience." In *Responsibility and Psychopathy: interfacing law, psychiatry, and philosophy*, edited by Luca Malatesti and John McMillan, 41-61. New York: Oxford University Press, 2010.

Morse, Stephen J. "Psychopathy and Criminal Responsibility," *Neuroethics*, vol 1(July 2008): 205-212. doi.10.1007/s12152-008-9021-9.

Nichols, Shaun. "Introduction." In *Moral Psychology: History and Contemporary Readings*, edited by Thomas Nadelhoffer, Eddy Nahmias and Shaun Nichols, 5-10. UK: Blackwell Publishing, 2010.

- Nichols, Shaun and Vargas, Manuel. "How to Be Fair to Psychopaths." *Philosophy, Psychiatry, & Psychology* 14 (2007): 153-55. Accessed June 30, 2017. doi:10.1353/ppp.0.0012.
- Ortega-Escobar, Joaguin. "Psychopathy: Legal and neuroscientific aspects," *Anuario de Psicología Jurídica*, vol 27 (July 2017): 57-66. doi 10.1016/j.apj.2017.01.003.
- Prinz, Jesse. *The Emotional Construction of Morals*. Oxford: Oxford University Press, 2007.
- R. D. Hare. "The Hare Psychopathy Checklist- Revised (PCL-R)," 2<sup>nd</sup> edn. Toronto, Ontario: Multi- Health Systems, 2003.
- Shoemaker, David. "Attributability, Answerability, and Accountability: Towards a Wider Theory of Moral Responsibility." *Ethics* 121 (2011): 602-632. Accessed May 27, 2015. doi:130.113.111.210.
- Smith, Angela. "Moral Blame and Moral Protest." In *Blame: Its Nature and Norms*, edited by Justin Coates and Neal Tognazzini, 27-48. Oxford: Oxford University Press, 2013.
- Thomas, M. E. *Confessions of a Sociopath*. New York: Crown Publishers, 2013.
- Weatherburn, Don and Lind, Bronwyn. "Poverty, Parenting, Peers and Crime –Prone Neighbourhoods." *Australian Institute of Criminology: Trends and Issues in Crime and Criminal Justice*, no. 85 (1998): 1-6.
- World Health Organization, ISBN 978-92-4-156370-3 (2013): 1-256
- Zhong, Lei. "Internalism, emotionism, and the psychopathy challenge." *Philosophy, Psychiatry, & Psychology* 20 (2013): 329-337. Accessed February 19, 2015. doi:10.1353ppp.2013.0054.



