

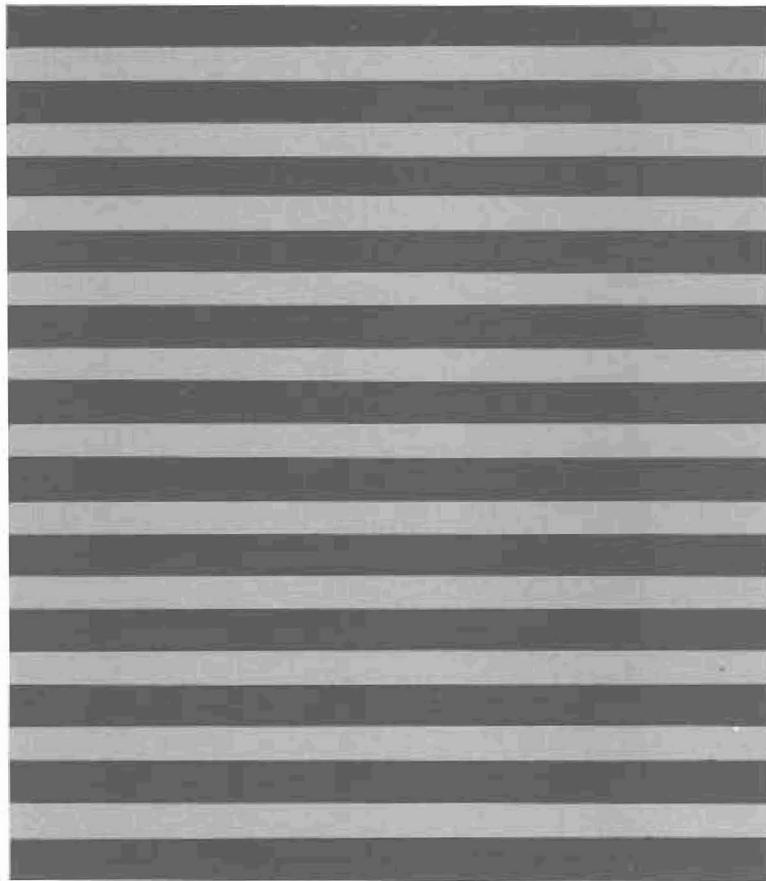
THE JOURNAL OF

# Psychiatry & Law

## Rorschach testimony

BY J. REID MELOY, PH.D.

**A SPECIAL REPRINT**



## Rorschach testimony

BY J. REID MELOY, PH.D.

---

*The Rorschach test is widely used in both clinical and forensic evaluations, but a standard of practice for its use in courtroom testimony has not been articulated. The author develops six guidelines for expert witnesses who testify about the scientific data generated by the Rorschach: training and use of a scoring system, accurate scoring, knowledge of validation research, avoidance of overinterpretation of the data, use of plain language to describe Rorschach variables, and the appropriate material to bring to the witness stand to ethically protect the security of psychological tests and measures.*

---

Scientific interest in the Rorschach test has been resurgent during the past 20 years, primarily the result of work by Exner and his colleagues.<sup>1</sup> A recent national survey found that the Rorschach is ranked eighth among psychological tests used in outpatient mental health facilities.<sup>2</sup> It is the second most widely used test with adolescent patients and the most popular projective technique with this population.<sup>3</sup> It is also the second most widely used psychological test by members of the Society for Personality Assessment,<sup>4</sup> an international organization of psychological scientists and practitioners. Watkins<sup>5</sup> reviewed 30 years of survey studies (1960-1990) of psychological assessment and found that the Rorschach was one of the most frequently used and consistently mentioned psychological tests in most clinical settings,

was one of the most popular instruments (along with the MMPI) in research, and has received consistent and continuing emphasis in most clinical psychology training programs.

In forensic evaluations, psychiatrists specifically request the use of the Rorschach approximately 25% of the time.<sup>6</sup> It is least likely to be requested for determinations of competency to stand trial, and most likely to be sought in answering questions of sanity at the time of the crime, treatability, or dangerousness, despite a woeful lack of knowledge about the test by psychiatrists.<sup>6</sup>

Despite the wide use of the Rorschach in both clinical and forensic settings, no known publications concerning its proper role in forensic testimony are available. I referred<sup>7</sup> to its facility in forensic evaluations as a psychometric measure of current personality structure and psychodynamics, but only briefly commented on its presentation to the trier of fact by an expert witness.

