PSYCHOPATHY AS A RISK FACTOR FOR VIOLENCE

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As a result of *Kansas v Hendricks,* many sex offenders in the U.S. are likely to be civilly committed to mental institutions for indefinite periods, and many others with histories of violent offenses may also be so committed. It therefore becomes critical for mental health professionals to understand the risk factors for re-offending that put the public in jeopardy. The most reliable of these factors is psychopathy, which will here be defined, along with its differentiation from the more commonly diagnosed antisocial personality disorder. The assessment of psychopathy, its relationship to crime—especially, to violent crime, its (non-) responsiveness to the usual treatment, and an outline of a potentially more effective one, are presented. Finally, and particularly in view of its widely accepted validity, the potential for abuse of the PCL-R and :SV are noted.

INTRODUCTION

In its landmark decision, *Kansas vs. Hendricks* (June, 1997), the United States Supreme Court held that Kansas' Sexually Violent Predator Act ". . . comports with due process requirements and neither runs afoul of double jeopardy principles nor constitutes an exercise in impermissible *ex post-facto* lawmaking." The Kansas Act established procedures for the involuntary civil confinement of sexually violent predators, defined as "any person who

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has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in the predatory acts of sexual violence." The decision upheld the right of government to detain a specific class of sane but dangerous individuals following completion of their prison sentences. Many, if not most, of these sexually violent predators would qualify for a diagnosis of antisocial personality disorder or, more particularly, psychopathy. The latter has emerged as one of the most potent risk factors for violence in general, and for sexual violence in particular, and is the topic of this paper. I will discuss both types of violence, on the grounds that the arguments underlying *Kansas vs. Hendricks* may be—and indeed, have been in many jurisdictions—extended to nonsexual forms of violence.

Before proceeding, I might note that the introduction of sexually violent predator (SVP) legislation probably will involve construction of many new correctional facilities. Tucker (this issue) has described New York State's efforts along these lines. Not long ago I was contacted by an architectural firm charged with the design of an SVP facility in a mid-western state. Our discussions revolved around the problems faced in attempting to meet the often conflicting needs of custody and treatment. Although one of the stated goals of most SVP legislation will be treatment and rehabilitation, it is likely that few facilities actually will be designed and built with this goal firmly in mind. Rather, because of the nature of the offenders to be housed in these facilities, and because of the difficulty in successfully treating sex offenders, particularly psychopathic ones, the focus understandably will be on secure custody, with little more than lip-service being paid to treatment. This would be unfortunate, for several reasons. First, the long-term warehousing of violent offenders who have little or no hope of ever being released from prison is a prescription for trouble. Second, because something is difficult to do, does not mean that it cannot be done. With respect to psychopathic offenders, for example, the traditional view that nothing works typically results in psychopaths being excluded from institutional treatment and management programs. A more prudent strategy would be to introduce new programs specifically aimed at the institutional treatment of offenders typically deemed untreatable (see Losel, 1998; Wong & Hare, in press). The proposal that architects

might consult with behavioral scientists and program providers prior to the design and construction of an SVP facility is, in my opinion, an excellent one.

I might also note that civil commitment after an offender has completed his prison sentence is different from detention procedures used in many other countries. For example, in Canada a violent offender can be sentenced to an indefinite term as a "dangerous offender," but the term is served in a federal correctional facility, with a variety of treatment options being available during the entire period of incarceration. Moreover, custodial and treatment plans are facilitated by psychological and other assessments (including the PCL-R; see below) made at the beginning of the sentence. In many respects, the Canadian procedures are consistent with the dissenting opinion written by Supreme Court Justice Breyer in *Kansas vs. Hendricks*. He wrote, ". . . the Kansas statute insofar as it applies to previously convicted offenders, such as Hendricks, commits, confines, and treats those offenders after they have served virtually their entire criminal sentence . . . The Act explicitly defers diagnosis, evaluation, and commitment proceedings until a few weeks prior to the "anticipated release" of a previously convicted offender from prison . . . But why, one might ask, does the Act not commit and require treatment of sex offenders sooner, say soon after they begin to serve their sentences?"

