

**EXECUTED DEATH ROW
OFFENDERS WITH AND
WITHOUT PSYCHOSIS:
A MIXED-METHODS
ANALYSIS**

Andrew Tuck, MD

Southern Psychiatric Association
Annual Meeting 2022
Baltimore, MD
8 September 2022

Disclosures

- I have no conflicts of interest for this presentation.

Objectives

- Learners will be able to summarize the main elements of “insanity” that preclude someone from being executed in the United States.
- Learners will be able to explain three differences between executed offenders with and without psychosis.
- Learners will be able to discuss these findings in the context of the larger debate on “competency to confess.”

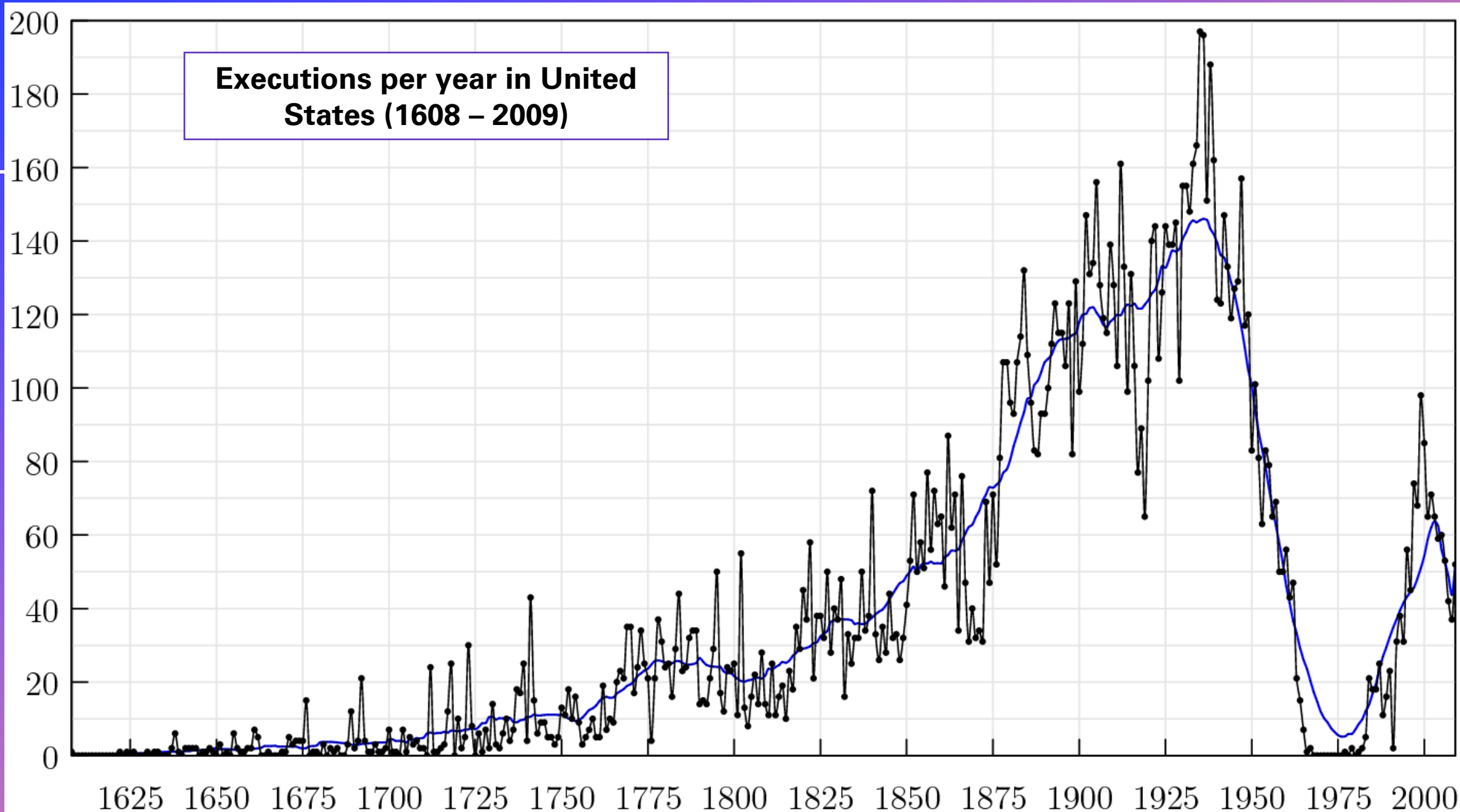
- + . **I. HISTORY OF CAPITAL PUNISHMENT IN THE USA**
- o

History of death penalty in the USA

- 1630: First execution in a future US colony
- 1850s: Becomes a debated political issue
- 1950s: Anti-death penalty sentiment rises, executions slow to a near halt
- 1972: *Furman v. Georgia*
 - “Cruel and unusual punishment” as **then practiced**
 - Temporary moratorium
- 1976: *Gregg v. Georgia*
 - States make procedural changes to assigning death sentences in response to *Furman v. Georgia*
 - Executions resume