It is my intent in this article to outline guidelines for the use of the Rorschach during expert testimony. I will address issues in a general sense so that they apply to both civil and criminal cases, with an eye toward the impact of Rorschach data on the trier of fact and their understanding by psychiatrists and attorneys.

The power of the Rorschach in a forensic context is its ability to partially bypass an individual's volitional controls and provide valid and reliable data concerning current personality *structure*. This is accomplished through the sequential display of ten symmetrical inkblots that are sufficiently ambiguous to not provide hints of a "right" or "wrong" answer to the examinee. He hears only a single prompt "What might this be?" In a structural analysis of the Rorschach, the purpose of the data-gathering is to formulate hypotheses about *how* a person operates psychologically, rather than *what* he is thinking or feeling or *why* he is who he is. These two latter ques-

tions are beyond the ken of the Rorschach and should be approached through other avenues of clinical investigation.

In a structural analysis of the Rorschach, such as is done in the Comprehensive System,<sup>1</sup> the most widely used scoring and interpretive method, the focus is upon a variety of determinants. These include the location of the articulated percept; the developmental quality of the percept; the various aspects of the inkblot that have been used to determine the percept, such as color, shading, movement, or form; whether the percept is considered a "popular" response; how well the percept is organized; how well the percept fits consensual reality; the content category within which the percept belongs; and whether there are indices of formal thought disorder when the percept is articulated. All these various determinants, except for content, are generally outside the individual's volitional control. For instance, on Card I a subject would consciously choose to verbalize a "bat" rather than a "woman holding her hands over her head" in the middle of the same card, a *content* choice; but then he would be hard pressed to keep in mind that he had used a whole rather than detail location, a form rather than a human movement determinant, and a popular rather than a nonpopular response and to mentally comprehend, and thus manipulate, the impact of this response on the various ratios, percentages, and derivative scores that would be computed by the examiner following the completion of all responses. In the Comprehensive System, scoring and analysis of the various determinants commonly yield 111 Rorschach variables that can then be subjected to clinical and actuarial interpretation.<sup>1</sup>

The susceptibility of the Rorschach to malingering remains a cogent research question that has yet to be clearly answered. Two studies demonstrated that experts in the Rorschach cannot always distinguish between a psychotic profile and the profile of a malingerer trained to fake psychosis.<sup>8</sup> Attempts to fake depression, however, were less successful.<sup>9</sup> A review of the Rorschach malingering literature indicates that no reliable

pattern has yet been identified, and the most consistent finding is a reduction in the overall number (R) of responses.<sup>10</sup>

Questions concerning the reliability and validity of the Rorschach remain, but generally only among those who are unfamiliar with the past 20 years of research with this instrument. Although it is beyond the scope of this paper to address these concerns, I will make a few comments before turning to the testimonial guidelines.

First, in their critical compendium of psychiatric and psychological testimony, Ziskin and Faust<sup>11</sup> found themselves compelled to speak positively about the current state of Rorschach research using the Comprehensive System. This is all the more surprising because their text is not a balanced appraisal of psychiatric and psychological knowledge, but is purposefully written to challenge and denigrate such testimony:

These criticisms do nothing to lessen our admiration for the magnificent effort to date by Exner and his associates and the amount of progress they have made (p. 670).

Second, interjudge scoring agreement, a critical measure of reliability, is generally 85% or better in most contemporary Rorschach research, a respectable scientific finding.

Third, the external validity of the Rorschach—that is, its real world meaning—has received enormous attention in the past generation of research, and the reader is referred to this vast and growing literature, which encompasses both structural and psychoanalytic findings.<sup>12</sup>

### **Training of the expert witness and use of a scoring system**

The clinician who enters the courtroom with Rorschach data should, most importantly, be well trained in a Rorschach scoring system. Although most doctoral-level clinical psy-

chologists have had formal academic and clinical training in the Rorschach, quality-controlled post-doctoral training in the Comprehensive System is now widely available.<sup>13</sup> Although training does not guarantee competence, it raises the probability that the expert witness will administer the Rorschach in a standardized manner and will score it according to established methods. In a survey of 206 Society for Personality Assessment members, Piotrowski et al.<sup>4</sup> found scoring system preferences as noted in the following table.

