

The expert witness

Acts and facts in reconstructing a psychosis - violence link

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Scope of this talk

- * Explanatory power of psychosis
- * Complexity, curtailment and some humility
- * Interactional approach: Where? What? How?
- * A brief illustration: Anders Behring Breivik reports

This talk won't address:

- * Empirical findings from research on the practice of Norwegian or any other country's expert witnesses
- * Law interpretations or definitions
- * Criminal responsibility in general
- * Neuroscience perspective on criminal responsibility
- * The criminal justice, or the mental health system
- * But to some extent...

Anders Behring Breivik



Evidence for risk factors with stronger impact than psychosis

- * Substance abuse, ASPD, victimization and community disorganization (Hiday, 2006)
- * History of violence, environmental stressors and substance abuse (Elbogen, & Johnsen, 2009)
- * Premorbid delinquency (Winsper et al, 2013)
- * Criminal History, Leisure/Recreation, Companions (Skeem et al., 2013)
- * Substance abuse, number of previous violent crimes, early start of criminal career (Lund et al., 2013)

Complexity

- * Attributing causes to complex behaviours:

- * The «self-muting» defendant
- * The malingering defendant
- * The concealing defendant

«... mental disorders will attract disproportionate attention when it comes to explanations of behaviours that we want to distance ourselves from» (Anckarsæter, et al., 2009, p. 342)

- * The retrospective nature of the task

First question:
Do we have valid methods
to diagnose psychosis for this purpose?

Where can we find help?

DSM-5 and ICD-10 (11)

- * DSM-5

- * The diagnosis of delusional disorder depends entirely on clinical judgment, not on an operational definition
- * The same is true for bizarre delusions and thought insertion (psychotic when in a psychotic disorder and non-psychotic in a dissociative identity disorder) (e.g. Ross, 2014)

- * ICD-10/11

- * Major revisions needed for «Acute and transient psychotic disorder» (e.g. Gaebel, et al., 2012)
- * Significant diagnostic criteria remain unclear even at symptom level

Second question:
Are most controversies concerning
criminal responsibility due to lack of
clarity about the task?

What are we trying to find out?

Framing the task

- * What are we trying to assess?
 - * Presence of psychosis?
 - * Relevance of psychosis to the violent crime?
- * If so, what should we be looking for?

Presence

- * Lifetime?
 - * Near past?
 - * At the time of the assessment?
 - * At the time of the violent crime?
-
- * How do we reconstruct presence from the past?

Relevance

- * Temporal association or co-occurrence of a **diagnosis**?
- * Two pathways to violence in persons with psychosis:
 - * «Conventional» (similar with persons without psychosis)
 - * «Symptom-driven» (specific delusions or hallucinations)
- * **Symptoms** may function to:
 - * Destabilise or disinhibit behaviour (*direct effect*)
 - * Increase stress, vulnerability to provocation, and exposure to conflict (*indirect effect*)

Person, situation or interaction?

Person = f (heredity [H] + development [D] + H x D)

Crime = f (person [P]) + situation (S) + P x S)

- * To evaluate one factor (P or S) without the other gives an incomplete picture
- * Factors associated with **P x S interaction** appear basic to assess criminal responsibility

Third question:
Does an interactional approach make
any difference?

How are we trying to find out?

Task specification

- * Prevalence: 4-5% of violent offenses by psychotic persons directly attributed to symptoms of psychosis (e.g. Junginger et al., 2006; Peterson et al., 2010)
- * To disentangle symptom-based offending from other violence and crime
- * Foci:
 - * Violent command hallucinations
 - * Persecutory delusions
 - * Their impact on emotions, cognition and behaviour

Hallucinations

- * In general, not a risk factor for violence
(Reviews: Branham et al., 2004; Shawyer et al., 2003)
- * Severity of violent command hallucinations may enhance risk of compliance (e.g. Barrowcliff & Haddock, 2010)
- * Maladaptive emotion regulation associated with such voices may increase compliance with commands (e.g. Bucci et al., 2013)

