Psychopathy, Homicide, and the Courts:

Working the System

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ABSTRACT

This study investigated the effects of psychopathy on homicidal post-offense behavior, denying the charges at court, appeals of the lower court conviction, and final sentencing. A sample of 546 offenders prosecuted for a homicide and convicted in Finland during 1995-2004 was examined. Their post-offense behavior, self-reported reasons for the killing, charges, sentences, and psychopathic traits, as measured by the Psychopathy Checklist-Revised (PCL-R; Hare, 2003), were coded from official file information. Offenders with high PCL-R scores were more likely than others to leave the crime scene without informing anyone of the killing, to deny the charges, to be convicted for involuntary manslaughter rather than for manslaughter or murder, and to receive permission from the Supreme Court to appeal their lower court sentence. Given the risk that psychopathic offenders pose for violent crime, the finding that they are able to manipulate the criminal justice system is cause for concern.

Keywords: psychopathy; homicide; impression management; sentencing; post-offense behavior; judicial decisions

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In his comedy, *As You Like It*, William Shakespeare wrote, "All the world's a stage, and all the men and women merely players" (Moston, 1998). In referring to this famous quotation Erving Goffman (1959) commented, "All the world is not, of course, a stage, but the crucial ways in which it isn't are not easy to specify." That is, it is often difficult to determine the extent to which interactions among individuals involve play-acting or impression management (also called self-presentation), a goal-directed process by which people try to control the impressions other people form of them. Impression management clearly is highly relevant to the investigation and prosecution of crime, including police interviews and court proceedings, yet is has remained a relatively unexplored concept in forensic psychology. Although there are courses for practitioners, especially lawyers, on how to manage the image they present to the court, juries, and to their clients and colleagues, information on how *suspects* and *offenders* manage the image they present to the criminal justice system is relatively sparse.

Psychopathy is a clinical construct defined by a constellation of affective, interpersonal, and behavioral characteristics including impulsivity, irresponsibility, shallow emotions, lack of empathy, guilt or remorse, pathological lying, manipulation, superficial charm and the persistent violation of social norms and expectations (Cleckley, 1976; Hare, 2003; Hare & Neumann, 2008a; Krueger, 2006). Psychopathy has been described as the *prime criminogenic personality trait* (Wison & Herrnstein, 1985), the most important *psychological construct* in the criminal justice system (Harris, Skilling, & Rice, 2001) and as perhaps the most important *forensic concept* in the early 21st century (Monahan, 2006). The international standard for its assessment is the Psychopathy Checklist-Revised (PCL-R; Hare, 1991; 2003). The PCL-R and its direct derivatives−the Psychopathy Checklist:

Screening Version (PCL: SV; Hart, Cox, & Hare, 1995) and the Psychopathy Checklist:

Youth Version (PCL: YV; Forth, Kosson & Hare, 2003) − form the bases for the majority

of the research and applications discussed below.

In the present study we investigated several ways in which psychopathy is associated

with variables−behaviors, events, decisions−that presumably are influenced by impression

management.[1] These variables include post-offense behavior, the offender's self-reported

reason for the crime, the outcome of appeals of a lower level court's decision, and the final

sentencing decision. We also examined the association between several individual traits of

psychopathy and the denial of charges and the sentencing decision. Because the variables

were scored from archival data we did not have direct measures of impression management.

Future research should examine the impact of psychopathy on the stratagems actually used

by individuals during formal interactions with the criminal justice system.

PSYCHOPATHY AND CRIMINAL JUSTICE

There is an extensive clinical and empirical literature on psychopathy, its measurement,

nature, and implications for mental health and criminal justice (e.g., see Felthous & Sass,

2007; Gacono, 2000; Hare, 2003; Hare & Neumann, 2008a, b; Hervé & Yuille, 2007; Patrick,

2006). Psychopathy plays an important role in clinical and forensic diagnosis, treatment

planning, risk assessment, and release decisions. As measured by the PCL-R and its

derivatives, psychopathy is a predictor of recidivism and violence in a variety of populations

and contexts (Caldwell, Ziemke, & Vitacco, 2008; Douglas, Vincent, & Edens, 2006; Hare,

2003; Hemphill, 2007; Leistico, Salekin, DeCoster, & Rogers, 2008; Monahan et al., 2001;

Steadman et al., 2000). Psychopathic offenders come into contact with the criminal justice

system at a younger age (Forth & Book, 2007), commit more and a greater variety of crimes

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(Hare, 2003), are more violent during the commission of their crimes (Porter & Porter, 2007), are more prone to predatory, instrumental violence (Woodworth & Porter, 2002), and are more difficult to treat than are other offenders (Harris & Rice, 2006; Wong & Hare, 2005). Psychopathy increasingly is playing a role in recommendations for civil commitment or preventative detention (e.g., de Boer, Whyte, & Maden, 2008; Levenson & Morin, 2006). Recently, law enforcement has shown interest in psychopathy for understanding criminal behavior, particularly in criminal investigation, crime scene analysis, and intervewing (e.g., Logan & Hare, 2008; O'Toole, 2007; Quayle, 2008; Sanford & Arrigo, 2007).