Comprehensive System	35%
Klopfer	28%
Beck	16%
Rapaport-Schafer	7%
Piotrowski	5%
Other	9%

There is at present no consensus concerning Rorschach scoring and interpretation, but it is conceivable that Exner's Comprehensive System will soon be the interpretive method used by most forensic psychologists. When this occurs, and it may already have, other scoring methodologies may be excluded from court on the basis of a lack of general acceptance by clinical psychologists who utilize the Rorschach, the so-called "Frye test."<sup>14</sup>

By far the worst scenario, and the most easily attacked by counsel, is the expert who enters the courtroom with an unscored Rorschach that has been "interpreted" only through clinical intuition or experience. Given the plethora of normative data concerning the Rorschach and its sound psychometric properties, presenting an unscored Rorschach is tantamount to a physician giving an opinion about a patient's

blood pressure based on palpation only, without bothering to measure it with a sphygmomanometer!

### **Accurate scoring**

The expert witness who uses the Rorschach must have accurately scored data. These will be a product of education, training, and the careful application of scoring rules. Scrutiny of the opposing expert's Rorschach scoring may reveal numerous errors, which render any subsequent quantitative analyses and qualitative interpretations highly suspect.

Any scoring questions that the clinician may have should be addressed prior to entering the courtroom by consulting with another psychologist who is trained in the scoring methodology. The consultant should be advised *before* providing advice that his name will be mentioned in the forensic evaluation and may be entered into testimony at trial. This gives the consultant the opportunity to decline the invitation to help, and it eliminates the discomfort of informing the consultant that a subpoena has been issued for his corroborative Rorschach testimony when the expectation or desire to testify was not what he had in mind.

Omitting acknowledgment of the consultant's role in the forensic evaluation and subsequent testimony is usually not an option, since experts are often asked directly if they spoke with any colleagues about the case. Seeking consultations, on the other hand, is usually viewed by jurors as a mark of professional competence rather than as a stigma that suggests a lack of ability.

Once the Rorschach protocol has been accurately scored, it can then be interpreted through clinical inference by the expert, or interpretations can be generated by a computer-based test interpretation (CBTI) software program such as the Rorschach Interpretation Assistance Program—Version 2<sup>15</sup> and

then subjected to clinical judgment. Spielberger and Piotrowski found that a majority of psychologists surveyed viewed CBTI programs as useful to their work but felt that further research concerning the validity of automated narratives was needed.<sup>16</sup>

One of the forensic problems with CBTI narratives is that they are discoverable, and an expert who disagrees with the computer report may find himself defending his opinion against the actuarial data from the computer printout. This is not a difficult task, however, since most CBTI programs, including the Rorschach program mentioned, clearly state that *hypotheses* are being generated, which must then be subjected to further validation in the context of other test and nontest (clinical) data by the expert. If the clinician finds that he disagrees with CBTI hypotheses for the Rorschach, he should be prepared to support his position under cross-examination by carefully thinking through the reasons for his difference of opinion before he testifies. These contradictory findings are best brought out during direct examination so that opposing counsel cannot imply that the expert was "hiding the ball" from the trier of fact by concealing the CBTI hypotheses with which he disagreed:

A forensic psychologist retained by the defense in a homicide case opined that the defendant had an impulse-control problem that mitigated her responsibility for killing her husband. Careful scrutiny of his Rorschach scoring and interpretations found two critical errors: a pure color (C) response was scored incorrectly and was actually a color-form (CF) response. Furthermore, indices of stress tolerance and control (D and Adjusted D), both within the normal range, were discussed in the psychologist's report as only measures of "stress tolerance"; these indices' support of her normal behavioral (impulse) controls were disregarded. The psychologist became so flustered under cross-examination by the district attorney that he did not remember which Rorschach index measured reality testing, which was gladly pointed out by counsel. The defense attorney who had retained the psychologist asked for a recess.

### Validity data

The Rorschach is a complex perceptual, associative, and judgmental task.<sup>17</sup> The expert witness testifying with Rorschach data must know the validity research that applies to the indices about which he will be testifying. Access to these data is available through literature searches,<sup>18</sup> professional journals,<sup>19</sup> and textbooks.<sup>1,12</sup> Without such data, the link to real-world behavior and persuasion of the trier of fact will be lost.

