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The story of the delinquent Asperger

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The story of the delinquent Asperger

On connecting autistic conditions to delinquency

Hilde Tjeerdema

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Cover picture: Sidney Paget (1860-1908), "Holmes gave me a sketch of the events". Published in *The Adventure of Silver Blaze*, The Strand Magazine, December 1892.



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The story of the delinquent Asperger

On connecting autistic conditions to delinquency

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Contents

Preface	7
Chapter 1	
Asperger's Syndrome in forensic mental health studies	15
Intermezzo	
Arson and Asperger's Syndrome, the Swedish connection	25
Chapter 2	
The malicious chemist and the autistic hacker: What exemplary portraits do	29
Chapter 3	
On writing pre-trial mental health reports: taking the passage from the realm of mental health to the law	47
Chapter 4	
That which is the case: Lines of reasoning concerning autistic suspects in Pieter Baan Center (PBC) reports of the 1990s	65
Chapter 5	
The narrative structure of pre-trial mental health reports	79
Final reflections	97
References	103
Samenvatting (Summary in Dutch)	121
Nawoord (Acknowledgments)	127
Appendix	129
Endnotes	147

Preface

In July 2011, Anders Breivik murdered 69 people at a Labor Party's youth camp on the Norwegian island Utøya. Before that, he killed eight people in Oslo. Was Breivik insane during this horrific shooting spree? In the course of his trial, forensic mental health experts came to contradictory conclusions. The first team of experts found Breivik to be psychotic and suffering from paranoid schizophrenia. The second team found no sign of a psychosis but did declare Breivik to be asocial and narcissistic.¹ A psychiatry professor at the University of Oslo, Ulrik Fredrik Malt, said that Breivik suffered from Asperger's Syndrome, Tourette's Syndrome and narcissistic personality disorder.² Professor Malt pointed to Breivik's lack of emotion, his impressive memory for details, his obsession with numbers, his hypergraphia (obsessive writing) and his monotonous tone of voice as evidence for his Asperger's diagnosis. He mentioned that Breivik's mother had described her son as being constantly thirsty, which the psychiatrist labeled as 'a symptom frequently displayed by young Asperger's sufferers'.³ His Asperger's Syndrome had left him incapable of being empathetic toward others which may have contributed to the killings.

In the case of William 'Billy' Cottrell, a young physics student in the US who was arrested in 2005 for firebombing SUVs at dealerships, Asperger's Syndrome was used as an explanation for wrongdoings too. Billy was protesting against the car industry's contribution to pollution. He was charged with (conspiracy to) arson. His lawyers hired an expert who diagnosed him with Asperger's Syndrome. During this trial, these lawyers were wearing 'Free Billy' T-shirts. The message on the back of the shirt, 'Don't waste a beautiful mind', was a less than subtle reference to the 2001 movie *A Beautiful Mind*, featuring the brilliant yet schizophrenic mathematician John Nash.⁴ Cottrell's lawyers argued that people suffering from Asperger's Syndrome have a hard time functioning socially and tend to take things literally. They are often uncommonly bright and can focus on particular problems much longer than others. Billy must have been duped into participating in the vandalism spree by more nefarious personalities.⁵

Another case in which Asperger's Syndrome received considerable media attention as a mental condition with forensic relevance is the case of Gary McKinnon. Gary hacked into the United States' military and NASA computer systems in the late 1990s. He searched for secret information on UFO technology for free energy. In this case, the general public approached Gary's legal representatives after he appeared on TV; viewers said they recognized features of Asperger's Syndrome in

the computer hacker and were asking themselves whether Gary was mentally sane during his illicit activities.

Diagnosing suspects in the forensic mental health context is a matter of attributing responsibility. Seen in this light, forensic mental health assessments are tools or techniques enabling judges to reach their verdicts. Yet, attributing or denying responsibility is not confined to the solitude of courtrooms or in-house examination clinics, as the above examples demonstrate.

Connections between autistic conditions and delinquency

In this thesis, I examine how connections between autistic conditions and delinquency come into being in the Dutch forensic mental health setting. Specifically, this dissertation asks how forensic mental health experts make connections between Asperger's Syndrome and delinquency work in pre-trial mental health reports written for the court. The greater part of this thesis focuses on locally situated knowledge practices.

Nevertheless, throughout this thesis, I adopt an interactive stance. The practice of forensic mental health experts takes place in a highly specific setting, or site. Yet, studying the emergence of these connections in this setting cannot do without considering interactions between this and other sites. By this I mean, for example, that media representations of the delinquent Asperger interact with and feed back on what experts in a forensic psychiatric hospital see and do, which in turn may affect what scientists study, and subsequently may affect the kind of results published in both academic and popular journals, which in turn may affect how suspects come to think about themselves, and so on. Therefore, the first two chapters of this dissertation start with an introduction on how connections between Asperger's Syndrome and delinquency are studied and described in scientific studies. More specifically, the first chapter is on how Asperger's Syndrome is defined in scientific research. The central question here is how the delinquent Asperger emerged as an entity of interest for forensic mental health researchers. It elaborates on the interactive stance adopted in this thesis by drawing upon the work of Ian Hacking (Hacking, 2007; 2009a; 2009b; 2012a), among others. Hacking uses the phrase 'making up people' and analyzes 'engines of discovery' in the human sciences in the process of making up people.

Chapter 2 adds an important element to Hacking's analysis. It concentrates on the performativity of single cases or single case studies in relation to the quantitative, population-based forensic mental health research studies discussed in the first chapter. The central question here is; what does a collection of stories, specifically a collection of stories about 'delinquent Aspergers', do to us? I demonstrate that the suspicion of Asperger's Syndrome relation to delinquency is solidified by the emergence of what I call 'exemplary portraits'. The chapter explores how such exemplary portraits may either emerge through high-profile cases, popular with the media, or through the publication of single case studies used to theorize on how autistic conditions relate to delinquency. Next to counting, quantifying and correlating, which Hacking identified as the engines of discovery in the human sciences, I point at mechanisms at work in the extra 'engine' of exemplary portraiture. Specifically, I return to the history of Gary McKinnon as one case of *autistic brilliance* gone astray. How did this self-proclaimed 'techno geek' turn into an 'autistic hacker'? The argument here is that Gary's portraiture as an autistic computer hacker was not only made possible by popular knowledge on autism but it also affected McKinnon's own interpretation of his actions. In the realm of scientific research too, he became the example he was said to be.

Chapter 3 zooms in on the complex work of Dutch forensic mental health experts conducting pre-trial mental health assessments. It focuses on their thoughts and considerations in their daily work practices. In the Netherlands, these experts write a total of some 8,500 pre-trial mental health reports every year (Duits, van der Hoorn, Wiznitzer, Wettstein, & de Beurs, 2012). In short, these assessments address whether or not the suspect suffers (or suffered) from a psychic disorder and whether this has influenced the so-called 'index offense' the suspect is legally charged with. If so, the extent to which the person's psychic constitution is believed to have influenced the offense results in a recommendation on the degree to which the suspect can be held accountable. This chapter aims to make visible the work needed to take, what I call, 'the passage' from mental health to the law. It is about strategies of connecting spheres that by themselves are not necessarily connected.

I interviewed experts in the field. By studying the forensic mental health experts' thoughts and considerations about the process of making pre-trial mental health reports as well as the final products (the pre-trial mental health reports), I reflect on the discipline's practical rationalities. These are all ultimately directed to taking the passage from the realm of mental health to the law, I argue. Everything

the expert asks, does, and writes down aims to establish a consistent and coherent narrative about how the psychic condition of the suspect works in the constitution of the alleged offense.

As I demonstrate, these narratives change over time as they interact with changing conventions about how to see and classify the world. Hence, Chapter 4 places the story of the delinquent Asperger in a broader context.

I conducted an archival search at the Pieter Baan Center (PBC, the Dutch Center for forensic psychiatric observation and assessment), starting from a specific dispute between experts about an alleged 'blind spot' for, what some called, neurobiological disorders such as autism. The chapter provides an overview of the explanations of (alleged) autistic suspects' states of mind found in PBC reports written in the period 1994-1999 (see also Tjeerdema & Hulscher, 2016). The central question in this chapter is how forensic mental health experts from the PBC 'handled' the first suspects with childhood diagnoses on the autism spectrum arriving in the late 1990s. What kind of explanations for these suspects' state of mind can be found in these reports?

I identify a transitional phase in time, when experts are creating the leeway to vary between distinct types of reasoning. I argue that the institutional arrival of autistic conditions and the biological explanatory model accompanying it enriched rather than challenged the customary conventions in this specific forensic mental health setting.

Focusing on more recent pre-trial mental health reports (2000-2013), the fifth and final chapter argues that once the story of the delinquent Asperger found its place in the institute, a more cultivated storyline appeared. In various cases, a portrait of 'the delinquent Asperger' was included in the lines of reasoning for accountability. More importantly, Chapter 5 further investigates the nature of the narratives found in pre-trial mental health reports. I explore the nature of these narratives by drawing upon the tension between, on the one hand, the 'medical chart logic' as followed by the official format for assessment, and on the other hand, the detective story, a story of both investigation and interpretation.

After this, in the final part of this dissertation, I reflect on my findings and draw conclusions on how connections between autistic conditions and delinquency come into being in this field of forensic mental health.

Methodological considerations and limitations of this study

This PhD dissertation consists of five chapters and a short intermezzo, that can all be read independently of each other. To find out how connections between autistic conditions and delinquency come into being in the Dutch forensic mental health setting, I relied upon various sources and used multiple research methods. The first two chapters and the intermezzo are mainly based on literature. Apart from this literature study, I conducted a media analysis to investigate the impact of Gary McKinnon's case on media coverage on autism and computer hacking. Details related to this analysis can be found in the Appendix.

The last three chapters are based on qualitative research. Chapter 3 zooms in on the thoughts and considerations of Dutch forensic mental health experts. To learn more about the process of making a pre-trial mental health report and the practical rationalities associated with it, participant observation would have been a very appropriate qualitative research method. I originally intended to observe and analyze the work of forensic mental health experts 'in action', yet protection of the confidentiality of the doctor-patient relationship hindered experts to facilitate this type of empirical research. Instead, I conducted a series of interviews with forensic mental health experts in the period 2011-2013. Most of them were forensic mental health experts conducting pre-trial mental health assessments but I also interviewed e.g. a therapist working at a forensic psychiatric clinic, a professor in forensic psychiatry and a legal expert who provided feedback and support to forensic mental health experts at a regional NIFP department. At one particular regional department of this Dutch expertise center for forensic psychiatry and psychology, I interviewed several experts who were not only working as forensic mental health experts but also as trajectory consultants. (Trajectory consultations (or arraignment consultations) aim to determine what kind of pre-trial mental health report should be made). A more detailed description of these respondents can be found in the Appendix belonging to chapter 3. The fact that I have not been able to observe and analyze the actual process of conducting the pre-trial mental health assessments and the making of reports must be identified as a limitation of this study.

Nevertheless, I am very grateful that I was granted access to the PBC archive (which was, at the time of this study, still mainly a physical archive) and the (digital) Forensic Report Information System (FRIS). Close reading (of a selection) of reports gave further insight into how Dutch forensic mental health experts connect

autistic conditions to delinquency. For chapter 4, that aims to investigate how PBC experts 'handled' the first suspects with childhood diagnoses on the autism spectrum arriving in the late 1990s, I manually checked all available files in the PBC archive in the period January 1994 – December 1999 for references to autistic conditions. Selected reports made references to autism, or pervasive developmental disorder(s), (atypical) autistic disorders, Asperger's Syndrome, PDD-NOS and/or autism spectrum disorder, or any other reference to autistic (or in Dutch: *autistiform*) behavior or features. Of the 1312 available files, only five reports contained references to autistic conditions or features and I have analyzed these files in detail.

Chapter 5 scrutinizes how relations between alleged offenses and Asperger's Syndrome are delineated by close reading a small series of more recent reports (both ambulant and PBC reports) in the period of 2000-2013.

Because my aim in the fifth chapter was to analyze what kind of stories pre-trial mental health reports are, it was essential to read complete reports and not (merely) parts of it. Therefore, publicly available material on e.g. rechtspraak.nl does not suit this aim, it only publishes minor sections of reports.

This chapter uses material from the FRIS database. However, the database does not classify autistic conditions as such. A pre-selection was made containing reports in which a developmental disorder was diagnosed in combination with (above) normal or high intellectual functioning in male suspects; the selected reports were made in the course of a criminal court procedure, and; a relation between (alleged) violent crimes was assessed – arson, sexual offenses (rape/ sexual assault) or violent offenses (homicide, homicide attempt or threat and assault, battery). This pre-selection consisted of 43 reports. A manual search in the PBC archive revealed that of these reports, 14 related to suspects diagnosed with Asperger's Syndrome. I found four cases related to sexual offenses, one case of arson and nine cases of violent offenses. A similar procedure was followed to select a small, random sample of ambulant reports from the database. This subset contained 645 reports. Five ambulant reports related to suspects diagnosed with Asperger's Syndrome were selected at random to complement the material retrieved from the PBC archive (four cases related to violent offenses, one to arson). It should be noted that these samples were not selected for the purpose of conducting quantitative analyses and that inferences from this sample to the whole group of reports should not be made, at least, not in the statistical sense.

One of the consequences of not being a forensic mental health expert myself was that I could not examine the work of these experts 'in action'. Another limitation is that I have not seen and spoken suspects in person. Nevertheless, this study is a starting point. It hopes to inspire future research on the practices of forensic mental health experts writing pre-trial mental health reports.

Chapter 1

Asperger's Syndrome in forensic mental health studies

These past few decades, autism has emerged not only as a key object of scientific study but also as a human condition, a way of being and relating to the world. The list of people that 'deal' with autism is long and represents the many ways the condition is experienced, studied and talked about. On the list are patients, clinicians, schoolteachers but also police officers, legal counselors, and judges. The list includes historians of psychiatry who have put disorders such as 'dementia infantilis' and 'childhood schizophrenia' into a new light, as they have been writing new pre-histories on autism. And, simultaneously, with the creation of new histories, new futures are emerging. Neuropsychiatric and genetic research is driven by the promise of predicting, preventing, and eventually curing autism.

The emergence of autism denotes a whole range of new things: new relations to past and future, new categories and distinctions, new identities and new forms of activism, new forms of study.⁶ As the condition is marked by a diversity of symptoms, traits, biological markers and cognitive profiles (Verhoeff, 2012; 2015), it can rejoice in having secured the attention of many future researchers to come.

Several decades ago, autism was considered a rare mental condition with a prevalence of around 2-4 per 10,000 children. Studies carried out from the 1990s onwards reported rates up to 60 per 10,000 for autism and more for the full autistic spectrum (Wing & Potter, 2002). Nowadays, autism is no longer a rare condition, nor is it confined to children. Adults are being diagnosed with it too.

Classifying and labeling people with autistic conditions has been, and still is, a changing practice. Those who are said to suffer from the disorder do seem to share certain challenges relating to interacting with others. Some people falling under the label are completely non-verbal and withdrawn. Others (merely) seem to miss the capacity to fine-tune social interaction. By and large, Asperger's Syndrome is thought to be 'at the higher end' of the spectrum. The diagnosis Asperger's Syndrome is nowadays incorporated in autism spectrum disorder (ASD), as are autistic disorder and pervasive developmental disorder not otherwise specified (PDD-NOS) (APA, 2013). A single spectrum disorder is thought to reflect the state of knowledge about pathology and clinical presentation better (idem).

Talking about the idea of autism or what is believed to be essential in autism is like walking on thin ice. In its brief history, Verhoeff (2015) argues, autism has

been a disorder of affective contact (Kanner, 1943); a language disorder (Rutter and Bartak, 1971); a disorder in processing and integrating perceptual information (Wing and Wing, 1971); a disorder of executive functioning (Hill, 2004); a disorder of reading other people's minds (Baron-Cohen, 1995) and a disorder of weak central coherence (Happé and Frith, 2006). This list is not exhaustive.

Assuming that the core of autism can be understood in terms of deficits in communication, imagination and social interaction, the 'triad of impairments' (Wing & Gould, 1979) is one of the most important paradigms guiding both research and diagnostic practices. This notion of impairment in cognitive processing has instigated influential theories about autism. And, it underpins most clinical and neurological research. It has also influenced theories on the relation between autism and delinquency.

For example, people diagnosed with autistic conditions typically lack the ability to comprehend the mental state of others, conceptualized as an impairment of 'theory of mind' (ToM) (Baron-Cohen, 1995; Baron-Cohen, Campbell, Karmiloff-Smith, & Grant, 1995). Having a ToM is believed to be necessary for navigating daily life; for getting social cues and understanding that other people have beliefs and feelings of their own. This term, originating from chimpanzee research (Premack & Woodruff, 1978), turned out to be helpful in making predictions about deficits in autism in the form of ToM tests (Happé, 1994). ToM tests are still used today as diagnostic tools in (forensic) mental health practices. In the forensic mental health context, this ToM impairment, or 'mindblindness' (Baron-Cohen et al., 1995) has also been introduced as a possible explanation for criminal behavior (Haskins & Silva, 2006). Frith (1989) introduced the concept of 'central coherence' as an attempt to explain the triad of impairments. Normal cognitive processing brings differences together into a coherent and sensible general pattern and the 'weak central coherence' theory states that this processing is impaired in people with autistic conditions. According to Silva, Leong, Smith, Hawes, & Ferrari (2005), 'compartmentalization' associated with weak central coherence may predispose people with autistic conditions to develop a psychological niche for a growth of inner preoccupations. If left unchecked, this may lead to maladaptive fantasies. In forensic mental health literature, delinquent behavior in people diagnosed with autistic conditions is often explained by drawing upon theories about cognitive processing.

According to Biklen (2005), the processing metaphor actually works in service of another overarching idea about 'where' autism is, namely inside the

person: It enables autism to be defined as a disorder located in the brain. In the paradigm of the triad, impairments in behavior and deficits in the mind are aligned.

Unsurprisingly, the heterogeneity of the autism concept can be retraced in forensic mental health literature on autistic conditions and delinquency. To explain delinquent behavior, inner experiences, empathic and moral faculties, cognitive capacities and neurobiological or genetic anomalies are called upon. Some explanations are fairly straightforward. For example, Murrie, Warren, Kristiansson, & Dietz (2002) argue that the impact of impairments in social interaction involve a naive understanding of human relationships which may lead to seeking interpersonal contact in misguided ways. Tantam (2003) states that behavioral problems may occur in response to a person's anxiety, shame, anger or frustration to another person or from lifelong isolation, rejection or bullying. Chen et al. (2003) report a case of repeated stealing, arguing that the person's extreme interest in stealing and hoarding other people's property was a direct symptom of Asperger's Syndrome. Neuroimaging revealed 'hypoperfusions' in several parts of the brain, producing a specific pattern of behaviors and abilities in people with Asperger's Syndrome. Haskins and Silva (2006) argue that 'both Theory of Mind deficits and a predilection for intense narrow interests, when coupled with deficient social awareness of salient interpersonal and social constraints on behavior, can result in criminal acts' (p. 374).

Autism speaks

Within society as a whole, ideas and theories about autistic conditions are at least as heterogeneous as those found in the forensic mental health research community. For example, advocacy groups have diverse views on the problems that need to be addressed. US's largest advocacy group *Autism Speaks* states that autism has a voice and, as put on their website, 'It is time to listen'.⁷ The group is devoted to funding research 'into the causes, prevention, treatments and a cure for autism'.⁸ In contrast, some people diagnosed with Asperger's Syndrome emphasize that they are not ill. Their brains are wired differently from so-called neurotypicals. 'Aspies' strive for freedom, not for recognition as patients.⁹ Without discussing the wide range of different theories on autism, the contrast between these two advocacy groups illustrates that goals can be different depending on what is defined as the problem(s).

Relevant here is that the public's understanding of autism has been shaped by multiple forces and that it comes in many forms. For example, autism fiction has

become a genre of novel writing in its own right. This genre, and autobiographies, movies and documentaries too, have contributed to the general recognition of autism (Hacking, 2009b). This in turn affects how people with autistic conditions think of themselves, as the 'Aspie' movement illustrates. It also helps in forging concepts in which to think of autism, so Ian Hacking argues (Hacking, 2009a; 2009b). Hacking refers to this dynamic as 'the looping effect' since the act of naming and classifying feeds back on and interacts with the condition at hand. This dissertation is mostly devoted to examining how connections between autistic conditions and delinquency come into being in the forensic mental health setting. Adopting an interactive stance, I assume that scrutinizing how these connections come into being cannot do without considering the potential interactions between the multiple sites in which these connections emerge.

Hacking's framework of interacting aspects of what he called 'making up people' (Hacking, 2007) contains not only the people classified and the experts who classify, study and help them, but also the institutions within which the experts and their subjects interact, and through which authorities exert control. There is also an evolving body of knowledge about the people in question. This body of knowledge is not confined to expert knowledge but also includes the public's understanding of autists.

About the phrase 'making up people': Hacking starts from the position that the engines of discovery in the human sciences are also the engines for making up people. Counting, quantifying, and creating norms, correlating, medicalizing, and according to Hacking, all these engines aim 'at the production of knowledge, understanding, and the potential for improving or controlling deviant human beings' (idem, p. 310). New classifications may bring into being new kinds of people, yet these new kinds of people are 'moving targets' as the classification may interact with the people classified.

In the case of autism, specifically the internet has directly contributed to this process. Again, according to Hacking, modern autism is 'as much a child of the internet as of advocacy groups (...) and specialists' (2012b, p. 326). Consider for example that the American Psychiatric Association (APA) launched a website which made preliminary draft revisions of the fifth *Diagnostic and Statistical Manual of Mental Disorder* (DSM-5) publicly available for critique and comments. Feedback submitted to the website was reviewed and, 'where appropriate', modifications in their proposed diagnostic criteria were made.¹⁰ Hacking asserts that autism 'speaks'

more than ever, now that there is a way to communicate in all immediacy with other people without looking them in the face.

The diagnosis of Asperger's Syndrome has been positioned on the higher end of the autism spectrum and those with this diagnosis are expected to have an average or above average IQ and good language skills (though certain speech and language peculiarities are said to be associated with the condition). Looping effects, that is, interactions between classifications and the classified, should be particularly present at this end of the spectrum because these people are most able to contemplate and discuss their diagnosis and can therefore act upon it.¹¹

Before moving on to the forensic mental health research literature on autism and delinquency, I would like to stress that as a human condition autism has dimensions of its own. It refers to a way of being and relating to the world while the condition takes shape in its very relation with the world. Hacking's interactive stance is fundamental to this definition. This chapter focuses on the emergence of the delinquent Asperger as a countable entity in forensic mental health research. Following the idea that in the human sciences, the engines of discovery are also engines of making up people, it should be clear by now that counting always 'does more' than merely produce numbers and that autism can never simply be counted.

Emerging suspicion

In 1985, Mawson, Grounds and Tantam (1985) described the case of a 44-year-old British man admitted to Broadmoor Hospital. He was placed in this high security forensic psychiatric institute after several incidents. He had dropped firework into a girl's car and stabbed her with a screwdriver. At the age of 22, he had entered a neighbor's house, upset by a dog's barking, kicked the animal and stabbed the owner with a screwdriver too. Three years later, he assaulted a crying child on a railway station by putting his hands on the child's mouth. He wanted to stop the noise. He developed special interests and behavior which posed potential hazards to others. To the best of my knowledge, Mawson et al. (1985) were the first to suggest that 'the association between Asperger's Syndrome and violent behavior (...) is more common than has been recognized' (p. 569).

This article is the first in a long line of publications on the topic. Shortly after this publication, more single case studies appeared that linked Asperger's Syndrome

to violent or delinquent behavior (Baron-Cohen, 1988; Chesterman & Rutter, 1993; Everall & LeCouteur, 1990). Baron-Cohen (1988) presented a case of a 21-year-old man with Asperger's Syndrome who had frequently been violent to his 71-year-old 'girlfriend' Betty. Everall and LeCouteur (1990) presented the case of a 17-year-old boy who had a history of firesetting.

The 1980s marked the local, temporal circumstances – the context, so to speak – in which these case studies appeared, internationally and in the Netherlands too. The period can be characterized by a shift from 'badness' to 'sickness', or by what the sociologists of that time termed 'the medicalization' of deviance (Conrad & Schneider, 1980). The mental hospital became a site for the detention of those thought to pose a risk to 'the public'. From the 1980s onwards, mental health legislation and procedures became equipped with risk-thinking (Rose, 2010). Legislation emerged that focused on risk assessment and the psychiatric treatment of mentally disordered offenders to reduce their risk of reoffending.

Furthermore, one (of the many) hallmark event(s) in autism research was the introduction in 1981 of Asperger's Syndrome as a distinct syndrome within the autistic spectrum (Wing, 1981). Hans Asperger's original work (Asperger, 1938; 1944; 1968) became widely accessible to the English-speaking community from this moment onward.¹² This is not to say that before the 1980s no references to delinquency or deviance and autism can be found. Hans Asperger paid attention to behavioral problems in his original publication on the syndrome (Asperger, 1944). His description of recalcitrance, mischievous acts and narrow areas of interests displays a certain fascination for the mindset of the children under study and this may have been instructive in drawing scientific attention to it later on.¹³

Developmental psychologist Uta Frith later marked Asperger's contention that autistic children display intentionally spiteful behavior as 'one of the most controversial of his ideas' (Frith, 1991, p. 40). Attempting to explain why this was so prominent in Asperger's work and not in the work of, say, Leo Kanner (1943), Frith argued that a more child-centered attitude prevailed in the US at that time. In Europe, instilling respect and discipline had remained a major aspect of education, or so it was argued (though Kanner has mentioned aggressive and destructive behavior too).¹⁴

The 1980s case studies mark the start of an autonomous field of research in forensic mental health. Pinpointing the first single case studies as the starting point for 'the delinquent Asperger', some core characteristics can be identified

instantaneously: These studies feature men who are odd, erratic and dangerous. Each case study describes a unique person but they all share the profile of the new category. Chapter 2 of this thesis analyzes closely what happened then. Here, rather than systematically reviewing this literature – others have done so (Bjørkly, 2009; Browning & Caulfield, 2011, Mouridsen, 2012), and I consider their reviews as testimonies to the field's development – I set out how a body of literature evolved after the appearance of these first single case studies. Additionally, I stipulate some reoccurring difficulties that the researchers encountered.

Growing a body of literature

Over the years, many epidemiological, population-based and other quantitative studies have appeared, furthering the suspicion generated by the first single case studies. These studies unfolded along two lines. The first line followed the hypothesis that people with Asperger's Syndrome (and other autistic conditions) were overrepresented in forensic mental health institutions. This line focused on prison inmates or on those sent for forensic mental health assessments (Hare, Gould, Mills, & Wing, 1999; 't Hart-Kerkhoffs et al., 2009; Kumagami & Matsuura, 2009; Scragg & Shah, 1994; Siponmaa, Kristiansson, Jonson, Nydén, & Gillberg, 2001; Stahlberg, Anckarsäter, & Nilsson, 2010).

The second line of thought was instigated by risk-thinking: People with autistic conditions (particularly those diagnosed with Asperger's Syndrome) were said to be more prone to delinquent behavior. Community-based studies emerged somewhat later in time, scrutinizing offense rates in individuals with autistic conditions compared to others (Allen et al., 2008; Mouridsen, Rich, Isager, & Nedergaard, 2008; Woodbury-Smith, Clare, Holland, & Kearns, 2006).

More single case studies and background articles appeared, covering a range of topics from circumscribed special interests (Barry-Walsh & Mullen, 2004; Chen et al., 2003; Silva, Ferrari, & Leong, 2002) to bizarre crimes and outburst of aggression (Murphy, 2010; Schwartz-Watts, 2005) to aspects related to interpreting social cues (Haskins & Silva, 2006; Murrie et al., 2002; Palermo, 2004). In short, scientific articles, handbooks and other scholarly contributions appeared to pay attention to the delinquent Asperger.

This body of literature is diverse. Browning and Caulfield (2011) argue that efforts to identify overrepresentation in forensic mental health settings were

compromised by a failure to agree upon prevalence rates of autism in the general population. Furthermore, the diagnostic apparatuses used in these studies varied widely, a variation that compromised comparability as well.¹⁵

To start with this later aspect, in some studies, (forensic psychic) patients had to meet Gillberg's diagnostic criteria (Scragg & Shah, 1994; Siponmaa et al., 2001).¹⁶ In other studies, they had to meet Gillberg's criteria *plus* they had to have inappropriate social interaction, yet good vocabulary and grammar skills, albeit with repetitive speech used in monologues rather than for conversation (Hare et al., 1999). Or, they had to meet diagnostic criteria for an autism spectrum disorder according to the 10th revision of the International Statistical Classification of Diseases and Related Health Problems (ICD-10)¹⁷ and have normal intellectual ability (IQ>70) (Woodbury-Smith et al., 2006; Woodbury-Smith et al., 2010). Mouridsen et al. (2008) included a group of former child psychiatric in-patients who nowadays would be diagnosed with pervasive developmental disorder (PDD) according to the ICD. Hippler, Viding, Klicpera and Happé (2010) studied Asperger's original cohort, patients with (features of) 'autistic psychopathy', Hans Asperger's original connotation.¹⁸

Returning to prevalence, over the past decades, estimated prevalence rates of autistic conditions in the general population have shifted constantly. Consequently, efforts to identify overrepresentation in forensic mental health settings were indeed compromised. Not merely general prevalence rates have risen constantly, but more recent estimates are more scattered than previous ones.¹⁹ Despite the attention for the topic, there is less, rather than more agreement about the numbers nowadays.

