

Forensic Psychiatric Considerations Regarding a 70-Year-Old Accused Person

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Introduction

70-year-old Dirk, alleged to have blackmailed and threatened John de Mol (Dutch mediaticoon) and the family of his sister Linda de Mol, is attending the first public session at the court in Utrecht. According to his lawyer M has turned into a mental and physical wreck since his arrest. He lost 10 kilos, is having trouble with his blood sugar levels and also has mental issues. M. himself also briefly spoke at this session. He cried when he offered his apologies. "I am so terribly sorry for the De Mol family and my own family", he told the judges. "I don't know how I can put this right. It is all so bad. I wish I could undo everything, but that is not possible." M.'s lawyer, Paul Emmelot, had asked for a suspension of his client's provisional detention. "He can't handle being in detention", the lawyer explained. "He is totally exhausted. He is in trouble both physically and mentally." He understands why he is detained, Emmelot says, but he is anguished by the fact that his 73-year-old wife and his grandchild now have to see a psychologist. The Public Prosecutor does not go along with the requested release.

M. continued his blackmail and threats for a year even after massive media attention. "This persistence is worrying. There is a big chance of repetition if he should be released", the prosecution stated.

Pre-trial Detention

The judges are of the opinion that the interests of society must prevail over M.'s personal interests. Accordingly he has to stay in detention at least until the next session on 19 May. Then once again his pre-trial detention will be considered. The actual criminal case against M. is planned for June 18.

Threatening Letters

The man from Zeist (Dutch town) was arrested on December 3 and has been in jail since then. For a long time M. blackmailed the De Mol family by sending threatening letters. Last week De Telegraph wrote that he not only threatened the family members of media tycoons John and Linda, but also their managers and friends. These threats placed a severe strain on the show business family. The blackmailing grandpa demanded 5 million, but never got a penny. He was arrested last December. M. turned out to live a stone's throw from Linda de Mol's house in the millionaires' village of Crailo. In recent years M., who is quite well to do, lived in a penthouse in Zeist. It is unclear what his motives are.

Just an article from a newspaper of March 5, 2015. The elderly blackmailer stands in front of his judge and shows regrets, displaying feelings of remorse (how can I make up for this?), he is crying and even complains how it was possible for him to do this act.

He is a retired banker/entrepreneur, cannot complain about his financial/economic situation. He lives in a penthouse and chairs the owners' union of his building. He may socially be not very able to leave a trail of gratitude behind, but nor is he a shrinking violet. Neighbours and friends, struck dumb by the news of the blackmail, are not aware of any downwards trend in his life, or a process of sickness that could possibly induce such an offence.

This offence takes a year, puts a stranglehold on the media, but especially on the families of Linda and John de Mol. Reactions following from citizens are under the headings

- No fuss about the accused's age
- Feeling of compassion with the accused
- Vindictive: an eye for an eye
- (No) sympathy for the victims
- Heavy penalty is needed
- Ignorance concerning the accused's legal position
- Cold, calculating, fake, manipulative, impulsive behaviour of the accused
- Maybe there is something the matter, does not understand himself, you just don't do a thing like that, universal phenomenon?

What Should the Judge's Verdict be?

In this article, on the basis of some headers from civilians who reacted to the above case of the De Mol blackmailer, I will try to get some insight into its forensic and psychiatric aspects.

The reason is that in several countries in the world (among them the USA) there is trial by jury. We do not have that in this country (Netherlands), but the rights of the victim do take an important place in procedural law, and the policies of (then) Secretary of State for Justice Mr. Teeven place extra emphasis on these rights.

Subsequently there will be a discussion to determine whether in relation to recent or somewhat older literature there are openings for the care of elderly suspects who may or may not have psychiatric issues.

No fuss about the accused's age

This is a frequent phenomenon. People obviously think that age should not be a hindrance for possible penitentiary convictions. Nevertheless it is a fact that in the past ten years more senior citizens-also internationally-were sentenced. In the recent past more research has been done into this.