THE CONSTRUCT OF PSYCHOPATHY

Psychopathy is a clinical construct traditionally defined by a constellation of interpersonal, affective, and lifestyle characteristics (see Cleckley, 1976; Hare, 1991, 1998a). On the interpersonal level, psychopaths are grandiose, arrogant, callous, dominant, superficial, and manipulative. Affectively, they are short-tempered, unable to form strong emotional bonds with others, and lacking in guilt or anxiety. These interpersonal and affective features are associated with a socially deviant lifestyle that includes irresponsible and impulsive behavior, and a tendency to ignore or violate social conventions and mores (Hare, 1991). Although not all psychopaths come into formal contact with the criminal justice system (see Babiak, 1995; Hare, 1998b), their defining features

clearly place them at high risk for aggression and violence (Hart & Hare, 1997). The problem, of course, is to identify these individuals as accurately as possible. This is particularly crucial in situations where a diagnosis of psychopathy has enormous implications for both the individual and society (see Tucker, this issue).

THE ASSESSMENT OF PSYCHOPATHY

Two major approaches to the assessment of psychopathy have influenced clinical practice and empirical research. One is reflected in the DSM-III,-III-R, and -IV criteria for antisocial personality disorder (ASPD), and is based in part on the assumptions that it is difficult for clinicians to assess personality traits reliably, and that early-onset delinquency is a cardinal symptom of the disorder. These assumptions account for the heavy emphasis on delinquent and antisocial behavior in the criteria set for ASPD (see Hare & Hart, 1995; Robins 1978; Widiger et al., 1996).

The other approach stems naturally from rich European and North American clinical traditions, and is reflected in the writings of Cleckley (1976) and in the Hare Psychopathy Checklist-Revised (PCL-R; Hare, 1991) and its derivatives, including the Screening Version (PCL:SV; Hart, Cox, & Hare, 1995) and the Youth Version (PCL:YV; Forth, Kosson, & Hare, in press). The rationale for the PCL-R is that assessment must be based on the full range of psychopathic symptomatology. A focus on antisocial behaviors, to the exclusion of interpersonal and affective symptoms (e.g., callousness, grandiosity, deceitfulness, lack of empathy), leads to the overdiagnosis of psychopathy in criminal populations and to underdiagnosis in noncriminals (Hare, Hart, & Harpur, 1991; Lilienfeld, 1994). To ensure accurate diagnosis, the PCL-R uses expert observer (i.e., clinical) ratings, based on a semi-structured interview, a review of case history materials—such as criminal or psychiatric records, interviews with family members and employers, and so forth—and supplemental behavioral observations, whenever possible (Hare, 1991). Specific scoring criteria are used to rate each of 20 items on a 3-point scale (O, 1, 2) according to the extent to which it applies to a given individual. Total scores can range from 0 to 40 and reflect the degree to which the individual matches the prototypical psychopath. A score of 30 typically is

used as a diagnostic cutoff for psychopathy. PCL-R assessments are highly reliable and valid when made by qualified clinicians and researchers. Indeed, Fulero (1995) described the PCL-R as the "state of the art . . . both clinically and in research use" (p. 454). Although developed primarily with data from male offenders and forensic patients, the psychometric properties of the PCL-R now are well established in a variety of other offender and patient populations, including females, adolescents, substance abusers, and sex offenders (e.g., see Brandt, Kennedy, Patrick, & Curtin, 1997; Cooke, Forth, & Hare, 1998; Hare, 1998a; Salekin, Rogers, & Sewell, 1997). The PCL-R also has good cross-cultural generalizability (Cooke, 1998).

The 12-item PVL:SV was developed for use in the MacArthur Risk Assessment study (Steadman et al., 1994). It is conceptually and empirically related to the PCL-R (Hart et al., 1995; Cooke, Michie, Hart, & Hare, 1999) and is used as a screen for psychopathy in forensic populations or as a stand-alone instrument for research with noncriminals, including civil psychiatric patients (as in the MacArthur study). There is rapidly accumulating evidence for the construct validity of PCL:SV, including its ability to predict aggression and violence in offenders and in both forensic and civil psychiatric patients (see below).