The rise in autism prevalence rates in the general population and the scattering of these rates is explained variously. Age and size of the population under study may vary (Williams, Higgins, & Brayne, 2006). Studies with smaller sample sizes tend to yield higher estimates than those with larger sample sizes (Fombonne, 2005). In most countries, diagnoses give access to practical support, which is an important incentive for parents pursuing a diagnosis for their child (Calzada, Pistrang, & Mandy, 2012). This may account for the rise of prevalence rates in particular countries. Furthermore, awareness and knowledge about autism have increased, making it more likely for children to come to clinical notice in the first place. Diagnostic substitution or 'switching' is known to be a very important contributing factor (Williams et al., 2006). Children who previously would have been

diagnosed with (only) mental retardation are now identified as autistic too. Furthermore, the introduction of PDD-NOS and Asperger's Syndrome in DSM-IV (1994), together with lowered criteria for gaining these diagnoses, enabled the identification of 'milder cases'.

With regard to local classification practices, it should be noted that Gillberg's criteria were common in Swedish research into Asperger's Syndrome, while Anglo-American research has drawn upon DSM criteria. Such local variation in turn influences estimated prevalence rates as well.

Closing remarks

Epidemiological studies are inconclusive with regard to whether people diagnosed with an autistic condition are more likely or less likely to become delinquent. However, prior to the research into the forensic relevance of autistic conditions was the essentialist's take; undisputed is that an underlying property must be responsible for the similarities which the members of this category are presumed to share. Likewise, the idea that there is a history of association between Asperger's Syndrome and delinquency assumes that throughout history, there must have been similar people in whom the same mechanisms account for the same type of illicit events.

Without discussing this here at length, one might say that, generally speaking, forensic mental health research locates the cause of delinquency in the individual's disposition (Longino, 2001). Consequently, psychic disorders are frequently seen as a cause of crime (Anckarsäter, Radovic, Svennerlind, Höglund, & Radovic, 2009). This is a basic assumption for many forensic mental health researchers. Locating the cause of delinquency in the individual's disposition shows the discipline's theoretical and methodological commitment to individualism (Longino, 2001). This commitment is an example of something being the product of historically rooted (and historically demonstrable), collective practices.²⁰

'Essentialist thinking' is an inherent element of the reasoning heuristic with which a lot of forensic mental health researchers have come to describe things. Here, essentialism refers to the view that certain categories have an underlying reality or true nature that one cannot observe directly but that gives an object its identity and is responsible for other similarities that members of the category share (Locke, 1671/1959; Medin & Ortony, 1989) as cited by Gelman (2004). Leaving

discussions about essentialism as a metaphysical doctrine or a reasoning heuristic out of the picture, it seems safe to say that essentialist thinking is part of the discipline's intellectual heritage.²¹ It would account for part of the power, or appeal, of counting – what is perceived as being – members of the same category.

In this context, it is valuable to take the performativity of exemplary portraits into account. Counting members of the same category cannot do without exemplary portraits of the kind of people said to be counted, I argue in the next chapter. It explains what exemplary portraits do and how they relate to both individual cases and the category under investigation.

As stated above, a feature of every knowledge system is that it is local and the product of a collective practice, based on the earlier work of others (Watson-Verran & Turnbull, 1995). Also, many historians, sociologists and philosophers of science have made clear that research methods do not just lay bare reality, but rather shape the world according to their image of it (Bowker & Star, 1999; Danziger, 1990; 1997; Dehue, 2002; Hacking, 1986; 1999; Osborne & Rose, 1999; Rose, 1996; Stone, 1998, Watson-Verran & Turnbull, 1995). The entanglement of producing meaning and ordering the (social) world is an inherent feature of every knowledge system. The following intermezzo zooms in on one specific instance of this entanglement of knowledge production and local administrative juridical practices. Readers most interested in the performativity of exemplary portraiture can skip this intermezzo without risking missing essential parts of the argument.

Intermezzo

Arson and Asperger's Syndrome, the Swedish connection

Barry-Walsh and Mullen (2004) argue on the authority of Siponmaa et al. (2001) that people with autistic conditions, specifically men with Asperger's Syndrome commit arson.²² A direct relation between this type of offending and the clinical features of the syndrome has been identified, at least according to Barry-Walsh and Mullen (2004). A careful review of the literature demonstrates that the Swedish Siponmaa article is considered important, if not crucial, in this context (Barry-Walsh & Mullen, 2004; Haskins & Silva, 2006; Murrie et al., 2002; Söderström & Nilsson, 2003). On the authority of Siponmaa et al. (2001), the link between Asperger's Syndrome and arson has appeared in secondary literature as well, for example in Ghaziuddin (2005), under the heading 'types of violent acts' (p. 222). Attwood (2007) attended to it in his *Complete Guide to Asperger's Syndrome* in the chapter 'Frequently asked questions' (p. 327 and further). Citation analysis²³ shows that Siponmaa et. al. (2001) had been cited 67 times by 2015, mostly in articles originating from Sweden, the US and England. The link between arson and Asperger's Syndrome is made in other research articles as well. Yet, publications mostly refer to the article by Siponmaa et al.²⁴ The article has been very influential.

The retrospective study by Siponmaa et. al. (2001) was on the prevalence of 'child neuropsychiatric disorders', including PDDs in a sample of young offenders investigated in the Swedish forensic mental health system between 1990 and 1995. The authors report that of 16 youngsters who had committed arson, ten were retrospectively diagnosed with Asperger's Syndrome or PDD-NOS.

This intermezzo zooms in on the entanglement of knowledge production and local administrative juridical practices. It argues that the production of knowledge on autistic conditions and arson went hand-in-hand with the reinforcement of changing conventions for classifying the Swedish forensic mental health evaluation system.

The Swedish forensic mental health evaluation system

As noted above, of the 16 youngsters who committed arson, ten were retrospectively diagnosed with Asperger's Syndrome or PDD-NOS. In 53% of the cases, the original diagnosis was personality disorder. To a large degree, in this study, personality disorders were substituted by child neuropsychiatric disorders. To understand the

significance of this diagnostic substitution, a closer look into the Swedish forensic mental health evaluation system is necessary.

Swedish law concerning mentally disordered offenders refers to those persons who after forensic psychiatric examination are found to suffer from a *severe mental disorder* (SMD). This juridical concept was introduced in 1992, when legislation changed. In Swedish penal law, offenders are seen as culpable and legally responsible. Being held accountable is not a prerequisite of legal responsibility in Sweden, in contrast to most other (European) legal systems (Svennerlind, Nilsson, Kerekes, Andiné, & Lagerkvist et al., 2010). Those found to suffer from an SMD are not acquitted because of legal insanity but are sentenced to forensic mental health treatment (Belfrage & Fransson, 2000). The 1992 rule aimed to decrease the number of offenders transferred to forensic mental health institutions. In order to reduce this number, the criteria for insanity were made considerably stricter. 'Unless the offender suffers from a severe mental disorder, (...) he will not receive forensic psychiatric treatment' (Grann & Holmberg, 1999, p. 125). The new rule was mostly stricter in dealing with offenders with personality disorders in comparison with older rules (*idem*). The category SMD included all psychotic disorders regardless of etiology, but also other, unspecified, disorders including severe loss of impulse control or presence of psychotic features. Kristiansson and Sörman (2008) summarize the Swedish definition of SMDs as follows:

All psychotic states, severe depression with strong intention to commit suicide and severe personality disorders/neuropsychiatric disorders combined with marked compulsiveness or impulsivity with psychotic features are considered to be SMDs according to the legislation (p. 59).

Personality disorders could to a certain extent still be considered as a severe mental disorder (Belfrage & Fransson, 2000). Importantly, neuropsychiatric disorders also fall under the umbrella category of SMDs. Yet, protocol became much stricter, particularly with regard to personality disorders.

The new rule coincided with other changes in the Swedish forensic mental health evaluation system. For example, the maximum time allotted for assessment was shortened in the early 90s. More fundamental perhaps: classification practices changed. DSM-III-R was introduced as the main classification system in Swedish mental health care in 1992. However, up until the mid-1990s, ICD-9 was used in

Swedish clinical psychiatry and in the forensic mental health setting (Siponmaa et al., 2001). Yet, from 1992 onwards, diagnoses based on ICD-9 were coupled with diagnoses based on DSM-III-R (Grann & Holmberg, 1999). Relevant in this context is to note that the category of pervasive developmental disorders existed in this third edition of DSM, although not in ICD-9. This classification was introduced in ICD-10. The introduction in DSM-III-R thus offered the opportunity for Swedish forensic mental health experts to diagnose PDDs such as Asperger's Syndrome, thereby substituting former diagnoses of e.g. personality disorder.

It has been well documented that after the introduction of the new Swedish legislation, while the number of offenders with personality disorders decreased considerably the number of offenders with psychotic disorders sentenced to psychiatric care increased to the same extent (Grann & Holmberg, 1999). According to Grann and Holmberg, it may thus have been that 'exactly the same types of offenders [...] are declared insane and not insane in the medicolegal sense at the end of the period as at the beginning, only that the diagnostic labels have shifted' (p. 130).

Parallel to the process described by Grann and Holmberg (1999), it appears that also in the Siponmaa study, personality disorders became substituted by child neuropsychiatric disorders, which according to the definition were still considered to be SMDs. The message of Siponmaa et al. (2001) was therefore twofold. Firstly, it demonstrated what would happen if suspects admitted for forensic mental health assessment were diagnosed in accordance with up-to-date diagnostic systems. It should be noted that two of the co-authors of the article were at the time authority figures in the National Board of Forensic Medicine, the Swedish institute responsible for this type of assessments. By substituting one diagnosis for another, professional conventions were revised. Secondly, by defining PDDs as child neuropsychiatric disorders, the *legal* conclusion that (the majority of) these youngsters suffered from an SMD did not alter.

Swedish legislation changed the diagnostic rather than the judicial praxis (Svennerlind et al., 2010). The article of Siponmaa et al. is best understood in the context of this process. The article also provided numerical evidence of a clear relation between arson and autistic conditions. The authors themselves were cautious and mentioned the small sample size (N=16). They also warned that they had conducted a retrospective study and therefore 'a certain skepticism about the results' (p. 425) would be in order. Nevertheless, this intermezzo demonstrates that

the publication contributed to the idea that people with autistic conditions commit arson more often than those with other mental conditions. The entanglement of local diagnostic practices with administrative juridical procedures immediately affected 'what counted as what'. The central argument here is that the production of knowledge on autistic conditions and offenses, and in this case arson specifically, went hand-in-hand with the reinforcement of changing classification practices in the Swedish forensic mental health evaluation system of the 1990s.

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Chapter 2

The malicious chemist and the autistic hacker: What exemplary portraits do

Cyanide from Prussian Blue paint

Imagine a collection of stories about men with Asperger's Syndrome whose malicious conduct is accompanied by an interest in chemistry. What does such a collection do to us? What does it permit? What textual politics are at work? In search for answers to these questions, I introduce the first 'character' in this collection; Ben, Caroline's husband to be. Ben murdered Caroline because it was his only chance to escape her desire to get married and have children. The awful idea forced its way into his mind and once he had thought up his plan, nothing stopped him from carrying it out. As a chemist, he not only knew about chemical toxicity, he also had access to chemicals. He made Caroline a sandwich to which he added a mixture of sodium azide and theobromine. Caroline ate the sandwich at work and a few hours later, died in hospital in the company of her parents and her murderer. Doctors probably would have been able to save Caroline if Ben had confessed to what he did. Instead, he sat quietly beside her parents while they lost their only daughter.

Ben confessed to the crime several weeks after his arrest. He was convicted for murder and sentenced to six years in prison and detention under hospital order (TBS).²⁵ After appeal, this was changed to eight years and TBS.²⁶ Forensic mental health experts believed that he should be deemed diminished accountable for his actions. Ben had felt increasingly trapped in his relationship and oppressed by his girlfriend's desire to have children. The experts also believed that it his autistic condition made him unable to talk about the pressure he felt, or to employ alternative ways of dealing with it. Chances of recidivism were high. Any future relationship might develop under a similar dynamic.²⁷

Chemistry as a specific area of interest also arose in Hans Asperger's first description of the syndrome. He described two boys as 'chemists' (Asperger, 1944). One boy spent all his money on experiments, horrifying his family. Another boy was obsessed with poisons and possessed a large collection, some quite naively concocted by himself. 'He came to us because he had stolen a substantial quantity of cyanide from the locked chemistry store at his school' (Asperger, 1944/1991, p. 72).

Among the six cases described by Wing (1981), one is about a man interested in physics and chemistry. This man heard others calling him a bad person and a 'chemistry fanatic' (p. 127). Mawson et al. (1985) studied the case of a 44-year-old British man admitted to Broadmoor Hospital. This man was fascinated by chemistry (and water pipes). 'He has repeatedly read one chemistry book from cover to cover, and shows a great interest in inorganic chemistry and in poisons (...). He cheerfully described making cyanide "quite easily" from Prussian Blue paint in a children's paint box' (idem, p. 568).

Silva et. al (2002) described the case of serial killer Jeffrey Dahmer, son of a chemist. Jeffrey was introduced to chemistry by his father who believed it would satisfy his need for preserving order and provide him 'with a source of livelihood and self-esteem' (idem, p. 1349). Jeffrey later applied his knowledge 'in the service of dissolving animal flesh and preparing skeletons cleansed of all flesh' (p. 1348).

Recently, a 16-year-old Japanese student poisoned her mother by making her drink thallium – she was later diagnosed with Asperger's Syndrome (Kumagami & Matsuura, 2009). Following her arrest, the police found evidence for her obsession with the poisoner Graham Young (1947-90), and a Japanese translation of Anthony Holden's book, *The St Albans Poisoner: The Life and Crimes of Graham Young* (1974).

Graham Young was also an experimenter interested in chemicals, explosives and specifically, poison (Bowden, 1996). Psychiatrist Michael Fitzgerald (2010) introduced the notion of 'criminal autistic psychopathy', a subcategory of Asperger's Syndrome, to explain Graham Young's behavior: 'Persons with Autistic Psychopathy tend to have their own interests and are experimentalists, for example, in the areas of chemistry and poison' (p. 11).

In the case of the Japanese student poisoning her mother, it appears that historical novels about poisoners inspired her to serve her mother tea with thallium. Chemical substances like thallium, cyanide and arsenic were revived in twentieth century fictional writings as potential murder weapons. The top three 'best poisonings in literature' is formed by Agatha Christie's *Cards on the table* (1936), *A shroud for a nightingale* by Phyllis Dorothy James (1971) and *The sign of four* by Arthur Conan Doyle (1890) (Mullan, 2010). The last book features the famous Sherlock Holmes. Uta Frith claimed that many fictional geniuses possess a special circumscribed interest, like Sherlock Holmes' 'little monograph on the ashes of 140 different varieties of pipes, cigar and cigarette tobacco' (Frith, 1989, p. 44). She

believed the fictional literature on the 'mad professor' stereotype was full of examples fitting Hans Asperger's notion of autistic intelligence. She saw the detached detectives of classic mysteries not only as eccentric and odd, but reminiscent of very clever autistic people. 'The oddness conveys clear powers of observation and deduction, unclouded by the everyday emotions of ordinary people' (p. 43). The archetypical detective Sherlock Holmes suggests the social usefulness and originality of the brilliant and socially detached mind, according to Frith.

Returning to the question at hand: What does such a collection do to us? Staging detectives like Sherlock Holmes allowed Frith to argue that the socially detached mind can be original and expedient. Fitzgerald's list of famous serial killers (like Jeffrey Dahmer, Albert De Salvo and Graham Young) allowed him to build an intriguing portrait of, what one may call, the malicious 'autistic chemist'. I introduced the cases of Ben and the young Japanese student as modern versions of the same kind of person. The reference to Hans Asperger's original description allows one to argue that the relation between autism and (malicious) interest in chemistry and poison has deep historical roots.

Francis Galton's composite portraiture

Asking whether Ben is a good example of 'the' malicious, autistic chemist follows the logic of representation. Inherent to this logic is that it is in the capacity of every individual story to become defined as exemplary. Every story is part of a bigger whole, but it can be set aside to be made particular (Furth, 2007). Yet, starting from the premise that the accumulation of individual cases 'does more' than provide examples or form an archive available for consideration as a whole (*idem*), the question becomes what exactly this 'more' is and how it is achieved.

Indeed, Fitzgerald (2010) managed to do more. He is proficient in listing overlapping features of violent offenders that when taken together produce the idea of a common ground, a type of person. An archetypical portrait of the malicious autistic chemist thus emerges before us. This malicious chemist is a portrait of no one man in particular. It is a portrait of a type.

The Victorian scientist, Sir Francis Galton (1879) invented a photographic method called composite portraiture, precisely to explain the capacity of the mind to form general impressions out of series of particular visual impressions. With Galton's method, images of people's faces were recorded on the same photographic plate,

resulting in the portrait of 'no man in particular, but (...) an imaginary figure possessing the average features of any given group of men (...). It is a portrait of a type and not of an individual' (Galton, 1879, p. 132-133).

Douwe Draaisma, professor in the history of psychology, (2009) pointed out that Hans Asperger utilized a similar principle in his original description of Asperger's Syndrome. 'Asperger introduced his readers to three boys who helped to shape a Gestalt-like stereotype of the autistic condition. The first case history, on six-year-old Fritz V., presents a lengthy description of his looks, his aggressive behaviour on the ward, his resistance against being tested, his thin, high-pitched voice, his adult-like choice of words, his clumsiness, his irritated reactions to any show of affection, his vacant gaze (...)' (p. 1475). The second case history on eight-year-old Harro L. is considerably shorter, and the third history is even shorter. Although each boy is a unique person, they share a profile that sets up a new psychiatric category, as Draaisma argued.

Philosopher Ludwig Wittgenstein drew the analogy with Galton's composite portraiture in his *Blue Book* (1958), illustrating the general tendency rooted in our usual form of expression that traps us into thinking that when one has learned to understand a general term, one has thereby come to possess a kind of visual image of it: 'We are inclined to think that the general idea of a leaf is something like a visual image, but one which only contains what is common to all leaves. (Galtonian composite photograph)' (p. 17-18). Composite portraiture appeals to us, precisely because of this idea of common property.

Textual politics of case studies

However, common properties do not emerge spontaneously. Scrutinizing the textual politics at work in the first series of case studies (Wing, 1981; Mawson, et. al., 1985; Scragg & Shah, 1994) shows that it takes the collective effort of multiple researchers. The common property needs to be constructed. For example, a minority of patients described in Wing (1981) have a history of bizarre anti-social acts. One boy injured another, 'in the course of his experiments on the properties of chemicals' (p. 116). As the details of this incident are not elaborated on further, they are apparently not crucial for the patient's clinical picture. Yet, Mawson and his colleagues (1985) state that these details are relevant for them because 'an interest in chemicals and their potential as the means for homicide are important features of our patient's

presentation' (p. 566). Here, a mere detail is articulated as a trace for something else; it becomes a sign. The component is 'weighted' differently, it is illuminated more.

Francis Galton also had a trick for this. In his original contribution on the subject (1879), he wrote that it was perfectly easy to apportion different 'weights' to the different components. 'Thus, if one statue be judged to be so much more worthy of reliance than another that it ought to receive double consideration in the composite, all that is necessary is to double either the time of its exposure or its illumination' (p. 141).

This technique is often used to profess theories. Stories are marshaled in an argument in the service of claims (Furth, 2007). Consider the following story about a Cambridge professor in Baron-Cohen's book *The Essential Difference. Men, Women and the Extreme Male Brain* (2003). In this book by autism specialist Baron-Cohen, the reader might recognize the typical 'whodunit' style of reasoning found so often in case studies (Hunter, 1991).

Despite his facility with anything mathematical, Richard was puzzled by his sense of alienation from people. He found people to be complex, mysterious beings who were hard to comprehend because they did not conform to the laws of physics or maths. (...) I met him in his Cambridge office. The room was relatively bare. He stared at me. After a few minutes it was clear he was not going to offer me a seat, so I said, 'I'll sit down here, then', and picked a chair. Basic greetings or social niceties were clearly not part of his routine behaviour. He perched several feet above me, on the corner of this desk, put his hands under his thighs, and started to rock back and forth gently (Baron-Cohen, 2003, p. 155-156).

Those familiar with the extreme male brain theory on autism may have spotted all the signs in Baron-Cohen's story: Cambridge – staring – no social niceties – rocking back and forth — *whodunit?* Baron-Cohen sees in Richard Borchers someone whose Asperger's Syndrome has not been an obstacle to achievement in life. His talents in mathematics have resulted in him finding a niche where he can excel and where his social oddness is tolerated. Next to Borchers' case, those of physicists Paul Dirac, Isaac Newton and Albert Einstein feature in this book on the extreme male brain. The cases in *The Essential Difference* function in a particular way as

Baron-Cohen not only presents his theory about sex differences in the mind, but also outlines his empathizing-systemizing model of autism. Stuart Murray, an academic specializing in cultural representations of disability, emphasized that the book alternates between observations on quantitative research and specific examples of case studies, and that the latter are presented as consequential knowledge of the research (Murray, 2008). Yet, Murray insists that it is the examples which carry the central idea.

Although Baron-Cohen states in his book that he is dealing only with statistical averages and that his model about sex differences tells us nothing about individuals, it is individuals that 'tell the model'.

Philosopher of science Thomas Kuhn considers the practice of employing exemplars as an essential feature of any scientific community: '(...) one learns how to do science by learning how to work with exemplars: extending them, reproducing them, turning a novel situation into a version of a well-understood exemplar' (Kuhn as cited by Forrester, 1996, p. 7). In a broader light, one might say that shared examples provide what groups lack in rules. Those examples *are* their paradigms (Kuhn, 1977).

Composite portraiture and the concept of family resemblance

Francis Galton's composite portraiture works as a metaphor to account for some of the dynamics at work when exemplary portraits are foregrounded. I furthermore argue that to bring forward examples, textual politics are needed.

The prototypical application of Galton's technique was making family portraits out of two, six or more members of the same family. Wittgenstein has also made a composite portrait of himself and his sisters (Figure 1). Some of his sisters had the same nose; others the same eyebrows, and others the same eyes. The relation between his photographic experiments and the development of his philosophical work was explored by the University of Cambridge in an exhibition in 2013, which was organized in honor of the 60th anniversary of Wittgenstein's death.²⁸



Figure 1. Composite portraiture of Wittgenstein and his sisters. Credit: Wittgenstein Archives, University of Cambridge.

Without exploring this relation in detail, part of Wittgenstein's philosophical work indeed focuses upon the 'confusion' origination from our inclination to think that a common property is the justification for applying general terms (Wittgenstein, 1958). The method of science constitutes a source of what Wittgenstein termed 'our craving for generality', or scientists' preoccupation with explaining phenomena to the smallest possible number of primitive natural laws. Wittgenstein accused others of constantly seeing the method of science before their eyes which, according to him, leads to a contemptuous attitude toward the particular case:

We are inclined to think that there must be something in common to all games, say, and that this common property is the justification for applying the general term 'game' to the various games; whereas games form a *family* the members of which have family likeness. Some of them have the same nose, others the same eyebrows and others again the same way of walking; and these likeness overlap. The idea of a general concept being a common property of its particular instances connects up with other primitive, too simple, ideas of the structure of language (idem, 1958, p.30).

Wittgenstein's lessons resulted in a critique, through close analysis of the structure of language, of essentialism as a metaphysical doctrine.

Kuhn was drawn into psychology, to make claims about the tacit character of scientific exemplars. Forrester (1996) notes about Kuhn: 'He wished to make

claims about our general perceptual organization of the world into categories that made plausible his claim about the necessarily tacit character of scientific exemplars' (p. 8).

Like Wittgenstein, Kuhn also challenged the idea that concepts can be defined by necessary and sufficient conditions for belonging to them (the classical, Aristotelian category). Instead, instances of a concept might bear no more than a family resemblance to each other, with a complicated network of overlapping and crisscrossing relations. Kuhn adopted Wittgenstein's notion of family resemblance in *The Structure of Scientific Revolutions* (Kuhn, 1962) to claim that research problems are related by resemblance, but he gradually extended his argument to cover concepts in general (Andersen, 2000; Barker, Chen, & Andersen, 2003). Hence, the question is whether the stories of malicious autistic chemists introduced in the beginning of this chapter should be treated as particular cases, bearing no more than a family resemblance to each other. Might there just be a network of overlapping and crisscrossing relations better reflecting the likeness between the cases? Such a question follows up on the work of Mackinejad and Sharifi (2006), for instance, who applied Wittgenstein's notion of family resemblance to the concept of mental disorder.

Conflicting classification models may reflect different expectations with regard to the functioning of two systems, yet philosophers of science adhere to the principle that it makes no sense to ask which categories or patterns are more 'correct' or 'real' (Wittgenstein, 1958; Foucault, 1970; Lakoff, 1987).²⁹ Hence, it is best to ask what the functional expectation of a system based on family resemblances might be. Such a classification would presumably be more sensitive to the unique features of the particular case. Subsequently, I think that it will take more time to 'get to know the family'. Also, it might be more complicated to speak of one family to begin with.

Francis Galton followed a more 'nomothetic' idea about family when photographing family members. Galton was interested in the hereditary transmission of features within families. The weight assigned to every member in the composite depended on the degree of relationship, as well as on the likeness of the family member in question. For example, cousins with no family likeness were best disregarded completely (Galton, 1879, p. 141). The weights of the family members that did show likeness would then be bestowed by giving a proportionate period of exposure to the family member's picture. According to Galton, composites on this

principle would potentially aid breeders of animals. In forecasting the results of marriages between men and women they would also be of singular interest and instruction.

From Wittgenstein, Kuhn and Galton we learn how much essentialism as a heuristic is part of how we have learned to talk and think about the world. Exemplary portraiture appeals to the idea that there must be an underlying property responsible for the similarities which members of a category are presumed to share – some refer to this as ‘psychological essentialism’ as it can be found as a reasoning heuristic early in childhood (Medin & Ortony, 1989; Gelman, 2004).

Following Hacking (2007), I believe that the engines of discovery in the social sciences are also the engines for making up people. Hacking listed ten engines of discovery (or imperatives). He listed, for example, counting, quantifying, creating norms, correlating, and medicalizing. I argue that exemplary portraits are also among the engines of discovery, at least in the forensic mental health research field that focuses on autistic conditions and delinquency.

Yet, Hacking, like many others, points to another dynamic as well. Regardless of the potential philosophical confusion associated with the usage of concepts like ‘kinds of numbers’, ‘kinds of propositions’, ‘kinds of proof’, these are concepts with which we have come to build our world. Their performativity cannot be omitted. Assigning meaning and ordering the (social) world is not a static but interactive practice (Hacking, 1986; 2007; 2009b; Lakoff & Hacking, 2012; Foucault, 1970; Porter, 1995; Rose, 1996). The performance of these concepts is entangled with other social practices.

This interactive stance implies that exemplary portraits *also do things by themselves*. Not much attention is paid to the latter aspect in discussing the portrait of the autistic chemist. Therefore, one particular instance of exemplary portraits as, what Hacking called, ‘moving targets’ is set out below. The history of ‘Gary’ (Gary McKinnon), a self-proclaimed techno geek who slowly turned into an autistic computer hacker, helps to stipulate some of the mechanisms associated with the emergence of an exemplary portrait.

The curious story of Gary McKinnon

The story of Gary McKinnon is both sad and fascinating. He was accused of hacking into US military and NASA computer systems in the late 1990s. He was searching for a cover up. Secretive parts of the US government had information on UFO technology for free energy and he wanted evidence for that. McKinnon faced up to 70 years in US prison for breaking into these computer systems. His findings included secret files containing information on what he believed were 'non-terrestrial Navy officers' working on a secret space program.

McKinnon could easily hack into the authorities' Windows [operating system on] PCs. At the time, Internet connections were presumably not considered as much of a security threat as they are nowadays. Yet, he was arrested in England and had to be extradited to the US in accordance with the UK/US extradition treaty that was signed in the aftermath of 9/11. What followed was a long and harsh legal battle.

In 2012, UK authorities withdrew the extradition order because McKinnon was said to suffer from Asperger's Syndrome and depression with suicidal risks. Hence, extradition would breach McKinnon's human rights, the UK's home secretary Theresa May concluded in October 2012. By then, McKinnon's case had already become a *cause célèbre* on both sides of the Atlantic. His mental condition apparently saved him from 70 years of incarceration. There is another aspect that made Gary's case special: He gave numerous interviews on radio and TV. Due to this, the general public was the first to recognize signs of autism in his behavior. This in turn led his family and solicitor to gain an expert's opinion on the matter and in 2008 this led to his diagnosis. Various advocacy organizations (like the *Autism Society*) supported Gary in his fight against extradition after this diagnosis became public.

The extensive media coverage on the case as well as the fact that McKinnon gave interviews both before and after the diagnosis allow for an analysis of the dynamics surrounding the case. There were alterations in McKinnon's interpretation of himself and his actions after the diagnosis was made public.