The expert witness may even wish to bring with him into the courtroom copies of research articles and textbook pages that support his clinical inferences from Rorschach data points to psychological operations and behavior. These printed materials, however, should be presented to the retaining attorney prior to testimony and reviewed for potential vulnerabilities. Oftentimes opposing counsel will have carefully studied the Rorschach research and will have copies of his own materials to refute interpretations made in the expert's report. Sometimes this technique backfires:

A 28-year-old man was administered the Rorschach in a civil case concerning his claim of sexual misconduct by his psychotherapist. He agreed to take the Rorschach during the mandatory evaluation by a psychologist retained by the defense. He produced 14 responses. This is usually the minimal number of responses that is psychometrically acceptable in Rorschach practice.<sup>20</sup> When testimony concerning the Rorschach was presented at trial, the plaintiff's attorney attacked the psychologist's use of the Rorschach because, in his words, not enough responses had been elicited to make the test valid. The plaintiff's counsel had found the relevant research article<sup>20</sup> but had read only the abstract, which indicated that *fewer than 14* responses are invalid and *at least 15* responses are valid; however, the body of the article stated that *14 or more* responses produced a valid protocol. The plaintiff's counsel had coached the patient prior to the defense's psychological evaluation to give no more than 14 Rorschach responses, thereby rendering the test invalid. Counsel was wrong, and the strategy backfired when the test results substantiated the impaired reality testing of the defendant.

### **Overinterpretation of the data**

The expert witness using the Rorschach should not overinterpret any one data point, since this can lead to impeachable testimony. Any interpretations should be supported by other data from the forensic psychological examination. Even if one Rorschach data point is robust in its clinical meaning and psychometric characteristics, such as the texture response, the clinician should carefully look to other psychological tests and nontest data from the interview and history for further construct validation.

Exner<sup>1</sup> has emphasized the use of sequential and cluster analyses of Rorschach structural data rather than interpretation of individual data points. For instance, the Schizophrenia Index is a cluster of six "tests," each composed of one to two indices. It was the result of fifty discriminant function analyses of ten variables to determine which ones yielded the best hit rate for a schizophrenic diagnosis. The resulting index, positive with a score of 4 or 5, has a false positive rate of 0%–11% and a false negative rate of 12%–22%, depending on the group studied.<sup>21</sup>

Just as one data point on the Rorschach should not be overinterpreted, the Rorschach as one psychological test should not be the source of all information concerning an individual's psychological or psychiatric status. The psychological evaluation triangle<sup>22</sup> should be used in all forensic psychological evaluations: psychological testing, clinical interview, and history gathering. The exclusion of one of these points of authority is vulnerable to attack under cross-examination.

Rorschach data should be studied to see if they are consistent with other psychological test data, and the psychological test data as a whole should be scrutinized to see if they are consistent with both the clinical interview and the history taking. Inconsistencies need explanations and cannot be ignored.

History taking should be done by self-report and independent data gathering, particularly with criminal populations, in which there is a high probability of deception.<sup>23</sup>

### The plain language of Rorschach variables

The expert witness should be able to explain the meaning, or validity, of the Rorschach test in clear, concise, and easily understood language. When testifying before a jury, Rorschach data should be presented as though they were being taught to a high school class. When testifying before a judge, one's testimony should be designed for a college-educated layperson. If Rorschach data cannot be presented at this level of language, the expert witness does not understand his validity research or cannot translate it in a way that is meaningful to the average person. To paraphrase Thomas Edison, if you can't explain it to your newspaper boy, you probably don't know what you're talking about.

The X-%, for example, is a Rorschach measure of reality testing; it is computed by dividing the number of minus form level responses by the total number of responses. This explanation, however, will not be understood by a judge or jury. On the other hand, if X-% is described as a measure of reality testing, which is a person's ability to distinguish fantasy from reality, a trier of fact will comprehend. Another way to address an elevated X-% is to talk about the shared experience of just waking up from a dream and having difficulty, for a moment, distinguishing between the dream and being awake. This will make sense to a jury because the expert *has brought his data into the arena of their common experience*.