PSYCHOPATHY AND MANIPULATION

Because of its defining features psychopathy it is considered to be a prototype for pathological lying, deception, and manipulation (Cooper & Yuille, 2007; Hare, Forth, & Hart, 1989). In some cases, it appears that psychopaths may derive particular satisfaction from deceiving others, a "duping delight" (Hare et al., 1989). More relevant for our purposes is their use of deception/manipulation in the forensic context, where the explicit intent is to mislead the system. For example, psychopaths are more likely than other forensic patients to feign mental illness and to engage in several forms of deception during insanity evaluations (Gacono, Meloy, Sheppard, Speth, & Roske, 1995; Rogers, Salekin, Sewell, Goldstein, & Leonard, 1998). Gacono and colleagues (1995) reported that almost half of the malingering psychopathic patients they had examined were involved in a sexual relationship with a female staff member.

In an extension of their research on psychopathy and deception, Porter, ten Brinke, and Wilson (2009) recently analyzed the conditional release decisions of over 300 Canadian male offenders. They found that in spite of having extensive criminal careers psychopathic offenders were much more likely to be successful in their applications for conditional release than were other offenders. Unfortunately, this ability to obtain conditional release was not

accompanied by post-release success, for following their release into the community psychopathic offenders had only about half as many successful days as did other offenders. The ability of some psychopaths to impress decision-making panels is disturbing, particularly in view of the extensive information about the offenders that members of these panels typically have, or should have, before them. In many cases, though, this information may not include assessments of psychopathy and, more importantly, the implications of such assessments for impression management and risk for reoffending. The absence of this information, coupled with inadequate or superficial knowledge about how psychopathic offenders operate in the criminal justice system, may result in panel members placing too much emphasis on how the offenders present themselves. Another instance where we might expect psychopaths to be successful, primarily due to their interpersonal features (including manipulation, glibness and pathological lying), is in their appeals of a lower court conviction. We investigated this possibility in the present study.

INTERVIEWING

Although there is little empirical research on interviewing psychopathic suspects and offenders, many criminal investigators are well aware of the issues and problems they have in working with these individuals (e.g., Logan & Hare, 2008; O'Toole, 2007; Quayle, 2008). Police officers, lawyers, judges, and juries face a formidable challenge when attempting to evaluate the narratives, explanations, and accounts provided by suspects, defendants, and offenders. Their task is even more daunting when they must deal with glib, grandiose, and egocentric individuals who are unusually adept at dissimulation, obfuscation, and attribution of blame to external forces, and who are not embarrassed or shaken by being caught in a lie (DiFazio & Kroner, 1997; Häkkänen, Stoat & Sariola, 2008: Hare, 1999; Weizmann-Henelius, Sailas, Viemerö, & Eronen, 2002). Those who interview offenders often are astonished and perplexed by the apparent failure of psychopaths to "get it," to appreciate the

consequences to themselves and others of what they have done. It is as if there is an "emotional/empathic disconnect" between them and the rest of humanity, a disconnect that makes it easy for them to discuss the most disturbing events in casual terms, as well as to turn the interview into a sort of "head game" (Hare, 1999). As Cleckley (1976, p. 120) put it in describing a physician's bewilderment at the ease with which a psychopath seemed oblivious to the consequences of her actions, "All the horror is in just this—that there is no horror." Similarly, clinical lore is replete with reports of psychological and visceral responses to a psychopathic patient or offender (Hare, 1999; Meloy & Meloy, 2003; Strasberger, 1986; Symington, 1980).

In a study that compared official and self-reported descriptions of homicides, Porter and Woodworth (2007) found that psychopaths were more likely than other offenders to omit major details of their offenses and to minimize the instrumentality of their crimes (e.g., by exaggerating the extent to which their homicides were reactive in nature). This was in sharp contrast to the evidence that the homicides of the psychopaths in the study actually were significantly more instrumental in nature than were those of the other offenders (see also Woodworth & Porter, 2002). Furthermore, Porter and Woodworth (2007) showed that the self-exculpatory manner in which homicides were construed by offenders was mainly related to the interpersonal and affective features of psychopathy, rather than to its antisocial features. In line with these findings, we expected that the psychopathic offenders in the current study would be more likely than other offenders to deny involvement in the crime or to claim extenuating circumstances, particularly self-defense.

POST-OFFENSE BEHAVIOR

Previous studies suggest that psychopaths differ qualitatively from other offenders in the nature of their violence (e.g. Hare, 2003; Porter & Woodworth, 2006; Woodworth & Porter, 2002). Victims of psychopaths are less often family members and more often strangers than it is

the case with other violent offenders (Weizmann-Henelius et al, 2002; Williamson, Hare, & Wong, 1987). Offenders with high psychopathy scores are also more likely than other offenders to have one or more accomplices (Juodis, Woodworth, Porter, & ten Brinke, in press). Although many studies have examined homicidal crime scene behavior (e.g., Häkkänen & Laajasalo, 2006; O'Toole, 2007; Woodworth & Porter, 2002), information on psychopathy and immediate post-offense behavior is limited. We were particularly interested in determining if psychopathic offenders are more likely than other homicide offenders to leave the scene of the crime without informing anyone of the killing. Because their violence often is instrumental and committed without intense affect, we expected that following their crime they would be less distraught and "immobilized" with fear or confusion, and more likely to take immediate steps to avoid detection, than would other offenders.