Media coverage of Gary McKinnon's case

Gary's case influenced the depiction of autistic computer hackers in mainstream media. I conducted a database search (through *LexisNexis*) that focused on articles with references to autism and computer hacking (see Appendix Chapter 2 for details). Before 2008, the year in which his diagnosis was made public, four articles in UK newspapers were published; the earliest in 1996. It is an interview with a 'cyber-artist' talking about his multimedia/art projects around the world. 'He became obsessed with communication, or lack of it, after his sister Julie was born with severe autism. Indeed, he believes himself to be mildly autistic', as the author put it (O'Rourke, September 11, 1996). The other three articles all relate to one case of computer hacking in 2003. A teenage hacker was diagnosed with Asperger's Syndrome. One article reports that the jury heard 'the teenager's autism meant he had a preoccupation with a "special interest", like computers' (Allison, October 7, 2003).

Apart from these four articles, there was no press coverage on computer hacking in relation to autism or Asperger's Syndrome before 2008. However, after 2008, 220 news articles appeared on the subject. Content analysis shows that the majority of articles (87%) related to the extradition battle of McKinnon and the political affairs associated with the US/UK extradition treaty. In most of these articles, McKinnon is depicted as a vulnerable victim of the UK/US extradition treaty. The other 13% of the articles relate specifically to the association between autism and computer hacking. Most of them are about other 'comparable' cases of autistic computer hackers (See Appendix Chapter 2).

In these latter articles, the association between computers and Asperger's Syndrome is depicted as two-faced. On the one hand, technical skills and high levels of concentration are described as gifts of autism while on the other hand, the disorder is said to contain a dark side. McKinnon is portrayed as a rare and talented individual with Asperger's Syndrome 'just like Stieg Larsson's heroine in *The Girl With The Dragon Tattoo*' (Robertson, May 25, 2010). And, whereas McKinnon faced extradition, another hacker was offered a job:

Ashley Towns released a pesky 'worm' or virus that changed iPhone users' background wallpaper to a picture of the Eighties pop singer Rick Astley (...). Unlike McKinnon, the 21-year-old was not reprimanded; he was offered

a job by the iPhone application developing firm, *Mogeneration* (Abrams, December 1, 2009).

Gifts of autism are thus portrayed as advantageous for specific trades. Computer jobs in particular are even said to fit the 'brain type' of Aspergers:

They're under 25. They're mostly men. They're up all night writing computer code. (...). 'I worked at Google, but it's not hungry enough,' Huang says. The advantage of working at an accelerator is you're surrounded by entrepreneurs with similar brains (large, hyperactive, mildly Asperger-y) (Beam, October 22, 2011).

IT companies in the UK and beyond are actively recruiting an autistic workforce for its highly technical and concentration skills. The relationship between computers and autism is undisputed – and double-edged. (...) Yet the high-profile cases of Gary McKinnon and Ryan Cleary, both of whom have Asperger's Syndrome, are just two examples of how that relationship can go wrong (Rhodes, February 27, 2012).

In an article titled 'The Asperger's effect', *The Times* reporter Louise Carpenter wrote that nowadays, being 'on the spectrum' is almost a job qualification in Silicon Valley (Carpenter, February 10, 2013):

The message is resounding: in our new computer/techy/cyber-obsessed culture, it really is OK – more than OK – to be a little bit different. Silicon Valley is the future and all the rest of us, with our 'neuro-typical' - or non-Asperger's – brains, plod along in its wake.

Alongside this telling image of people with Asperger's Syndrome, a more troubled portrait emerges. This is the stereotypical image of an anti-social loner, fixated on the computer and working alone in his bedroom, refusing to come out at mealtimes. McKinnon is positioned as a 'real' example of this type:

The case of McKinnon illustrates how the internet can deliver enormous power to helpless, frightened, friendless individuals. It must be irresistible for them, alone in their bedrooms, to find that they are able to paralyse the military institutions of the world's greatest nation. (Chancellor, June 24, 2011).

Ryan Cleary fits the stereotypical image of the hacker, an anti-social loner operating from his bedroom, his nefarious, fixated behavior reflecting, it is said, a personality disorder. Cleary's mother says he refused to come out of his room at mealtimes, instead having his food left on a tray outside the door. He is said to have suffered from agoraphobia (fear of open spaces) and Asperger's Syndrome, a form of autism, the same condition suffered by Gary McKinnon, the 45-year-old Briton who is still awaiting extradition to the U.S. for allegedly breaking into Pentagon computers. (Day, June 28, 2011).

Before and after being diagnosed with Asperger's Syndrome, McKinnon gave various interviews.³⁰ After the diagnosis, his repertoire was extended with an autistic reading of himself. Before that, Gary described himself primarily as 'just an ordinary self-taught techie'. Or, he described himself as 'a little nerd'. For example, in the following interview with *The Guardian* journalist Jon Ronson, McKinnon said:

It is absolutely fucking terrifying. Especially because a friend (...) did 10 years in an American prison. He's quite a tough guy, and he said he had to fight tooth and nail every single day, no let up at all. And I am thinking, 'I am only a little nerd'. (...)

For the first time in the past few years, I just had a solid work offer. (...). Game-testing, which would have been a dream for me. I am still a big kid like that (Ronson, August 1, 2009).

Whereas the interviews before 2008 make no reference to his mental constitution,³¹ the interviews after 2008 contain more information about this. For example, in 2009, in a broadcast interview with a British TV reporter for *Russia Today*, Laura Emmet,

McKinnon's mother explained how they came to seek an expert's opinion on Gary's mental condition:

Gary was doing an interview and some people who run eh... statistic groups and professionals, many people had heard his solicitor saying that he is Aspergers. The reasons being, they were saying, what would you say to America now, if you were facing them now (...), and Gary was not showing repentance, well, and should you not be saying 'I am sorry', and he was saying, 'well I have said I am sorry'. Well, a classic Asperger thing to do is like, well, 'do you love me?', well, 'I have told you, we have got married twenty-five years ago', and there was lots of...he kept telling the truth, even...and lots of people had written and also monotone voice, not very many hand movements, not too much facial expression, apparently all pointing to Aspergers.³²

Gary's mother talked about how she came to accept the fact that Gary was diagnosed with Asperger's Syndrome, and how much that explained: 'When he was little, he used to scream when he went on a bus, he had a fear of going into tubes, he walked everywhere'. The journalist also asked McKinnon what he thought about the notion that others were talking about him as someone with a disorder. In this passage of the interview, McKinnon underlines his motivations whereas previously he predominantly underscored his status as a 'little – not even a very good – amateur computer hacker':

While I was doing what I was doing, I was trying to find out about free energy as well, in the days of climate change and petrol probably running out in the forty years to come. So I felt I was on a moral crusade. And to me, being on a moral crusade just felt right. And I knew I was breaking the law to try and find the truth behind it, but I felt that breaking the law at that time was correct because I was doing something that was morally well above it. And, apparently, this is classic Asperger's behavior, that you put your sense of truth and justice before your friends, your family, your loved ones, and yourself and you are just going ahead and try and do it and solve it, and get the job done.

This description of himself echoed experts' opinions. For example, as part of the 'Free Gary' campaign that called for actions to stop extradition, a press conference was organized in the heat of battle.³³ Here, Baron-Cohen argued that Gary was pursuing the truth, because he believed that it was the right thing to do. He added that Asperger's Syndrome often comes with social naivety and obsessions, as in this case, not only an obsession with computers, but also with the search for truth. People with Asperger's Syndrome often become completely preoccupied. They find out the smallest details of facts. And, they try to confirm if these are true, thereby instigating 'a sort of tunnel vision, so that in their pursuit of truth, they are actually blind to the potential social consequences for them or for other people'. Baron-Cohen continued by saying that the diagnosis did not mean that Gary was allowed to do what he did, but that it does help us to understand the context, 'that this happened in a vulnerable adult with a disability'. The statement continues:

He believed that what he was doing was right, and that he was uncovering the truth, and he believed that pursuit of truth was morally the right thing to do. So from his perspective, he was pursuing a different notion of what was right, maybe from what we would, from the rest of society.

The expert's opinion and McKinnon's version of himself have become almost identical. Gary's life story changed after the general public saw him as someone with a mental condition. For one thing, it saved him from years of imprisonment. It not only changed the story others told about him, it also changed his story about himself. In a way, McKinnon's repertoire was extended with an autistic reading of himself.

After the press conference, the research director of the British Charity *Research Autism*, Richard Mill, was asked what kind of disorder autism was. In the words of this director, a high level of technical expertise appears to be an inherent aspect:

Autism is a social and communications disability that can mean that people living with the condition can be socially naive and might possess a high level of technical expertise that can occasionally get them into trouble.³⁴

Here we see an instance of what Hacking identified as a conceptual evolution of a class of Aspergers or high functioning autists. In this instance, the dynamic is

facilitated by one exemplary portrait in particular, namely the portrait of Gary. Looping is not a static event happening merely between classification and those classified. Rather, it is a dynamic, cyclical process involving multiple actors, as Hacking has established (2007; 2009b). My analysis contributes to the scrutiny of the position of exemplary portraits in this dynamic.

Closing remarks

Exemplary portraits give categories a signature, a face. Furthermore, they function to support theories. I illustrated this by drawing upon the textual politics in Baron-Cohen's *The Essential Difference*. Galton's little tricks — manipulating either the exposure time, or the illumination, or the collections of photos — point to a crucial feature of dealing with exemplary portraits. Tinkering with details is inherent to letting portraits work.

Once in place, the portraits can travel further. They function as a reference to other cases. For example, one of the news items that I retrieved is about Ryan Cleary who 'fits the stereotypical image of the hacker, an anti-social loner operating from his bedroom'. Gary is positioned in this article as a reference to the category Ryan Cleary is said to belong. By now, the portrait of the autistic computer hacker is no longer the portrait of McKinnon. It is a portrait of a type. Gary served its purpose.

As for McKinnon himself, in the end he appears to have developed a rather flexible repertoire to speak about himself. An hour-long interview with McKinnon and Robert Ritter on 'Richplanet TV' called *Why he thinks his case was a Psy-Op* can be found on YouTube.^{35 36} In this interview, recorded in 2015, McKinnon looks back on the whole affair and his story is a real treat for conspiracy thinkers. For example, McKinnon argues that he believes he was purposely portrayed by US media as a terrorist instead of a nerdy computer hacker. McKinnon also tells about the book he was working on. However, he got into an argument with the publishers. They wanted him to write about the despair and his suicidal thoughts during imprisonment, yet McKinnon wanted to write about what computer hacking was like in the early 1990s. He wanted to write about 'the nerd that went too far'. Apparently, he still regards himself mostly as only a computer nerd. Considering that his mental condition saved him from extradition, it is of course perfectly possible that the autistic reading of his actions and personality came at a highly convenient moment for McKinnon and his family. This does not, however, alter the fact that his case developed into an exemplary portrait, used as a reference in other cases. His most recent self-description reveals a remarkable diversion between the person and the portrait, as the latter continues to perform at other places and times regardless of McKinnon's latest version of himself.

The dynamic between individual cases and exemplary portraits is at work as well when forensic mental health experts writing pre-trial mental health reports refer

to 'the' Asperger. That is at least one of the findings of the empirical research I conducted in the field of forensic mental health.

Chapter 3

On writing pre-trial mental health reports: taking the passage from the realm of mental health to the law

In the Netherlands, forensic mental health experts write about 8,500 pre-trial mental health reports in total every year (Duits et al., 2012).³⁷ These reports address the question of whether or not the suspect suffers (or suffered) from a mental disorder or deficient mental development and whether this has influenced the so-called 'index offense' the suspect is legally charged with. If so, the extent to which the person's mental constitution is believed to have influenced the index offense results in a recommendation about the degree to which the suspect can be held accountable (*toerekeningsvatbaar*).³⁸ Additionally, the experts are expected to estimate the risk of reoffending and recommend potential interventions (Van Kordelaar & Veurink, 2008, p. 126-127). In the case of youngsters, the expert also advises on the most favorable development possible for that person (Duits et al., 2012).

These reports play an important role in court. Judges generally trust the expertise of the forensic mental health experts. Recommendations written down in the pre-trial mental health reports from the PBC are very often followed.³⁹ Nevertheless, the quality of the assessments receives much attention from a judicial, philosophical and medical/psychiatric perspective. Many questions arise at the intersection of mental health and the law. These questions relate to the validity and reliability of the methods that the experts use to come to their conclusions (analyzed in pre-trial mental health reports of youth).⁴⁰ They also relate to notions of accountability and free will.⁴¹ Additionally, attention is paid to the transformation of clinical methods into tools for forensic mental health experts (Franken & Kristen, 2009). The question of how to 'anchor' (Wagenaar, van Koppen, & Crombag, 1993, p. 172) the expert's assessment in something better than merely the expert's authority lies at the heart of many of these theoretical reflections.

However, empirical research on the process of making reports is scarce. The extant empirical research aims to contribute to the quality of the associated formats and protocols for the forensic mental health assessment of youth (Duits 2006; Duits et. al., 2012). To the best of my knowledge, empirical research that analyses the complexity of the practices of forensic mental health experts by focusing on these experts' thoughts and considerations in their daily work practices has not been conducted before. Yet, such an endeavor, focusing not merely on the

product but also on the process of making pre-trial reports, may yield new insights into how experts proceed at the interface of mental health and the law.⁴²

Hence, where the previous two chapters were mainly based on the literature and the work of researchers, the present chapter studies the complex work of forensic mental health experts. It focuses on the experts' thoughts and considerations about their daily work practices, on their experiences and interpretations of what they are doing. It aims to make visible the work needed to take, what I call, 'the passage' from mental health to the law. It is about strategies of connecting spheres that by themselves are not connected by creating a certain amount of latitude.

Some examples: when forensic mental health experts are asked to write a recommendation, they are expected to work with objects of knowledge that partly stem from other communities of practice such as mental health (care) practices.⁴³ At the same time, they have to commit themselves to the requirements of the legal constellation under which they work and to the associated legal practices. Consequently, their work is situated in between two areas. I argue that experts need and create a minimal amount of latitude to negotiate their way through this in-between space.

Also, there are various approaches to answering the questions of the judge. These approaches are based on divergent research traditions. Each tradition calls for a different professional vision; a specific way of reasoning and applying knowledge.⁴⁴ Again, latitude is required. For example, diagnosing in the forensic mental health setting means to typify and explain a purported relation between a psychic disorder and the index offense. This relation 'can only be deduced from the offense situation, which is no more (although also no less) than a reconstruction. Measures and numbers have no access to this reconstruction' (Van Marle, Mevis, & van der Wolf, 2008, p. 58). It is for that reason that phenomenological methods are said to be highly relevant sources of knowledge (NIFP, 2007b, p. 58). Simultaneously, experts learn that the Dutch expertise center for forensic psychiatry and psychology (NIFP), the official authority in the national field, endorses a scientific attitude and encourages 'working on the basis of scientifically based methods' (NIFP, 2007a, p. 13). This implies, among other things, that results of large-scale empirical research have to find their place in the forensic mental health assessment. To incorporate population-based scientific knowledge about individuals at risk into an assessment about one person in particular means that experts need to be able

to navigate their way through the various types of resources they have at their disposal.

On top of that, experts have to negotiate between what should be done and what can be done in a limited amount of time. Latitude is required to negotiate between practical matters (e.g., to finish a report on time) and formal requirements (e.g., to substantiate a diagnosis with observations of the suspect, to diagnose and classify disorders in accordance with the latest DSM classification system).

Also, reports have an inherently hybrid structure; they address a retrospective and prospective question. The prospective question relates to what factors, related to the mental disorder, may be associated with the risk of reoffending in the future (Kooijmans & Meynen, 2012). This retrospective and prospective take should become logically connected somehow and this is up to the forensic mental health expert.

There are thus multiple spheres that somehow have to be connected with each other in pre-trial mental health reports. This chapter investigates how the passage between the realm of mental health and the law is taken by exploring the practices and experiences of forensic mental health experts based on a series of semi-structured interviews with experts that I conducted in the period 2011–2013.⁴⁵ The first part discusses the strategies experts utilize to find out whether or not autistic 'issues' are at stake. The second part examines the strategies experts employ while passing from the realm of mental health to the law. Finally, I reflect at a more abstract level on the practical rationalities characterizing this forensic mental health discipline.

Hinting at 'something autistic'

Perhaps one of the most pronounced characteristics of autism today is that it is a disorder 'in flux' (Verhoeff, 2013; 2015). Shifting modes of understanding about the core deficits in people diagnosed with autistic conditions may affect the ways in which experts associate autism with an index offense. I talked to these experts in the aftermath of DSM-IV and discussed issues related to demarcation and classification. Using the label Asperger's Syndrome in a report, instead of the more general diagnosis 'autism spectrum disorder' (ASD), may or may not be a deliberate choice. Both psychiatric labels were in use when I spoke to the interviewees. Furthermore, the label PDD-NOS (pervasive developmental disorder not otherwise

specified) was at the time of the study still in use as well. Interviewees considered this label to be highly problematic. I return to some of these problematic issues.

Classification considerations may suggest that forensic mental health experts always have a choice in the matter. Yet, several experts argued that in the majority of cases, the diagnosis has already been made. 'It is just documented' as one expert noted. Experts read previous probation reports, available medical information, including previous treatments and so on. The information depends on the exact stage of the juridical process and the criminal career of the suspect. This information largely guides the course of the assessment. It is not only the kind of information shared, but also the way in which questions are posed that determines the kind of answers experts may give.⁴⁶

In scrutinizing the experts' strategies to find out whether or not autistic 'issues' were at stake, I was forced to take one step back, so to speak. I interviewed several experts conducting so-called trajectory consultations (or arraignment consultations) on behalf of a regional office of the NIFP. These experts make 'quick scans' of the mental constitution of suspects and subsequently advise on what kind of pre-trial mental health report has to be made. The latter depends, among other things, on the complexity of the case and severity of the index offense.⁴⁷ These trajectory consultations determine the type of investigation thought to be most suitable for a particular case. Already at this early stage, the track to an 'autistic reading' of the suspect might be made.

The exact formulation of the observations of the trajectory consultant and in turn, the exact formulation of the final commission that goes to the forensic mental health expert is an object for discussion at the NIFP. The idea is that experts get clues on what to look for based on the trajectory consultation report without being forced into explicitly having to falsify the hypotheses made in the report. In other words, the forensic mental health experts are expected to be attentive readers, open to hints and suggestions. But, they also have to be allowed to stay open-minded. One expert writing trajectory consultation reports puts it like this:

(...) it is very complicated for me, in such a short conversation, to come up with a diagnosis...because I aim at half an hour. Imagine if later on it turns out to be wrong. It is very complicated for the forensic mental health expert because he has to explain himself extensively as to why it [the diagnosis] is different after all [quote 1, expert 10].

The caution expressed by this expert from the regional office seems justified, as almost all pre-trial mental health experts expressed an interest in what is stated in the trajectory consultation report. A forensic psychiatrist said:

We are very curious about what he [the trajectory consultant] has seen and discussed with the suspect because this can guide our investigation. What are we going to exclude, what are we going to investigate? (...) And then sometimes, it is just documented, the diagnosis of ASD. Or that the psychiatrist or psychologist who did the trajectory consultation has observed aspects of it and he notes that it popped up in his mind and further investigation is necessary at this point. [quote 2, expert 6].

Experts can decide whether they want to read all the available documentation prior to their first conversation with a suspect, or not. They can strategically decide to enter into their conversation with the suspect as 'open-mindedly' as possible. This qualification, open-mindedness, was used by several of my interviewees. I note that the more experienced pre-trial mental health experts seem most comfortable with the strategy of knowing as little as possible beforehand. They take a larger risk, as taking a fresh point of view may also imply that they could disagree with diagnoses made by others in the past. One respondent observed that some suspects seem to have come to understand themselves, and justify themselves, by a psychiatric diagnosis made in childhood:

I think some people brandish their PDD-NOS diagnosis. Yet, PDD-NOS is a very troublesome diagnosis, it is sort of a catch-all group and then people say, yes, because of my PDD-NOS I have problems with this or that...whereas it is very much a question whether it is indeed the case [quote 3, expert 9].

How such dynamic interaction between classifications and those classified works is depicted in Chapter 2. The point here is that a fresh perspective on the suspect's state of mind generates a lot of work for the forensic mental health expert. In numerous cases, others have already paved the way to a certain line of reasoning about the psychic disorder and offense. And, as the quote illustrates, these others

may also include the suspects themselves. Forensic mental health experts writing pre-trial mental health reports make constant trade-offs between the paths they want to follow and the amount of effort and time they are willing (and able) to put into the venture. Trajectory consultation reports and commission letters sent to experts are written with these trade-offs kept in mind.

In turn, the forensic mental health experts writing these trajectory consultation reports make similar trade-offs between practical considerations and more fundamental reflections about the kind of evaluation that should be conducted. A forensic psychological evaluation is usually preferred in the case of minor offenses. One very practical consideration is that more psychologists than psychiatrists are available in this forensic mental health field. But one respondent from a regional office explained to me that their team also deliberates regularly on the kind of pre-trial mental health assessment appropriate for a given case. They engaged in more fundamental discussions, pushing the practical issues to the background. Some members of their team consider autism primarily a neurobiological disorder; others consider it a developmental condition. Those who consider it a neurobiological disorder often recommend conducting a forensic psychiatric assessment. Those who think of it as a developmental condition often prefer a forensic psychological assessment.

Differences in modes of understanding about the core deficits in people diagnosed with autistic conditions may deeply affect the type of pre-trial mental health report that is written. This in turn may significantly affect the kind of recommendation that forensic mental health experts give to judges.

'That something that is somewhat different'

Virtually all pre-trial mental health assessments are done by observing and conversing with the suspect. Most interviewees consider the conversation their primary vehicle for analyzing the suspect's state of mind. Their experience with 'something autistic', as they termed it, all circled around a notion of difference.

I talked with forensic mental health experts about their first impressions and, as one forensic psychiatrist put it 'that somewhat different something' in people with autistic conditions. I explore how such first impressions are formed and when and how differences are allowed to play a role in practice. One quite experienced

trajectory consultant sees it as a sort of professional routine to take one's first impression seriously:

Yes, so you can't avoid starting to... I mean (...), after 30 years in forensic psychiatry, this first impression, you just get it (...). Yes, at first sight... I think you store it in the back of your mind, automatically. Well then, it's something you might need to explore [quote 4, expert 10]

In relation to autistic conditions, the notion of difference becomes explicated as difference in reciprocal contact. Experts explained to me that it is often felt at once:

You often find yourself thinking — there is something about the contact. And, the word 'pervasive' quickly pops up, as a reference to think about. In every contact you test, obviously, from the moment you meet, when he's approaching you, shaking hands, sit down, the conversation – on and on, you test the reciprocity of the contact, and the person's understanding of it. (...) It's about the totality of someone's appearance; what he says, what he does, what he 'impersonates' with that (...) [quote 5, expert 7]

All experts describe an internal process of testing ideas, touching upon various matters in the conversation. They adjust their questions and topics of conversation according to the ideas that pop up in their minds as a consequence of what they see and hear. It is as if they have two conversations going on: One with the suspect and the other with themselves. A strategy to test one's ideas and hypotheses during conversations is to ask specific questions or, as illustrated by the following quote, to use a particular idiom on purpose:

And quite often, in the contact that you see, how someone acts towards you and how spontaneously someone is, but also if he responds to the things you sent, whether something comes back to you, back and forth, and in this pervasive story, it often appears in the figurative sense, because one of the issues is that idioms are not always understood, so then you give an example, or, you drop a idiom, and then you ask 'are you with me in what I just said, do you understand me?' And, can you perhaps tell me what I meant by it? [quote 6, expert 7]

Forensic mental health experts explain to me that they see this as a kind of path-finding or following tracks. The answer their suspects give may determine which track they decide to follow. For example, if a suspect gives socially acceptable answers, the path 'autistic' might become less likely:

Well, sometimes with anti-socials it happens, they are not bright, but clever enough to say, 'Well yes, it should not have happened' to show they have a conscience. An anti-social person always does this. Someone with ASD does not understand that part. So, then I'd ask something like 'Well, wasn't it very unpleasant for that person?' And then you see them think, oh yeah, damn. An anti-social will give a socially acceptable answer. They can grease someone's palms, socially. They have that social lubricant at their disposal like you and I do [quote 7, expert 2]

The overall conversation is as much a heuristic to produce knowledge about a suspect's state of mind as particular questions are. With one forensic (child) psychiatrist, I discussed how one can distinguish children with intellectual disabilities from children who show signs of autism. This forensic psychiatrist distinguishes at least two types of naivety, each one symptomatic for a different mental disorder:

With autists you often think, why would he tell me this? It is not very clever. That is what I call a kind of naivety, which is often somewhat more stupid given their position in the juridical process. Then you think, oh, the judge would be very interested in hearing this, or the public prosecutor in particular. It can be a signal, like, this is unusual. Boys with intellectual disabilities are generally naive in another way, they sometimes genuinely ask for your help (...). 'I have a letter here, would you read it for me, can you perhaps tell me what I have to do with this letter?' [quote 8, expert 12]

By micromanaging their part of the conversation, experts aim to explore as many tracks as needed until they find a trail to follow. One forensic psychiatrist explained it by using the example of social isolation. What to do with signals of social isolation? Social isolation may be the result of a lack of interest in others (and thereby, a potential sign of autism). However, it may also be the result of fear or anxiety. This

anxiety, in turn, may or may not be the result of negative experiences in the past, for example due to an underlying disorder. Pre-trial mental health experts will explore this. Only if a trail holds does it make it to the final report: 'The social isolation seen in this suspect is symptomatic for this or that mental disorder'.

Resources

Forensic mental health experts have the ability to navigate their way through various types of resources. These experts draw upon a range of knowledge methodology. The introduction mentioned that difficulties arise as the various approaches to answering the question of the legal authority are based on divergent research traditions or explanatory models. Each tradition calls for a specific way of reasoning and applying knowledge. Before I elaborate on the actual practices of experts, some background information about the discipline's official position is needed.

Dutch law defines the expert's report cryptically as 'a report of an expert, concerning his feelings with regard to what his science teaches him about that which is submitted to his judgment' (Sv. art. 343).⁴⁸ The phrase 'what his science teaches him' perhaps safeguards a sense of authority for the person called an expert as what his science teaches him is not so precisely defined. Broadly speaking, differences of opinion among forensic mental health experts about how their work should be done can be traced back to differences in traditions and practices within psychiatry.

The NIFP argues that the phenomenological approach dominated the forensic mental health investigation up until the nineties. 'Since then, the objectifying method of knowledge has gained popularity because of healthcare sciences' (re)orientation on evidence-based research and in reaction to often too narrative approaches and too bold statements and conclusions. Nevertheless, both sources remain relevant as the results of large-scale empirical research have to find their place within the 'N=1 study' that the forensic psychological investigation is' (NIFP, 2007b, p. 59-60).

Mooij (2004) critically observed that evidence-based approaches are ideally based on the presence of statistical correlations between phenomena on the population level. 'The fact that sufferers of a certain personality disorder (e.g. anti-social disorder) tend to delinquent behavior may imply that those who meet the criteria of the population get a high risk profile, without this referring to any reasoning concerning accountability' (idem, p. 130).

The NIFP describes the challenge of pre-trial mental health experts in turn as a kind of journey that has to be made: The medical diagnosis is expected to be based on observable behavior, classified according to the DSM. The forensic mental health diagnosis should focus on the 'phenomenological understanding' of the phenomena. A journey has to be made, from 'objectifying' to 'individualization'. For that reason, the DSM classification should be reported in a footnote to the pre-trial mental health report. 'The DSM classification is reported in a footnote to mark its relatively inferior and limited position. After objectifying it into a classifiable disorder, the journey should be made in the opposite direction, that is, back to the individualization of it; what does this classification mean for this person, what does the detected psychic disorder imply for the accountability and the danger of recidivism?' (NIFP, 2007b, p. 58). Mooij's fear of over-appreciating evidence-based approaches may not be completely tenuous, however, as the NIFP encourages 'working on the basis of scientific methods, promoting a scientific attitude and accumulating new knowledge by conducting scientific research' (NIFP, 2007a, p. 13).⁴⁹

The discipline positions itself explicitly by promoting a scientific style of reasoning.⁵⁰ However, when speaking of the 'objectifying' method of knowledge, the NIFP refers more to the practice of analyzing observable behavior and classifying this with the DSM (hence not so much to profiling suspects as low/high risk based on knowledge gained from population-based studies). I continue discussing the objectifying method of knowledge production in the first sense, focusing on the use of DSM classifications and, subsequently, on the use of psychological tests designed for the practice of classifying.

As already noted, experts define their practice as following tracks or finding paths. Some interviewees openly admitted it is quite a struggle. Experts may confine the scope of their research somewhat by using psychological tests. One expert puts it like this:

I'm working on something now and think that it is definitely an axis 2 problem, but there may also be a touch of this and a touch of that and then I set some up things that may refine it a bit, and maybe I won't make it out completely, but maybe quite enough to answer whether there is a disorder and whether it works through in the index offense [quote 9, expert 7].