Likewise, the T or texture response to the Rorschach can be explained, as I have done,<sup>24</sup> by referring to the response as a somatosensory analog for the individual's early developmental experiences with the parental object. Although intellectually satisfying and perhaps narcissistically gratifying to the

expert, such an answer will completely lose a trier of fact. An alternative explanation is that the texture response measures a capacity for closeness to others. Individuals with more than one texture response are hungry for such closeness, and those with no texture in their Rorschach record are emotionally detached. Most people—in fact 88% of adult males and 89% of adult females—have one texture response in their Rorschach records.<sup>21</sup> Juries and judges will understand this, because they have had this experience in their own lives with others.

### **Rorschach data in court**

It is absolutely essential that the expert witness not bring his Rorschach cards into court. However, this raises the risk that the actual test will be introduced into evidence by opposing counsel, in which case the expert will have no recourse other than to oblige. Rorschach cards in court have also resulted in a ludicrous charade in which they are passed around to each of the jurors.<sup>25</sup> This can be particularly disconcerting if jurors see the same percepts that the patient did and the psychologist's interpretations imply severe psychopathology. Notwithstanding the possibility of severe psychopathology in both certain jurors and the defendant, such theatrics will devalue the expert's entire enterprise and portray his methodology as absurd and meaningless.

The expert witness testifying with the Rorschach should not bring any psychological test data into the courtroom, including the cards, the location sheet, the patient's responses, the sequence of scores, the structural summary, the computer-based test interpretation, and his notes. This information, if sought by opposing counsel, should only be turned over to another qualified psychologist. To do otherwise is to violate Principle 8 of the American Psychological Association's *Ethical Principles*<sup>26</sup> and perhaps state and federal laws in the jurisdiction in which the case is being heard. If such material

is demanded by opposing counsel and the judge orders the material produced, there will be time during adjournment to seek legal or professional consultation.

## Conclusion

Expert testimony using the Rorschach is a scientifically valid and psychologically meaningful task that may contribute to the trier of fact's ability to answer certain psycholegal questions. Rorschach data are not, however, dispositive of any criminal or civil legal issue. They may only suggest a legally relevant impairment in capacity. Psychologists who follow the basic guidelines that I have outlined will find testimony concerning the Rorschach, if well prepared, a source of professional satisfaction. If it is presented in a careful, concise, and articulate manner, the psychologist will be surprised by the attention given and credibility attached to his testimony concerning the Rorschach, for it provides a glimpse into the inner world of another.

Ellenberger<sup>27</sup> captured this empathic curiosity in his tribute to Dr. Hermann Rorschach, written nearly 40 years ago: "But already he had heard the call of St. Augustine: 'Seek not abroad, turn back into thyself, for in the inner man dwells the truth' " (p. 213).

## Notes

1. Exner JE: *The Rorschach: A Comprehensive System: Foundations Vol. I, Second Edition*. New York: John Wiley, 1986; *The Rorschach: A Comprehensive System: Interpretation Vol. II, Second Edition*. New York: John Wiley, 1990.
2. Piotrowski C, Keller J: Psychological testing in outpatient mental health facilities: A national study. *Professional Psychology: Research and Practice* 20(6):423-425, 1989.
3. Archer RP, Maruish M, Imhof EA, Piotrowski C: Psychological test usage with adolescent clients: 1990 survey findings. *Professional Psychology: Research and Practice* 22(3):001-006, 1991.