PSYCHOPATHY AND CRIME

In the past few years there has been a dramatic change in the role played by psychopathy in the criminal justice system. Formerly, a prevailing view was that clinical diagnoses of psychopathy were of little value in understanding and predicting criminal behaviors. However, even a cursory inspection of the features that define the disorder—callousness, impulsivity, egocentricity, grandiosity, irresponsibility, lack of empathy, guilt, or remorse, and so forth—indicates that psychopaths should be much more likely than other members of the general public to bend and break the rules and laws of society. Because they are emotionally unconnected to the rest of humanity, and because they callously view others as little more than objects, it should be relatively easy for psychopaths to victimize the vulnerable and to use violence as a tool to obtain what they want. Although there never has been a shortage of an-

ecdotal reports and clinical speculations about the association between psychopathy and crime, the introduction and widespread adoption of the PCL-R provided empirical evidence on this association (see Hemphill, Hare, and Wong, 1998; Salekin, Rogers, & Sewell, 1996). One of the interesting findings to emerge from this research is that in spite of their small numbers—perhaps 1% of the general population—psychopaths make up a significant proportion of our prison populations and are responsible for a markedly disproportionate amount of serious crime and social distress.

Although psychopathy is closely associated with antisocial and criminal behavior, it should not be confused with criminality in general. Psychopaths are qualitatively different from others who routinely engage in criminal behavior, different even from those whose criminal conduct is extremely serious and persistent. They have distinctive "criminal careers" with respect to the number and type of antisocial behaviors they commit, as well as the ages at which they commit them. Furthermore, it appears that the antisocial behavior of psychopaths is motivated by different factors than is that of nonpsychopaths, with the result that the behavioral topography of their criminal conduct (i.e., their victimology or *modus operandi*) also is different. The personality and social psychological factors that explain antisocial behavior in general may be less applicable to psychopaths than they are to other criminals.

The typical criminal career is relatively short, but there are individuals who devote most of their adolescent and adult life to delinquent and criminal activities. Among these persistent offenders are psychopaths, who begin their antisocial and criminal activities at a relatively early age, and continue to engage in these activities throughout much of the lifespan (Forth & Burke, 1998). Many of these "career" criminals become less grossly antisocial in middle age. About half of the criminal psychopaths we have studied show a relatively sharp reduction in criminality around age 35 or 40, primarily with respect to nonviolent offenses (Hare, McPherson, & Forth, 1988). This does not mean that they have given up crime completely, but that their level of general criminal activity has decreased to that of the average persistent offender.

PSYCHOPATHY AND VIOLENCE

The rate of community and institutional violence is much higher among psychopathic offenders and forensic patients than among other offenders and forensic patients (e.g., Douglas, Ogloff, & Nicholls, 1997; Hart & Hare, 1997; Heilbrun et al., 1998; Hill, Rogers, & Bickford, 1996). In addition, the violence of psychopaths tends to be more instrumental, dispassionate, and predatory than that of other offenders (e.g., Cornell et al., 1996; Hart & Dempster, 1997). Psychopathic violence and aggression seem remorseless and typically motivated by what others would describe as greed, vengeance, anger, retribution, or money. The victims of psychopaths are often strangers. A recent study by the Federal Bureau of Investigation (1992) found that almost half of the law enforcement officers who died in the line of duty were killed by individuals who closely matched the personality profile of the psychopath.

It appears that the propensity for psychopaths to engage in instrumental violence and aggression decreases very little with age (Hare et al., 1988; Harris, Rice, & Cormier, 1991). One explanation of the persistence of the psychopath's potential for violence may lie in the finding that age-related decreases in antisocial behavior, and in the features associated with it (impulsivity, sensation-seeking, etc.), are not necessarily paralleled by decreases in the egocentric, manipulative, and callous traits fundamental to psychopathy (Harpur & Hare, 1994).