THE CURRENT STUDY

We had access to a large sample of Finnish homicide offenders for whom retrospective PCL-R assessments were conducted from file reviews. That is, information concerning psychopathy was not available at the time judicial decisions were made. This provided us with a unique opportunity to examine the possible association between psychopathy and and post-offense behaviour, the charges laid as well as the sentences meted out for homicide. We were interested also in the self-reported reasons of the killing provided by the homicide offenders because such statements can have an impact on the sort of charge laid against them. According to the Finnish Penal Code sanctions for a homicide with no preplanning or gross violence (referred to as *manslaughter*) are less severe than those for a homicide that involves preplanning, deliberate intent, for gain, or gross violence (referred to as *murder*). Furthermore, under the Finnish Penal Code an aggravated assault with no intention of killing the victim is classified as *involuntary manslaughter* even if the victim subsequently dies due to injuries. In Finland the judicial latitude for involuntary manslaughter ranges from four

months to six years imprisonment, while the minimum penalty for manslaughter is eight years imprisonment. Similar distinctions between premeditated, instrumental homicide and reactive, emotion-charged homicide are common in American courts (see Fontaine, 2008). Given the obvious interest that offenders have in receiving lighter sentence, there is strong motivation for homicide offenders to lie about the reasons for the crime. This is technically well understood by the judiciary, but the process of psychopathic impression management and its influence on the outcome of the proceeding are poorly understood by the courts (Porter & ten Brinke, 2009).

METHOD

PARTCIPANTS

From 1995 to 2004 1,046 individuals were prosecuted for homicide in Finland (Statistics Finland, 2006). Of these, 749 (71.6%) received forensic examinations as part of the trial proceedings. In Finland, courts decide if a forensic psychiatric examination should be conducted in the course of the criminal proceedings. Both the prosecutor and the defense are allowed to request the examination. Criminal records of these offenders were collected in 2006 from the Legal Register Centre which holds information on sentences given by the Finnish district courts as well as by Courts of Appeal and the Supreme Court. At this time, 66 offenders (8.8 %) did not have an entry of the index homicide in the criminal register because they were deceased or had not been convicted for the index crime (e.g., due to insufficient evidence). These cases were removed from the data set, leaving us with an initial pool of 683 convicted homicide offenders. The original goal was to perform retrospective file-based PCL-R assessments for all of the offenders, but due to lack of resources we were able to conduct assessments for only 80 % of the initial pool ($N = 546$; 460 men and 86 women). The demographic and offense data for the final sample were representative of those for the initial pool.

PSYCHOPATHY ASSESSMENTS

The structural properties, reliability, validity, and generalizability of the PCL-R are well-established (see reviews by Acheson, 2005; Fulero, 1995; Hare, 2003; Hare & Neumann, 2008a, b). The standard procedure for the PCL-R uses a semistructured interview, case-history information, and specific scoring criteria to rate each of 20 items on an ordinal 3-point scale (0, 1, 2) according to the extent to which it applies to a given individual. However, there is good evidence that reliable and valid PCL-R assessments can be obtained using only file information, and that the psychometric properties and criminal justice correlates of such assessments are much the same as those based on the standard protocol (Bolt, Hare, Vitale, & Newman, 2004; Grann, Langstrom, Tengstrom, & Stalenheim, 1998; Hare, 2003; Quinsey, Harris, Rice & Cormier, 2006).Total PCL-R scores can vary from 0 to 40 and, at the measurement level reflect a dimensional construct (Guay, Ruscio, Knight, & Hare, 2007). A cut score of 30 has proven convenient for "classifying" individuals as "psychopaths" for clinical and research puposes (see Hare, 2003; Hare & Neumann, 2008b).

Although the PCL-R measures a unitary superordinate construct (e.g., Bolt et al., 2004) confirmatory factor analyses of very large data sets (e.g., Neumann, Hare, & Newman, 2007) support a superordinate model in which psychopathy is underpinned by four correlated factors or dimensions, labeled as follows: *Interpersonal* (Glibness/superficial charm, Grandiose sense of self worth, Pathological lying, Conning/manipulative); *Affective* (Lack of remorse or guilt, Shallow affect, Callous/lack of empathy, Failure to accept responsibility for actions); *Lifestyle* (Need for stimulation/proneness to boredom, Parasitic lifestyle, Lack of realistic long-term goals, Impulsivity, Irresponsibility); and *Antisocial* (Poor behavioral controls, Early behavior problems, Juvenile delinquency, Revocation of conditional release, Criminal versatility). Confirmatory factor analysis (Häkkänen & Neumann, 2009) of the first

420 offenders assessed for the present study also provided good fit for the 4-factor model, which was used in the present study.

Information used for the PCL-R ratings was contained in the offenders' forensic examination reports collected from the National Authority for Medicolegal Affairs (NAMA) archives. Forensic psychiatric examinations in Finland are inpatient evaluations lasting six weeks on average, and include data gathered from various sources (e.g., relatives; medical, criminal, school and military records), psychiatric evaluation, standardized psychological tests, interviews by a multi-professional team, physical evaluation, and observation by hospital staff. The overall quality and reliability of the Finnish forensic psychiatric examination is considered high by both courts and scientists (Eronen, Repo, Vartiainen, & Tiihonen, 2000). Although the PCL-R may have been included in the forensic examination the results are not reported in the NAMA archives, and were not available for the current study.

