

PSYCHOPATHY AND LAW



A PRACTITIONER'S GUIDE

Edited by
Helinä Häkkänen-Nyholm and Jan-Olof Nyholm

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Psychopathy and Law

A Practitioner's Guide

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*To the ones who make us smile and laugh:
Jaakko and Jenni*

About the Editors

Helinä Häkkänen-Nyholm Ph.D., is CEO of a psychology and law firm PsyJuridica Ltd. (www.psyjuridica.com), which pioneered the European trial consulting specialty in 2010 to offer law firms and corporations creative strategic solutions and psychological expert assistance in the formulation and communication of effective case themes and strategies in legal matters. PsyJuridica Ltd. provides a variety of consulting and research services before, during, and after trial: case analysis, trial strategy, witness evaluation, media strategy, witness preparation, and independent guidance in numerous types of investigations. As a therapist Dr Häkkänen-Nyholm specializes in helping lawyers with their career, business development, and personal issues. In her work she employs the tools of behavioral science, applied research, and psychological analysis. PsyJuridica Ltd. also provides services for private clients. Dr Häkkänen-Nyholm specializes providing counseling on issues related to coping with psychopathy in families and workplaces. Her therapeutic background is on solution-focused therapy, and she uses also EMDR therapy and hypnosis with severely traumatized patients.

Dr Häkkänen-Nyholm is also the director of the Forensic Psychology Research Group at the Institute of Behavioural Sciences, University of Helsinki, where she holds an adjunct professorship. She has a 10-year experience of working as a behavioral investigative advisor (so called profiler) and senior researcher at the Finnish National Bureau of Investigation. Her research has been funded by the Academy of Finland and European Commission. Prior to her career in forensics she worked

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events, and he consults various international bodies and institutions in questions related to improved strategies and working methods in the field of combating international criminality. Since the mid-1980s he has been internationally very active working with different kinds of engagements related to international law and law enforcement work. Recently he has published increasingly in the popular press and scientific journals on subjects such as psychopathy, fraud, and interviewing.

Mr. Nyholm is a founding member and the chairman of the board for the company PsyJuridica Ltd. He is also in charge of the legal services of PsyJuridica Ltd. Within this company, together with his partner Dr Häkkänen-Nyholm, he has recently developed a number of new concepts, where the psychological and legal knowledge has been combined and then transformed into practical applications and new approaches that can benefit both professional areas.

About the Contributors

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Mary Ellen O'Toole is a forensic behavioral consultant. Dr O'Toole was a special agent with the FBI for 28 years. For more than half of her career with the FBI, she worked in the Behavioral Analysis Unit (BAU) where she focused on the analysis and interpretation of violent behavior. Her areas of specialty include threat assessment and risk assessment in the workplace, campus and school violence, and the interpretation and identification of psychopathic behaviors in crimes of violence. Dr O'Toole has consulted with law enforcement, prosecutors, and mental health professionals all over the world on high-profile cases involving targeted acts of violence and the predictors for this type of behavior. She has also lectured internationally on these topics to multidisciplinary audiences of mental health and to human resources professionals, judges, attorneys, law enforcement professionals, and others.

Christopher J. Patrick is a professor of clinical psychology at Florida State University. His interests include psychopathy, antisocial behavior, substance abuse, personality, fear and fearlessness, psychophysiology, and affective and cognitive neuroscience. He is author of more than 140 articles and book chapters, and editor of the *Handbook of Psychopathy* (Guilford Press, 2006). A recipient of Early Career awards from the American Psychological Association and the Society for Psychophysiological Research (SPR), Dr. Patrick is a past president of the Society for Scientific Study of Psychopathy and president-elect of SPR. Since 2008 he has served as a scientific advisor to the DSM-V Personality and Personality Disorders (PPD) Work Group, and since 2010 he has served as a workgroup member for the National Institute

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Preface

The idea of this book was born during the establishment phase of our company PsyJuridica Ltd. At that stage, similarly to the present times, we had lengthy and innovative discussions of the overlapping needs we had identified to exist among the practitioners of the legal and psychological professions, as well as forensic area where we both had worked for so many years. We strongly feel that in both the legal and psychological professions, the focus is on the interaction of people. We built our company on the idea of not only providing law firms and other institutions with psychological or legal expertise but also making available for them consultation where both fields of expertise emerge. Another very important way of working for our company is providing private customers psychological and legal services concurrently, so that a person going through a rough legal case such as a divorce, estate distribution, or industrial conflict can consult a psychologist and a lawyer jointly on the way. In the end what matters is the total well-being of our clients. PsyJuridica Ltd. was founded to address this need.