PSYCHOPATHY AND THE PREDICTION OF VIOLENCE

The significance of psychopathy as a risk factor for recidivism in general, and for violence in particular, is now well established. In their meta-analytic review, Salekin, Rogers, and Sewell (1996) concluded that the ability of the PCL-R to predict violence was "unparalleled" and "unprecedented" in the literature on the assessment of dangerousness. In a more recent meta-analysis, Hemphill et al. (1998) found that in the first year following release from prison, psychopaths are three times more likely to reoffend, and four times more likely to reoffend violently, than are other offenders. Although the prevalence of psychopathy is lower

in forensic psychiatric populations than in criminal offender populations, the presence of psychopathic attributes in forensic patients is as much a risk factor for recidivism and violence as it is in prison populations. For example, Rice and Harris (1992) found that scores on the PCL-R were as predictive of recidivism a sample of male not-guilty-by-reason-of-insanity schizophrenics as in a sample of nonpsychotic offenders. Hart and Hare (1989) found that only a small minority of consecutive admissions to a forensic psychiatric hospital were psychopaths, but that many patients exhibited a significant number of PCL-R symptoms. Further, the PCL-R predicted recidivism rates in a 5-year follow-up period (Wintrup, Coles, Hart, & Webster, 1994). A recent study of a large sample of violent forensic patients in Sweden, most of whom were schizophrenics, found that those with a score above 25 on the PCL-R were four times more likely to violently recidivate in the post-release follow-up period (which averaged 51 months) than were those with a PCL-R score of 25 or below (Tengström, Grann, Långström, & Kullgren, in press).

Several studies have found that the PCL:SV is predictive of institutional aggression and violence in forensic psychiatric hospitals (Hill, Rogers, & Bickford, 1996; Heilbrun et. al., 1998). The PCL:SV also predicts violence following release from a psychiatric institution. Douglas, Ogloff, and Nicholls (1997) assessed post-release community violence in a large sample of male and female patients who had been involuntarily committed to a civil psychiatric facility. Although very few of the patients had a score high enough to warrant a diagnosis of psychopathy, the PCL:SV nevertheless was highly predictive of violent behaviors and arrests for violent crimes. When the distribution of PCL:SV scores was split at the median, the odds ratio for an arrest for violent crime was about 10 times higher for patients above the median than it was for those below the median.

Relatively little research has been conducted on psychopathy in female and adolescent offenders. However, the available data are consistent with those from the adult male literature. Thus, the recidivism rates of female psychopathic offenders (as defined by the PCL-R) are higher than are those of other female offenders (Hemphill, Strachan, & Hare, 1999; Salekin, Rogers, Ustad, and Sewell, 1998). Adolescent psychopaths are at much higher risk for recidivism and violence than are other adolescent offenders

(Brandt et al., 1997; Forth & Burke, 1998; Gretton, McBride, O'Shaughnessy, & Hare, 1999a, 1999b; Toupin, Mercier, Déry, Côté, & Hodgins, 1996; also see Forth et al., in press).

SEXUAL VIOLENCE

Perhaps the findings most relevant to the SVP designation are those that stem from research on the association between psychopathy and sexual violence. Of course, not all sex offenders are psychopaths, but those who are pose special problems for the entire criminal justice system (see Bradford, this issue).

Several studies have determined the prevalence of psychopathy among various types of sex offenders (e.g., Brown & Forth, 1997; Miller, Geddings, Levenston, & Patrick, 1994; Quinsey, Rice, & Harris, 1995). In general, the prevalence of psychopathy, as measured by the PCL-R, is much lower in child molesters (around 10-15%) than in rapists or "mixed" offenders (around 40-50%). The offenses of psychopathic sex offenders are likely to be more violent or sadistic than are those of other sex offenders (Barbaree, Seto, Serin, Amos, & Preston, 1994; Brown & Forth, 1997; Gretton et al., 1999b; Miller et al., 1994).

A DEADLY COMBINATION

Sex offenders generally are resistant to treatment (Quinsey, 1990), but it is the psychopaths among them who are most likely to recidivate early and often. For example, Quinsey et al. (1995), in a follow-up of treated rapists and child molesters, concluded that psychopathy functions as a general predictor of sexual and violent recidivism. They found that within 6 years of release from prison more than 80% of the psychopaths, but only about 20% of the nonpsychopaths, had violently recidivated. Many, but not all, of their offenses were sexual in nature.