Delusions

- * Emotional distress due to delusions increases likelihood of non-violent compliance with delusions (e.g. Haddock et al., 2013; Donahue et al., 2014)
- * Maladaptive emotion regulation associated with persecutory delusions increases risk of violence (e.g. Green et al., 2009; Huber, et al., 2012; Reagu, et al., 2013; Sturup et al., 2013; van Dongen et al., 2013; Keers et al., 2014)

Delusions, anger and temporal proximity (Ulrich, Keers, & Coid, 2014)

- * MacArthur Study reanalyzed
- * Logistic mixed-effects models for repeated measures
- * **Delusions** do **not** predict later violence
- * **Temporal proximity** is crucial:
 - * Being followed/spied upon, plotted against, under control of others, thought insertion, and having special gifts/powers (AOR: 1.62 – 1.95)
- * **Anger** due to delusions = the key factor

Act-centered decision making

(Kalis & Meynen, 2014)

Option generation

(Go to the police? Ask if I'm wrong? Leave the situation?
Emotional distress?)

Option selection

(Only one option? Command hallucinations?
Persecutory delusions? *Emotional distress?*)

Action initiation

(Planned? On the spur of the moment? Triggers?
Emotional distress?)

Interactional approach: Sources of information

- * Sources of crime-specific information:
 - * The defendant (D)
 - * Persons that observed the violent act
 - * Persons that had contact with D close to the act
 - * Persons (in particular professionals) that had contact with D immediately after the act

Interactional approach:

Main focus: The violent act(s)

- * What happened?
- * Changes during *the prelude* to the violence?
- * The final *decision* to commit the violence?
- * Changes in perceived cognition, emotion and interaction *during* the violent encounter?
- * Changes in emotional and cognitive functions *after* the violent act?
- * If you were in a similar situation, what would happen?

Interactional approach: Symptom-specific questions

- * Specific **delusions** before, during and after the violent encounter
- * Specific **hallucinations** before, during and after the violent act
- * Specific **emotional distress or relief** triggered by:
 - * Symptoms
 - * Interaction with victim
 - * Interaction with other persons
 - * Intoxication or abstinence



Anders Behring Breivik

- * 32-year-old
- * July 2011
- * Bomb attack on government building
 - * 8 killed and 13 suffered severe physical injuries
- * The summer camp island (Utøya)
 - * 69 murdered on close range and 33 suffered severe physical injuries
 - * Surrendered after a 70-minute rampage shooting
- * Found to be criminally responsible

Act-centered dynamics of violence in the first report

- * 243 pages
- * The bomb explosion (4 pages, **5 lines on dynamics**)
 - * Food, transport, practical information
 - * One question concerning psychotic symptoms
 - * «Did you ever think of aborting the operation?»
- * Utøya (4 pages, **23 lines on dynamics**)
- * **7 citations** concerning act-centered dynamics from ABB

Act-centered dynamics of violence in the second report

- * 284 pages (including additional mandate)
- * The bomb explosion (4 pages, **17 lines on dynamics**)
 - * Emotional distress before the attack described
 - * One question concerning psychotic symptoms
 - * «Did you ever think of aborting the operation?»
- * Utøya (4 pages, **28 lines on dynamics**)
- * **5 citations** concerning act-centered dynamics from ABB

Act-centered dynamics of violence: Some «citations» from ABB

«If the government building had collapsed I would have turned myself in to the police»

«It was gruesome but requisite»

«I had to psyche me up»

«I felt a dread of killing before I started»

«After I had shot the two first ones my «survival-brain» took over for my «reflective brain»

«Every second I felt traumatized while blood and brain matter splattered all over the place»

Tentative reflection

- * **Almost no follow-up questions reported on act-centered dynamics:**
 - * Didn't ask?
 - * Got no answers/no relevant answers?
 - * Didn't ask survivors or other persons?
- * **Preliminary reflection:**
 - * Indications of ignoring an interactional approach
 - * Evidence of not giving high priority to an interactional understanding
- * **Mandate too wide/too narrow?**

Main conclusion

- * «Act-centred phenomenology»
 - * Act-specific re-definition from the first-person (and other involved persons') perspective
 - * Proximity of delusions and hallucinations, and
 - * How they affected emotion recognition and cognitive regulation failure

Presence is only relevant if it
has any relevance
to the violent act

Thank you for your presence!

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