Experts have various tests at their disposal to find out whether autistic issues are at stake. They use numerous ASD checklists, Theory-of-Mind tests and 'Reading the Mind in the Eyes' tests. They also reported using a Dutch inventory of social behavior; the VIS-V.⁵¹ One forensic psychologist explained that he uses these tools strategically:

For example, if I have a suspicion, a certain hypothesis, based on contact. But I do not use these tests by default. (...) Sometimes also as a result of documents that I see, previous reports. Sometimes from a probation officer or from the consultation report by the court [appointed] forensic psychologist or psychiatrist (...). This gives a suggestion. It is not as if this psychiatrist says, well this person has ASD, but more like 'this person reacts oddly to contact (...), his response is socially inadequate' [quote 10, expert 2]

Tests appear to be secondary for most of the interviewees. Several of them noted that information on the suspects' functioning in their normal social environment, together with their early developmental history, provides more information than test scores do, at least in the case of autistic conditions. To illustrate this point further: The NIFP recommends using a cognitive ability test, the WIAS-test,⁵² in the case of suspected autism. This test may reveal a 'disharmonious' IQ profile, which in turn may point to an autism spectrum disorder (NIFP, 2007b). However, none of the interviewees reported using the WIAS-test as a screening device for autism. Altogether, these observations suggest that tests are used more often to support the expert's conclusion than to guide the course of the forensic mental health assessment.

Tests and questionnaires can serve multiple purposes. I talked to one forensic psychiatrist who uses standard questionnaires to gain more information about suspects. The forensic psychiatrist used these not only in the intended 'objectifying' way, but also because the questions provided a topic of conversation and a moment of contact: 'These techniques are not only welcome because they provide some sort of objectivity, but also because they facilitate the conversation' [6]. This illustrates that a psychological test can be used in a hybrid sense as well; as a tool to both measure something and facilitate interaction with suspects.

As stated earlier, I talked to these experts in the aftermath of DSM-IV and as a consequence, we also discussed issues related to demarcation and classification. Several experts believed that far too many people have been given the diagnosis PDD-NOS in childhood. They called PDD-NOS a relatively undefined catch-all category. Problems begin when 'what is special in the contact' is 'put away' in a quite unspecific category. The case of PDD-NOS illustrates poignantly the difficulties forensic mental health experts face when asked to explain how a psychic condition has influenced the alleged offense:

Lots of people have this [PDD-NOS] diagnosis, an extraordinary number. They often have behavioral problems as well, and they can also have very different kinds of problems, or they are just in the dumps, and even also in this ADHD story, ADD particularly. So you often have a mass of information, and you say, well, a closer look is necessary. And then it should be unraveled. What is the highest common factor, what can primarily be ascribed to behavior, what to their state, what to the kind of tension having to do with autism. (...). The difficulty is, we code the classification on these five axes, and you also often come across a both/and story, maybe you are dealing with someone who's autistic, but also very much forlorn or down in the dumps, or the person is in a kind of conglomerate of difficult things and sees no other solution and then does something very strange. So, to what extent is this disorder from that spectrum the reason why it has all gone wrong? I don't know. [quote 11, expert 7]

The task of these experts is very difficult. The questions they have to answer are how and to what extent has the mental disorder worked through in the constitution of the crime. The catch is that only that which is seen as part of the disorder can have legal consequences. The legal context does not allow for a 'both/and story' even though in the expert's opinion, it was indeed an 'and/and story'. Furthermore, if a suspect has already received the vague PDD-NOS label in childhood, unraveling the specific contribution of this relatively undefined condition becomes virtually impossible. The influence of the childhood diagnosis on the life course and self-image of a suspect should also be taken into consideration as suspects might have learned to think of themselves in a specific way, thanks to the diagnosis. This in turn would be an argument for taking the environment and family history into

consideration, even though formally there is no legal ground for doing so. (That is to say: the assessment may focus upon this dynamic, yet the recommendation on accountability must be restricted to the contribution of purely the mental condition).

In the case of autistic conditions, this argument may grow stronger as current literature on the causes of developmental disorders focuses more and more on the interplay between environmental and genetic factors and the associated neurological development (Chaste & Leboyer, 2012; Lai, Lombardo, & Baron-Cohen, 2014). According to some, this may account for the observed heterogeneity of the autistic 'phenotype' (Landrigan, 2010).⁵³

Relevant at this point is that the interviewees on a whole did not tell stories of doubt or despair but stories of care and practical consideration. In a way, they cannot afford to be 'theoretical fundamentalists' as they run the risk of never finishing another pre-trial mental health report again. The phrase 'some sort of objectivity' as used by one of the interviewees is very illustrative of this point. It raises the questions of what sort of objectivity do tests provide, what other sorts of objectivity are there, how these relate to each other, and so on. For now, let it just be observed that this way of talking about objectivity was not problematic for the interviewees, but normal.

When crossing the passage from the realm of mental health to the law, experts employ various strategies. The NIFP speaks in this context of a journey that has to be made from objectifying information into a classifiable disorder to individualizing it into the question: 'What does this classification mean for this person'? Yet, I argue that this definition of a journey is perhaps too one-dimensional and fixed. Also, in studies on risk assessment in the forensic mental health context, it is documented that forensic mental health experts find it challenging to balance between both sources of data (nomothetic and idiographic) (DeMatteo, Batastini, Foster, & Hunt, 2010; Scurich, & Monahan, 2012).

The experts in my study refer to diagnosis strategies as following tracks or exploring paths. They have various resources at their disposal to explore these paths and they themselves do not so much speak of a tension between nomothetic and idiographic assessment. In this process of 'tracking', or way-finding, investigating 'the working through', the impact or effect the mental condition has on the constitution of the crime accompanies the diagnostic question. In fact, the latter is central to the task.

Negotiating the invisible tightrope from diagnostics to accountability

Experts writing pre-trial mental health assessments advise judges on the degree to which suspects ought to be held accountable for their actions, if proven by law. Yet, holding someone accountable is 'the privilege' of judges. Accountability is a legal and locally situated concept. For that reason, the NIFP warns that although the experts are expected to mold their findings into a recommendation in terms of accountability, they should be aware that they are entering 'the domain of the judge' (NIFP, 2007b, p. 66). Accountability is a locally situated concept because 'conclusions with regard to it are not generalizable to other crimes or misbehavior' (Van Marle, 2008, p. 172). This means that if someone is acquitted, for example because of a lack of evidence, the report becomes redundant. People can no longer be considered 'diminished accountable' if there are no further legal charges. The locality of the concept also implies that accountability is not a personal characteristic. If acquitted, the question of accountability becomes simply superfluous. In other words, accountability reflects the relation between the mental condition (if present) and the offense (if proven) at the time of committing the offense (Koenraadt, personal communication). Consequently, the position of forensic mental health experts is delicate. Their diagnostic findings on the mental constitution of the person should still hold in this scenario, but 'the rest' does not really matter anymore.

The remaining part of this chapter discusses the professional practices associated with negotiating this invisible tightrope between diagnostics and accountability. Interviewees' reflections on the vague notion of *doorwerking* – perhaps best translated as 'working through', or 'the impact' of the mental condition on the constitution of the crime – is a good starting point for scrutinizing these practices.

In discussing the passage from mental health to law, one interviewee, a legal adviser working at a regional NIFP office, described it as a 'jump that has to be made'. Yet, in discussing this 'jump', it becomes in fact less and less clear where exactly this jump is made:

It is not so much something you can actually see, but it is a jump that has to be made. If you go from diagnostics to accountability, which is a juridical concept, then you have to make this jump. And, in the first place, the forensic mental health expert makes it by describing how it works through, how

severely a disorder or deficient mental development is working through, and at the moment that you make that clear, how much this has been the case, then you can make the step to degrees of accountability and that is actually the point at which it gets translated. And this is somewhat difficult. Because it is not up to legal assessors to take this step first, before the part related to diagnoses, they should not estimate the extent to which it works through, they cannot, this is up to the forensic mental health expert. But the conclusion that follows from this is a juridical one, and forensic mental health experts do indeed find it difficult as well. Surely, if it is obvious what the working through is, then it is not so difficult, but when you hesitate between slightly diminished or diminished, yes then this is definitely perceived as something very difficult and this is sort of that point of transition if you like [quote 12, expert 11]

In discussing where the jump is made, the legal adviser indicates the description of the working through as the starting point. And, she describes fixing the extent of the working through as, and I quote, 'somewhat difficult'. Then comes the point at which it is actually 'translated', the step that assigns degrees of accountability. Yet, when forensic mental health experts hesitate between degrees of accountability, the line of reasoning on the working through opens up again and is perceived as something very difficult, according to this interviewee. This is 'that point of transition'. It seems fair to say that without a proper line of reasoning on the effect of the mental condition on the crime, the reasoning on accountability cannot come about.

Various interviewees referred to proper lines of reasoning in terms of good, convincing storylines. In thinking particularly about the writing process, experts see their practice as a reflexive narrative. On the one hand, interviewees underscore the efforts needed to make stories coherent and comprehensible; on the other hand, they are talking about *the* working through, as if it is a phenomenon that can be described and analyzed in its own right. The simultaneous making and interpreting the phenomenon occurs repeatedly in their own descriptions of their work. Consider the following quotes:

[...] You always have to explain how something is working through, so if you cannot make a good story out of it, then, a good story is coherent, that others

may also say, 'yes, I find that plausible'. You are always looking for the working through. [quote 13, expert 9]

One looks for the question 'Could autism have played a role in the constitution of the index offense'. It is an offense script; one describes the chain of events up until the offense. One also asks 'Let's assume that there is a connection between disorder and offense. How does this relation look, how could it be described?' [quote 14, expert 1]

Constructing a reflexive narrative implies that a line of reasoning can always fail at the last hurdle. In such cases, another assumption, or an alternative path ought to be explored again until the impact or working through is sufficiently demonstrated.

The tightrope between diagnostics and accountability is invisible. The almost untranslatable vague notion of 'the working through' helps to overcome it by generating flexibility. Thus, the untranslatability and flexibility of the concept hang together.

The discipline's discursive practices are best understood as what the sociologist Charles Goodwin once called 'professional vision' (Goodwin, 1994). Professional vision consists of 'socially organized ways of seeing and understanding events that are answerable to the distinctive interests of a particular social group' (p. 606). Every profession shares certain discursive practices by which members of that particular profession can shape the events in the domains subjected to their professional scrutiny. My analysis is that this profession has developed a specific repertoire to talk about issues related to causality. Yet, descriptions of precise causal relations are carefully evaded. The repertoire is flexible enough to 'tie everything together', but vague enough to avoid preciseness.

Closing remarks

This chapter described the practices and experiences of forensic mental health experts writing pre-trial mental health reports. It explored the passage from the realm of mental health to the law. Experts refer to their work as following tracks or finding paths. Diagnosing is a central part of their work. The interviewees all demonstrated having repertoires of manipulation at their disposal that make relevant differences visible. Such manipulations allow the expert to differentiate between the normal and

the pathological. For example, an expert employs idiom in a conversation as part of his repertoire. Deficits in verbal communication skills (such as understanding figurative speech) become understood as a potential sign of autism.

According to Slack, Procter, Hartswood, Voss, & Rouncefield (2010) this is exactly what the notion of professional vision is about. The vision concerns being able to distinguish between 'normal' and 'abnormal' and a corresponding understanding of the repertoire of manipulation that makes differences 'witnessable'. (Slack et al, 2010, p. 233). Diagnosing always calls for experts to exercise 'a subtle combination of reasoning, knowledge and skills, constitutive of expert's professional vision' (idem, p. 229). Magnification, manipulation, and gesturing, pointing and annotating are 'key components of the lived work of doing diagnosis' (Garfinkel and Wieder, 1992 as cited by Slack et al., 2010, p 228). Diagnosing in the field of forensic mental health is thus not that different from diagnostic practices anywhere else.

Unique is that everything the expert asks, does and writes down is ultimately directed to establishing a consistent and coherent narrative about how the mental condition of the suspect works through in the constitution of the alleged offense. Experts thus refer to diagnostic strategies as following tracks or exploring paths. Two observations are relevant at this point. Diagnosing developmental disorders are placed centrally in the present study. It is often a feature of this type of assessment that a track to an 'autistic reading' of the suspect is already present because a diagnosis on the autism spectrum was made in childhood. In cases such as these, trade-offs have to be made between the paths experts are willing to explore and the effort and time they can put into such ventures. What an expert is then warranted in asserting may depend on whether or not an autistic reading may in turn result in a consistent and coherent narrative of accountability. Exploring an alternative route thus becomes costly and risky, a venture that not everybody is willing to undertake.

The other observation is that, if a line of reasoning on accountability somehow remains indecisive during the reporting process, this line of reasoning may open itself up again. This also goes for the description of 'the working through'. I conclude that 'tying everything together' follows a localized, situated rationality that shows similarities, but is different from the traditions of inquiry in both the realm of mental health and the law.

This chapter touched upon a specific issue of major importance in theoretical discussions on the subject, which I have let pass on purpose: To answer questions

from the court, various explanatory models can be utilized. Explanations emerging from psychodynamic traditions are different from explanations arising from a more biologically oriented explanatory model. In the Netherlands, fierce discussions on how to answer the court's questions emerged in the late 1990s. At stake was the legitimacy of the psychodynamic tradition that had long guided forensic mental health reasoning practices. The idea that experts need and create latitude 'to pass through' the space between the realm of mental health and the law assumes that strategies might be identified that somehow connect unconnected spheres or ways of knowing and seeing the world at times of shifting knowledge practices. The next chapter elaborates upon this assumption by analyzing PBC reports made in the period 1994-1999.

Chapter 4

That which is the case: Lines of reasoning concerning autistic suspects in

Pieter Baan Center (PBC) reports of the 1990s

On May 6, 2002, the Dutch politician Pim Fortuyn was murdered in the parking lot of a radio studio in Hilversum. A 32-year-old animal rights activist shot the leader of the right-wing party. Nine days before the general elections, the assassination sent a shock wave through a country that had not seen a political murder since the mid-17th century. Fortuyn's impact on the Netherlands has been considerable. The rise of his political party, and his death changed both the Dutch political and juridical landscape.

'Van der G.', an animal activist, was arrested and charged with murder. Because of the public tumult, the judges decided that not one single question should remain unanswered during his trial. One aspect of the court case is of particular importance in the present context. A child psychiatrist, Menno Oosterhoff, testified as an expert witness in higher court that earlier court-appointed forensic mental health experts might have missed a diagnosis of Asperger's Syndrome. His testimony was a plea to recognize ASD in the forensic mental health context. He argued that 'it would have been enlightening to see G.'s personality and behavior from the perspective of conditions on the autistic spectrum' (Oosterhoff, 2003, p. 23).

The case of Van der G. figured in the media as exemplary for the clash between 'inside' and 'outside' clinical practices. Biological modes of explanations for autistic behavior had gained authority in regular clinical psychological practices at the expense of psychodynamic theories. Yet, the latter remained the central framework for reasoning about suspects' mental constitution in the PBC, where Van der G., was investigated as well.

Another testifying expert witness, forensic psychologist Corine De Ruiter, complained in court and to the newspapers that the PBC only looked 'with a psychoanalytic eye'. She argued that this resulted in too little attention for the neurobiological causes of disturbed behavior. This might have been the reason, she argued, that the PBC potentially 'missed' the ASS diagnosis in Van der G. (Kranenberg & Kruijt, 2003).

This chapter gives an account of the explanations of a suspect's state of mind found in PBC reports in the period 1994-1999. Was there really a 'blind spot'

for neurobiological disorders such as autism in the PBC of the 1990s, as argued by Oosterhoff and De Ruiter in the trial of Pim Fortuyn's murderer?

Indeed, the present archive search reveals that in January 1994 – December 1999, the PBC diagnosed a disorder on the autistic spectrum only three times. In two of these, the diagnosis had already been made in childhood. In 1999, the PBC diagnosed the disorder for the first time on its own accord. In comparison, during the same period ten years later (2004-2009), the diagnosis was made six times a year on average (with a total of 36). In the last 20 years, the total number of reports written annually by the PBC has stayed about the same (about 220 PBC reports a year).

In the course of this study, a second question emerged which I thought was even more interesting: How did forensic mental health experts from the PBC 'handle' the first suspects with childhood diagnoses on the autism spectrum arriving in the 1990s? What explanations for these suspects' state of mind can be found in these reports? Did the more biologically oriented explanatory model complement or replace the psychodynamic model or was it a combination of both? In short: what happened when the 'outside' clinical practices showed up on the PBC's doorstep through the documentation of ASS childhood diagnoses in the files of suspects under assessment?⁵⁴

I checked all available files in the PBC archive in the period January 1994 – December 1999 for references to autistic conditions and I selected only those reports that mention autism, or pervasive developmental disorder(s), (atypical) autistic disorders, Asperger's Syndrome, PDD-NOS and/or autism spectrum disorder, or any other reference to autistic (or in Dutch: *autistiform*) behavior or features. Of the 1312 available files,⁵⁵ a selection of only five reports remained that had references to autistic conditions or features. The next section discusses these five reports in greater detail.⁵⁶

'Autistiform contact disorder'

An official autism diagnosis was made in three reports, two from 1996 and one from 1999 (see Table 1). In 1996, the experts found a suspect suffering from a pervasive developmental disorder 'of the Asperger type' and another suspect with a very severe contact disorder/autistic disorder. The report from 1999 speaks of an

'autistiform contact disorder'. The latter is also the first report referring explicitly to the DSM-IV. It says; 'if one wishes to use the DSM-IV; a pervasive developmental disorder not otherwise specified' (PDD-NOS).

Table 1. Autism/ASS diagnoses in the PBC in period 1994 – 1999

Year	Number of reports in archive	Number of reports with references to autism/ASS features	References to (earlier) childhood diagnosis of autism/ASS in the report	Diagnostic conclusion PBC
1994	216	0		
1995	200	1	- request for clinical observation/differentiation between mixed personality disorder and early object-relation disorder with autistiform features	Evasive character neurosis (personality disorder)
1996	215	2	- atypical pervasive developmental disorder (1991) - autistic problems (1992)	- Pervasive developmental disorder of the Asperger type ¹ - very severe contact disorder/autistic disorder ²
1997	228	1		Borderline personality disorder
1998	224	0		
1999	229	1		Autistiform contact disorder/ PDD-NOS

¹ 1996a.

² 1996b.

This 1999 report is the only one giving the diagnosis without building on a prior (childhood) diagnosis on the autism spectrum.⁵⁷ The psychiatric evaluation found in this report resembles actual reports more than the other two from 1996 do, at least with respect to the characterizations of autistic suspects. It states for example:

The nature of the contact, the lack of reciprocity or the focus on the other, the logic of his behavior, the tracks of thought beyond reach of mitigation

from the outside, the extreme fears, [...], a fragile stimuli regulation, the adult-like language, the quick losing all track of a situation and the subsequent felt discomfort [...], all this suggests a basis in the person that falls under the autistiform contact disorders.^{58 59}

The earliest report making any reference to autistic features originates from 1995 (see Table 1). The investigation followed upon an ambulant multidisciplinary report. That report recommended clinical observation in the PBC. The ambulant forensic mental health experts asked the PBC to differentiate between 'anti-social behavior by mixed personality disorder or an early object-relation disorder with predominantly autistiform features'. The PBC experts finally diagnosed an 'evasive character neurosis (personality disorder) with dependent features'. I also found a report from 1997 that mentions (among many other things) 'autistic features' in which the experts diagnosed a 'borderline personality disorder with shortcomings in reality testing'.

This chapter discusses the report from 1995 and the two reports from 1996 in detail. I focus specifically on the blending of styles of reasoning about the suspect's state of mind. The general assumption accompanying this analysis is that experts can use various explanatory models, or theories, such as a medico-biological or cognitive-oriented explanatory model or a model based on psychodynamic theories, such as psychoanalysis. I briefly sketch the main differences between the two most important styles of reasoning.

Medico-biological explanatory model

Theories accounting for behavior with reference to genetic or (neuro)biological causes usually take the form of deductive nomological models: Phenomena get accounted for by referring to a general law of nature; in this case the law that phenomena (signs) can be attributed to an underlying lesion (cause). This general rule is subsequently said to apply in a particular case. Forensic psychiatrist and philosopher Antoine Mooij speaks in this context of an 'empirical-analytic science model' (Mooij, 2004, p. 30). According to Mooij, there are two basic assumptions fundamental to the model: the assumptions of analyzability and conditionality. The first assumes that reality can be analyzed in terms of independent variables, that can be described independently. The second assumes that if factors stand in conditional relation with each other, the first *causes* the second. Classifying or

rubricating diagnostic practices emerges alongside the empirical-analytic model. The model dictates a way of investigating. It is, to put it differently, a specific 'style of scientific reasoning and doing'.

Toward the end of the 1990s, state-of-the-art autism research considered autistic disorders to be congenital developmental disorders with a genetic component. Experts thus had the opportunity, in theory, to account for autistic behavior by employing a medico-biological explanatory model.

Psychodynamic explanatory model

Against the 'empirical-analytic' science model, an 'empirical-hermeneutical' science model can be distinguished (Mooij, 2004). This model allows for a different kind of knowledge. It places actions in a web of context, as a prerequisite for sense-making practices. Dynamic diagnostic practices emerge alongside this model. Autistic behavior can thus be seen in a broader light of, for example, particular family dynamics. In the 1990s, the PBC prescribed that assessments should contain 'a report of a psychiatric assessment based on psychodynamics and principles from interactional psychotherapy' (Koenraadt, 1992, p. 200; Mooij, Koenraadt, & Lommen-van-Alphen, 1989).⁶⁰

The distinction between the two explanatory models is coarsely woven. The assumption here is merely that when explanatory models come into touch with each other, when they meet, lines of reasoning may have to be attuned to each other. Otherwise incommensurable explanatory models have to be tied together somehow.

'Escape from mother's clutches'

This section offers a closer look at the lines of reasoning found in the two reports from 1996. The first report from 1996 concerns an 18-year-old homeless drug addict accused of blackmail and violent theft who was placed in care when he was 14. In 1991, a regional institute for ambulant mental healthcare (RIAGG) diagnosed an 'atypical pervasive developmental disorder', as can be deduced from various documents in the file. The present PBC report qualifies the suspect as follows: 'The matter with the person concerned is a pervasive developmental disorder of the Asperger type, resulting at advanced age in a personality disorder with anti-social

and narcissistic features in combination with drug addiction and a tendency to sadistic perversity'.

The PBC psychologist's report illustrates a merging or attuning of two styles of reasoning into one more-or-less 'organic' argument about the suspect's mental constitution:

The person concerned is seen by mother as explicitly 'different' from the other children, presumably why her concerns are primarily directed toward him. Given the person's congenital deficits, mother could also not let go of 'her sick child'. He, for his part, could not come to a certain level of attachment to mother on the basis of this disorder. Yet, the person continually made many attempts to escape from her clutches with behavior that was sometimes interpreted as reckless. Where other children will quickly search for the security of mother after a short exploration of the vicinity, this would not occur to him, precisely because basic attachment to mother could not be established, because of the congenital defects. This person walked away and did not return of his own accord. The atypical pervasive developmental disorder diagnosed in earlier investigations rests on this basis. [...] He still would be only too happy, at least sometimes, to be accepted and to be one of the family. Soon, however, he experiences the rules and norms he has to deal with as too restricted and then the fear of dissolving and 'thus' destruction presents itself. He has to break the rules to experience any sense of autonomy and identity. [...] The comfort of Siebert-the-seal is the only thing that remains for him. This soft toy was, and is, very important to him and functions as a 'transitional object'. Children in the developmental phase of complete dependence on mother [yet moving] toward some autonomy often resort to such an object to bear the separation of mother and simultaneously be able to work, to some extent, independently of mother [...]. [quotation marks in the original].⁶¹

How should this line of reasoning be interpreted? Firstly, defective attachment is said to have hindered normal explorative behavior. This resulted in reckless behavior. The defective attachment is said to be the consequence of congenital defects. Secondly, mother's reaction and behavior toward her 'sick child' is attributed to these defects. And, as a consequence, the suspect had to 'break rules to

experience any sense of autonomy'. Although not made explicit, the expert seems to refer in this case to merger anxiety, a Freudian concept.⁶²

The dynamic relationship between suspect and his primary system (his family, his mother) seems the prime framework within which his behavior is explained. The developmental disorder is woven into this framework. For example, the defective attachment is said to be the consequence of congenital defects. The congenital defects are thus defined as causing the behavior. Simultaneously, the dynamics between the suspect and his mother and the reference to a 'transitional object' sketch a 'stage of being'. Such reasoning follows a psychodynamic explanatory model while the identification of causal variables fits into a medico-biological explanatory model. Thus this passage combines two styles of reasoning.

The PBC psychiatrist's argumentation follows this 'strategy' as well, although in a slightly different way:

The developmental disorder manifested itself early in greedy drinking, lots of sleeping, no interaction with the mother or with peers, no playing with toys, breaking toys, moving them rhythmically and not wanting to be touched. [...] He was admitted to hospital several times at an early age. The affective relationship with mother was already compromised by the disorder and has possibly sustained more injury because of this separation. Separations at an early age can affect one's basic trust in others. As a result, enduring relationships later in life become rare and the relationships that do come about can be instrumental in character.⁶³

It should be noted that in this passage, the affective relationship with mother is said to be 'already compromised by the disorder' yet possibly aggravated by the separation. This separation, in turn, can also result in dysfunctional (instrumental) relationships later in life. The extent to which his behavior can be attributed to either the developmental disorder or the separation remains unclear. Given the fact that the argumentation is dynamic in nature, this is presumably not even thought to be a relevant distinction. Another interpretation of the 'and-and' line of reasoning might be that it allows for both a medico-biological and psychodynamic framework of analysis.

I now discuss also the second report originating from 1996. It concerns a 22-year-old man suspected of having murdered his father. In this case, the file also

includes a report from an admission to a psychiatric hospital in 1992. It was then argued that 'without treatment a development in the direction of autistiform psychopathy was to be expected'. Another document, also from 1992, states that 'psychological evaluation has confirmed that his development is severely hindered by autistic problems'. The PBC psychiatrist concludes:

It is a matter of a very severe contact disorder which meets the criteria of an autistic disorder. This disorder is characterized by severe impairment of social interaction and communication. As a consequence of this disorder, which becomes manifest early on in the development, neither emotional faculties have developed, nor a conscience, which is at a primitive level.⁶⁴

In line with the previous report, this one includes reflections upon affective negligence and disturbances in the child-parent relationship as well. This is combined with an attempt to explain behavior by an 'underlying' and in this case also previously diagnosed pathology. Yet, here the line of reasoning is less organic. Both frameworks can clearly be distinguished:

This person's life course is marked by affective and pedagogical neglect and a lack of security and safety. This person drags along the parental and family pathology to a considerable degree. He has never been able to free himself from it: the parricide (killing of parent) has turned out to be the ultimate and fatal separation of his father, but with the patricide (killing of father), the danger is not gone. The hate towards mother lies in wait. Therefore, for matricide (killing of mother) can still be feared. [...] It fits his mechanical, instrumental way of thinking to literally clean up his father, by killing him and putting him in the trash, as his father is, in his eyes, a threat and an obstacle. [...] The autistic pattern still dominates his behavioral repertoire. The deficits extend to his social interactions, to his verbal and non-verbal communication, to his fantasy and his activities and interests. They explain his impenetrability and the limitations in his life-world and perception.⁶⁵

In this case, the family dynamic serves as the main frame of reference to explain the suspect's behavior. The patricide turned out to be the ultimate (and fatal) way to free himself from his father. However, this frame is complemented by a reference to a list

of symptoms (signs) that point to an autistic disorder as well ('The deficits extend to his social interactions, to his verbal and non-verbal communication, to his fantasy and his activities and interests'). One might say that the empirical-analytic frame is lined up beside the psychodynamic frame, apparently to further persuade the reader.

Here, two kinds of reasoning can be distinguished. In the first report discussed, the experts tried harder to integrate the explanatory models into one more-or-less organic line of reasoning. An alternative interpretation of this latter passage would be to consider the list of symptoms as effects of the dynamic development described in the first part of the line of reasoning. On the other hand, that interpretation would not explain the sudden change in language, from 'dragging along the parental pathology' to 'deficits in social interaction, verbal and non-verbal communication' and so on.

Character neurosis, once again

In the first report, one more-or-less organic line of reasoning can be found. In the second, modes of explanation run parallel to each other. The report from 1995 shows an even more hybrid line of reasoning.

This report concerns a man suspected of sexual abuse. It is a clinical assessment following a multidisciplinary ambulant report from 1994. The PBC psychologist concludes that the alleged crime could occur 'against the background of his phase-related developmental problems when the psychosexual identity of the person concerned was still inadequately crystallized because of his adverse neurotic development'.⁶⁶ Yet, the 1994 report asked the PBC to differentiate between 'anti-social behavior because of mixed personality disorder or an early object-relation disorder with predominantly autistic features'.