But it is psychopathy coupled with evidence of deviant sexual arousal that is one of the most deadly combinations to emerge from the recent research on sex offenders (Gretton et al., 1999b; Harris & Hanson, 1998; Rice & Harris, 1997). Anecdotally, the point is illustrated by a former criminal with a record for instru-

mental violence. He once told me that robbing a bank at gunpoint was a thrill for him, and that the enterprise always produced an erection. As he put it, "The excitement, the fear in her eyes: what a turn-on." For him, and for many others like him, violence and sexual arousal are intertwined. In extreme cases—for example among serial killers—comorbidity of psychopathy and sadistic personality is very high (Stone, 1998). Even in less extreme cases, psychopathy may be associated with elements of sexual sadism (Dempster & Hart, 1996; Quinsey et al., 1995; Serin, Malcolm, Khanna, & Barbaree, 1994).

In a recent follow-up of a large sample of sex offenders, Rice and Harris (1997) reported that the PCL-R was highly predictive of violent recidivism in general. In addition, however, they found that sexual recidivism (as opposed to violent recidivism in general) was strongly predicted by a combination of a high PCL-R score and phallometric evidence of deviant sexual arousal, defined as any phallometric test that indicated a preference for deviant stimuli (children, rape cues, or nonsexual violence cues). Similarly, Harris and Hanson (1998) reported that offenders with a high PCL-R score and behavioral (file) evidence of sexual deviance had committed more pre-index sexual offenses, more kidnapping and forcible confinements, more general (nonsexual) offenses, and were more likely to violently recidivate than were other offenders.

The implications of psychopathy and deviant sexual arousal are just as serious among adolescent sex offenders as among their adult counterparts. Gretton et al. (1999b) found that the reconviction rate for sexual offenses in the first 5 years following release was low (about 15%) and only moderately related to psychopathy (PCL-R). However, the pattern for other types of offenses was quite different. Thus, in the follow-up period half of the offenders committed another crime; the rate of offending was more than three times as high in psychopaths as in nonpsychopaths. Further, psychopaths who exhibited phallometric evidence of deviant sexual arousal—the deadly combination—posed by far the highest risk of reoffending; about 90% of these individuals committed at least one offense in the follow-up period. The difference between these results and those obtained with adult sex offenders (Rice & Harris, 1997) is that the deadly combination was predictive of sexual violence in adults, whereas it was predictive of general offending, including violence, in adolescents. It is possible

that as adolescent offenders age the combination of psychopathy and deviant sexual arousal will become less predictive of offending in general, and more predictive of sexual offending in particular.

In any case, it is likely that many sex offenders, and most psychopathic ones, are more likely to be convicted of a nonsexual than a sexual offense. Many of these individuals are not so much specialized sex offenders as they are general, versatile offenders, and their misbehavior—sexual and otherwise—presumably is a reflection of factors not specifically related to sexual behavior. For the psychopaths, these factors no doubt include a propensity to violate social and legal expectations. It may be as important to target the antisocial tendencies and behaviors of so-called sex offenders as it is to treat their sexual deviancy.

RESPONSE TO TREATMENT

Most clinicians and researchers are pessimistic about the treatability of psychopaths, with good reason. Unlike most other offenders, psychopaths suffer little personal distress, see little wrong with their attitudes and behavior, and seek treatment only when it is in their best interests to do so, such as when applying for probation or parole. It is therefore not surprising that they derive little benefit from traditional treatment programs, particularly those aimed at the development of empathy, conscience, and interpersonal skills (Hare, 1998b; Losel, 1998). For example, Ogloff, Wong, and Greenwood (1990) reported that offenders with a high score on the PCL-R derived little benefit from an intensive therapeutic community program designed to treat personality-disordered offenders. The psychopaths stayed in the program for a shorter time, were less motivated, and showed less clinical improvement than did other offenders. Hemphill and Wong (1991) reported that once released from prison the re-conviction rate in the first year was twice as high for the psychopaths as for the other offenders.