Feeling of compassion with the accused

In Holland most certainly the fairly general compassion with the accused has been decreasing in the last few years. From a political point of view the call for greater security in society is a recurrent phenomenon in polls. The citizen keeps having feelings of insecurity, whereas quantitatively the number of crimes has been clearly reduced during the past five years.

Vindictive: An eye for an eye

The traditional feeling in the citizen for vengeance as a reaction to violent offences is a frequent phenomenon. The biblical an-eye-for-an-eye principle has produced abhorrence and shock worldwide by the countless acts of violence, sometimes inspired by religious mandates (Sharia, Jihad, ISIS, Hamas, Boko Haram, Al Shabaab, and other religiously inspired, or hijacked, archaic actions). In Holland for the time being such reactions have fortunately been restricted to mostly anonymous Instagram and Twitter messages.

(No) sympathy for the victims

There is an increasing number of positive reactions to victim support and attention. The role of the accused has been significant for decades ever since WW II. This was certainly due to the fact that quite a few academics, politicians and governors within Dutch governmental circles personally had to endure the solitude, sufferings and hunger as prisoners of the German invaders. In the last 25 years the attention to victim support (nationally and internationally) and also to victimology has assumed significant proportions. From a scientific point of view this originated in the pioneering research of Groenhuijsen regarding the legal position and the procedural aspects of victims [1]. More or less simultaneously, both nationally and internationally, Groenhuijsen, the psychologist Winkel and the criminologist van Dijk contributed significantly to the field of victimology.

Heavy penalty is needed

The study of the penalty or penology took up an important position between the fields of criminal law and criminology. In Utrecht and Groningen dedicated chairs were created after WW II. If the punishment as punishment was traditionally already a tolerated sanction later the idea developed of a humane form of sanctioning detainees-although one might question the transition from punishment for the soul to corporal punishment and torture-by instituting detention. The call for greater attention for the humane meeting between judge and accused, made it possible for the development of a closer cooperation between criminal law (Prof. W.P.J. Pompe), criminology (Prof. G. Kempe) and forensic psychiatry (Prof. P.A.H. Baan) Thus a multi-disciplinary cooperation came into being, which under the auspices of the Ministry of Justice was realized in the Pieter Baan Centrum.

Ignorance concerning the accused's legal position

Forensic psychiatry has always had an open eye for the difficult position in which the disturbed accused found himself, after being arrested on suspicion of having committed a serious offence. The relation between disturbed behaviour and committing a serious offence was once more stressed by Utrecht criminologist Professor Peters in the seventies of last century. He thought that abnormal behaviour always lay hidden behind every serious.

Offence [2]. Here he devoted attention to the rights of the accused and the fact that respect for his difficult position was obligatory, if criminal law was to be more than just joint social action against a person who had ended up on the fringes of society because of adverse conditions. Being fully aware of the legal position of the accused during the preliminary juridical investigation, as indicated by the laws regulating sanctions is for every forensic behavioural expert a condition sine qua non for his expertise.

Cold, calculating, fake, manipulative, impulsive behaviour of the accused

Senior citizens have personality problems as well. They may have to do with the mental makeup of their character, or with their (narcissistic, anti-social, borderline) personality. But also psychiatric problems, including psychotic and neurological abnormalities regularly occur in the phase of life after people have turned 60. On top of that hereditary genetic deficiencies, or weaknesses, sometimes play a meaningful role. Think of impairments such as Morbus Parkinson, (pre) senile dementia, arterio-sclerotic anomalies in the brain, sometimes in conjunction with cognitive, emotional, behavioural anomalies. Besides extensive laboratory and blood research, neuro-psychological and radiological research (such as tMRI) is of supreme importance.