4. Piotrowski C, Sherry D, Keller J: Psychodiagnostic test usage: A survey of the Society for Personality Assessment. *Journal of Personality Assessment* 49:115-119, 1985.
5. Watkins CE: What have surveys taught us about the teaching and practice of psychological assessment? *Journal of Personality Assessment* 56(3):426-437, 1991.
6. Rogers R, Cavanaugh J: Usefulness of the Rorschach: A survey of forensic psychiatrists. *The Journal of Psychiatry and Law* 11:55-67, 1983.
7. Meloy JR: The forensic interview. In Craig RJ (editor), *Clinical and Diagnostic Interviewing*. Northvale, NJ: Jason Aronson, 1989, pp. 323-344.
8. Albert S, Fox H, Kahn M: Faking psychosis on the Rorschach: Can expert judges detect malingering? *Journal of Personality Assessment* 44:115-119, 1980; Mittman BL: Judges' ability to diagnose schizophrenia on the Rorschach: The effect of malingering (Doctoral Dissertation, Long Island University, 1983). *Dissertation Abstracts International* 44:1248B.
9. Meisner JS: Susceptibility of Rorschach depression correlates to malingering (Doctoral Dissertation, California School of Professional Psychology, 1983). *Dissertation Abstracts International* 45:3951B.
10. Perry GG, Kinder BN: The susceptibility of the Rorschach to malingering: A critical review. *Journal of Personality Assessment* 54:47-57, 1990.
11. Ziskin J, Faust D: *Coping with Psychiatric and Psychological Testimony, Fourth Edition, Vol. II: Special Topics*. Marina del Rey: Law and Psychology Press, 1988.
12. Three books that span a decade of psychoanalytic Rorschach research include Kwawer JS, Lerner H, Lerner P, Sugarman A: *Borderline Phenomena and the Rorschach Test*. New York: International Universities Press, 1980; Kissen M (editor): *Assessing Object Relations Phenomena*. Madison, CT: International Universities Press, 1986; and Lerner H, Lerner P: *Primitive Mental States and the Rorschach*. Madison, CT: International Universities Press, 1988. The *Journal of Personality Assessment* is the scientific journal that publishes most of the psychoanalytic Rorschach research.
13. Rorschach Workshops, directed by John Exner, Jr., provides workshops throughout the United States to train psychologists in the

use of the Comprehensive System. It is located in Asheville, North Carolina.

14. *Frye v. United States*, 293 F. 1013 (D.C. Circuit 1923). "The thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs" (at 1013). In California, the court has ruled that the so-called "Frye test" applies only to novel devices or processes, not to expert medical testimony. See *People v. Mendibles*, 245 Cal. Rptr. 553 (1988). Other writers have argued that the Frye test became irrelevant when the Federal Rules of Evidence were first codified in 1975 and it was not mentioned. "Whether or not *Frye* still lives, the conviction is gone, the music has died." Huber PW: *Galileo's Revenge: Junk Science in the Courtroom*. New York: Basic Books, 1991, p. 17.
15. The Rorschach Interpretation Assistance Program—Version 2 is available from Rorschach Workshops, *supra* note 13, to qualified psychological professionals.
16. Spielberg CD, Piotrowski C: Clinicians' attitudes toward computer-based testing. *The Clinical Psychologist* 43:60-63, 1990.
17. Rapaport D, Gill M, Schafer R: *Diagnostic Psychological Testing*. New York: International Universities Press, 1968 (original work published 1946); Schachtel EGL: *Experiential Foundations of Rorschach's Test*. New York: Basic Books, 1966.
18. The most extensive psychiatric and psychological research database in *Psych Abstracts*.
19. Virtually all of the current Rorschach research is being published in the following scientific journals: *Journal of Personality Assessment*, *Journal of Nervous and Mental Disease*, *Journal of Clinical Psychology*, *British Journal of Medical Psychology*, *Bulletin of the Menninger Clinic*, *British Journal of Projective Techniques*, and *Perceptual and Motor Skills*.
20. Exner JE: Problems with brief Rorschach protocols. *Journal of Personality Assessment* 52:640-647, 1988.
21. Exner, *supra* note 1, 1990.
22. Meloy JR: *Violent Attachments*. Northvale, NJ: Jason Aronson, 1992.
23. Hare RD: *Manual for the Revised Psychopathy Checklist*. Toronto: Multihealth Systems, Inc., 1991.
24. Meloy JR: *The Psychopathic Mind: Origins, Dynamics, and Treatment*. Northvale, NJ: Jason Aronson, 1988.

25. See, for example, the Rorschach testimony of Martin Schorr, PhD, during the trial of Sirhan Sirhan, the Palestinian immigrant who assassinated Robert F. Kennedy on June 5, 1968. In Kaiser R, "R.F.K. Must Die!", New York: Grove Press, 1970, pp. 439-447. For a contemporary analysis of the Sirhan Rorschach, see Meloy JR: Revisiting the Rorschach of Sirhan Sirhan. *Journal of Personality Assessment* 58:548-570, 1992.
26. American Psychological Association: Ethical principles of psychologists (amended June 2, 1989). *American Psychologist* 45: 390-395, 1990; see also *Detroit Edison Company v. National Labor Relations Board*, 440 U.S. 301 (1979).
27. Ellenberger H: The life and work of Hermann Rorschach. *Bulletin of the Menninger Clinic* 18:173-219, 1954.