The PCL-R assessments were conducted by a research team of nine forensic psychiatrists and psychologists trained in the use of the instrument. The forensic examination reports contained a short description of the crime. However, the raters were blind to the data concerning post-offense behavior, self-reported reasons for the killing, and sentencing. Interrater agreement was determined by having all of the members of the research team independently score twenty forensic reports that had been picked randomly from the data. The intraclass correlation for these twenty cases was .89 for the PCL-R total score, and greater than .90 for each of the four factors. Cronbach's alpha, was .92 for all items, .80 for Factor 1, .79 for Factor 2, .89 for Factor 3, and .80 for Factor 4. The PCL-R scores for the sample, prorated for missing items, varied from 0 to 39 and were normally distributed, with a mean of 19.3 ($SD = 9.8$) and a median of 20.0. The mean PCL-R score was significantly higher ($p < .05$) for male offenders (19.8, $SD = 9.7$) than for female offenders (16.9, $SD =$

10.0), a difference attributed to higher scores for the males on the Lifestyle and Antisocial factors. The percentage of offenders with a score of 30 or higher was 18.0 overall, 19.4 for males and 10.5 for females. These values are very close to those reported for large North American samples of male and female offenders (Hare, 2003).

POST-OFFENSE BEHAVIOR AND SENTENCING

In Finland the Legal Register Centre maintains a central registry of all offenders' offense history. Information on each offender's sentence history with respect to the current (index) offense was coded from the files obtained from the Legal Register Centre. Furthermore, crime reports of these homicides were collected from the Finnish police computerized Criminal Index File. The crime reports and forensic examination reports were retrospectively analyzed for the presence of the following information: Type of charge (manslaughter, murder); demographic characteristics (age and gender); psychiatric diagnosis; criminal history (yes/no); number of co-offenders; being under the influence of alcohol or drugs during the crime (yes/no); left the scene without informing anyone (yes/no); and denying charges at the forensic examination (yes/no). Diagnoses made during the forensic examinations were based on DSM-III-R (American Psychiatric Association, 1987) criteria until 1996. Since then ICD-10 (World Health Organization, 1992) has been used concurrently with DSM-IV (American Psychiatric Association, 1994). The victim-offender relation was divided into two groups: Family/partner (includes relatives, current and former intimate partners), and other. Self-reported reasons for the killing were classified into: an argument; financial; revenge; self-destructive; paranoid/delusional; and self-defense. The inter-rater reliabilities of these offense and offender related variables were assessed in previous studies (Häkkänen & Laajasalo, 2006; Laajasalo & Häkkänen, 2004). Cohen's kappa was at least .64 for each variable.

Age at the time of the offense varied from 15 to 79 years and approximated a normal distribution with a mean of 34.8 years ($SD = 12.1$). (In Finland the minimum age of criminal responsibility is 15 years and therefore the data do not include any offenders younger than 15). The final sentences for the index homicide were collected from the register. 166 persons (30.4 %) were prosecuted for a murder. Of these, 94 (56.6 %) were eventually convicted for murder, 67 (40.4 %) for manslaughter, one (0.6 %) for involuntary manslaughter, three (1.8 %) for assault, and one (0.6 %) for filicide (the deliberate act of a parent killing his or her own child). Of the 380 persons prosecuted for manslaughter, 326 (85.8 %) were convicted for manslaughter, 34 (8.9 %) for involuntary manslaughter, four (1.1 %) for assault, and 14 (3.7 %) for filicide and 2 (0.5%) for murder (in these rare cases the conviction was in both cases given by the upper court level, suggesting most likely that the prosecutor had preliminary charged the person for murder which the lower court had rejected and convicted the person for manslaughter, of which the prosecutor had appealed to the upper court level).

RESULTS

THE CRIMES

The 546 offenders killed 565 individuals, of whom 414 (73.3%) were males and 151 (26.7%) were females. The mean age of the victims was 40.54 years ($SD = 15.4$, 0-85 years). The victim was a family member/partner in 194 (35.5%) of the homicides, and an acquaintance or stranger in 352 (64.5%) of the cases. Most (82.2%) of the crimes were committed while the offenders were under the influence of alcohol or drugs. Of the homicides 471 (86%) were committed by a single offender and 75 (14%) were committed by more than one offender: 56 involved two offenders, 14 three offenders and five four offenders (it is of note that gang homicides are extremely rare in Finland).

Table 1 contains data on the association of PCL-R scores with these crime scene variables. Mann-Whitney U Tests (z-scores, two-tailed) indicated that being a multiple

perpetrator, having a male as a victim, being under the influence of alcohol or drugs, and having a victim who was not a family member or current or former intimate partner, were associated with relatively high mean PCL-R scores. In each case, these crime scene variables were associated with high scores on the Lifestyle and Antisocial factors of the PCL-R. Being under the influence of drugs and having a victim who was not a family member or former intimate were also associated with high Interpersonal and Affective scores.

Insert Table 1 about here

LEAV ING THE SCENE

Post-offense behavior was known for 494 offenders (89.8% of the sample). Of these, 160 (32.4%) left the scene and did not inform anyone of the killing or the victim's injuries. In these cases, the most frequent destinations where the offender went were own home (30.2%), a third person's home (27.8%), no particular place, for example wandering around (9.9%), a restaurant (7.4%), other city or country (5.6%) and "miscellaneous" (19.1%, e.g., hospital, shop). The mean age of offenders who left the scene and did not inform anyone was 32.4 years ($SD = 11.2$), compared with a mean age of 36.2 ($SD = 11.9$) for those who did not leave the scene ($t_{(485)} = 3.462$, $p < .001$). Univariate (χ^2 (1) analyses (due to missing information $N = 423$-494) indicated that leaving the scene was significantly more likely to occur among multiple offenders (51.7 % of the group) than among single offenders (28.4%, χ^2 (1) $=13.4$, $p < .0001$, Cramers $phi = .17$); among those with a criminal history (35.6%) than among those without a criminal history (24.3%, χ^2 (1) $= 5.8$, $p < .05$, Cramers $phi = .11$); among those whose victims were strangers (54.3%) than among those whose victims were known to them (30.4%; , χ^2 (1) $=8.5$, $p < .01$, Cramers $phi = .14$). Female offenders were less likely to leave the scene (17.6%) than male offenders (35.0%, χ^2 (1) $= 8.7$, $p < .01$, Cramers $phi = .13$).