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Eventually it is possible to arrive at a suspected mental aberration. Then we have to find out what can be origin of such a problem. But also in how far there is an intermingling of an offence scenario and the personality abnormalities of the accused in question. To such an extent that aberration and offence are cohesive to a greater or smaller extent. And also: whether such a cohesion presents a clear picture of a dysfunction which may or may not be treatable. Harboring an obsessive conviction on the basis of an imperative hallucination regarding the victim (I have to end my mother's life, otherwise she cannot be saved from her physical suffering) may on the one hand need treatment, but on the other hand, when the victim has been killed, there is no direct reason for the risk of re-offending [3].

What should the judge's verdict be?

The reactions of the citizenry often serve as a prelude to the question what kind of verdict should be given by the judge. But it is also interesting to see that the citizenry would not per se pass tougher sentences than the judge. In that sense the opinion of the average citizen with regard to a certain case is always interesting. Judges in their verdicts always to some extent follow the sentiments of their times and the developments in society.

Method

On the basis of a print out from PubMed search during the months of July and August 2015 Relevant literature has been analysed.

The criteria for acceptance in the analysis are: the publications must concern the phase of life of justitiables over 60; the abstracts have to state clearly which phase of life was examined. Another criterion is the explicitness of the reason for research and of publication. Summaries that were unclear in this respect were not included for further study.

Results and Discussion

The following facts are especially striking. The greater part of the meaningful publications originate from Anglo Saxon countries. The literature that is most revealing comes from Great Britain, the USA and Canada (prisons and dedicated hospital facilities), France (police cells) The period studied in these publications goes from July 2005 to July 2015. They are particularly concerned with the clinical status and pathology of the patients studied.

The category justifiable-60-plus in detention is about 1%-2%. There are more men than women in the category justifiabiles (certainly 60-plus, 84%). Mostly offences like assault and battery and drunk driving are concerned [4]. Most 60-plus justifiabiles in police custody have somatic conditions (77%) [5].

Many patients (30%) have affective disorder, such as depression, possibly in combination with dementia or other organicity (related to alcohol/drugs problems), fewer have personality disorders (20%) and psychoses (20%). Older justifiabiles naturally have many physical complaints (over 60%). As far as (PCL-r) psychopathy is concerned, the 60-plus category rates lower in total scores, respectively no difference for factor 1, but significantly less for factor 2, (social deviance), compared to younger justifiabiles [6].

The studied numbers per publication vary: from a few hundreds [7] to a mere couple [8]. It is understood that the larger number of patients, provided the method used is appropriate, are more significant in their conclusions. The facilities for justifiabiles in the 60-plus category are slightly more developed in England, the USA and Canada.

What strikes us is the wide variation in methodology and significance of the studied publications. The general wish and need for specific care for justifiabiles in the 60-plus category is most substantiated by research in England, the US and Canada, and much less in other regions, which corresponds to the available know-how regarding facilities in this field. Especially the possibility for referral from a medium and high security forensic psychiatric unit to a consultation-only liaison old age psychiatry service exclusively meant for the care of patients of the forensic unit [9].

Research in the recent past in Holland did not indicate that in practice there was an urgent need for separate facilities for the justifiable 60-plus category. However, it remains important to bear in mind the specific problems concerning care and counselling of older justifiabiles, as the trend of increase in the justifiable 60-plus category is a source of concern [10-12].

Summary Conclusions

1. Although senior citizens in criminality as a phenomenon appears to be more and more actual, in Holland the specific care for this group has in fact hardly been realized.
2. When senior citizens break a criminal law the impression is that the judges are mostly willing to take the accused's age into

account. For instance by keeping the senior citizen in pre-trial detention for a shorter period. For more serious offences, and in the case of manslaughter and murder, the tendency cannot yet be clearly distinguished.

3. Although, also because of the attention to the victim in the courtroom, the administration of justice by laymen has received greater prominence the past few years, in this country de facto trial by jury does not (yet) exist.
4. The relation between senior citizens in criminality and mental problems does seem to be a significant factor.

Much more specific research seems to be desirable, since the studies and the study results up to now appear to comprise a wide collection of case studies, pilot projects and sometimes varying limitations concerning phases of life.

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