A series of restrictions

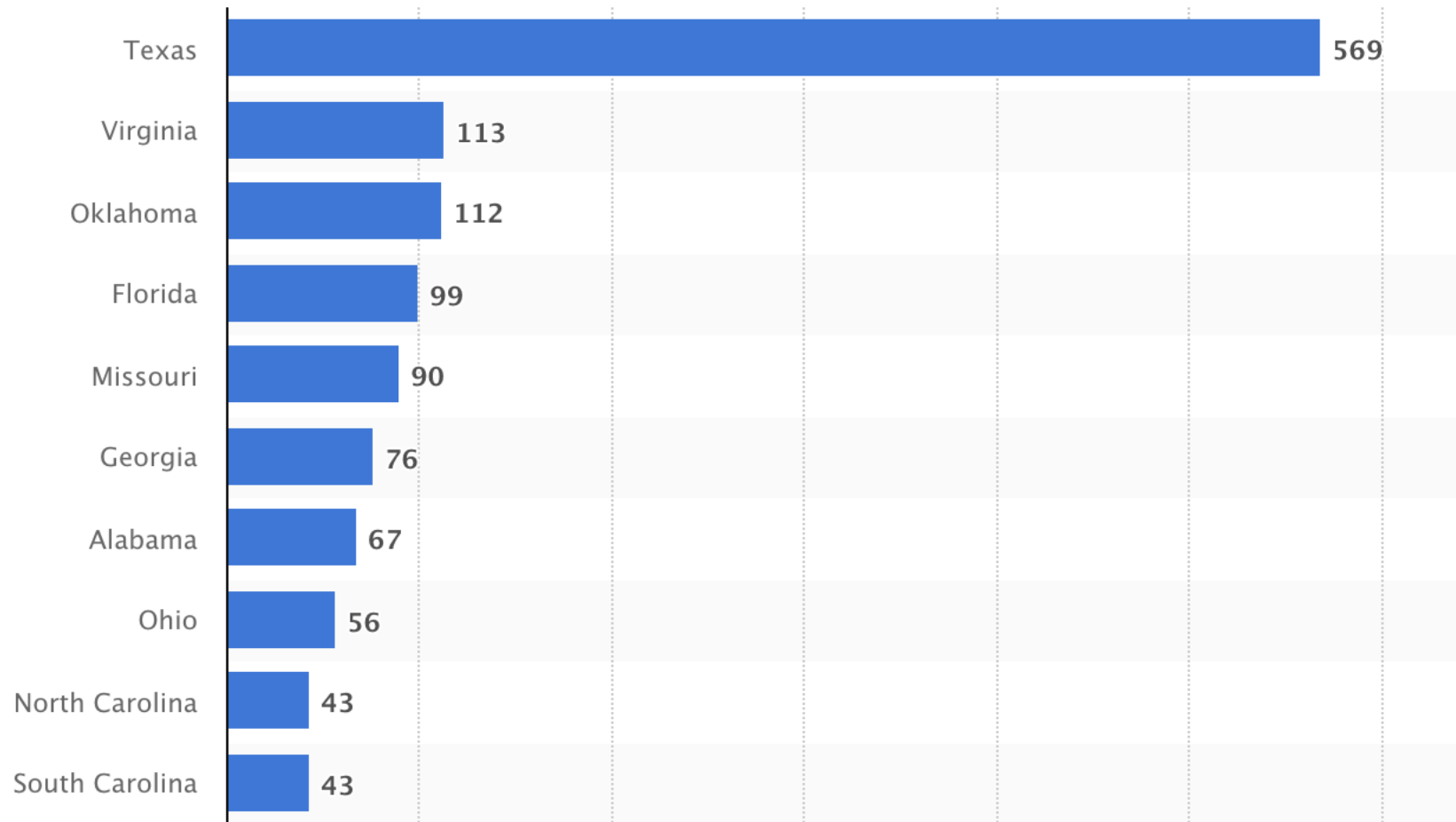
- *Gregg v. Georgia* (1976): no mandatory death penalties
- *Coker v. Georgia* (1977): no death penalty for rape of adults
- *Godfrey v. Georgia* (1980): aggravating factors must be precise (e.g., not just “wantonly cruel”)
- *Roper v. Simmons* (2005): no offenders <18 yo at time of crime



Executions per year in United States (1608 – 2009)

Taken from Wikipedia, 28 February 2021.

Executions by state (1976 – 2020)



Taken from Statista.com, 2 March 2020.