While working on several civil or criminal law cases during the years, we both had realized that a good result requires that a person finds a balance in securing his or her legal rights and the overall psychological well-being. In practice this objective is often severely jeopardized if the case involves a psychopathic person. During the years we've witnessed several cases where a psychopath has ruined another person's life or taken it – sometimes for revenge and sometimes “just for the fun of it.” At the same time, our cowork with several practitioners from, for example, the field of law, military, social and health

services, politics, as well as private businesses had made us realize that many practitioners were unaware of psychopathy or, when facing it, don't know how to handle it. At the focal point of working with judicial problems, for example, are the personalities of those interacting in that process. This will reflect on the handling of the process and also on the manner in which the practitioners who are involved in the process cope with the situation. We also believe that thus far too little has been reflected on the factual consequences to our nation which may follow in case psychopathic individuals are allowed to take positions as leaders. We'd like to participate in this discussion with some of the questions dealt with in this book in relation to leadership in general and war crimes in particular.

We've had experience of doing empirical research on psychopathy for several years and we are aware of the content of the scientific literature relating to psychopathy. Although we highly value the research that has been conducted on psychopathy, we felt that there is a limited amount of published information on psychopathy that is relatively easy to read and understandable, as well as of high practical use for professionals working on areas where there is a high likelihood of having to deal with a psychopathic person. Therefore, this book aims to fill this gap and provide an introduction of psychopathy for any practitioner, from any field of profession, whose work involves social interaction.

We feel that we've had much personal benefit during the years of the fact that the other one of us has done her career much in the academic world, while the other one has made his career as a practitioner. As we are interested in combining these two areas of expertise we wanted to provide the readers of this book with the opportunity to take part of the experience of the leading

scientist of psychopathy “talking and writing” to the practitioners. We sought to build a bridge between the academic and professional worlds, thus providing an integration of topics that will have immediate practical application, grounded in an empirical and theoretical approach. Once we had defined specific areas of research which we considered important, we approached authors to write the individual chapters covering the selected topics. Several contributors from different countries were contacted. All were extremely experienced researchers of psychopathy who were also familiar at communicating with practitioners on the topic of psychopathy. We are highly grateful to our authors for their contribution and sharing our interest of providing a book on psychopathy for practitioners.

Interaction with a psychopathic person does not follow common social rules. This book should help one to understand the mysterious mind and way of thinking that guide the behavior of a psychopathic individual. They have specific skills in influence making and impression management that will be examined in detail in this book. One should be able to understand what kind of countermeasures, tactics, and strategies might be beneficial in order to minimize the harms and danger these people can cause, particularly to the judicial system and other people. This book will go beyond the criminal justice system and examine also difficult situations in matters related to civil law. These include among others disputes concerning agreements, divorces, and custody arrangements. In civil cases psychopathy may have enormous consequences due to the fact that in civil cases the primary aim is to reach a settlement based on the interaction between the legal parties. This book aims to help victims of psychopathic individuals to become winners of their situation or case.

We are grateful to several of our colleagues for their time and energy, and for sharing their experiences of psychopathy. We would particularly like to mention Professor Robert D. Hare, who has encouraged Helinä so much in her research work on psychopathy, and who was enthusiastic about the book proposal but was unfortunately unable to contribute the requested chapter because of illness at the time. We also wish to express our gratitude for Helinä's psychotherapy clients who have provided her with rich case study material. We would also like to thank those numerous senior law enforcement officers around the world as well as lawyers and judges who have discussed and shared their views, especially with Jan-Olof, about matters relating to their profession and the possible consequences that psychopathy has and will have on it. We'd also like to thank Karen Shield, Annie Rose, Baljinder Kaur, Cheryl Adam, Victoria Halliday, and Andy Peart at Wiley Publications, for their guidance and support throughout the process. Ultimately, the introverted task of editing a book is not accomplished in isolation from the support of others, and we are pleased to acknowledge our gratitude to several friends and family members who have made our daily life easier during the past year. Finally, as we are, in addition to being coeditors, also a married couple we wish to thank each other. None of our efforts would be possible without the respect, generous support, commitment, and love that we have toward each other.

The Editors
November 2011

1

Introduction

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The Nature of Psychopathy

As an identified mental disorder and developing label, psychopathy has a long history. Today psychopathy is defined as a constellation of specific affective, interpersonal, and behavioral characteristics (Cleckley, 1976; Hare, 1980, 1996; Hare & Neumann, 2010; Krueger, 2006).