Before discussing the hybrid line of reasoning in this PBC report, it is worthwhile bringing forward some initial considerations found in the ambulant report:

At the time of the alleged offenses, the person suffered from a personality disorder. [...] Because of his dependent features, he could not stop himself, even though he knew that his sexual actions were abnormal. He needs external reinforcement of his weak functioning of the self for a brake on his actions. His conscience was in itself sufficient, but his function of self was too weak to stop his impulses. Precisely because of his autistic features, the other is an object for him, without affective meaning. Yet, the diagnosis

is not clear. To be able to differentiate between anti-social behavior caused by mixed personality disorder or an early object-relation disorder with predominantly autistic features, clinical observation is needed.⁶⁷

A 'mixed personality disorder' is classified in the DSM under the heading personality disorders, not otherwise specified. The alternative, 'an early object-relation disorder' is not. This disorder is defined in object-relation theories originating in the psychoanalytic tradition (Fairbairn, 1952; Hughes, 1990). Therefore, the expert seems to have asked the PBC to differentiate between a disorder defined in accordance with the DSM-IV and a disorder originating from the psychoanalytic tradition. The object-relation theory offered a psychoanalytic approach to autism (see also Hobson, 1990). In this context, the other is merely seen as 'an object for him without affective meaning'.

The PBC decided to follow a different strategy. Their experts concurred with an evasive character neurosis. The hypothesis that the suspect might have been suffering from an autistic disorder is falsified by introducing new empirical 'evidence'. Thus, in the motivation of the PBC's conclusion of evasive character neurosis, the experts use – what they see as – exclusion criteria for an autistic disorder to falsify that theory while maintaining a psychoanalytic gaze to conclude something else. It is as if the empirical-analytic model has arrived in the PBC, only to be employed in a rather selective manner:

The person concerned has an evasive character neurosis (personality structure) with dependent features, characterized by uncertainty, fear of rejection, contact and intimacy, inability to feel and utter emotions, egocentrism, avoidance and rigidity. Psychiatrist D. describes the person in her report [...] as passive-dependent with autistic features. Admittedly, the evasive personality shows similarities with autistic behavior such as unsociability, flatness, inability to enter into social relationships, but there are no indications that the person showed autistic features from an early age onwards. And, on top of that, this person certainly does have, in contrast to autists, a need for social contact, but he is afraid of it at the same time, and avoids and evades it because of that.⁶⁸

The lack of indications for early adverse development in combination with the need for social contact falsified the hypothesis autistic disorder. The experts follow an empirical-analytic model to reject the hypothesis expressed in the ambulant report. They display their theory of the character neurosis, without returning to the other alternatives brought up by the ambulant expert, namely a mixed personality disorder with anti-social behavior or an object-relation disorder with autistic features. To the extent that one might call this 'selective shopping' in styles of reasoning a strategy, I call it a hybrid line of reasoning.

Closing remarks

In 1996, the arrival of two young men diagnosed in childhood with developmental disorders with then up-to-date explanatory models brought change to the PBC. I demonstrated that effort had gone into integrating both the 'outside' and 'inside' professional vision. In the first report from 1996, the dynamic relationship between suspect and his primary system was the prime framework within which his behavior was explained, and the developmental disorder is woven into this framework. In the second, the empirical-analytic frame is lined up next to the psychodynamic frame to further persuade the reader of the case in hand.

Nevertheless, old habits die hard. In other parts of these reports, particularly in the parts that nowadays would fall under the heading of 'forensic psychiatric considerations', the diagnoses on the autism spectrum did not play an essential role. For example, in the case of the young man suspected of patricide, his actions were ultimately unrelated to his autistic condition. Rather, killing his father meant that he 'cleared away the obstacle that obstructed his freedom to retreat in isolation':

With the placement in institute A and shortly afterwards in institute B, he felt rejected again, which in his perception confirmed that his parents wanted to get rid of him. After returning to his parents (alternately to father and to mother) – he thinks of himself as a man who can take good care of himself – the renewed threat of father to place him in care, again, led him to clear away this obstacle that obstructed his freedom (that is to say; his freedom to retreat in isolation).⁶⁹

It would be too easy to conclude that the PBC of the 1990s did have a 'blind spot' for the forensic relevance of (neuro-)biological disorders such as autism, as De Ruiter and Oosterhoff argued during the trial of Pim Fortuyn's murderer. Retrospective diagnosis is at least as dangerous as diagnosis at a distance. For example, there is no guarantee that 'autistiform features' from the 1990s point to the exact same thing when compared with present-day autistic features.

Still, a blind spot for developmental disorders in Dutch forensic mental health reports had already been an object of study for forensic psychiatrist Siegfried Tuinier in 1989. At the time, he argued that forensic mental health experts were not inclined to look at developmental disorders. In the majority of the cases he studied, the possibility was not considered at all, or at least, these considerations were not made explicit in the reports. He referred to a tendency to preclude developmental disorders 'based on the triangle bed-wetting, biting nails and stammering' (Tuinier, 1989, p. 279). He argued that apparently, this figured as a measure for development, at least for some of the experts whose work he studied. Nevertheless, as chapter 2 demonstrates, the development of the heterogenetic autism concept makes historical comparisons precarious.

The present archive search did show a preference for psychodynamic reasoning in reports concerning suspects in whom autistic features were described in the period 1994 – 1999. I do not consider all possible social, cultural or institutional explanations for the discrepancy between the PBC and regular clinical practices of that period. This falls outside the purpose of this chapter. Instead, I studied the reports with the idea that the arrival of the first autism diagnoses in the PBC had to cause moments of discomfort or uneasiness. These diagnoses challenged standard practices, the culture, of the clinic. The result of this approach is that I found three distinguishable strategies tackling this problem. The first strategy is to construct an organic line of reasoning in which 'what is attributed to what' remains vague. The second strategy is to persuade by complementing two types of explanations. The third is to strategically switch between explanatory models depending on the argument one wants to make. Given these various strategies to mingle – what at first glance appear to be – incommensurable theories about what is the case, it seems valid to conclude that the transitional phase allowed for more, rather than less room to maneuver between multiple types of reasoning.

Of course, only the final reports are scrutinized here and not the drafts discussed by members of the forensic mental health clinic. Discussions and

negotiations among experts about what should be written down remain invisible. The documented reports themselves allow the conclusion that this transitional phase provided the leeway to vary between distinct types of reasoning. The arrival of autistic conditions and the biological explanatory model accompanying it temporarily enriched rather than immediately challenged the customary conventions of practical reasoning in this setting.

The language of these reports, the penetrability of which depends in many instances on the shared orientation of the experts, might be understood as instrumental for maintaining the vaguer identity of the object of study, while tailoring it for more 'local' use, so to speak. Sometimes people 'have' personality disorders ('the person concerned has an evasive character neurosis (personality structure)', quote 8). Yet, often 'it is a matter of a very severe contact disorder, with which he meets the criteria of an autistic disorder' (quote 4), or 'all this suggests a basis in the person that falls under the autistiform contact disorders' (quote 1) or 'at the time of the alleged offenses, the person concerned suffered a personality disorder' (quote 7). A sentence like 'the evasive personality shows similarities with autistiform behavior' (quote 8) seems to work because terms like the mental constitution, the mental condition or mental makeup, the basis, the personality, personality structure, character or identity remain interchangeable.

In Chapter 3, I argued that the discipline's discursive practices are best understood as what sociologist Goodwin called 'professional vision' (Goodwin, 1994). With Goodwin, I argued that every profession shares certain discursive practices by which members of that profession can shape the events in the domains subject to their professional scrutiny. The present chapter demonstrated that a transitional phase can be identified, providing leeway to vary between types of reasoning. In this transitional phase, discursive practices shift. The vague language of the reports under study is instrumental for this shift, I argue. This recalls what philosophers of science call 'trading zones' (Collins, Evans and Gorman, 2007) or 'boundary objects' (Star and Giesemer, 1989; Star, 2010), allowing close analysis of interdisciplinary cooperation, for example between two social groups or between scientific communities.

The present analysis illustrated that such interdisciplinary cooperation does not need to have taken place between two social groups, or two communities of practices. The transitional phase in which the profession found itself allowed for maneuvering between multiple types of reasoning.

Within ten years, identifying autistic conditions had become standard practice in the PBC. I argue that the latitude identified in this study had a certain temporality. If so, more prototypical lines of reasoning about autistic suspects will be found in present-day reports. This suggestion, among others, will be scrutinized in the next chapter.

Chapter 5

The narrative structure of pre-trial mental health reports

Introduction

The literary genre that resembles the medical case history most is the detective story. The ‘archetypes’ of this genre are *The Adventures of Sherlock Holmes* reported by Dr. Watson, a physician, as was the author of the stories, Sir Arthur Conan Doyle. In *The Adventures*, the semiotics of detection are precisely those of medicine: ‘Except in emergencies, Sherlock Holmes receives those who need his help in his rooms. He hears their stories, observes them and the physical evidence they present carefully, even microscopically, and asks pertinent if sometimes unexpected questions’ (Hunter, 1991, p. 169). The stories that Dr. Watson writes about Sherlock Holmes resemble the case presentation; narratives of investigation and interpretation. ‘The narrator in each genre has the task of telling us both ‘who done it’ and how the puzzle was solved’ (p. 169). Puzzle-solving and storytelling are thus connected. An example from Sherlock Holmes:

“Well, of course it was obvious from the first that this Mr. Hosmer Angel must have some strong object for his curious conduct, and it was equally clear that the only man who really profited by the incident, as far as we could see, was the stepfather. Then the fact that the two men were never together, but that the one always appeared when the other was away, was suggestive. So were the tinted spectacles and the curious voice, which both hinted at a disguise, as did the bushy whiskers. My suspicions were all confirmed by his peculiar action in typewriting his signature, which, of course, inferred that his handwriting was so familiar to her that she would recognise even the smallest sample of it. You see all these isolated facts, together with many minor ones, all pointed in the same direction.”

“And how did you verify them?”

“Having once spotted my man, it was easy to get corroboration. I knew the firm for which this man worked. Having taken the printed description, I eliminated everything from it which could be the result of a disguise — the

whiskers, the glasses, the voice, and I sent it to the firm, with a request that they would inform me whether it answered to the description of any of their travellers. I had already noticed the peculiarities of the typewriter, and I wrote to the man himself at his business address asking him if he would come here. As I expected, his reply was typewritten and revealed the same trivial but characteristic defects. The same post brought me a letter from Westhouse & Marbank, of Fenchurch Street, to say that the description tallied in every respect with that of their employee, James Windibank. Voilà tout!"⁷⁰

The point of departure for the present analysis is that pre-trial mental health reports are narratives of investigation and interpretation. I argue that the forensic psychiatric reasoning in reports is essentially a reconstruction that not so much proves as narratively demonstrates what has been the matter. It is a narrative reconstruction of the chain of events prior to the (alleged) offense; a story of practical reasoning from effect to cause. This starting point follows the experts' description of their work, as discussed in the third chapter of this dissertation.

However, pre-trial mental health assessments address whether or not the suspect suffers (or suffered) from a mental disorder or deficient mental development and whether this has influenced the (alleged) offenses. Hence, crosscurrents come from the official research questions posed by the court. These questions instigate reasoning from cause to effect. The court simply wants to know whether something is the matter with the suspect that ought to be taken into consideration. Judges are not that interested in detective stories.

Furthermore, narratives of investigation and interpretation tend to collide with 'medical chart logic'. In medical charts, the traditional tentative diagnosis, 'the initial impression', frequently is dropped thus delaying a statement of diagnosis until the test results are in. Phenomena are listed merely as a set of problems shown until the diagnosis is 'nailed down' as Hunter argues. This deprives the chart narrative of some of its suspense, simplifying and perfecting the finished plot at the expense of recorded twists and turns.

Thus, the Sherlock Holmes in every forensic mental health expert may ask questions that are different from the kind of questions listed in official assessment formats.⁷¹ He or she asks for example: Does this person really have a schizoid personality disorder with narcissistic features? Have my colleagues overlooked

something? Could I have been fooled? Once in a while, readers of these reports are allowed a view into these questions as the following 'diary like' remark about a man suspected of sexual assault illustrates:

I asked myself to what extent the person concerned could have feigned the symptoms of this condition, because he gave the impression of attaching importance to the diagnosis. Considering his inflated ego and the certainty with which he brings issues, without any hesitation I believe he is capable of that. Yet, conspicuously absent in this context are circumscribed interests and obsessive rituals, which he could have easily feigned, considering his high IQ.⁷²

Frans Koenraadt, a Dutch professor in forensic psychiatry and psychology, ordered seven qualities of forensic mental health experts in line with seven professions. He distinguished the anthropologist, the historian, the narrator, the jurist, the psychopathologist, the teacher and the physician. Koenraadt argued that the behavioral expert does not have to be a jurist. Yet, 'a certain level of juridical conscience is demanded of him' (Koenraadt, 2009, p. 248). About the behavioral expert as a historian he stated: 'A historicizing method in forensic behavioral science is imperative precisely because it demands the retrospective approach, directed at the moment or the episode of the alleged offenses' (p. 246). About the forensic expert as a narrator, Koenraadt argues that 'the narrator par excellence may be relied upon having a sophisticated eye for describing the twists and turns and structure of a plot, etc.' (p. 246).

The present chapter analyses how relations between (alleged) offenses and Asperger's Syndrome are delineated in a small series of reports.⁷³ Information on case selection is included in Appendix, Chapter 5. Particular attention goes to the style of reasoning, to the structure of the arguments and the substantiation for conclusions. The starting point is that within the broad span of professions from which qualities may echo in the practice of pre-trial mental health evaluators, the tension between the narrator on the one hand and the physician on the other hand is defined as the most pressing. As highlighted, official assessment format follows medical chart logic which typically tends to grind against the detective story. Therefore, the central question guiding the present study is how experts deal with

potential friction between the two and, more importantly, in what kind of stories this results.

Close reading a case of firesetting

A 30-year-old man was suspected of committing arson. He lived with his mother. His father died when he was ten years old. He was unemployed and declared disabled because of an anxiety disorder, he believed. He spent most of his time working on his computer, or reading horror stories in his bedroom.

The suspect used to practice with his air-gun in the backyard. However, he soon came into conflict with his neighbors, who were less than charmed by his hobbies. In fact, they were afraid of him because of recent fires in the neighborhood. The current investigation was conducted in 2004, when he was arrested on suspicion of committing arson. The letter box of his neighbors, and their camper van parked next to the house, burned down after a reoccurring conflict about shooting in the backyard.

The suspect's story in the report starts as follows: 'Father was born in a family of three children (two boys and one girl). Father was the second child. Paternal grandfather ran a small carpentry business, grandmother was a housewife...' (...) Grandfather's family was non-religious. As far as mother knew, there were no relatives with psychiatric problems in father's family. Father took a drawing course after primary school and started working at the carpentry at an early age. (...). Mother had one older brother (etc.).

Of this 65-page-long PBC report, 20 pages are devoted to the suspect's family history and his personal life history, including a summary of his school career. The history begins with the life course of grandparents on both sides. Research into the social environment is done by a social worker. Next come ten pages of observations and impressions, as recorded in his stay at the PBC (group observations reported by a group supervisor). This part highlights first impressions (one page), behavior in the group (six pages), participation in labor activities (half a page) and sports. Reflections on sport activities can be summarized easily in one sentence: The person did not participate in group sport or fitness activities during his stay in the PBC'. This part ends with three more pages on observations during visiting hours.

Up until this point, halfway through the report, the reader finds a chronological reconstruction of the chain of events prior to the (alleged) offense. The family history functions more or less as the natural starting point of this chronological chain. Yet, depicting the suspect's life history has a second function. At times, the conversation between suspect and expert becomes the object of study. For example, (part of) the conversation about the suspect's school career is summarized in the report:

He explained to me that he became interested in computers at primary school, and that he decided at the MAVO [lower general secondary education] that in future, he 'wanted to do something with computers'. Talking of this, he asked me apparently rhetorically: 'What is the point of courses in the exact sciences and geography and history?' Without waiting for my response, he added in an apparently irritated tone: 'I learn more about that on Discovery Channel than at school' (...).⁷⁴

This passage not only gives an account of the suspect's school career, the narrator also highlights a particular observation that later on in the report is used as a sign or 'anchor'. In a narrative of investigation and interpretation, the narrator tells both 'who done it' and how the puzzle was solved. Hence, the conversation with suspects about their parents, family history and personal development serves more than one purpose. Examples of such anchors can be found in almost every report. Consider the following two quotes from other reports:

Father is now 68 years old and has been retired for a few years. He used to work as a call center agent. When asked to describe his own father, he states: 'A normal person with two legs and two arms. What is this question? Actually, I don't know what he is like. I don't know him that well. He has never been much of a talker'.⁷⁵

What stands out is that L. forces himself upon others, in the sense that he enters the investigator's territory, and, he physically presents himself: he crosses 'normal' boundaries between people here.⁷⁶

As these passages are not transcripts of conversations, the question becomes which details get highlighted and which do not. This is up to the forensic mental health expert. This expert might think it was typical, or specific to this person. It stood out, while other things did not.

At times, details and general impressions are suddenly exchanged for highly specific observations. Such signs, in hindsight, make particular sense in the context of an Asperger's diagnosis – if not to say that they *only* make sense in that context. For instance, in the second section of the passage on the fire-setter's life history, the reader learns that the suspect developed normally (learning to sit up, walk and so on). Yet, there was something unusual about his language development:

Strikingly, when he began talking around the age of two, he could immediately speak in complete sentences, flawlessly. Mother remembered hearing him practice in bed. She heard it through the baby monitor.⁷⁷

For the practiced eye, language development is an important area for diagnosing autistic conditions like Asperger's Syndrome. The forensic psychiatrist returns to the topic on page 55 of the report, reflecting on 'relevant biographical information'. The pervasive phenomena in his development are said to stand out, such as 'the adverse language development (by which the suspect did not start, as usual, with words and short sentences but started directly speaking in well-turned phrases)'. Wagenaar et al. (1993) also refer to anchors in terms of 'critical episodes' of stories. Without such episodes, the story would be incomplete.

Before readers arrive at page 55 though, they have read the psychological report first. This part starts again with impressions from conversation(s). However, references to the social worker's observations are now included as well. This suggests a certain progression in the level of analysis, although the psychological report is in itself an autonomous narrative. This (seven-page long) account includes the suspect's feelings and mental constitution prior to the alleged offenses. Results of 'psychological testing' (consisting of tests measuring intelligence and personality features, among other things) are discussed in two pages. Then, finally, a formal diagnosis appears for the first time, taking up merely a quarter of a page. An additional two-and-a-half pages are spent on the mental constitution of this suspect and the relevance of the constitution in light of the alleged offenses. The diagnosis:

Because of the combination of the mentioned qualitative contact disability, strong preoccupations and good (verbal) intelligence, the problems with this person can be defined as Asperger's Syndrome. One of the features is a relatively high verbal IQ. The pyromaniac activities (if proven) and the fascination for fire(works) are not so much to be understood as a separate disorder, but they are part of the main disorder (Asperger). This person's functioning meets the criteria of a schizoid personality disorder to a great degree, but given the observable signs of a contact disorder from an early age onwards, as well as the fact that the person concerned does enjoy some of his (obsessive) activities, the diagnosis 'Asperger's Syndrome' is preferred.⁷⁸

Next, the relation between the condition and alleged offenses is sketched. The disorder is said to have played 'a relevant role':

On the one hand because his fascination for fire and fireworks is directly connected to it, on the other hand because his disorder is also a source of frustration in contact with other people, and, the person vents his anger about his eroded self-image through the alleged offenses, if proven.⁷⁹

After these conclusions from the psychologist, the report continues with the psychiatrist's findings. Thus, for the second time, the reader comes across 'first impressions' that take up another 13 pages. At the very end of the report (page 60), the formal diagnosis of the psychiatrist appears.

The structure of the format suggests a hierarchical order in expertise (social worker, clinical observant, psychologist, physician, psychiatrist) as well as an aggregation in level of analysis. However, every part can be read as a new, stand-alone narrative that only partially makes use of the prior one. The last expert, the psychiatrist, can pick 'freely' so to speak, from everything that has been written before. The psychiatrist has written in this case: 'The person concerned is a 30-year old man of Dutch origin with an average or above average intelligence suffering from Asperger's Syndrome (...)'. The diagnosis is followed by a lengthy description of what this diagnosis implies.

Merely half a page is dedicated to specifying how the condition is associated with the alleged offenses. This reflection draws both on the formal diagnosis as well

as on information aggregated from the previous parts. For example, the psychiatrist refers to the problems the suspect faced at work, and relates this to the disorder. As a consequence of his unemployment, the suspect had more time to spend on his 'technical, mechanical, and at times bizarre preoccupations such as his preoccupations for fireworks, commandos, terrorism and Rambo figures, fitting his disorder'. The argument continues:

Regarding offenses 1 and 2 – if proven – these preoccupations utter themselves indirectly. Yet, in regard to offenses 3 and 4 – if proven – it is a matter of more actions directed at the neighbors: the lack of understanding of the neighbors, their defeating his plans for a gun license, and the accusations of his engagement with fire mobilized an aggression potential fitting the disorder, by which the person, without any correction from the outside world, could ruminate on the alleged injustices, deprived of any empathic capacity for his neighbor's worries.⁸⁰

A conclusion follows (diminished accountable). Then, in the final recommendation, the association is summarized again in slightly different terms. The summary opens with the following argument: 'the evident relation between disorder and the alleged offenses knows several aspects...' and the assumed relation is redescribed. The relation is now typified as *the evident relation*. This suggests, in my opinion, that the expert thought it necessary to underscore the certainty with which the conclusions are drawn, while it simultaneously suggests a reference to the amount of evidence provided. Yet, the report does not provide evidence as such. It is instead a demonstration of the relation rather than proof of it. The phrase 'evident relation' must be seen as rhetorical.

Is this the villain? Yes, he is!

What stands out in almost all reports is that most suspects (and their families) are already familiar with a diagnosis on the autistic spectrum, either because the suspects have already been diagnosed with a developmental disorder in childhood, or because the disorder has been brought up in the course of the juridical procedure. For example, PBC reports are frequently conducted in the context of an appeal. Or, convicted offenders reoffend. In such cases, PBC reports supplement prior ambulant

reports. Often, diagnoses on the autism spectrum have already been made, (as was also the case in the report on the fire-setter). It is as if the Sherlock Holmes in the narrator asks: *Is this really the villain?* And he or she answers: *Yes, he is!*

In situations such as these, the first part of each report seems to function merely as a demonstration of what will be concluded later on in the report. However, in accordance with medical chart logic, the tentative diagnosis, the 'initial impression' is absent, thus somewhat artificially delaying a statement of diagnosis (while in most cases, a prior diagnosis is already documented).

This suspense influences the kind of story that is being told. For example, what can be reconstructed from the report about the fire-setter is that he was diagnosed with a pervasive developmental disorder by a clinical psychiatrist around the time he lost his job. From another snapshot of the conversation with the psychiatrist, I observed that the ambulant experts concluded he also had a mild pervasive developmental disorder, together with an anxiety disorder in remission. The hypothesis *developmental disorder* had been on the cards for years:

After diagnosing himself on the Internet with a General Anxiety Disorder, the person postulated this to the psychiatrist and suggested being treated with Efexor. From a different diagnostic work hypothesis – as Mrs. A. diagnosed neither depression nor anxiety disorder, but a pervasive developmental disorder – the psychiatrist did indeed prescribe Efexor, after which he felt much better, although the psychiatrist saw little improvement.⁸¹

I wonder to what extent this hypothesis (that is to say, prior diagnosis) influenced the selection of events reiterated by the experts. Also, to what extent can mother's recollection of the suspect's early development still count as evidence, as an anchor, for the present conclusion? The impact of 'work hypotheses' in the selection of relevant facts and memories is known to be considerable (Giard & Merckelbach, 2009). Certain cognitive biases may have played a role in mother's recollection of the suspect's early development, yet there is no way of knowing whether the investigator considered this idea. Also, whether or not the investigator considered alternative scenario's remains unclear.⁸²

Medical chart logic not only artificially delays statements of possible diagnoses, but possibly also hinders the investigator in openly considering alternatives – and sharing these considerations with the reader. Indeed, in the report

of the fire-setter, little effort went into substantiating the conclusions or considering differential diagnoses. There is merely one single comment about the person meeting the criteria of a schizoid personality disorder: The Asperger's diagnosis is preferred because of observable signs of a contact disorder from an early age and the fact that the person 'does enjoy some of his (obsessive) activities'.

From schizotypal personality disorder to Asperger's Syndrome

Sometimes, an alternative conclusion is worked out at the expense of an earlier diagnosis. For example, suspects have been diagnosed with a schizotypal personality disorder or psychosexual disorder with perversion when, in hindsight, Asperger's Syndrome is thought to be a better diagnosis. In such reports, alternative hypotheses are not put to much of a test; they are not validated – at least not in the sense that this is made visible to the reader. Rather, the alternative is vigorously demonstrated. A more convincing explanation for the line of events prior to the alleged offenses is created.

The report discussed below was written in the summer of 2003. It was the first in which the PBC concluded in hindsight to a diagnosis of Asperger's Syndrome. Chapter 4 demonstrated that the PBC was relatively late to catch sight of the forensic relevance of developmental disorders. In a way, the present report is the first of its kind.

The report concerns a 26-year-old man prosecuted for the attempted murder of his ex-girlfriend. The thick PBC file contains not only the police report and other documents belonging to the present assessment but also older pre-trial mental health reports. In 2001 the suspect was convicted for stalking, threatening behavior and attempt at grievous bodily harm. While on probation, a year later, he attacked her again.

Pre-trial mental health assessments were conducted for both trials. The present assessment was conducted in preparation for the appeal. In the previous reports, experts concluded that the suspect suffered from a personality disorder with schizoid and narcissistic features. It was then believed that this had seriously influenced his behavior during the alleged offenses:

The person's schizoid personality disorder with narcissistic features has contributed to a large extent to the fact that he could bear injustice so badly,

that he was so easily aggrieved, and came to faulty interpretations [disturbed reality testing], that he was unable to control himself, and just to continue cycling on, when accidentally encountering H. All injustices were so massively actualized that he absolutely had to get even.⁸³

The (ambulant) forensic mental health experts recommended holding the suspect diminished accountable for his actions. Why was Asperger's Syndrome thought to be a 'better' diagnosis? The PBC report merely stated that Asperger's patients in adulthood are for the greater part incorrectly diagnosed with schizotypal or schizoid personality disorder, 'which will also turn out to be the case with these ambulant reports' the expert argued. The expert continued: 'Clinical observation is absolutely necessary to conclude this (Asperger's) diagnosis'.

The line of reasoning as to how the suspect's mental condition relates to the alleged offense is more extensive in the PBC report and slightly different. The 'plot' begins with the suspect's 'logical' choice of carrying a survival knife, because he felt threatened by a group of youngsters:

The person concerned chooses to carry a knife, acquired earlier, even though there were no signs of the threat continuing. Without considering that someone else's anger might cool off, he believes that he can no longer be on the streets un-protected – that is, without a knife – because of an unpredictable, continually experienced threat *stemming from the disorder*. Then, one evening, when he bumps into the victim on the street, the whole previous history concerning the victim and his severely felt repudiation by her, intensely intrudes his mind, and he is – *matching his disorder* – immediately obsessed again by strong suspicions about why she is outside, as previously she had declared she was too afraid to go outdoors, precisely because of the suspect. The person is unable to consider any of the victim's possible motives: *because of the absence of empathy, the lack of a brake on his conscience, or inability to understand the motives of someone else*, the situation becomes in fact highly threatening and unpredictable. Consequently, an enormous rancorous anger is then mobilized in the suspect; he follows the victim and comes to the current alleged offense, thereby using the knife that was meant to avert his fears. He does so, entirely

without considering the fear she must have felt, even in hindsight. His persistent doubt about the victim's statements counts the most for him and he does not show any sense of guilt.⁸⁴ [Italics are my own, HT]

In 2002, the ambulant forensic mental health expert wrote that the suspect 'could bear injustice so badly, that he was so easily aggrieved, and came to faulty interpretations [disturbed reality testing], that he was unable to control himself' on seeing his ex-girlfriend. Consequently, all injustices 'were so massively actualized' that he felt compelled to get even. In 2003, the PBC expert wrote that the suspect landed in a 'very threatening and unpredictable situation, and as a result of that, it mobilized in him 'an enormous rancorous anger'.

The difference is that now these faulty interpretations are attributed to the autistic disorder. The expert made precisely this passage, this critical episode, more explicit. By emphasizing the suspect's literal interpretation on seeing his ex-girlfriend outdoors – namely as evidence that she had been lying all along – the expert introduced both a typical sign for the Asperger's diagnosis and an extra layer to the argument.

Furthermore, the knife is introduced as a facilitating factor. The suspect is said to carry the knife 'because of an unpredictable, continuously experienced threat' stemming from Asperger's Syndrome. The presence of the knife is seen explicitly in the context of the disorder. In the closing sentences of the plot, the knife reappears on the scene in a rather theatrical apotheosis: the knife that should have averted his fears led to the dramatic event.

The (ambulant) forensic mental health experts recommended holding the suspect diminished accountable for his actions. The PBC experts recommended holding him 'severely' diminished accountable. Arguments for the difference are not presented. I argue that the alternative hypothesis, and its consequences in terms of accountability were not put to the test, at least not in a way that it is retraceable in the final report. The hypotheses were not compared with each other. Rather, the alternative story was foregrounded vigorously without reference to potential discrepancies with earlier reports. A better story is being told.