Offenders were less likely to leave the scene if they were under the influence of alcohol or

drugs (30.7%) than if they were not (49.2%, χ^2 (1) = 8.4, $p < .01$, Cramers *phi* = .14).

The PCL-R scores for offenders who left or did not leave the scene are presented in

Table 2. Those who left the scene generally had the higher PCL-R scores, particularly total,

Lifestyle, and Antisocial scores.

Insert Table 2 about here

Next, a logistic regression analysis was performed to identify the predictive power of

various offender background variables for the dependent variable "left the scene and did not

inform anyone." Only cases with no missing information on any of the variables were

included in the analysis ($N = 439$). Selected variables considered to be important, on the basis

of the previous analysis, were "forced" into the model. The variables "personality disorder"

and "criminal history" were removed from the analysis in order to avoid co-linearity with the

PCL-R scores. The results (see Table 3) indicated that being sober at the time of the killing,

having co-offenders, being a male, and having a high PCL-R Lifestyle score were significant

predictors of leaving the scene and not informing of the killing or the victim's injuries to

anyone. Although the statistical model turned out to be statistically significant, it is

noteworthy that it accounted for only 15 % of the variance in the dependent variable and the

overall percentage of accurate prediction was only 70.

Insert Table 3 about here

DENIAL OF CHARGES

Of the 546 convicted offenders 57 (10.4%) denied the charges at the forensic

examination ordered by the court. They were significantly older ($M = 40.2$, $SD = 11.1$) than

those who did not deny the charges ($M = 34.2$, $SD = 12.1$; $t_{(541)} = -3.64$, $p < .0001$).

Univariate analyses indicated that denial of the charges was significantly more likely to occur among multiple offenders (20.3% of the group) than among single offenders (8.7%, χ^2 (1) = 9.2, $p < .01$, Cramers *phi* = .13); and among those who left the scene (16.9%) than among those stayed (7.2%, χ^2 (1) = 11.0, $p < .001$, Cramers *phi* = .15).

Table 2 indicates that those who denied the charges had significantly higher PCL-R total, Interpersonal, and Affective scores than did those who did not deny the charges.

A logistic regression analysis (Table 4) indicated that the Interpersonal and Affective factors, and the offender leaving the scene, were the strongest predictors of denying the charges. The model was statistically significant, and accounted for 27 % of the variance in the dependent variable. The overall percentage of accurate prediction was 90.

Insert Table 4 about here

For offenders who did not deny the charges, the account or self-reported reason for the killing was known in 351 of the cases. Of these, 209 offenders (59.6%) made reference to an argument, 34 (9.7) to revenge, 19 (5.4%) to financial reasons (e.g., robbery), 28 (8.0%) to paranoia/delusions, and 60 (17.1%) to self-defense. There was a weak positive correlation between revenge and the PCL-R score ($r = .12$, p < .05) as well as a significant negative correlation between paranoia/delusions and the PCL-R score ($r = -.25$, p <.001).

SENTENCING

Analysis of the final sentencing data indicated that 101 (18.4 %) of the offenders were convicted and sentenced for a criminal offense that was less serious (e.g., manslaughter) than the crime for which they had been prosecuted (e.g., murder). This change in the type of offence bore no significant association with demographic or offender variables, including PCL-R scores, the year of the trial, the regional location of the court, or the level of the court (i.e., whether the final sentence was given by a district court, Court of Appeal, or the

Supreme Court). It is of note however that in only five of these 101 cases the sentence was given by the Supreme Court.

Altogether 42 of these offenders were originally charged with murder or manslaughter but eventually were convicted and sentenced for the much less serious crime of *involuntary manslaughter*. Compared to offenders receiving a conviction for a homicide, offenders convicted of involuntary manslaughter had more frequently denied the charges (19.0 vs. 9.0%, χ^2 (1) =4.5, $p < .05$, Cramers *phi* = .08); had co-offenders (29.4 vs. 13.4%, χ^2 (1) = 6.8, $p < .01$, Cramers *phi* = .10); had a criminal history (85.7 vs. 69.4%, χ^2 (1) = 5.0, $p < .05$, Cramers *phi* = .09); had a personality disorder (90.5 vs. 72.5%, χ^2 (1) = 6.6, $p < .01$, Cramers *phi* = .10); and scored higher on the PCL-R Lifestyle factor (7.3 vs. 5.9, Z = 2.69, $p < .01$). A logistic regression analysis indicated that only denial of the charge ($\beta = 0.91$) and having co-offenders ($\beta = 1.18$) were significant predictors of involuntary manslaughter ($\chi^2 = 15.8$; $p < .01$). However, these variables accounted for only 8.4% of the variance in the dependent variable.