In terms of interpersonal style psychopathic individuals are glib and superficially charming, and also prone to grandiose self presentation, deceit and manipulation. Their deficient affective experience relates to low remorse and guilt, callousness, low empathy and lack of conscience. Psychopathic individuals live a lifestyle that reflects need for stimulation, lack of long-term goals, irresponsibility, parasitic living, and impulsivity. In intimate relationships they are promiscuous and abusive. Their antisocial behavioral characteristics manifest in terms of e.g. poor behavioral controls, early behavioral problems and criminal versatility.

To make it simpler, Hare (1993) describes the psychopath as a:

Self-centred, callous, and remorseless person profoundly lacking in empathy and the ability to form warm emotional relationships with others, a person who functions without the restraint of a conscience. (pp. 2-3)

You may ask yourself how influential in our society or how close to your life would you like to see a person with these kinds of characteristics? Still the reality is that these people exist, at every level of our society, in any profession and we don't think anyone can securely say that he or she will never meet a psychopath. We do worry of the possibility that perhaps we have not done enough to protect ourselves from them.

Although psychopathy has a strong influence in questions related to criminality, not all psychopathic persons commit crimes or are caught by the law enforcement and sentenced to prison. This is a thought that many of us might feel inconvenient and therefore prefer to object to or reject. Accepting the thought brings psychopathy somehow closer to us. We suddenly find ourselves thinking: Can I run into them in my daily life? This book highlights situations where you are likely to encounter a psychopathic person. In order to narrow down this wide perspective we have chosen to focus on issues related to psychology and law. The law is a system of rules and guidelines that shape politics, economics, and society in numerous ways. To put in short, the legal system sets the rights and responsibility we have agreed upon as social mediator of relations between people. Taking into account the personality of psychopaths, it is quite evident that the law hardly has the same effect on their behavior as it has for an individual who does not have these personality traits.

The starting point of the modern clinical construct of psychopathy is the publication of Hervey Cleckley's text *The Mask of Sanity* (first published in 1941). It is noteworthy that his characterization has remained relatively constant to the present day (Hart & Hare, 1997). Cleckley's work was based on his clinical observations of white, middle-class male inpatients of a mental hospital. Much of what has been observed on psychopaths since then has been done in the prison environment. This is somewhat in contrast with Cleckley's observations as he noted that many psychopaths never became involved with the criminal justice system, although he did consider persistent antisocial deviance to be characteristic of psychopaths (Patrick, 2006a). However, forensic settings are unlikely to be the optimal location to identify psychopathic personalities who one can consider "successful" in terms of achieving social status. According to Cleckley's observations, nonconvicted psychopaths "keep up a far better and more consistent outward appearance of being normal" (pp. 198-199). Today's discussion on psychopathy is occasionally colored by observations suggesting that psychopathic individuals would somehow be successful in life and their ability to take advantage of other people could sometimes be envied (Hall & Benning, 2006). As an inferior illustration of this phenomenon, recently a radio program in Finland interviewed an "expert" on the topic "How to raise your child to become a psychopath." To anyone who has experience with psychopathic individuals, this topic probably raises feelings of disbelief and disgust. However, it is good to acknowledge that our conception (as well as the general public's conception) of what psychopathy is and how it presents itself is shaped very much by the entertainment industry. Many colorful illustrations of a psychopathic individual are present in movies and TV series. The "Hollywood psychopath" is

often portrayed as a person with high intelligence and a calm, calculated, and controlled demeanor, and one who is extremely skilled in deception and interpersonal manipulation. Famous examples include Dr Hannibal Lecter, as portrayed by Anthony Hopkins in the *Silence of the Lambs*; the psychopathic mistress in *Fatal Attraction* played by Glenn Close; and the TV series *Dexter* just to name a couple. Our personal favorite reflection of the glibness, superficial charm, and intelligent ruthlessness of psychopathic individuals is the character of Alan Shore from the television drama series *Boston Legal*. Alan Shore's character is a brilliant lawyer who provides an impression of a ethical core but who in reality uses immoral means such as illicit computer hacking, blackmailing, disguising, and bribery to reach his goals. His character is a good example of how psychopaths can pursue what they want without experiencing anxiety attributable to a concern for how their actions might impact others. Alan Shore's behavior is unpredictable, he treats others with levity, and he is also an obscene womanizer. And yet we love him.

With regard to observing the behavior of a psychopathic individual, the focus is rarely on the negative effect and consequences that these personality traits may have on the person. A recent study by Fritz, Rajaleid, Hemstrom, and af Klinteberg (2009) showed that the proportion of individuals that reported dissatisfaction of life was significantly higher in both criminals and controls characterized by psychopathic tendencies compared with the groups with no psychopathic tendencies. Ullrich, Farrington, and Coid (2008) investigated the hypothesis that some features of psychopathy are related to life success in a community sample of 304 middle-aged men. The results showed that the interpersonal domain of psychopathic traits was not related to "status and