Rice, Harris, and Cormier (1992) retrospectively scored the PCL-R from the institutional files of patients of a maximum security psychiatric facility. Psychopaths were defined by a PCL-R score of 25 or more, and nonpsychopaths by a score below 25. The

violent recidivism rate of nonpsychopaths who had been treated in an intensive and lengthy therapeutic community program was lower than that of a matched group of untreated patients. However, the violent recidivism rate of treated psychopaths was actually higher than that of untreated psychopaths. The finding that a treatment program increased the risk for violence by psychopaths makes sense, if we accept that group therapy and insight-oriented programs may help them to develop better ways of manipulating, deceiving, and using people, but do little to help them to understand themselves. As a consequence, following release into the community they may be more likely than untreated psychopaths to continue to place themselves in situations where the potential for violence is high. However, before we spend too much effort in trying to determine why therapy makes psychopaths worse, we need more evidence that it fact does so. The findings by Rice et al. (1992), though intriguing and suggestive, were based on retrospective research with a particular population of mentally disordered offenders, and with an unusual, complex, and controversial treatment program that included nude "encounter sessions" and ingestion of LSD.

At best, the results of these and other studies are discouraging. But we should emphasize that there is no conclusive evidence that psychopaths are completely untreatable or that their behavior cannot be modified. Major methodological weaknesses in the relevant literature, including inadequate assessment procedures, poorly defined treatments, lack of post-treatment follow-ups, and lack of adequate control or comparison groups, make it difficult to be certain that "nothing works." We need to mount a concerted effort to develop innovative procedures designed specifically for psychopathic offenders (Losel, 1998).

Guidelines for development of such a program have been provided by Wong and Hare (in press). In brief, we propose that relapse-prevention techniques be integrated with elements of the best available cognitive-behavioral correctional programs. The program would be less concerned with developing empathy and conscience or effecting changes in personality than with convincing participants that they alone are responsible for their behavior and that they can learn more pro-social ways of using their strengths and abilities to satisfy their needs and wants. It would involve tight control and supervision, both in the institution and

following release into the community, as well as comparisons with carefully selected groups of offenders treated in standard correctional programs. The experimental design would permit empirical evaluation of its treatment and intervention modules (what works and what does not work for particular individuals). That is, some modules or components might be effective with psychopaths but not with other offenders, and vice versa. We recognize that correctional programs are constantly in danger of erosion because of changing institutional priorities, community concerns, and political pressures. To prevent this from happening, we propose stringent safeguards for maintaining the integrity of the program.

Whether SVP facilities and programs will consider it worthwhile to develop programs for the treatment of their inmates remains to be seen. However, if steps are not taken to reduce the likelihood of violence by these individuals and to prepare at least some of them for eventual conditional release, the designers of SVP institutions should give serious thought to the provision of special geriatric wings to house and care for a population of offenders who will spend the rest of their days in custody.

PSYCHOPATHY AND RISK ASSESSMENT

Although the PCL-R is a potent predictor of violence it should be used in conjunction with information about other established risk factors (Hart, 1998). For example, a high PCL-R score may imply high risk, but a low score does not necessarily imply low risk. Pedophiles often will receive a low PCL-R score but nevertheless may be at high risk for sexual reoffending. The PCL-R (or the PCL:SV) is a key component of modern risk instruments, including actuarial scales (e.g., Webster, Harris, Rice, Cormier, & Quinsey, 1994) and scales based on structured clinical judgments about recognized risk factors (e.g., the HCR-20; Webster, Douglas, Eaves, & Hart, 1997).

USES AND MISUSES

In spite of their strong psychometric properties, there is no guarantee that a given clinician will use the PCL-R or PCL:SV prop-

erly or in a professional manner. Because of their increasingly important role in the criminal justice and mental health systems, the potential misuse of these instruments poses a serious problem for society, as well as for the individual offender or patient. The issues are discussed in detail elsewhere (Hare, 1998c). For present purposes, perhaps the most important issues have to do with the use of the PCL-R by clinicians or other individuals who (1) lack the professional and legal qualifications to conduct psychological assessments; (2) have inadequate training and experience in the use of the PCL-R; and (3) fail to adhere to accepted professional standards for test administration and interpretation. Although my colleagues and I address these and related issues in the formal PCL-R Workshops and in the PCL-R Certification Program, users of the PCL-R and PCL:SV must be held accountable to the professional associations and regulatory bodies responsible for ensuring the integrity of their clinical practice. In addition, judicial awareness of the issues involved in the use of risk assessment instruments will help to ensure that the rights and concerns of both society and the individual are respected.

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