A good story goes a long way

This report was the first in which the PBC concluded in hindsight to a diagnosis of Asperger's Syndrome. Is it also the first of its kind? To what extent did a *passé-partout* characterization of delinquent Asperger's emerge in the PBC after the first cases were identified. Or, are the characterization of delinquent Asperger's different in each report, depending on the charges the suspects are being prosecuted for?

The suspect discussed above was arrested previously for stalking and violence against his ex-girlfriend. What stands out in this context is that the report defines Asperger's Syndrome as primarily a contact disorder. 'The Asperger' is said to differ from autists in the sense that the first does wish to come into contact. Yet, this wish is expressed in weird, rigid and clumsy behavior. The contact is felt as straightforward, rigid and compelling. The characterization continues:

(...) the Asperger experiences the other as disturbing, failing and cheating on him. This person shows this strongly felt misrecognition as well, not only with the victim but also with the police, probation office and former ambulant researchers, etc. Intelligence is usually average or above average, as is the case with this person. In consequence, 'the Asperger' is painfully aware that he falls short in contact with others. Next, from this misunderstood position, the picture merges into dependence and coerced social isolation, but there is also an increased chance of developing a depressive disorder, as is also the case with this person. In many instances, an enormous aggression potential arises with this continuously frustrated need for contact. This often needs to be expressed in imperative actions that force the other into contact, by stubborn perseverance. Yet, eventually, this never leads to what 'the Asperger' wishes for himself, namely actual reciprocal contact.⁸⁵

Links between 'the Asperger' and the suspect are made several times. For example, the person concerned 'shows this strongly felt misrecognition as well', the intelligence of this person is (above) average, and, 'there is also an increased chance of developing a depressive disorder, as is also the case with the person concerned'.

The following passage is crucial to the argument: 'In many instances, an enormous aggression potential arises with this continuously frustrated need for contact. This often needs to be expressed in imperative actions that force the other into contact, by stubborn perseverance'. This sub-story is important in the line of reasoning about the suspect. It emerges as a kind of anchor, taking the shape of a commonsense-like rule. The expert speaks of 'aggression potential', a reoccurring phrase in many of the reports I came across. Understandably, it is thought to be safer to speak of arising 'aggression potential' rather than to speak of a general rule that all Aspergers frustrated in contact become aggressive.

This particular case is positioned as an example in more than one way. A few years later, in 2008, another forensic psychiatrist wrote about a man also suspected of stalking and violence against his ex-girlfriend. This report contains an almost identical description of Asperger's Syndrome and an almost identical storyline. In this case 'a strong aggression potential emerges, by which 'the Asperger' by stubborn perseverance forces the other into contact, because of his continuously frustrated need for contact'. And, the expert adds 'this can never lead to what "the Asperger" wishes for himself, namely adequate reciprocity'. It seems that the expert used the previous report as an example. A good story goes a long way.

Persuasion by sophisticated storytelling

What Koenraadt called 'the sophisticated eye of a narrator' has a seductive touch to it too. Consider the next passage in a 'biography' from an ambulant report written by a psychiatrist in training (under supervision). In this passage, the expert's interpretation is put in italics and between brackets, signaling clearly to the reader: Attention reader! This is a sign!

(...). He quarrels with his girlfriend more often. For example, she takes a frying pan and waves it about. The person concerned tries to stay calm in situations such as these. The relationship is now restored. *(forensic psychiatrist's note: the way he mentions several details in depicting his relationship can be called rather bizarre)* [Italics in original].⁸⁶

When a person on the street is asked to sketch his or her relationship or marriage and whether there are any reoccurring issues, one might expect a comment on the partners' mutual affection and respect or something about how the person experiences the marriage. One does not expect the person to say that his or her partner tends to wave a frying pan about, and then tries 'to stay as calm as possible'. A sophisticated narrator would leave the interpretation of this comment to the inferential capacity of the reader. Accomplished narrators select enough material to convey the story; gaps in the narrative are left for the reader to fill in.⁸⁷

From a stylistic point of view, the arguments in PBC reports tend to align more with each other than the arguments in ambulant reports. They are smoother, so to speak. Compare the following two passages, in which the first (a PBC report) truly reads like a 'plot':

The accumulation of stress factors in combination with that person's social incapacity stemming from the Asperger's Syndrome and his preoccupation with his physical condition has led this person to severe ineptitude that he in turn acted out on the weak (children) whereby the defense mechanism of 'turning passive into active' took precedence over the person's usual defense of rationalization that fell short.⁸⁸

The following 'plot', originating from an ambulant report, seems merely to contain a collection of arguments hanging loosely together:

Because of his autism, the relationship with father is very strenuous and strongly colored with mistrust. Due to his disorder, the person involved cannot take much responsibility for his behavior; he cannot make what for others are normal causal inferences. He cannot assess what would be a proportional or adequate answer to what he experiences as an insult or attack. He is struck by blind rancor if he feels threatened. When aggrieved, his impulse control is so low that it could not have put a brake on his behavior during the incidents at the time of the index offense. When he flew into a blind rage, he let himself go completely.⁸⁹

Even if the difference is considered merely a matter of style, the point is that selecting story elements fine-tunes the story. Not every expert is a good narrator, yet skillful writing does not guarantee a good analysis either. Good stories are simply more convincing. According to Wagenaar et al. (1993), the first (faulty) general psychological assumption about good stories is that they are more likely to be true. The second is that it is unlikely that one can find a sufficient number of anchors in untrue stories (p. 42). Wagenaar et al. were inspired by the story model of juridical reasoning which pays attention to the roles played by both authors and readers (Bennet & Feldman, 1981; Pennington & Hastie, 1986; 1988; 1992; 1993). In this story model, the work of judges is understood as determining the credibility of stories presented by both prosecution and defense.⁹⁰ Derived from cognitive psychology, Wagenaar et al. started from the proposition that good stories are not necessarily true. They proposed an *anchored narrative approach* that aimed to help determine the quality of stories in court.

By using the quandary between medical chart logic and the detective story, this chapter scrutinized the stories told in pre-trial mental health reports. Without further elaborating on the story model of juridical reasoning or the anchored narrative approach, the cognitive psychologists' insights related to both theories point to the fact that even if all reports read as smoothly as detective stories, they still cannot provide guaranties as to the quality of the investigation. However, there are benefits to seeing the construction of reports in the light of the 'archetypical' detective story, to which I return below.

Concluding remarks

The previous chapter explored a period of time in which the PBC's theoretical framework was shifting. It argued that this transitional phase allowed for more, rather than less room to maneuver between types of reasoning. I identified various maneuvering strategies. This latitude is expected to have a certain temporality. Indeed, this chapter revealed that a few years after the first reports appeared, some prototypical lines of reasoning about 'the Asperger' can be discovered in the PBC.

Yet, it should be noted that in the 21st century, although experts seem to have adopted a medico-biological perspective on autism, the mode of reasoning cannot be described as deductive nomological per se. For example, explaining phenomena by referring to genetic or (neuro-)biological causes does not result in

plain clinical, rubricating diagnostic practices, as Mooij (2004) expected, for example. Rather, a different type emerges in the 'post psychodynamic era'. This chapter gave an idea of the kind of narratives.

Insights from cognitive psychology underscore the fragility of forensic mental health expertise. Yet, these insights have also led to suggestions for improving this expertise (for an overview see Rassin & Merckelbach, 2014). Suggestions range from quitting assessments entirely to letting the forensic psychologist and psychiatrist work independently on their own assessment questions. The latter will possibly result in far more diverging opinions among experts (Gowensmit, Murrie & Boccaccini, 2013). Working independently of each other appeals to the (scientific) ideal of reliability; it says something about the extent to which the procedure of experts yields the same results.

Dhaliwal & Detsky (2013) introduced the term 'metacognitive practitioners' for diagnosticians who 'routinely think about their own thinking and recognize these traps in their own thought patterns' (p. 580). Yet, according to Dhaliwal & Detsky, diagnosticians are not 'wired' to catch themselves on the precipice of a cognitive error. They require external systems to do so. Also, Giard & Merckelbach (2009) hinted at incorporating external 'checks and balances', specifically to encounter *hindsight bias* in reconstructions and evaluations.

The lesson from my reading is that medical chart logic greatly reduces the chance of becoming 'metacognitive practitioners'. A question most experts will be unlikely to answer (not explicitly at least) is, for example, the following: Could I have been fooled by my own, or someone else's thinking?

The suggestion to let the psychiatrist and the psychologist work independently appeals to positivistic ideals of repeatability and comparability. Starting from the idea that pre-trial mental health reports are essentially narratives of investigation and interpretation, the routes to improving quality may be different.

For Hunter (1991), the parallel between Holmes's reconstruction of a crime and the physician's reconstruction of the disease allowed one to argue that both are 'working stories' (p. 170), essential to the understanding of the case. Yet, the recurring conversations between Dr. Watson and Sherlock Holmes in *The Adventures* point to another feature of detective stories as well: The conversations themselves give insight into the thought processes of both men. Consider the following dialog:

“Have you heard anything of the case?” he [Holmes] asked.

“Not a word. I have not seen a paper for some days.”

“The London press has not had very full accounts. (...) It seems, from what I gather, to be one of those simple cases which are so extremely difficult.”

“That sounds a little paradoxical.”

“But it is profoundly true. Singularity is almost invariably a clue. The more featureless and commonplace a crime is, the more difficult it is to bring home. In this case, however, they have established a very serious case against the son of the murdered man.”

“It is a murder, then?”⁹¹

This thesis discussed the strategies experts have when ‘touching’ upon various areas of interest in conversations with suspects, and they describe this as a kind of internal dialog (Chapter 3). This dialog unfolds entirely unseen. Chapter 3 also pointed to the fact that diagnosing always calls for experts to exercise ‘a subtle combination of reasoning, knowledge and skills’ (Slack et al., 2010 p. 229). Dialogs should be valued because only there e.g. the interplay between explicit and tacit knowledge enters the game, regardless of whether this takes place as an internal dialog, or between experts. It is in this context that I value *The Adventures*. Dr. Watson not only seems to function as a kind of check-and-balance tool for Sherlock Holmes, this particular feature of the detective story also implies that dialogs become and remain visible. It is precisely that visibility that may contribute to the depth of the retrospective reconstruction. I believe that such visibility may eventually contribute to the quality of pre-trial mental health reports.

Final reflections

'What constitutes the relation between Asperger's Syndrome and delinquency?' Since this was the original research question directing this project's first months, traces of it may be found in the first chapter. Was there perhaps a specific pattern of behavior, emerging from case studies of delinquent Aspergers? Could there be a history of associations, pointing to a common denominator? Would reviews of meta-analyses perhaps yield statistical correlations between autistic conditions and particular types of offenses?

The question stands out in its alluring simplicity. Examining the nature of associations between two static, well-defined and well-demarcated phenomena ought to be, in theory, a feasible project. However, both categories (to put it somewhat bluntly; madness and badness) are neither well-demarcated nor static. Changing perspectives on what is believed to be essential in autism led to conceptual transformations of the disorder and shifting diagnostic practices and treatments. The introduction of the Syndrome in DSM-IV caused an increase in the recognition of Asperger's Syndrome as a distinct diagnosis designated for people who were also understood as high-functioning autists. In turn, the understanding and conceptualization of autism as a spectrum disorder, fully reflected in the DSM 5, generates new classifying practices worldwide. Asperger's Syndrome is no longer included in the APA's most recent diagnostic manual but instead covered under autism spectrum disorder.

Yet to me, the functional promise of classifications in general – that they help ordering and understanding the world, was also an argument for going along with the original question, if only momentarily. In hindsight, this process of settling down as a recognizable syndrome implied its acknowledgement in all spheres of life, in family-life, in school, at the workplace and also, in prison. It is best to think of the emerging suspicion of a relation between Asperger's Syndrome and delinquency as part of this dynamic.

In this context, becoming an object of scientific research for forensic psychiatry is part of this process too. Exemplary portraits in particular appeal to the idea that throughout history, there must be similar people in which the same mechanisms account for the same type of illicit behavior. This dissertation recognizes exemplary portraiture as both a crucial 'engine' of discovery in forensic mental health sciences and as a way of making up people. Textual politics are identified, contributing to the construction of such portraits. Exemplary portraiture

should be added to the engines as recognized by Hacking (2007; 2009a), such as counting, quantifying and correlating. For forensic mental health experts, the practical relevance of exemplary portraits is twofold. *Passe-partout* explanations are provided with regard to the association between mental constitution and offense. Those explanations travel across forensic mental health reports. The trouble of working with indecisive epidemiological studies that suggest relations in the probabilistic sense is eased by embodying these relations; by providing a reference. This exemplifies groundwork performativity of the story of the delinquent Asperger.

This thesis scrutinizes how connections between autistic conditions and delinquency come into being in forensic mental health research. As a next step, it documents the experiences and practices of forensic mental health experts writing pre-trial mental health reports. Shifting from the question 'what is the relation between autistic conditions and delinquency' to the question '*how* does this relation emerge', acknowledges these experts' role as craftsmen rather than just interpreters. This shift in focus aids to comprehend the many ramifications for acting on the purported association between autistic conditions and delinquency. In addition, it provides insights in the practical rationalities associated with conducting this type of retrospective research. To illustrate, consider that in for example statistics, a wide range of well-defined coefficients are available that serve to compute associations between two variables (coefficients of agreement, association, concordance, congruence, consistency, contingency, correlation, equality, equivalence, identity, monotonicity, similarity and so on (Zegers, 1986)). As every particular coefficient takes specific information into account, while ignoring other information, the task of statisticians is to use the coefficient most sensitive to their needs in any particular situation. Furthermore, 'new' coefficients can be constructed 'if for a specific application no appropriate association coefficient seems to be available' (*idem*, p. 57). Statisticians are craftsmen as well.

Contemplating the properties of the forensic mental health expert's 'constructs of association', the lack of demarcation stands out. In contrast to statistics, notions of correlation and causality are blended. In (re)constructing a line of reasoning from mental constitution to offense all the way up to a recommendation concerning accountability, vague notions like 'the working through' help by generating flexibility or latitude. Notions of causality are carefully circumvented while a more-or-less shared discourse to talk about this is provided.

Being neither a forensic psychiatrist nor forensic psychologist, but a sociologist/philosopher of the human sciences, the discipline's vulnerabilities in combination with its scope in terms of sentencing struck me time after time. Recommendations to the court may potentially result in lifelong mandatory treatment in closed facilities (tbs-order). In the initial stages of this dissertation, I made an attempt to classify all types of explanations (preconditions, facilitating or intervening conditions, triggers and so on) found in reports as if all aspects in these explanations were variables whose interrelation could be made visible somehow but this turned out to be a fruitless exercise. I felt like Sherlock Holmes, standing guard in a blind alley, suddenly realizing that the villain would be a definite no-show there.

Solid ground?

While scrutinizing how these connections come into existence, the looming question is what exactly the boundaries are of the expert's freedom when reasoning from mental condition to offense: Is the delinquent Asperger merely an arbitrary, historical contingent construct? Or, does the story work so well precisely because it is firmly tied to the world?

There is no reason to question the clinical professionals' concerns about young men whose attitude and behavior cause harm to others. Placing some of them on the autism spectrum might aid in understanding specific aspects of that behavior and guide interventions. However, with regard to determining the relevance of autistic conditions such as Asperger's Syndrome in the forensic mental health setting, the procedures by which recommendations come about might not be responsive enough to the complexity of the suspects' state of being. This state, at least in the cases scrutinized in the present study, is possibly better understood as the result of a dynamic interplay of biological and contextual (social) aspects. Yet, by and large, only the impact of classifiable psychiatric disorders lasts in the legal sphere. Undeserved misfortunes such as poverty, inadequate education and dropping out of school do not necessarily count in court – even though most forensic mental health experts writing pre-trial mental health reports acknowledge the forensic relevance of this interplay. Furthermore, the inherent uncertainty associated with variability in behavioral patterns, for example in response to life challenges; the chaotic and unpredictable nature of societal processes; ambiguities associated with 'non-rational' human behavior; the general concerns associated with a reconstructed

past; these must all be recognized as fundamental difficulties. In (model-based) decision-making literature, such difficulties and uncertainties are made explicit and taken into account (e.g. Walker et. al., 2003). They remain largely unaddressed here. These issues rub against the basic idea of understanding illicit behavior by scrutinizing the mental constitution of suspects (at the time of the events). These factors give a sense of the practice's ambiguities.

Next to that comes autism's heterogeneity: Current literature on the causes of developmental disorders focuses more and more on the dynamic interplay between environmental and genetic factors, as well as on the associated neurological development (Chaste & Leboyer, 2012; Lai, Lombardo, & Baron-Cohen, 2014). Solid ground is hard to acquire. The fourth chapter positions the story of the delinquent Asperger as primarily a performative construct. Placed in a historical perspective, the story emerges in the first years of the twenty-first century and is virtually nonexistent before that. It was not on the menu yet. In conclusion, the many ambiguities and uncertainties documented here emphasize the contingent, though enthralling, nature of the story of the delinquent Asperger.

Against this backdrop, this dissertation searches for adequate responses to the discipline's limitations thereby recognizing the expertise's importance in terms of a fair course of justice. Positioning the construction of reports as constituting a detective story – as a narrative of both investigation and interpretation – generates a bedding for specific recommendations for improving quality. With both courage and modesty, experts should overcome struggles associated with constituting a line of reasoning from mental constitution to offense to a recommendation concerning accountability: Modesty with regard to the things they can and cannot know (and the grey area in between), and, courage by acknowledging the full legitimacy of the uncertainties surrounding conclusions – nevertheless committing oneself to certain recommendations. Understood as retrospective reconstructions, pre-trial mental health reports will benefit from keeping reconstruction as such visible. For example, choices made in it should remain traceable, as should the interplay between various sources of knowledge; differences of opinions between e.g. the forensic psychologist and the forensic psychiatrist would have to be accounted for – and not be erased from sight; addressing potential cognitive biases in the experts' own reasoning may deepen the analysis further.

One of the consequences of this approach may be that solicitors in court occasionally deconstruct the experts' opinions even further, challenging their

authority. On the other hand, addressing weaknesses before others do in fact strengthens rather than weakens the expert's position. In conclusion, this dissertation aims to demonstrate the potential of more transparency in constructing pre-trial mental health reports.

Jurisprudence

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Samenvatting (Summary in Dutch)

De afgelopen jaren vonden er in binnen- en buitenland steeds meer strafzaken plaats waarin gedragsdeskundigen een verdachte diagnosticeerden met een stoornis op het autistische spectrum die relevant zou zijn voor de totstandkoming van het delict. Media-aandacht voor dit soort zaken concentreert zich veelal rond de meer spectaculaire gevallen, hetzij door de ernst van de strafbare feiten, het type delict of de geestestoestand van de verdachte. Maar ook in talloze kleinere strafzaken stellen forensische gedragsdeskundigen met regelmaat ontwikkelingsstoornissen vast. Autistische aandoeningen vormen geen uitzondering meer op het pallet van stoornissen zoals heden ten dage opgetekend door Nederlandse pro Justitia rapporteurs. Ook in de forensisch-psychiatrische literatuur vindt men bovendien gedetailleerde gevalsbeschrijvingen, met name van mensen met de diagnose syndroom van Asperger die atypische en soms gewelddadige misdaden pleegden.

Wie zichzelf de vraag stelt of er een specifieke relatie bestaat tussen het syndroom van Asperger en delinquentie zal al snel tot de conclusie komen dat deze vraag te algemeen gesteld is. Wetenschappers zijn verdeeld over de vraag of autisten meer dan niet-autisten delinquent gedrag vertonen. Kwantitatief onderzoek geeft hierover geen uitsluitel. Ook gevalsbeschrijvingen en theoretische beschouwingen leveren niet één specifieke verklaring voor de veronderstelde relatie. Dit roept de vraag op of er wel een gezamenlijke noemer bestaat waaronder we deze gevallen kunnen scharen. Bestaat er zoiets als een geschiedenis van associaties tussen het syndroom van Asperger en delinquentie?

Dit proefschrift analyseert de manieren waarop forensische gedragsdeskundigen in hun adviezen pro Justitia (voor de rechter) relaties leggen tussen autistische stoornissen zoals het syndroom van Asperger en delinquentie. Uitgangspunt is dat het werk van deze experts zich niet in een vacuüm bevindt. De analyse is gestoeld op het idee dat er allerlei interacties plaatsvinden tussen hoe gedragsdeskundigen hun gevallen beschrijven, hoe wetenschappers hun object van studie definiëren en bestuderen, hoe verdachten naar zichzelf kijken en hoe journalisten bepaalde gebeurtenissen verslaan. Ik maak daarbij gebruik van het werk van de Canadese filosoof Ian Hacking die de wisselwerking onderzoekt tussen de sociale wereld (de publieke sfeer) en kennisverwerving in de (mens)wetenschappen (2007; 2009a; 2009b; 2012a). Interactie tussen onderzoek en het object van onderzoek vormt het startpunt van nog veel meer

wetenschapsfilosofische en historische analyses (Bowker & Star, 1999; Danziger, 1990; 1997; Dehue, 2002; Osborne & Rose, 1999; Rose, 1996; Stone, 1998). Dit proefschrift past in deze traditie. Daarom bestudeer ik zowel het werk van deze experts als de dynamiek tussen type verdachten en type stoornissen.

Dit proefschrift positioneert een autistische stoornis niet enkel als een psychiatrisch ziektebeeld maar ook als een menselijke conditie; als een manier om jezelf en anderen te begrijpen; een manier om in de wereld te staan. Autobiografieën, films en romans met autistische personen in de hoofdrol roepen de autistische identiteit mede in leven. De beschreven of gefilmde portretten, al dan niet fictief, dragen niet alleen bij aan de herkenning van autistische stoornissen, maar scheppen ook een conceptueel kader dat autisme mede helpt definiëren (Hacking, 2009b). Dat het klinische kader niet altijd evenredig loopt met de eigen beleving van mensen bewijzen de vele internetfora waarop 'Aspies' aansluiting zoeken bij lotgenoten. Samen creëren ze een eigen conceptueel kader voor hun anders-zijn. Tegen deze fluïde achtergrond onderzoekt dit proefschrift de veronderstellingen over de delinquente Asperger als een specifiek type verdachte.

Aan de vraag of er relatie bestaat tussen autistische stoornissen zoals het syndroom van Asperger en delinquentie gaat de gedachte vooraf van een gezamenlijke noemer, zo betoog ik. Deze noemer ligt ten grondslag aan het administreren, tellen, bestuderen en portretteren van verdachten met diagnoses op het autistisch spectrum. In de vraag of er een geschiedenis van associaties bestaat tussen de stoornis en delinquentie zit reeds het idee verscholen van een historische constante, namelijk de gedachte dat er een bepaald type mens bestaat waarin dezelfde mechanismes een rol spelen bij hetzelfde soort delinquent gedrag. Dat het tellen, administreren en vergelijken van cijfers van dit type psychische stoornissen in de forensische setting zich vervolgens een weinig lonende onderneming toont, bleek daar weinig aan af te doen. Fluctuerende prevalentiecijfers van autistische stoornissen, veranderende classificatiecriteria en verschillen tussen landen maken (historische) vergelijkingen, en al helemaal correlatieberekeningen erg lastig. Ook het feit dat dit soort diffuse ziektebeelden langzaam overgaat in de vraag of er eigenlijk nog wel sprake moet zijn van pathologie, voegt zich bij de onzekerheden waarmee onderzoekers zich toch al geconfronteerd zien.

Wát telt als wát is bovendien sterk afhankelijk van de juridische context waarin onderzoek plaatsvindt. Dit illustreer ik aan de hand van een vermeende relatie tussen brandstichting en het syndroom van Asperger, een relatie die

hoofdzakelijk teruggrijpt op één enkele Zweedse publicatie. Deze publicatie, zo beargumenteert dit proefschrift, is dermate sterk verweven met veranderingen in het Zweedse forensisch-psychiatrische evaluatiesysteem van de jaren negentig dat hij daar niet los van te zien is.

In deze constellatie van diffuse factoren is de wisselwerking tussen hoe mensen zichzelf en anderen begrijpen, hoe zij zich daar naar vormen, hoe ze ingepast worden in administratieve systemen én hoe wetenschappers stornissen definiëren en bestuderen geen storende complicatie maar juist van fundamenteel belang voor de vorming van het idee van een historische constante. Voorbeeldportretten (exemplary portraits) spelen hierbij een performatieve rol, zo betoog ik.

Aan de hand van de fotografische experimenten van de victoriaanse wetenschapper Francis Galton ontleedt het tweede hoofdstuk de processen die een aandeel hebben in de vorming van voorbeeldportretten. Het analyseert de dynamiek rond het portret van de misdadige chemicus dat, zo betoog ik, gestalte heeft gekregen in een reeks gevalsstudies. Dit verhaal én het daaropvolgende verhaal van de autistische computerhacker Gary McKinnon toont dat een voorbeeldportret meer een constructie is dan een weerspiegeling van de realiteit. Het illustreert dat niet alleen deskundigen en media bijdragen aan de totstandkoming van voorbeeldportretten maar dat ook diegene op wie het portret gebaseerd is dat doet. Het verhaal van McKinnon illustreert bovendien dat noch de persoon zelf, noch het portret een constante factor is. Deze dynamiek toont de performativiteit van voorbeeldportretten. Ze zijn onderdeel van het mechaniek van het ontdekken in de forensische psychiatrie en tegelijkertijd onderdeel van de vorming van een bepaald type mensen, zo betoog ik in aanvulling op Ian Hacking. Hacking zelf besteedt hoofdzakelijk aandacht aan de performativiteit van activiteiten als tellen, administreren en correleren. De praktische relevantie hiervan is dat er zich bij afwezigheid van een duidelijk statistisch verband toch een type verdachte vormt – dat vervolgens door gedragsdeskundigen kan worden ingezet om specifieke gevallen te duiden.

Voorbeeldportretten zijn slechts één van de instrumenten waarvan rapporterende gedragsdeskundigen zich kunnen bedienen. Dit proefschrift documenteert welke handvatten en methoden van kennisverwerving experts nog meer aanwenden om op het spoor te komen van autistische aandoeningen. Hoe geven zij invulling aan de opdracht van de rechtelijke macht om tot een advies te

komen over de toerekeningsvatbaarheid van verdachten? Door niet het product – de rapportage – centraal te stellen maar het productieproces – het feitelijke onderzoek, het maken van de rapportage – geeft dit proefschrift inzicht in de aard van het werk van pro Justitia rapporteurs. Het derde hoofdstuk gaat uit van het idee dat rapporteurs een soort van tussenruimte moeten overbruggen, van het domein van de psychiatrie (de medische- en menswetenschap), naar het juridische domein (het domein van de rechter). Het spitst zich toe op de vraag hoe rapporteurs deze overgang tot stand brengen. Er bestaat de nodige frictie tussen verschillende tradities van kennisverwerving door de menswetenschappen en de daarbij behorende mensbeelden; er is wrijving tussen enerzijds de veronderstelde chronologische manier van rapporteren (van diagnostiek naar doorwerking naar aanbeveling) en anderzijds de soms praktische – achronologische – strategieën van schrijven; er is een fundamentele mismatch tussen epidemiologische data en het ene geval waarover de experts rapporteren, enzovoort. Dit alles vereist van rapporteurs vakmanschap in het creëren van een zekere laveerruimte tussen schurende domeinen. Ik betoog dat de logica van, wat rapporteurs metaforisch uitleggen als ‘paden volgen’, ‘een verhaal maken’ en ‘lijntjes vastknopen’, valt te begrijpen als een lokaal gesitueerde rationaliteit die tegemoetkomt aan deze vereiste. In dit kader analyseer ik ook het gebruik van de term ‘doorwerking’ als een concept dat vaag en flexibel genoeg is om een specifieke causaliteitsuitspraak te omzeilen maar tegelijkertijd specifiek genoeg is om elkaar te begrijpen. Het gebruik van de term ‘doorwerking’ door de rapporteurs is een voorbeeld van hoe zij laveerruimte creëren in de overgang van de psychiatrie naar het recht.

Dat de passage ook het strijdtoneel kan zijn van pleitbezorgers van verschillende stromingen in de menswetenschappen bewijst de (publieke) discussie over de kwaliteit van pro Justitia rapportages aan het begin van de eenentwintigste eeuw. Deskundigen in het Pieter Baan Centrum (PBC) zouden te veel met een psychoanalytische blik naar verdachten kijken. Ze zouden daardoor een blinde vlek hebben voor neurobiologische aandoeningen, zo klonk het verwijt. Dit proefschrift toont dat in de periode 1994-1999 in het PBC de hoeveelheid vermeldingen van autistische gedragingen of kenmerken nog op één hand te tellen is. In die periode diagnosticeerden PBC-experts bij drie verdachten een ontwikkelingsstoornis zoals autisme waaronder één keer het syndroom van Asperger. In twee van de drie gevallen was deze diagnose al gesteld door kinderpsychiaters. Het zou tot 1999 duren voordat het PBC eigenstandig met een diagnose op het autistische spectrum

kwam. Aan het begin van de eenentwintigste eeuw steeg de frequentie van dit type diagnoses snel. Dit deel van het proefschrift concentreert zich opzettelijk op de periode daar *nét* voor. Ik analyseer op welke manier deskundigen een psychoanalytisch of psychodynamisch verklaringsmodel vermengden en complementeerden met een meer biologisch georiënteerd verklaringsmodel en tot wat voor type redeneringen over (vermeend) autistische verdachten dit leidde eind jaren negentig (zie ook Tjeerdema & Hulscher, 2016). De ene deskundige komt tot één min-of-meer 'organische' redenering. Anderen laten twee verklaringssystemen als het ware parallel aan elkaar lopen. Weer een andere deskundige schakelt tussen verschillende verklaringssystemen en het bijpassende vocabulaire. De hierboven gedefinieerde tijdelijke overgangsfase biedt speelruimte om te laveren tussen typen redeneringen. Deze analyse leidt uiteraard niet tot een kwaliteitsoordeel over de rapporten geschreven in deze overgangsfase. Wel geeft hij inzicht in de manier waarop gedragsdeskundigen relaties leggen tussen autistische stoornissen zoals het syndroom van Asperger en delinquentie in hun adviezen voor de rechter. Het vijfde en laatste hoofdstuk toont dat de rapporten waarin PBC-experts verdachten diagnosticeren met het syndroom van Asperger tien jaar later homogener zijn qua vocabulaire en redeneerlijnen. Rapporteurs refereren ook met regelmaat aan 'de Asperger' als een gevestigd type verdachte met specifieke kenmerken. Dit illustreert andermaal de overtuigende kracht van voorbeeldportretten en de neiging tot essentialistisch denken die hiermee samenhangt.