Psychopathy was significantly related to the level of the court that made the final decision. As Table 2 indicates, the PCL-R total scores and scores on all but the Lifestyle factor were significantly higher among offenders whose final decision was by the Supreme Court than among those whose final decision was in a lower court. Of the 18 offenders who had been granted leave to appeal the decision to the Supreme Court, 50.0 % scored at least 26 on the PCL-R and 33.3 % scored at least 30.

SUPPLEMENTARY ANALYSES

Because of our interest in impression management we performed additional analyses to examine the effect of the PCL-R items theoretically most relevant to several variables of interest: denial of charges, type of sentence, level of court and self-reported reasons for the crime. We recoded the following PCL-R items from the Interpersonal factor into

dichotomous variables (score of 2 = present; 0 or 1 = not present): Glibness/superficial charm, Pathological lying, and Conning/manipulative. In order to eliminate the effects of co-offending, only homicides with single offenders were included in this analysis ($N = 449$, of whom 24 received a lower level conviction of involuntary manslaughter), except for level of court analyses in which all offenders were included due to low number of cases.

For each item, the percentage of offenders who received a score of two was greater for those who denied the charge than for those who did not deny the charge: Glibness/superficial charm (19.4 vs. 8.2, χ^2 (1) =5.0, $p < .05$, Cramers *phi* = .11); Pathological lying (34.4 vs. 11.2, χ^2 (1) = 14.0, $p < .001$, Cramers *phi* = .19); and Conning/manipulative (38.9 vs. 22.1, χ^2 (1) = 5.2, $p < .05$, Cramers *phi* = .11).

For each item, the percentage of offenders who received a score of two was greater for those who received a reduced sentence of involuntary manslaughter than for those who did not receive a reduced sentence: Glibness/superficial charm (20.8 vs. 8.5, χ^2 (1) =4.2, $p < .05$, Cramers *phi* = .10); Pathological lying (36.4 vs. 11.7, χ^2 (1) =11.2, $p < .01$, Cramers *phi* = .17); and Conning/manipulative (39.1 vs. 22.6, χ^2 (1) = 3.3, $p < .10$, Cramers *phi* = .09). A logistic regression analysis with one independent variable showed that those who scored two on Pathological lying were 4.3 times more likely to receive a lower level sentence than those who scored one or zero on the item.

For the item Pathological lying, the percentage of offenders who received a score of two was greater for those who received a final decision by the Supreme Court than for those who received it from the lower courts (29.4 vs. 12.6, χ^2 (1) = 4.1, $p < .05$, Cramers *phi* = .09).

Finally, the reasons for the offense of the participants scoring two on the three PCL-R deception items were examined. No significant differences were found for the following motives: argument, financial, self-destructive, revenge or paranoid/delusional. For two items, the percentage of offenders who received a score of two was greater if they gave self defense

as a reason for the killing than if they did not do so: Pathological lying (26.5 vs. 13.9, χ^2 (1) = 3.6, $p < .10$, Cramers $phi = .11$); and Conning/manipulative (25.7 vs. 12.8, χ^2 (1) = 6.7, $p < .01$, Cramers $phi = .15$).

DISCUSSION

According to impression management theory much of human behavior is guided by a desire to obtain favorable reactions from other people. In a forensic context where the stakes are high, including police interviews and court proceedings, people become strongly motivated to control how others view them (Leary & Kowalski, 1990). Given their penchant for deception and manipulation, we would expect psychopathic suspects and defendants to be relatively successful in manipulating all aspects of the criminal justice system. In this study we focused on the association between psychopathy and crime-related behaviors in a large representative sample of Finnish homicide offenders.

Relatively high PCL-R scores were associated with being under the influence of alcohol or drugs at the time of the homicide, having a victim who was male, and having a victim who was not a family member or intimate acquaintance. These findings are generally consistent with the literature on homicide and psychopathy (Hare, 2003; Porter, Woodworth, Earle, Drugge, & Boer, 2003; Woodworth & Porter, 2002). Offenders with high psychopathy scores also were more likely than other offenders to have one or more accomplices. A similar finding has been reported by Juodis et al. (in press).

Relatively high PCL-R scores also were associated with leaving the scene of the killing, denial of the charges, conviction for a less serious crime, and receiving the final sentence from a higher level court. Furthermore, those with high scores on PCL-R items related to manipulation and pathological lying were more likely than other offenders to claim self defense as the primary reason for the killing. It is not surprising that psychopathic offenders were prone to leave the scene of the crime and subsequently to deny responsibility for the

deed (c.f., Porter & Woodworth, 2007). Rather than experiencing remorse for what has been done, psychopaths often shift the blame to external forces and focus on "saving their own skin." It is noteworthy that leaving the scene was associated with PCL-R total scores, but that the main contributor to the effect was the impulsive and irresponsible patterns of behavior reflected in the Lifestyle factor. Conversely, denial of the charges was related to PCL-R total scores, with the effect being due to the manipulative, deceptive, callous, and remorseless features measured by the Interpersonal and Affective factors. From the impression management point of view, denial of charges can be seen as a strategic and goal-directed behavior by which the offender tries to control the impressions that the members of the court form of him/her.

Perhaps most interestingly, the results showed that psychopathy was related to the level of the court that made the final sentencing decision. Compared with other offenders, those high on psychopathy— particularly the interpersonal and affective components—were more likely to have their final sentencing decisions from higher court, in some cases from the Supreme Court. Half of the offenders to whom the Supreme Court granted leave to appeal the sentences issued by a lower court had a PCL-R score of at least 26, while one-third had a score of at least 30. In Finland, the Supreme Court may only grant leave to appeal on the following grounds: a) to ensure consistent application of law in identical or similar cases or for the consistency of case law; b) an error in procedure or other error has taken place in the case, which by virtue of law requires that the decision be quashed; or c) there are other weighty reasons for granting leave to appeal. Although we do not have the information on the reasons for granting leave to appeal, we might speculate that they most likely were for "other weighty reasons," such as a request for additional police investigation or claims by the offender that his/her statements had not reasonably been considered by the lower court. The Supreme Court mainly relies on written evidence when deciding whether or not to review a

case. This raises an interesting question of the psychopath's capability to influence the courts through written statements. It is noteworthy that in Finland the records that The Supreme Court uses when deciding on a case do not include any information on the person's PCL-R scores or psychopathic traits. The only material which could possibly contain information on personality is the forensic examination report. This report however is used by the lower court only to assess the level of criminal responsibility.

Unfortunately, we do not have information on which side initiated the appeal. Nonetheless, if the prosecutor filed an appeal it would have been because the sentence was considered to be *too lenient*, but if the defense filed an appeal it would have been because it was perceived to be *too severe*. In either case, appeals to a higher court were more likely to involve psychopathic than other offenders, suggesting that the former either were able to obtain a relatively lenient sentence in a lower court (which the prosecutor then appealed), or that they were convincing in their appeal of a severe sentence. In both cases, impression management presumably has an important role, although we were unable to measure it directly. It is noteworthy that nearly a third of the offenders who received a final decision by the Supreme Court received a score of two on the "pathological lying" item of the PCL-R. This apparent ability to manipulate the court system is reminiscent of evidence that psychopathic offenders are unusually successful in obtaining parole in spite of their serious criminal histories (Hare, 2003; Porter et al., 2009). However, unlike parole hearings, the higher courts do not deal directly with the individual, suggesting that the impact of a psychopathic appellant is indirect, perhaps effected through written documents or unusually convincing legal representations. It is noteworthy however, that 95 % of the cases in which there was a change in the type of offence (between the original prosecution and final sentence) were handled by the lower courts.

Post-offense behaviors of offenders typically reflect strategic self-presentation to prevent others (police officers) from considering them as suspects, to mitigate the seriousness of the crime, or to influence court proceedings. In this study, individuals high on psychopathy were especially prone to such behavior, an unsurprising finding in view of the manipulative and deceptive features that define the disorder. We might note that these features also are part of the construct of Machiavellianism (Christie & Geis, 1970; Fontana, 1971), which, along with psychopathy and narcissism, is part of the "Dark Triad" (Jonason, Li,m Norman, Webster, & Schmitt, 2009: Paulhus & Williams, 2002;Vernon, Villani, Vickers, & Harris, 2008). Psychopathy no doubt is the most socially deviant, virulent, and interpersonally persuasive of these personalities (Nathanson, Paulhus, & Williams, 2006). Thus, a "good show" often trumps common sense (Babiak & Hare, 2006), even when the audience consists of those whose job it is to detect deception and dissimulation (Porter & ten Brinke, 2009). Legal practitioners are however no better than the average person in detecting deception, although they often are confident in their ability to tell if someone is lying (Ekman & O'Sullivan, 1991; Ekman, O'Sullivan & Frank, 1999; Mann, Vrij & Bull, 2004; Vrij, 2000).

Although informative concerning the impact of psychopathy on the legal system, the present research has limitations. It was based on homicide offenders in Finland, and although the results generally are consistent with Canadian findings for example, comparative analyses are needed of the effects of cross-cultural differences in the measurement and expression of psychopathy (Sullivan & Kosson, 2006), and in the structure and function of criminal justice systems. We were able to determine the likelihood that an offender would be granted leave to appeal a lower court ruling, or be sentenced for a less serious crime than originally charged, but not the reasons for these dispositions. Additional research is needed in which detailed analyses of the legal proceedings and decision-making processes are examined. This would

include comparative in-depth investigations of the stratagems used by psychopathic and other suspects and offenders during police investigations and court proceedings, as well as their impact on the police and the courts. Among the outcomes of such investigations would be an increased understanding of how psychopaths use impression management strategies and tactics to manipulate the criminal justice system, and the development of effective counter-measures. Some criminal investigators have developed their own methods for interviewing and dealing with psychopathic suspects and offenders (Logan & Hare, 2008; O'Toole, 2007; Quayle, 2008), but research is needed to evaluate the general utility of such methods.

The results generally were in accord with expectations about the associations of the four PCL-R dimensions and the dependent variables. For example, the Lifestyle factor was predictive of leaving the scene, whereas the Interpersonal and Affective factors were predictive of denial of the crime and of the level of the final court decision. However, we note that most analyses yielded relatively small effect sizes, and that models of the logistic regression analysis explained only about 15 and 27 percent of the variance in leaving the scene and denying the charges respectively. Clearly, many situational and individual variables that were not examined in the present study also have an affect on these post-offense behaviors. In addition, the number of offenders who had been granted leave to appeal the decision to the Supreme Court or who had received a sentence of involuntary manslaughter was small, preventing us from conducting more detailed analyses. Finally, we attempted to eliminate predictor-criterion contamination by having separate and blind raters for the PCL-R and the dependent variables, but it is possible that in some cases the PCL-R item scores were affected by information in the forensic examination reports (e.g., that the offender denied the charges).