In het kielzog van (neuro)biologische verklaringen voor gedrag en de daarbij behorende deductief-nomologische structuur van verklaren volgt de classificerende diagnostiek. Deze wetenschappelijke redeneerstijl contrasteert met de manier waarop gedragsdeskundigen zelf naar hun rapporten kijken; namelijk, als een narratief van reconstructief onderzoek én interpretatie dat ultimo de vorm krijgt van een verhaal waarin de expert niet zozeer bewijst maar demonstreert wat het geval moet zijn geweest. Hij of zij is een soort van detective.

Uitgaande van deze spanning tussen enerzijds het narratief van de detective en anderzijds de logica van een medisch dossier, onderzoekt het vijfde hoofdstuk gedetailleerd de aard van het verhaal in dit type evaluaties. De structuur van pro Justitia rapportages volgt in algemene zin de logica van een medisch dossier waarbij algemene observaties, fysieke en gedragskenmerken voorafgaan aan de formele diagnose(s). Omdat bij het leeuwendeel van de autistische verdachten reeds in de kindertijd een ontwikkelingsstoornis is gediagnosticeerd – en omdat de rapporteurs

pas gaandeweg het rapport diagnostische overwegingen te berde brengen – lijkt de aanloop naar deze overwegingen nogal eens kunstmatig en onnodig formalistisch. Het overwegen van alternatieven blijft ook vrijwel achterwege. Voor het overdenken van eigen potentiële denkfouten, voor interne dialoog, geeft het format evenmin ruimte terwijl dit – het narratief van een detective volgend – de analyse zou versterken, zo betoogt dit proefschrift. Samengevat pleit dit proefschrift voor meer transparantie en navolgbaarheid door het constructiewerk van rapporteurs zichtbaarder te houden dan nu vaak het geval is.

Nawoord (Acknowledgments)

Toen Umberto Eco in 1977 schreef aan *Come si fa una tesi di laurea*, oftewel: Hoe schrijf ik een these, kregen proefschriften vorm zonder de hulp van computersoftware en het internet. Een referentie naar een wetenschappelijke bron heet in zijn handleiding nog 'een leesfiche'. Fotokopieën zijn gevaarlijk, want 'het bezit van fotokopieën ontheft iemand van de plicht ze te lezen' (Eco, 1990, p. 154). Sinds de jaren tachtig is het werken aan een these ingrijpend veranderd. Denk alleen maar aan de invloed van het internet. Toch valt de actualiteit van het handboek op. 'Je bent Proust niet. Maak je zinnen niet te lang' (p. 178) is een advies dat ook van mijn begeleider Douwe had kunnen komen. Umberto Eco betoogt uitvoerig dat wetenschap door sommigen ten onrechte wordt geïdentificeerd met de natuurwetenschappen of met onderzoek op kwantitatieve basis. Ik prijs mij gelukkig met de vakgroep Theorie en Geschiedenis van de Psychologie van de Rijksuniversiteit Groningen. Niemand binnen de vakgroep zal namelijk ooit beweren dat een onderzoek niet wetenschappelijk is als er geen formules en diagrammen in voorkomen.

Dat ik bij de vakgroep terecht kwam heb ik te danken aan mijn tijd bij de Groninger filosofiefaculteit en aan Hans Harbers in het bijzonder. In mijn onderzoek naar de praktijken van forensisch psychiaters klinkt die invloed ongetwijfeld door. Wat nu onzichtbaar blijft is het aanmodderen en de daarmee gepaard gaande vertwijfeling of het proefschrift ooit af zou komen. Zonder het rotsvaste vertrouwen van mijn dierbaren, van Dirk-Jan en mijn ouders, had ik dit niet kunnen doen. Zonder de praktische hulp en de vele oppasuren van mijn lieve schoonouders al helemaal niet. Bedankt daarvoor. Douwe, bedankt voor je hulp, geduld en voorbeeld: Je deur stond letterlijk altijd open. Ik vind het een hele eer dat je mijn promotor bent, maar het ware genoeg ligt in het feit dat jij het zo gewoon vond. Bedankt voor het vertrouwen dat je me daarmee schonk. Trudy, de wereld is een 'mensenproject'. Je oprechtheid en niet-aflatende bereidheid om je stem te laten horen op cruciale momenten in maatschappelijke debatten hebben diepe indruk op mij gemaakt. Maarten, Stephan, en natuurlijk ook Trudy, bedankt voor jullie opbouwende commentaren. Mijn kamer- én lotgenoten Jonna en Felix wil ik bedanken voor hun steun en gezelligheid, waar ook Berend, Carlos, Jess en Hanny aan hebben bijgedragen. De WTMC heeft als onderzoeksschool in belangrijke mate bijgedragen aan mijn vorming, maar bood tegelijkertijd steun, herkenning en plezier. Bijzonder erkentelijk ben ik de rapporteurs, en de medewerkers en directie van het Nederlands

Instituut voor Forensische Psychiatrie en Psychologie (NIFP), diegenen van het bureau Wetenschap en Opleidingen en het PBC in het bijzonder. Het verzoek om onvermeld te blijven doet geen recht aan de bereidheid en openheid waarmee zij mij ontvingen. Student-assistent Phil Hulscher wil ik nog bedanken voor zijn hulp. Dagenlang vrijwillig opgesloten in de koude kelder van het PBC om grote kasten met stofmappen door te nemen, zonder pasje, zonder telefoon; zo moet het ongeveer voelen om ingesloten te zijn.

Er bestaan subtiele parallellen tussen het schrijven van een proefschrift en het opstellen van rapportages pro Justitia. Het gaat erom in een bepaald aantal zetten een oplossing te vinden. Soms, aldus Umberto Eco, kun je het beleven als een wedstrijd tussen twee personen: 'je auteur wil je zijn geheim niet toevertrouwen en jij moet hem om de tuin leiden, op subtiele wijze ondervragen, en hem laten zeggen wat hij niet *wilde*, maar wel had *moeten* zeggen' (p. 262). Soms is het een soort patiencespel, 'je hebt alle kaarten tot je beschikking; het gaat er alleen om ze op de goede plaats te zetten'. De hier geponeerde parallel tussen het schrijven van een these en een rapportage gaat alleen op als aan één cruciale voorwaarde is voldaan; je hebt jezelf aan het begin een vraag gesteld waarop je het antwoord nog niet wist.

Appendix: Chapter 2

The database search (LexisNexis) was confined to four national UK daily newspapers (two broadsheets and two tabloids, namely *The Guardian*, *The Times*, *The Daily Mail* and *The Sun*). To identify the impact of Gary's case on media coverage on autism and computer hacking, 2008 was omitted from the search as this was the year in which McKinnon's mental condition was made public. Therefore, articles before 2008 and after 2008 are compared. To confine the total amount of publications, articles after 2008 run from the period 2009-2013.

The LexisNexis-database was screened for articles in which the headline, lead paragraph or index contained the term 'autism' or 'Asperger's' along with the word 'hacker' or 'hacking'. The articles were subjected to content analysis. Irrelevant articles were removed (for example, which used the search terms in a completely different context). A coding frame was developed that captured the range of subjects present. One article could have more than one code attached to it, according to its contents. The unit of coding was always the individual article. Table A1 displays the number of articles that contained each code, with the codes grouped into superordinate 'umbrella' categories. This presentation of results replicates similar content analyses of mass media. See for example O'Conner, Rees and Joffe (2012). A sample of four articles (from before 2008) and 220 (between 2009 and 2013) remained. The 220 articles are ordered according to this system (Table A1). The four articles from before 2008 are discussed separately in Chapter 2.

Table A1. Subjects addressed in press coverage of autism and hacking, 2009-2013

Superordinate Subject Category	Subject Code	Percentage of Total
Extradition battle, McKinnon		87%
	Extradition	139
	Court proceedings	35
	International relationship UK/US	23
	UK political affairs	76
	Public campaign for Gary	12
	Gary's mother	18
Autism and computer hacker		13%
	Other comparable cases	34
	Association autism/hacking	7
	(non) fiction books/TV reviews	5

Appendix: Chapter 3

Interviews were conducted in the period 2011-2013. All interviews were audio-taped and transcribed in full. I translated key passages into English and a native speaker checked these. I preserved the anonymity of the experts (and suspects) to ensure the privacy of both and to promote openness during the interviews.

Experts

1. Clinical psychologist, autism researcher and behavioral therapist at a center for autism. Reports at request as autism specialist
2. Psychologist and Pro Justitia reporter
3. Police behavioral expert, specializes in interrogation techniques
4. (System) therapist for ASD youngsters at a forensic psychiatric (ambulant) clinic
5. Professor in forensic psychiatry, child and adult psychiatrist. Reports at request as autism specialist
6. Forensic psychiatrist at the Pieter Baan Center, Pro Justitia reporter
7. Psychiatrist, trajectory consultant and chair of a regional NIFP department
8. Child psychiatrist and autism specialist; does not write reports for Pro Justitia
9. Starting forensic psychiatrist, Pro Justitia reporter and trajectory consultant at a regional NIFP department
10. Forensic psychiatrist, Pro Justitia reporter, provides feedback to reporters on behalf of a regional NIFP department
11. Legal expert at a regional NIFP department; provides (juridical) feedback to reporters
12. Child psychiatrist, forensic psychiatrist at a regional NIFP department, mostly as trajectory consultant
13. Psychologist at a forensic psychiatric ambulant clinic, therapist ASD group

Original Dutch quotes

Quote 1, expert [10]

(...) het is heel ingewikkeld als ik in zo'n kort gesprek, want ik streef naar een half uur, een diagnose stel die dan later niet waar blijkt te zijn....dan is dat voor de rapporteur heel ingewikkeld omdat dan moet hij uitgebreid uitleggen waarom het toch weer anders is...

Quote 2, expert [6]

We zijn heel benieuwd wat hij heeft gezien en besproken met verdachte omdat dat richtinggevend kan zijn voor ons onderzoek. Wat gaan wij uitsluiten, wat gaan wij onderzoeken? (...) en daar [in de documenten] staat dan soms gewoon in dat die diagnose, een ASS, gesteld is. Of de psychiater of psycholoog die het voorgeleidingsconsult heeft gedaan ziet daar kenmerken van en die schrijft op dat hij daar aan denkt en dat dat verder onderzocht moet worden.

Quote 3, expert [9]

Ik denk dat er wel eens mensen zijn die schermen met de diagnose PDD-NOS. Nou is PDD-NOS een hele lastige diagnose, het is een restgroep, dat mensen zeggen, ja, door mijn PDD-NOS kan ik dit niet of ehh..waarbij het dan maar de vraag is of dat inderdaad zo is.

Quote 4, expert [10]

Ja, dus je kunt niet vermijden dat je van te voren...ik bedoel, wat ik net zei...als je 30 jaar in de psychiatrie zit is een eerste indruk, die heb je gewoon (...) Ja, eerste blik...dan slaat je denk ik toch automatisch in je achterhoofd op, nou, dat dat iets is dat je eventueel zou moeten uitdiepen.

Quote 5, expert [7]

Je komt wel heel vaak iets tegen dat je denkt, er is iets in het contact. En dan komt ook heel snel het woord 'pervasief' wel om de hoek kijken als referentie om aan te denken. In elk contact test je natuurlijk, vanaf het moment dat je iemand ontmoet,

dus die komt aanlopen, tot hand geven, ga zitten, het gesprek – steeds test je de wederkerigheid van het contact en ook het begrip. (...) Het gaat om het totaal van iemands verschijning – wat hij zegt, wat hij doet, wat hij daarmee uitbeeldt (...)

Quote 6, expert [7]

(...) en het is heel vaak, in het contact dat je ziet, dus hoe iemand naar jou toe doet, en hoe spontaan iemand is, maar ook of hij reageert op de dingen die jij uitzendt, dus of er iets terug komt inderdaad, in de heen en weer sfeer, en in dat pervasieve verhaal komt het heel vaak in de overdrachtelijke sfeer, want een van de dingen is bijvoorbeeld veel spreekwoorden worden niet begrepen en dan leg je ook altijd een voorbeeld voor van een spreekwoord, -- dan vraag je daarna, of laat je het vallen en dan vraag je 'kun je mij volgen en heb je me begrepen' en zou je mij kunnen terugvertellen wat ik hiermee bedoel.

Quote 7, expert [2]

Nou, soms bij anti-socialen gebeurt het dan, ze zijn niet slim, maar slim genoeg om te zeggen, nou ja, het had niet moeten, ze laten gewetensvorming zien. Een antisociaal doet dat altijd. Bij ASS snapt met dat deel niet, Dus dan vraag ik iets van 'was dat dan niet voor diegene heel vervelend?' En dan zie je diegene denken, Oh ja shit. Een antisociaal geeft een sociaal wenselijk antwoord. Ze kunnen sociaal zalven, beschikken over sociaal glijmiddel zoals u en ik dat doen.

Quote 8, expert [12]

Het is bij autisten vaak zo dat je denk, waarom vertelt hij mij dat eigenlijk, dat is toch niet zo slim. Dat noem ik dan een soort naïviteit van, gezien de procespositie die ze innemen is het vaak wat onnozeler, waardoor je denkt, oh, dat zal de rechter interessant vinden, of de officier met name. Dat kan een signaal zijn van he, dit is niet gebruikelijk. En de jongens met een verstandelijke beperking, die zijn over het algemeen op een andere manier naïef, die vragen soms echt hulp aan je. (...) 'ik heb nog een brief, mag ik die even aan u laten lezen, kunt u mij misschien vertellen wat ik met die brief moet doen'.

Quote 9, expert [7]

Ik ben nu met iets bezig, dat ik denk van, sowieso is het een As 2 probleem, maar er kan ook een snuffje van dit zijn en een snuffje van dat en dan ga ik dus dingen inzetten die dat een beetje inengen, en misschien kom ik er wel niet helemaal uit, maar misschien wel voldoende om de vraag te beantwoorden van is er een stoornis en werkt het door in het delict.

Quote 10, expert [2]

Bijvoorbeeld bij een vermoeden, ik heb een zekere hypothese, op basis van het contact. Maar ik doe die testen niet standaard. (...) Soms ook naar aanleiding van stukken die ik zie, eerdere rapporten. Bijvoorbeeld van de reclassering of het verslag van het consultgesprek dat een psychiater/psycholoog bij de rechtbank heeft gevoerd met de verdachte (...). Dit geeft een suggestie. Niet zo dat de psychiater zegt, nou deze persoon heeft een ASS, maar meer dat er staat 'betrokkene reageert vreemd in contact, hij steekt zijn tong uit of trekt aan zijn oor. Hij reageert sociaal inadequaar'

Quote 11, expert [7]

Er zijn heel veel mensen die dit [PDD-NOS] als diagnose hebben meegekregen, buitengewoon veel, die hebben vaak ook gedragsproblematiek, en kunnen ook nog wel heel ander soortige problematiek hebben, of in de put zitten, en zelfs ook in het ADHD verhaal, ADD vooral, dus je hebt heel vaak dat je een soort van blok aan informatie hebt, dat je zegt van, daar moet beter naar gekeken worden. En dan moet dat ontrafeld worden. Wat is de grootste gemene deler, wat is vooral toe te schrijven aan het gedrag, wat aan een toestandbeeld en wat aan een soort van trek die te maken heeft met autisme. (...), wij coderen de classificaties op die vijf assen, dat je ook vaak een en-en verhaal hebben, misschien heb je misschien wel iemand die autistisch is, maar heel erg vereenzaamd is of in de put is geraakt, of in een soort van conglomeraat van moeilijke dingen geen oplossing ziet en dan iets heel vreemds te doen. Dus in hoeverre alleen die stoornis uit dat spectrum de reden is dat het mis gaat, dat weet ik niet

Quote 12, expert [11]

Het is niet zozeer dat je het echt ziet, maar het is een sprong die gemaakt moet worden. Als je van diagnostiek, *gedragkundig*, naar toerekeningsvatbaarheid gaat, dat is een juridisch begrip, dus dat is een sprong die gemaakt moet worden en die in eerste instantie door de gedragsdeskundige gemaakt wordt, door te omschrijven, die doorwerking, hoe erg werkt een stoornis of de gebrekkige ontwikkeling door, en op het moment dat je dat duidelijk hebt gemaakt, hoe het heeft doorgewerkt en hoeveel dat is geweest, dan kun je die stap maken naar de mate van toerekeningsvatbaarheid en dat is eigenlijk dat punt waar het vertaald wordt. En dat ligt wat lastig. Want het is weer niet aan die jurist om dat stapje daarvoor te gaan nemen, he op het moment dat er diagnostiek is, een jurist moet niet gaan inschatten hoever dat dan doorwerkt, dat kan de jurist niet, dat is aan de gedragsdeskundige, maar de conclusie die daar vervolgens uit getrokken wordt, dat is dus een juridische, en dat vinden rapporteurs ook lastig. Zeker, ja als het zonneklaar is wat de doorwerking is, dan is het niet zozeer lastig maar, wanneer je twijfelt tussen licht verminderd of verminderd, ja dat wordt wel gezien als iets heel lastigs en dat is dat overgangspunt zeg maar.

Quote 13, expert [9]

(...) je moet altijd goed uitleggen hoe iets doorwerkt, dus als je daar geen goed verhaal van kan maken dan, een goed verhaal is dat het te volgen is, dat anderen ook zeggen, 'ja, dat vind ik aannemelijk'. Je bent altijd op zoek naar een doorwerking.

Quote 14, expert [1]

Met gaat op zoek naar de vraag 'kan autisme een rol hebben gespeeld in de totstandkoming van het delict waarvan de verdachte verdacht wordt'. Het is een delict scenario, men beschrijft de keten van gebeurtenissen tot aan het delict. Men vraagt zich ook af 'laten we er nu vanuit gaan dat er een verband bestaat tussen stoornis en delict. Hoe ziet die relatie er uit, hoe zou je dit omschrijven'

Appendix: Chapter 4

Quote 1, PBC report 1999

'[...] de aard van het contact, het ontbreken van wederkerigheid of het op de ander gericht zijn, de logica van zijn gedragingen, de voor mitigering van buitenaf onbereikbare gedachtesporen, de extreme angsten, [...], een kwetsbare prikkelregulatie, het ouwelijk taalgebruik, het snelle verlies van overzicht, en daaropvolgend onthand zijn [...], dat alles duidt op een basis bij betr. die valt onder de autistiforme contactstoornissen'.

Quote 2, PBC report 1996a

'Betr. wordt door moeder als expliciet 'anders' dan de andere kinderen gezien, reden waarom ze haar bezorgdheid waarschijnlijk vooral op hem heeft gericht. Gezien de aangeboren tekorten van betr. kon moeder 'haar zieke kind' ook niet loslaten. Betr. kon van zijn kant op grond van deze stoornis ook niet tot een zekere hechting aan moeder komen. Betr. deed echter steeds vele pogingen om aan haar greep te ontkomen door soms als roekeloos geïnterpreteerd gedrag. Waar andere kinderen na een kort onderzoek van de omgeving snel weer veiligheid zoeken bij moeder, kwam dit laatste niet bij betr. op, juist omdat er geen basale hechting aan moeder tot stand heeft kunnen komen op grond van de aangeboren afwijkingen. Betr. liep weg en kwam niet eigener beweging terug. De in eerdere onderzoeken geconstateerde atypische pervasieve ontwikkelingstoornis ligt hieraan ter grondslag. [...] Betr. wil nog steeds, bij tijden althans, maar al te graag geaccepteerd en opgenomen worden in het gezin. Al gauw echter ervaart hij de regels en normen waar hij dan mee te maken krijgt als te inperkend en de angst voor versmelting en 'dus' vernietiging doet zich gelden. Hij moet de regels overtreden om enig gevoel van autonomie en identiteit te ervaren. [...] Hem rest slechts de troost van Siebert, de zeehond. Dit knuffeldier was en is zeer belangrijk voor betr. en fungeert als een zogenaamd 'transitional object'. Kinderen in de ontwikkelingsfase van totale afhankelijkheid van moeder naar enige autonomie nemen vaak hun toevlucht tot een dergelijk object om het gescheiden zijn van moeder te kunnen verdragen en tegelijkertijd toch in zekere zin onafhankelijk van moeder te kunnen opereren. [...]'

Quote 3, PBC report 1996a

De ontwikkelingsstoornis uitte zich al vroeg in gulzig drinken en veel slapen, geen interactie met de moeder of leeftijdgenootjes, niet spelen met speelgoed, het kapot maken van speelgoed, het ritmisch bewegen hiervan en het niet aangehaald willen worden. [...] Betr. wordt op jonge leeftijd een aantal keren in het ziekenhuis opgenomen. De affectieve relatie met moeder was al gecompromitteerd door de stoornis en heeft door deze scheiding mogelijk nog meer schade opgelopen. Scheidingen op jonge leeftijd kunnen de ontwikkeling van een basisvertrouwen in de medemens aantasten waardoor relaties op latere leeftijd niet lang stand houden en instrumenteel van karakter kunnen zijn.

Quote 4, PBC report 1996b

Bij betr. is sprake van een zeer ernstige contactstoornis waarbij hij voldoet aan de criteria van een autistische stoornis. Deze stoornis wordt gekenmerkt door een ernstige beperking in de sociale interactie en communicatie. Tergevolge van deze stoornis, welke al vroeg in de ontwikkeling manifest wordt, is de emotionele ontwikkeling niet op gang gekomen evenmin als de ontwikkeling van het geweten, dat van een primitief niveau is.

Quote 5, PBC report 1996b

De levensloop van betr. wordt gekenmerkt door een affectieve en pedagogische verwaarlozing, aanzienlijke tekorten in veiligheid en geborgenheid. Betr. torst de ouderlijke en gezinspathologie in sterke mate met zich mee. Hij heeft zich er nimmer van kunnen bevrijden: de parricide (ouderdoding) is een ultieme en fatale separatie van zijn vader gebleken, maar met de patricide (vaderdoding) is het gevaar niet geweken. De haat jegens moeder ligt onverkort op de loer, waardoor voor matricide (moederdoding) nog steeds kan worden gevreesd. [...] In zijn mechanische, instrumentele denktrant past het dan om zijn vader die een bedreiging en een sta-in-de-weg voor hem vormt, letterlijk op te ruimen door hem te doden en hem bij het vuilnis te zetten. [...] Het autistische patroon domineert nog steeds in betr. 's gedragsrepertoire. De tekortkomingen strekken zich uit over de sociale interacties, in zijn verbale en non-verbale communicatie, in zijn fantasie, in zijn activiteiten en

belangstelling. Zij verklaren zijn ondoorgrondelijkheid en de beperkingen in zijn leef- en belevingswereld.

Quote 6, PBC report 1995

[...] tegen de achtergrond van zijn fasegebonden ontwikkelingsproblematiek, toen de psychoseksuele identiteit van betrokkene nog onvoldoende was uitgekristalliseerd ten gevolg van zijn neurotische scheefgroei.

Quote 7, ambulantly report 1994

Ten tijde van het delict was er bij betr. sprake van een persoonlijkheidsstoornis [...]. Hij kon zich door zijn afhankelijke trekken zelf geen halt toeroepen ook al wist hij dat zijn seksuele handelingen met het slachtoffer niet normaal waren. Hij heeft voor deze rem op zijn handelen een externe versterking van zijn zwakke ik-functie nodig. Zijn gewetensfunctie was op zich voldoende, maar zijn ik-functie te zwak om zijn driften te stoppen. Juist vanwege zijn autistische trekken is de ander een object voor hem zonder affectieve betekenis. De diagnostiek is echter niet voldoende duidelijk. Om te differentiëren tussen antisociaal gedrag bij gemengde persoonlijkheidsstoornis of een vroege object-relatiestoornis met vooral autistische trekken is een klinische observatie nodig.

Quote 8, PBC report 1995

Betr. heeft een ontwijkende karakterneurose (persoonlijkheidsstructuur) met afhankelijke trekken, gekenmerkt door onzekerheid, angst voor afwijzing, contact en intimiteit, onvermogen om emoties te voelen en te uiten, egocentrisme, vermijding en rigiditeit. Psychiater D. beschrijft betr. in haar rapport [...] als passief-afhankelijk met autistische trekken. Nu heeft de ontwijkende persoonlijkheid overeenkomsten met autistisch gedrag zoals teruggetrokkenheid, vlakheid, onvermogen tot het aangaan van sociale contacten, maar zijn er geen aanwijzingen dat betr. op jeugdige leeftijd al autistische trekken vertoonde. Daar komt bij dat betr., in tegenstelling tot

autisten, wel degelijk behoefte heeft aan sociaal contact, maar er tevens bang voor is en het daardoor vermijdt en ontwijkt.

Quote 9, PBC report 1996b

Met de plaatsing in instituut A en kort daarop in instituut B werd betr. opnieuw afgewezen, wat in zijn beleving de bevestiging was van dat zijn ouders van hem af wilden. Na terugkeer bij zijn ouders (afwisselend bij vader en moeder) – betr. vindt zichzelf inmiddels een man die goed voor zichzelf kan zorgen – heeft de terugkerende dreiging van vader om hem opnieuw uit huis te plaatsen, er bij betr. toe geleid – dit obstakel wat zijn vrijheid (dat wil zeggen zijn vrijheid om zich terug te trekken in zijn isolement) in de weg stond, uit de weg te ruimen.

Appendix: Chapter 5

Quote 1, PBC report 2008

Omdat betrokkene de indruk wekt belang te hechten aan het krijgen van de diagnose ASS heb ik mij afgevraagd in hoeverre betrokkene de symptomen van deze aandoening kan voorwenden. Gezien zijn zelfoverschatting en de stelligheid waarmee hij zaken, zonder enige spoor van twijfel kan brengen, is betrokkene mijns inziens hiertoe in staat (...). Echter, opvallend afwezig zijn bij betrokkene in dit kader de specifieke interesses en vaste rituelen, die hij gezien zijn hoge IQ gemakkelijk had kunnen voorwenden.

Quote 2, PBC report 2004

Betr. Legde mij uit dat hij al tijdens zijn lagere schoolperiode interesse voor computers had opgevat en op de mavo tot de conclusie was gekomen dat hij in de toekomst 'iets in de computers wilde gaan doen'. Hierover sprekend stelde betr. mij de kennelijk door hem als retorisch bedoelde vraag: 'Wat heb je dan aan exacte vakken en aan aardrijkskunde en geschiedenis?' Zonder een eventuele reactie mijnerzijds af te wachten voegde betr. daar op geïrriteerd overkomende toon aan toe: 'ik heb van dat soort dingen meer geleerd van Discovery Channel dan op school!'

Quote 3, Ambulant report 2011a

Vader is een thans 68-jarige man die al enkele jaren gepensioneerd is. Voorheen werkte hij als telefonisch verkoper. Wanneer gevraagd wordt vader te beschrijven verklaart betrokkene: 'Het is een normale person met twee benen en twee armen. Wat moet ik met deze vraag. Ik heb eigenlijk geen idee hoe hij is. Zo goed ken ik hem niet. Hij is nooit een prater geweest.'

Quote 4, Ambulant report 2011b

Opvallend is wel dat L. zich opdringt, in die zin dat hij onderzoeker in diens territorium benadert en zich fysiek presenteert: hij overschrijdt hier de 'normale' grenzen van afstand tussen personen.

Quote 5, PBC report 2004

Opvallend daarbij was echter dat hij, toen hij daar op circa 2-jarige leeftijd mee begon, direct ook foutloos in hele zinnen kon spreken. Moeder herinnerde zich destijds te hebben opgemerkt dat betr. dit oefende in bed', zij had dit kunnen horen door de babyfoon.

Quote 6, PBC report 2004

Door de combinatie van genoemde kwalitatieve contactbeperking, sterke preoccupaties en goede (verbale) intelligentie is betr.'s problematiek te definiëren als de stoornis van Asperger. Een van de kenmerken is een relatief hoog verbaal IQ. De pyromane activiteiten (indien bewezen) en de fascinatie voor vuur(werk) zijn niet zozeer op te vatten als een afzonderlijke stoornis, maar zijn onderdeel van de hoofdstoornis (Asperger). Betr.'s functioneren voldoet eveneens in hoge mate aan de criteria voor een schizoïde persoonlijkheidsstoornis, maar gezien de reeds op jonge leeftijd waarneembare tekenen van de contactstoornis, alsmede vanwege het gegeven dat betr. wel degelijk plezier beleeft aan een aantal van zijn (obsessieve) activiteiten, heeft de diagnose 'stoornis van Asperger' de voorkeur.