In summary, psychopathy is associated with an increased tendency for offenders to leave the scene of a homicide, deny responsibility for the crime, receive a reduced sentence,

and to successfully appeal sentences to a higher court. Given the risk that psychopathic offenders pose for serious crime and violence, the finding by this and other studies that they are able to manipulate the criminal justice system is cause for concern. Although the legal community may be becoming aware of the nature and implications of psychopathy, a lot more remains to be done along these lines. Presumably a better understanding of psychopathy and an appreciation of its role in the criminal justice system would facilitate the evaluations of offenders and forensic patients conducted by decision-makers.

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Table 1: PCL-R Scores Associated With Crime Scene Variables

	Total		Interpersonal		Affective		Lifestyle		Antisocial	
	M	SD	M	SD	M	SD	M	SD	M	SD
Number of Offenders										
Multiple	23.1	8.3	2.8	2.6	6.1	2.4	7.4	2.6	5.6	2.9
Single	18.4	10.0	2.3	2.4	5.5	2.6	5.7	3.5	4.1	3.2
z^a	3.65***		1.63		2.20*		3.96***		3.67***	
Under Influence of Drugs or Alcohol										
Yes	20.2	9.3	2.2	2.4	5.7	2.5	6.5	3.2	4.8	3.0
No	11.7	8.9	1.6	2.3	4.6	2.8	2.9	2.8	2.1	2.6
z	6.89***		2.50*		3.23***		8.13***		7.39***	
Victim										
Female	16.0	10.2	2.2	2.3	5.2	2.7	4.6	3.7	3.2	3.0
Male	20.4	9.5	2.4	2.5	5.7	2.5	6.5	3.2	4.8	3.1
z	4.45***		0.37		1.84		5.44***		5.30***	
Family Member/ Ex Partner										
Yes	14.4	9.8	1.8	2.2	4.8	2.7	4.3	3.6	2.7	2.8
No	21.5	9.1	2.5	2.5	5.9	2.4	6.8	3.1	5.2	3.0
z	7.59***		3.76***		4.65***		7.55***		8.55***	

a. Mann-Whitney U test, two-tailed. * $p < .05$; ** $p < .01$; *** $p < .001$

Table 2: PCL-R Scores Associated With Post-Offense Behavior

	Total		Interpersonal		Affective		Lifestyle		Antisocial	
	M	SD	M	SD	M	SD	M	SD	M	SD
Remained at Scene of Crime										
Yes	18.7	9.9	2.2	2.5	5.5	2.6	5.8	3.4	4.2	3.1
No	21.2	9.5	2.5	2.5	5.8	2.4	6.6	3.4	5.0	3.2
z^a	2.66**		1.52		1.07		2.66**		2.68**	
Denied Charges										
Yes	23.3	9.7	3.9	2.7	7.0	1.3	6.3	3.5	4.5	3.4
No	18.9	9.7	2.1	2.4	5.4	2.6	6.1	3.4	4.4	3.1
z	3.24***		4.78***		4.28***		0.57		0.09	
Level of Court for Final Decision										
Supreme	24.1	10.2	4.2	3.1	6.9	2.7	6.6	3.4	6.1	2.6
Lower	19.2	9.8	2.2	2.4	5.6	2.5	6.0	3.4	4.3	3.1
z	2.00*		2.76**		2.51**		0.68		2.43**	

a. Mann-Whitney U test, two-tailed.

* $p < .05$; ** $p < .01$; *** $p < .001$

Table 3: Summary of Logistic Regression Analysis for Offender Leaving the Scene

Independent variable	β	S.E	Wald	Odds ratio
Multiple offenders	0.82	0.32	6.59**	2.27
Stranger victim	0.60	0.43	1.98	1.82
Male offender	0.70	0.37	3.57	2.02
Age	-0.02	0.01	2.04	0.98
No alcohol	1.35	0.31	19.19***	3.87
PCL-R Factor				
Interpersonal	0.05	0.05	1.01	1.06
Affective	-0.07	0.05	1.50	0.93
Lifestyle	0.12	0.05	4.53*	1.12
Antisocial	0.01	0.06	0.02	1.01

Note. $N = 425$; $\chi_2 = 48.4$; $p < .001$; $R^2 = .151$; Overall percentage of accurate prediction = 70.1.

* $p < .05$; ** $p < .01$; *** $p < .001$

Table 4: Summary of Logistic Regression Analysis for Denial of the Charges.

Independent variable	β	S.E	Wald	Odds Ratio
Offender left the scene	1.26	0.37	11.77***	3.52
Multiple offenders	1.05	0.48	4.83*	2.87
Age	0.07	0.02	16.33***	1.07
PCL-R Factor				
Interpersonal	0.25	0.07	11.02***	1.23
Affective[a]	0.31	0.12	6.74**	1.36
Lifestyle	0.03	0.08	0.11	1.03
Antisocial	-0.09	0.09	1.07	0.91

Note. $N = 448$; $\chi_2 = 60.5$; $p < .0001$; $R^2 = .27$; Overall percentage of accurate

prediction = 90.4.

* $p < .05$; ** $p < .01$; *** $p < .001$

a. In order to avoid predictor-criterion contamination item 16 of the PCL-R (failure to

   accept responsibility for own actions) was removed from the affective factor score

   before running the logistic regression

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