Quote 7, PBC report 2004

Eenzijds doordat zijn fascinatie voor vuur en vuurwerk hier rechtstreeks mee verbonden is, anderzijds doordat de stoornis ook een bron is voor frustraties in het contact met andere mensen en betr. de woede over zijn aangetaste zelfgevoel afreageert middels de ten laste gelegde feiten – indien bewezen.

Quote 8, PBC report 2004

Wat betreft de feiten 1 en 2 – indien bewezen- leeft betr. deze preoccupaties ongericht uit. Wat betreft de feiten 3 en 4 –indien bewezen- is er echter sprake van meer gerichte acties tegen te bureu: het onbegrip van de bureu, het dwarsbomen van de wapenvergunning, de beschuldigingen ten aanzien van zijn bezigheden met vuur, mobiliseerden het bij de stoornis passende agressiepotentiaal, waarbij betr.

zonder enige correctie van buitenaf kon 'rumineren' over het vermeende onrecht, zonder enig empathisch vermogen, over de zorgen van de burens.

Quote 9, PBC report 2004

Na zichzelf via het internet te hebben gediagnosticeerd als hebbende een General Anxiety Disorder, deelde betr. deze veronderstelling met de psychiater en stelde zelf behandeling met Efexor voor. Vanuit een andere diagnostische werkhypothese – mevrouw A. stelde namelijk geen depressie of angststoornis, maar wel een pervasieve ontwikkelingsstoornis vast – kreeg betr. inderdaad van de psychiater Efexor voorgeschreven waarop hij zich al snel vele malen beter voelde, maar de psychiater weinig verbetering constateerde.

Quote 10, ambulans report 2002

Onderzochte's schizotypische persoonlijkheidsstoornis met narcistische trekken heeft er in een belangrijke mate toe bijgedragen dat hij zo slecht onrecht kan verdragen, zo krenkbaar is en op basis van achterdocht tot verkeerde interpretaties (gestoorde realiteitstoetsing) komt, dat hij bij het toevallig tegenkomen van H. niet in staat was om zichzelf te beheersen en gewoon door te fietsen, maar alle onrecht zo massaal geactualiseerd werd, dat hij absoluut zijn recht wilde halen.

Quote 11, PBC report 2003

Hoewel er geen tekenen van voortgaande bedreiging waren, kiest betr. ervoor een eerder aangeschaft mes bij zich te dragen. Zonder enige overweging dat woede bij de ander kan bekoelen, kan hij naar zijn mening niet langer onbegeleid – dus zonder mes- de straat op, vanuit de op grond van de stoornis ervaren voortdurende onberekenbare dreiging. Wanneer betr. dan op een avond onverwacht het slachtoffer tegenkomt op de fiets, dringt zich de hele voorgeschiedenis rond dit slachtoffer en zijn ernstige gevoel van miskennis door haar, sterk aan hem op en is hij – passend bij zijn stoornis- onmiddellijk weer geobsedeerd door de sterke twijfel over de vraag waarop zij zich op straat bevindt, terwijl zij eerder had verklaard juist vanwege betr. te angstig te zijn om zich op straat te begeven. Betr. is dan niet in staat tot enige overweging van mogelijk motieven bij het slachtoffer: bij het

ontbreken van enige empathie, gewetensvolle rem of vermogen tot begrip van de motieven van de ander, wordt de situatie voor betr. juist zeer onberekenbaar en bedreigend. Als gevolg daarvan wordt dan een enorm rancuneuze woede gemobiliseerd, volgt hij het slachtoffer en komt hij, gebruikmakend van het bij zich gestoken mes dat zijn angst moet bezweren, tot het huidige tenlastegelegde, zonder – ook achteraf- maar iets te ervaren van de angst die zij moet hebben gehad. Nog steeds staat voor betr. de dwingende twijfel over de verklaringen van het slachtoffer voorop en geeft hij geen blijk van enig schuldgevoel.

Quote 12, PBC report 2003

(...) waarbij 'de Asperger' de ander dan veelal als storend, in gebreke blijvend en hem tekortdoend ervaart: ook bij betr. Blijkt zijn sterke gevoel van miskenning, niet alleen door het slachtoffer, maar ook door de politie, reclassering, eerdere ambulante onderzoekers, etc. Meestal is, zoals ook bij betr. Sprake van een gemiddeld tot bovengemiddelde intelligentie, waardoor 'de Asperger' zich pijnlijk bewust is van het feit dat hij het in het contact niet redt. Vanuit de onbegrepen positie leidt het beeld dan tot afhankelijkheid en een gedwongen sociaal isolement, maar bestaat er ook, zoals eveneens het geval is bij betr., een versterkte kans op een depressieve stoornis. Met de voortdurend gefrustreerde behoefte aan contact ontstaat veelal een enorm agressiepotentiaal, dat vaak in koppig volhardende de ander tot contact dwingende acties moet worden uitgeleefd, maar uiteindelijk nimmer leidt tot dat wat 'de Asperger' zich wenst, namelijk een wezenlijk wederkerig contact.

Quote 13, ambulant report 2006

'Hij heeft wel vaker ruzie met zijn vriendin. Zij staat dan bijvoorbeeld met een koekenpan te zwaaien. Onderzochte probeert dan rustig te blijven. De relatie is nu weer hersteld. *(noot onderzoeker: de manier waarop onderzochte enkele details noemt als hij een beeld geeft van zijn relatie is bizar te noemen).*'

Quote 14, PBC, 2009

De cumulatie van stressfactoren gevoegd bij het uit de stoornis van Asperger voortvloeiende sociale onvermogen van betrokkene en zijn preoccupatie met zijn

lichamelijke conditie heeft tot grote onmacht bij betrokkene geleid die hij vervolgens fysiek seksueel uitageerde op zwakkeren (kinderen) waarbij het afweermechanisme van 'turning passive into active' bij het tekortschieten van betrokkenes gebruikelijke afweer van rationalisatie prevaleerde [...].

Quote 15, ambuland, 2011c

Vanuit zijn autisme is de relatie met vader sterk achterdochtig gekleurd en zeer beladen. Betrokkene kan door zijn stoornis zeer slecht verantwoordelijkheid nemen voor zijn gedrag; voor anderen gewone oorzaak-gevolg relaties kan hij niet leggen. Hij kan niet inschatten wat een proportioneel of adequaat antwoord is op wat hij ervaart als een belediging of aanval. Blinde wraakzucht slaat bij hem toe als hij zich bedreigd voelt. De impulscontrole is bij krenking dusdanig gering dat zijn gedrag tijdens de incidenten ten tijde van het tenlastegelegde niet kon worden afgeremd. Betrokkene liet zich volledig gaan toen hij in blinde woede ontstak.

Example of original assessment questions in pre-trial mental health assessment (in Dutch)

1. Is onderzochte lijdende aan een ziekelijke stoornis en/of gebrekkige ontwikkeling van zijn geestvermogens en zo ja, hoe is dat in diagnostische zin te omschrijven?
2. Hoe was dit ten tijde van het plegen van het tenlastegelegde?
3. Beïnvloedde de eventuele ziekelijke stoornis/gebrekkige ontwikkeling van de geestvermogens onderzochtes gedragskeuzes c.q. gedragingen ten tijde van het tenlastegelegde (zodanig dat het tenlastegelegde daaruit (mede) verklaard kan worden)?
4. Zo ja, kan de deskundige dan gemotiveerd aangeven:
 - a. Op welke manier dat geschiedde?
 - b. In welke mate het geschiedde?
 - c. Welke conclusies met betrekking tot de toerekeningsvatbaarheid op grond hiervan te adviseren is?
5.
 - a. Welke factoren voortkomend uit de stoornis van betrokkene kunnen van belang zijn voor de kans op recidive?
 - b. Welke andere factoren en condities dienen hierbij in ogenschouw genomen te worden?
 - c. Is iets te zeggen over eventuele onderlinge beïnvloeding van deze factoren en condities?
6. Welke aanbevelingen van gedragskundige en van andere aard zijn te doen voor interventies op deze factoren en condities en hun eventuele onderlinge beïnvloeding en binnen welk juridisch kader zou dit gerealiseerd kunnen worden?

Database search criteria

The material was retrieved from the nationwide pre-trial report database maintained by the NIFP (Forensic Report Information System). This database contains, among other things, (codified) psychiatric information and details of the alleged crime for which the person is indicted. The database does not classify autistic conditions as Asperger's Syndrome as such. A pre-selection was made covering the period 2000-2013. I selected reports in which a developmental disorder was identified in combination with (above) normal or high intellectual functioning in male suspects, in the context of a criminal court procedure and in which a relation between (alleged) violent crimes is assessed (arson, sexual offenses (rape/ sexual assault) or violent offenses (homicide, homicide attempt or threat and assault, battery). This pre-selection contained 43 reports. A manual search of the Pieter Baan Center archive revealed that of these reports, 14 related to suspects diagnosed with Asperger's Syndrome. I found four cases related to sexual offenses, one case of arson and nine cases of violent offenses. A similar procedure was followed to select a small, random sample of ambulant reports from the database. Again, reports were included in the subset if they met the following conditions: suspects were male and reports were made in the context of criminal law. Reports were selected if a developmental disorder was identified in combination with (above) normal or high intellectual functioning. The subset contained 645 reports. The majority of reports concerned suspects suspected of committing violent offenses ($n = 555$ (86.0 %)) and arson ($n = 87$ (13.49%)). Sexual offenses ($n = 3$ (0.47%)) were fairly rare in this subset. Five ambulant reports related to suspects diagnosed with Asperger's Syndrome were selected at random to complement the material retrieved from the PBC archive (four cases related to violent offenses, one to arson). It should be noted that these samples were not selected for the purpose of conducting quantitative analyses. I thus make no inferences from the sample to the whole group of reports (at least, not in the statistical sense).

Endnotes

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- ¹ See for example BBC News Europe: 'Norway's mass killer Breivik declared sane', retrieved from: <http://www.bbc.com/news/world-europe-17663958> at December 16, 2015.
- ² See for example 'Breivik has Asperger's and Tourette's: expert', retrieved from: <http://www.thelocal.no/20120608/breivik-has-aspergers-and-tourettes-expert> at December 16, 2015.
- ³ See 'Mass killer Breivik may have rare forms of Asperger's and Tourette's syndromes, says Norway's leading psychiatrist', retrieved from: <http://www.dailymail.co.uk/news/article-2156530> at December 16, 2015.
- ⁴ See 'A Terrible Thing to Waste: Billy Cottrell, Part Deux, retrieved from: <http://www.laweekly.com/2009-11-26/news> at January 2012. A documentary on Billy Cottrell was made in 2008 titled '*Standard deviation*', retrieved from: <http://www.standarddeviation-themovie.com>, at December 2015.
- ⁵ 'A mastermind, but a criminal?', retrieved from: http://www.utsandiego.com/uniontrib/20041107/news_1n7suvfire.html, at January 2012.
- ⁶ Sociologists have found in the intertwinement of scientific theories on autism and our organization of health care, education and society at large a new field of study (Eyal, 2010; Murray, 2008; 2012; Silverman, 2012).
- ⁷ www.autismspeaks.org accessed November 26, 2012.
- ⁸ As seen at www.autismspeaks.org/about-us accessed November 26, 2012.
- ⁹ www.aspiesforfreedom.com accessed November 26, 2012.
- ¹⁰ see for example; A message from APA President Dilip Jeste, M.D., on DSM-5. December 1, 2012, (<http://www.psychnews.org/files/DSM-message.pdf> retrieved at december 12, 2013).
- ¹¹ Perhaps the interactions people with classic autism have with their classification provide a less good example of looping because their behavior is much more stable, more disabling. Therefore, looping effects are less present, so Hacking argues (Lakoff & Hacking, 2012).
- ¹² Every event has a (pre)history of course. The term Asperger's syndrome was used in the English-speaking community before this point of time, e.g. by J.K. Wing in his book *Schizophrenia: Towards a new synthesis* (1978). Van Krevelen & Kuipers (1962) published about it even earlier in English because they believed that Asperger's concept ('autistic psychopathy') was insufficiently known in English-speaking countries. Historical changes in the use of autism-related terms (and the tales that exist about such histories) are a worthy, but separate area of study, beyond the scope of this thesis. For further reading, see for example Feinstein (2010) or, about naming the syndrome, Draaisma (2009).
- ¹³ Mawson (1985) indirectly links up with Asperger's paper via a reference to Wolff and Chick's article (Wolff & Click, 1980) quoting that 'egocentrism associated with callousness towards others were observed' (Mawson et al., 1985, p. 566). Wolff & Click's article makes use of Asperger's work.

¹⁴ Kanner's autistic children were originally diagnosed with schizophrenia and there is also a longstanding research tradition on schizophrenia and delinquency, more specifically on schizophrenia and violence. See for example Hodgins (2008) or Walsh, Buchanan and Fahy (2002).

¹⁵ In the years preceding the introduction of DSM-5, discussions related to the etiology of classifications arose. The incomparability of epidemiological studies as a consequence of shifting etiology contributed to theoretical discussions on the topic. See for example (Frith, 2004; Ghaziuddin, 2010; Lord, Petkova, Hus, Gan, & Lu, 2012; Skuse, 2012).

¹⁶ (Gillberg, 1991; Gillberg & Gillberg, 1989)

¹⁷ (World Health Organization, 1992).

¹⁸ In a similar fashion, community-based studies on offense rates differed from each other with regard to conceptualizing and counting delinquency. Some studies focused on convictions (Mouridsen et al., 2008). Others focused on self-reported criminal behavior (Woodbury-Smith et al., 2006) or on criminal behavior reported by help services (Allen et al., 2008).

¹⁹ In Figure 2, I visualized the prevalence estimates of autistic disorder as collected by Fombonne (2009). This scatter plot demonstrates the growth in the range of estimates.

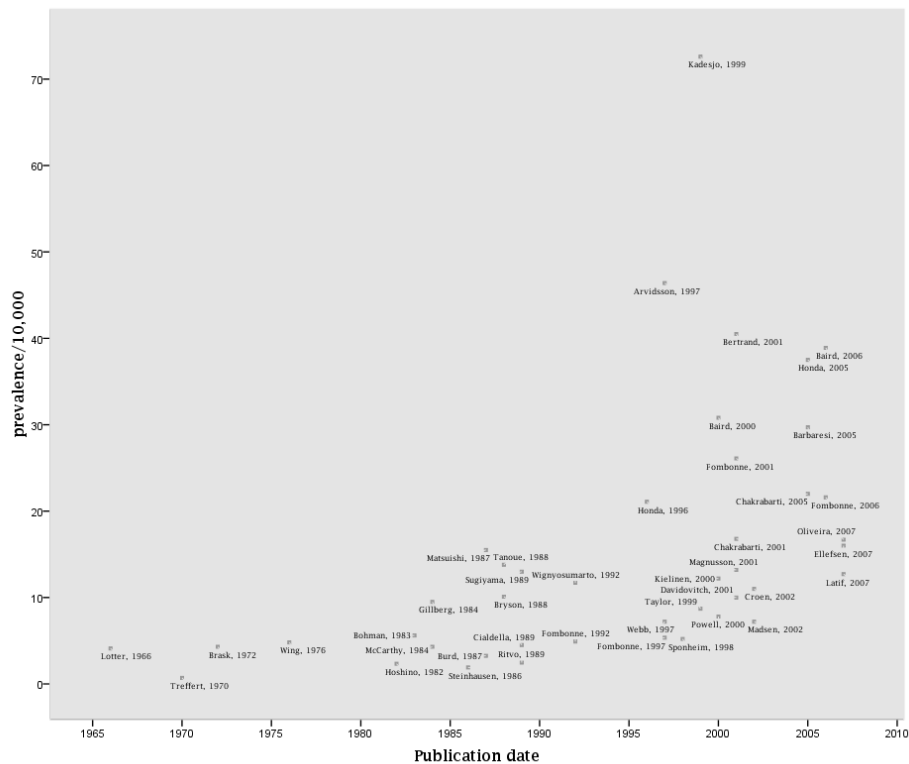


Figure 2: Scatter plot of prevalence estimates from 43 studies of autistic disorder

²⁰ Determining individual (criminal) responsibility lies at the core of most, if not all, legal systems. (Criminal) law is committed to individualism as well.

²¹ Essentialist thinking is crucial in Western research traditions. Hacking (2012a) refers to the grounds of the canon of scientific thinking and doing in the European tradition as ecological: On the one hand such capacities seem to be innate and our ways of finding out about the world might be grounded in their own cognitive modules. 'On the other hand, the discovery of how to use those capacities has happened in highly specific local settings at individual moments in time' (p. 600).

²² The legal term arson refers, generally speaking, to firesetting with the intent to cause damage. Hence, arson is a crime, yet what counts as arson varies among jurisdictions worldwide. Researchers argue that firesetters have various motives for their acts. Some seek attention, others seek revenge, sometimes, it is a suicide attempt, and so on (Tyler & Gannon, 2012). Firesetting is thus not necessarily considered to be a crime or a symptom of a psychiatric condition. Yet, it may be so. Indeed, firesetting is said to be common among those with psychiatric problems and hence often results in the involvement of the legal or mental health system (Burton, McNiel, & Binder, 2012). Furthermore, firesetting may be considered a symptom in a range of psychiatric disorders: 'Pathological firesetting is not pathognomonic of pyromania and does not always equate to arson' (idem, p. 356). Burton et al. (idem) present the following assemblage: Firesetting is a behavior, arson a crime and pyromania a psychiatric diagnosis. With this, for example Lindberg, Holi, Tani, & Virkkunen (2005) argue that only people meeting all the diagnostic requirements for pyromania may be considered 'real' pyromaniacs. It is within this constellation that some argue that people with autistic conditions, specifically men with Asperger's syndrome commit arson.

²³ From the database PsycINFO, EBSCOHOST.

²⁴ For example, an article by Enayati, Grann, Lubbe, and Fazel (2008) is cited less often (12 times by 2015), even though it draws comparable conclusions with regard to the association between arson and autistic conditions.

²⁵ In Dutch: *terbeschikkingstelling*

²⁶ Gerechtshof 's-Hertogenbosch, August 6, 2004, LJN AQ6489. Retrieved from www.rechtspraak.nl on January 16, 2013 <http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=AQ6489>.

²⁷ Rechtbank Maastricht, February 11, 2004. LJN AO3471. Retrieved from www.rechtspraak.nl on January 16, 2013 <http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=AO3471>.

²⁸ <http://www.cam.ac.uk/research/news/wittgenstein%E2%80%99s-camera> retrieved April 2013.

²⁹ <http://singing.indigenousknowledge.org/exhibit-2/4> retrieved on 16 January 2016.

³⁰ See for example this TV interview with BBC journalist Spencer Kelly. Retrieved on January 2013 from <http://www.youtube.com/watch?v=XacevWeOkHg>

³¹ See for example this interview. Retrieved on February 2016 from https://www.youtube.com/watch?v=_fNsah-0vpY

³² <http://www.youtube.com/watch?v=D1hfvOJu2TA> retrieved, January 2013.

³³ Videotaped press conference, retrieved on January 2013 from www.youtube.com/watch?v=0FCIpwQo7sw. See also the website: <http://freegary.org.uk/>, retrieved May 2015.

³⁴ As cited by Press Association Mediapoint, January 15, 2009, after the press conference.

³⁵ <https://www.youtube.com/watch?v=SsfrmTXuw1Q> retrieved on January 17, 2016.

³⁶ 'Psy-Op' refers to 'Psychological Operation', a military strategy including manipulation of public opinion.

³⁷ I speak of forensic mental health experts when referring to the experts working in the forensic mental health setting. Not all these experts have a background in psychiatry; some are psychologists or have a background in pedagogy. If necessary, the experts' background is stipulated.

³⁸ The concept 'toerekeningsvatbaarheid' originates from Dutch law: 'Not punishable is someone who commits an offense, which because of a deficient mental development or mental disorder cannot be held against him (art. 39 Sr).

³⁹ The recommendations from the Dutch Center for forensic psychiatric observation and assessment (*Pieter Baan Centrum*) was adopted by judges in 86% of the cases during the period 2000-2005 (Boonekamp, Barendregt, Spaans, de Beurs, & Rinne, 2008).

⁴⁰ See for example (Duits et al., 2012; Esch, 2012; Koenraadt, 2008; Van Koppen, 2004a).

⁴¹ See for example (Mooij, 2002; 2004; see also Oei & Meynen, 2011; De Ruiter & Hildebrand, 2002).

⁴² This shift in analytic focus, from product to process, is a familiar move in Science and Technology Studies (STS) that researches ongoing practices in scientific communities.

⁴³ See for example Goodwin (1994) for the notion of 'communities of practices' (and the associated notion of professional vision), to which I will return later in this chapter.

⁴⁴ Mooij (2004) provides an elaboration on such divergent research traditions and their consequences for the notion of accountability, for example.

⁴⁵ The Appendix (Chapter 3) contains a list of the interviewed experts and all the original Dutch quotes.

⁴⁶ Such dynamics are recognized and studied in other studies on expert knowledge (Giard, 2013; Van, 2003).

⁴⁷ See for more details on trajectory consultations (Van Kordelaar & Veurink, 2008).

⁴⁸ Wetboek van strafvordering, tweede boek, artikel 343. <http://wetten.overheid.nl/BWBR0001903/2015-11-17#BoekTweede> retrieved on April 6, 2016.

⁴⁹ Koenraadt (2009) argues that DSM classifications have been incorporated in Dutch forensic psychiatry mainly to 'improve understanding among behavioral experts and to facilitate research' (idem, p. 250).

⁵⁰ Additionally, the Dutch *Expert in Criminal Cases Act* came into force in 2009. This act imposes standards for the quality, reliability and competence of experts. People who want to become pre-trial mental health evaluators have to be on the register. The NIFP is appointed to safeguard the expertise and quality of those on the register. The register consequently serves as a license for authority and

trustworthiness. See *Wet deskundige in strafzaken*, 2009: <https://zoek.officielebekendmakingen.nl/stb-2009-33.html>, retrieved on April 6, 2016.

⁵¹ Vragenlijst Inventarisatie Sociaal Gedrag – Volwassenen (Bosch, van den & Minderaa, 2002)

⁵² The Wechsler Adult Intelligence Scale

⁵³ A future step may be that the framework of psychiatric diagnosis as employed in DSM – that assumes that disorders are stable entities that transcend their embodiment in individuals (Lakoff, 2005) – will lose its central position in forensic psychiatry. The morphological profile of a given suspect may become seen as the result of a dynamic interplay of biological and social aspects. Such, in turn, may have consequences for the legal context in which it figures. Yet, discussing the long-term implications of this dynamic neurobiological discourse on the discipline of forensic psychiatry is beyond the scope of my research. The neurosciences trigger all kinds of debate that may in the long run influence juridical practices. See for example the work of Schleim (2011; 2012) and Schirmann (2013).

⁵⁴ Part of this research has also appeared in Dutch, see Tjeerdema and Hulscher (2006).

⁵⁵ In 2015, the PBC was digitalizing and administrating all (old) reports. All files found in the physical archive have been screened. Yet, there is a chance that some reports were missing, lost, destroyed on request, in use, or stored elsewhere during the current investigation.

⁵⁶ Student-assistant Phil Hulscher helped me with the manual search of the PBC archive.

⁵⁷ However, a letter from the suspect's general practitioner in the file stated, 'I understood from the grandparents that his mother was autistic and that this led to his parents' divorce.' Also included was a report of the trajectory consultation (an 'intake' interview preceding the evaluation, see Chapter 3), which states that 'it should be investigated whether it is a matter of intellectual disability and/or an autistiform contact disorder.'

⁵⁸ The original passage in Dutch can be found in the Appendix, Chapter 3 (quote 1, PBC report 1999)

⁵⁹ This report concerned a 23-year-old suspect, charged for committing a violent robbery on a drugs dealer with deadly consequence. The PBC recommended declaring him severely diminished accountable for his actions.

⁶⁰ Mooij (1998a; 1998b; 2004) frequently argued to value the latter model more in the context of the juridical question of accountability. In fact, most of his academic work is devoted to the 'empirical-hermeneutical' science model.

⁶¹ See Appendix Chapter 4, quote 2 (PBC report, 1996a).

⁶² Freud (1926) spoke of '*Verschmelzungsangst*'.

⁶³ Appendix Chapter 4, quote 3 (PBC report 1996a).

⁶⁴ Appendix Chapter 4, quote 4 (PBC report 1996b).

⁶⁵ Appendix Chapter 4, quote 5 (PBC report 1996b).

⁶⁶ Appendix Chapter 4, quote 6 (PBC report 1995).

⁶⁷Appendix Chapter 4, quote 7 (ambulant report 1994).

⁶⁸ Appendix Chapter 4, quote 8 (PBC report 1995).

⁶⁹Appendix Chapter 4, quote 9 (PBC report 1996b).

⁷⁰ Doyle, 1892, p. 248-251.

⁷¹ See Appendix (Chapter 5) for an example of the format. See Van Esch (2012) for a detailed description on PBC formats (p. 161-162).

⁷² See Appendix Chapter 5, Quote 1, PBC report 2008.

⁷³ My choice of studying a limited number of reports at the expense of analyzing many represents a dilemma many researchers encounter. For example, Van Esch (2012) analyzed the appointment of behavioral experts, their assessments, the contents of their reports and the use made thereof. The study thus provides an extensive overview of the experts' practices. Relevant data from the case files was collected through an extensive checklist of closed questions, with the option 'Other [please specify]' included among the answers. However, 'this answer was used so often that in some areas quantitative analysis of the assessment was not directly possible' (p. 500). Consequently, several research questions were abandoned, including those with regard to the origins of the substantiation for conclusions and recommendations. This difficulty raises the question of which methodological approach fits the aim of the present study best. By drawing upon the experience of previous research in this area, the current study prefers close reading.

⁷⁴ Appendix Chapter 5, quote 2, PBC report 2004.

⁷⁵ Appendix Chapter 5, quote 3, ambulant report 2011a.

⁷⁶ Appendix Chapter 5, quote 4, ambulant report 2011b.

⁷⁷ Appendix Chapter 5, quote 5, PBC report 2004.

⁷⁸ Appendix Chapter 5, quote 6, PBC report 2004.

⁷⁹ Appendix Chapter 5, quote 7, PBC report 2004.

⁸⁰ Appendix Chapter 5, quote 8, PBC report 2004.

⁸¹ Appendix Chapter 5, quote 9, PBC report 2004.

⁸² Insights from cognitive psychology demonstrate that the human mind is skillful at handling complex problems yet prone to cognitive errors (Fischhoff, 1975; Nickerson, 1998; Kahneman, 2011; Dhaliwah & Detsky, 2013). For example, *premature closure* is a well-known cognitive error; it means that one jumps to conclusions too quickly without considering alternative diagnoses. *Search satisfaction* is closely associated with this; additional information that could generate possible alternatives is overlooked once the search is closed. Of all cognitive biases, *hindsight bias* is most discussed in the (forensic) psychological literature because the main problem with historical reconstructions (whether these are of medical mistakes, plane crashes, miscarriages of justice, or in this case, alleged criminal offenses), is that the investigator has prior knowledge: The investigator has knowledge of the outcome; knowledge *ex post* (Giard & Merckelbach, 2009). By drawing upon an extensive body of literature, Giard &

Merckelbach argue that people spontaneously tend to provide negative events with causal interpretations, by which they follow the simple heuristic that big consequences must have had big causes.

⁸³ Appendix Chapter 5, quote 10, ambulant report 2002.

⁸⁴ Appendix Chapter 5, quote 11, PBC report 2003.

⁸⁵ Appendix Chapter 5, quote 12, PBC report 2003.

⁸⁶ Appendix Chapter 5, quote 13, ambulant report, 2006.

⁸⁷ What should be considered at this point is that a lack of sophistication is not necessarily a lack of skills. An important difference between ambulant and PBC reports is for example the amount of time and effort that goes into both the investigation and the writing process. Ambulant forensic mental health experts usually write pre-trial mental health reports on a freelance basis, often next to daytime employment. Although there is no legal rule concerning the number of conversations necessary for a thorough investigation, a guideline states that forensic psychologists and psychiatrists should see their suspects face to face at least twice (IJland & Drouven, 2007). Yet, some forensic mental health experts often argue that a multitude of contact moments is necessary in order to get to know someone (Mooij, 1999; Raes, 2004; Schnitzler, 1990). See also (Van Esch, 2012, p. 116-118).

⁸⁸ Appendix Chapter 5, quote 14, PBC report, 2009.

⁸⁹ Appendix Chapter 5, quote 15, ambulant report, 2011c.

⁹⁰ Other scholars have considered the courtroom as a site of sense-making practices too. For example, the courtroom is defined as a space in which stories compete (Komter 2000; Matoesian, 1993; Travers and Manzo, 1997, Dingwall, 2000).

⁹¹ Doyle (1892), p. 180-181.