- +
 - - **II. CAPITAL PUNISHMENT AND MENTAL ILLNESS**

Offenders with psychosis

- Can offenders with psychotic disorders be executed?
 - Yes
- “Psychosis” versus “insanity”
- *Ford v. Wainwright* (1986):
 - Cannot execute if **currently** “insane”
- *Panetti v. Quarterman* (2007):
 - Must understand reasons for being executed
- *Madison v. Alabama* (2019):
 - Can be executed even if don’t remember their crime

Capital punishment and psychosis

- What about Not Guilty by Reason of Insanity (NGRI)?
 - Stringent standards
 - When not part of plea deal, <5% success rate (Williams 2003)
- Nature of psychosis
 - Waxing and waning
 - Indistinct boundaries between well and sick

Offenders with psychosis on death row

- Offenders with psychotic disorders are overrepresented on death row
 - Wide variation in estimates
 - 5-50% of offenders on death row¹
 - Compared to ~2% in general population
 - Higher than general prison population?

1. Cunningham, M. D., & Vigen, M. P. (2002). Death row inmate characteristics, adjustment, and confinement: A critical review of the literature. *Behavioral Sciences & the Law*, 20(1-2), 191-210.

Offenders with psychosis

- People with psychotic disorders are more at risk for violence
 - *Especially* homicide
 - Seven to twenty times more likely^{2,3}
 - Nearly all (~95%) have active psychotic symptoms at time of offense⁴⁻⁶
 - **Note:** absolute risk of violence remains very low
- More likely to be given death penalty?
 - NGRI

2. Fazel, S., Gulati, G., Linsell, L., Geddes, J. R., & Grann, M. (2009). Schizophrenia and violence: systematic review and meta-analysis. *PLoS Med*, 6(8), e1000120.

3. Wallace, C., Mullen, P. E., Burgess, P., Palmer, S., Ruschena, D., & Browne, C. (1998). Serious criminal offending and mental disorder. *The British Journal of Psychiatry*, 172(6), 477-484.

4. Taylor, P. J. (1985). Motives for offending among violent and psychotic men. *The British Journal of Psychiatry*, 147(5), 491-498.

5. Link, B. G., Andrews, H., & Cullen, F. T. (1992). The violent and illegal behavior of mental patients reconsidered. *American Sociological Review*, 275-292.

6. Minero, V. A., Barker, E., & Bedford, R. (2017). Method of homicide and severe mental illness: A systematic review. *Aggression and violent behavior*, 37, 52-62.

Homicide offenders with psychosis

- A population distinct from non-psychotic offenders
 - More likely...
 - ...to know victim personally⁶
 - ...to use sharp instruments^{6,7}
 - ...to attack the face⁷
 - ...to turn themselves in⁸
 - Less likely...
 - ...to have material gain from offense⁹
 - ...to be intoxicated at time of offense⁷
- But still much to learn

6. Minero, V. A., Barker, E., & Bedford, R. (2017). Method of homicide and severe mental illness: A systematic review. *Aggression and violent behavior, 37*, 52-62.

7. Häkkinen, H., & Laajasalo, T. (2006). Homicide crime scene behaviors in a Finnish sample of mentally ill offenders. *Homicide Studies, 10*(1), 33-54.

8. Robertson, G. (1988). Arrest patterns among mentally disordered offenders. *The British Journal of Psychiatry, 153*(3), 313-316.

9. Hanlon, R. E., Rubin, L. H., Jensen, M., & Daoust, S. (2010). Neuropsychological features of indigent murder defendants and death row inmates in relation to homicidal aspects of their crimes. *Archives of Clinical Neuropsychology, 25*(1), 1-13.

III.

- + EXECUTED OFFENDERS IN**
- TEXAS (2000—2015):**
- A MIXED-METHODS ANALYSIS**

Methods

- Sample:
 - Offenders executed in Texas between 1/1/2000 – 12/31/2015
 - N = 332
 - Texas Department of Criminal Justice (TDCJ) website
- Measures:
 - Demographics
 - Offender characteristics (time spent on death row, etc.)
 - Presence of psychotic illness
 - Offense characteristics (motive, presence of substance use, etc.)
 - Victim characteristics (number, age, race, etc.)

Methods (cont'd)

- Last statements – qualitative analysis
- Expressions of:
 - Love
 - Contrition
 - Innocence or guilt
 - Religiosity
 - Implicating others
 - Condemning the state
 - Thanking the state

Results: Demographics

- Demographics:
 - Mean age at offense = 26.8 years (SD = 7.9)
 - Mostly male (n = 327, 98.5%)
 - Race/ethnicity:
 - 40.1% black
 - 39.5% white
 - 20.5% Hispanic
 - Mean education = 10th grade (SD = 2.4 years)
- History of psychosis: 25 out of 332 (7.5%)

Results: Demographics by psychosis

	Offenders with psychosis (n = 25)	Offenders w/ no psychosis (n = 307)	Test statistic (df), p-value
Gender, male (%)	24 (96.0)	303 (98.7)	$\chi^2(1)=1.13$ p = .29
Race/Ethnicity (%)			
- Non-Hispanic white	15 (60.0)	116 (37.8)	$\chi^2(2)=4.90$ p = .086
- Non-Hispanic black	6 (24.0)	127 (41.4)	
- Hispanic	4 (16.0)	64 (20.9)	
Education Mean grade completed (SD)	9.9 (0.6)	10.0 (0.1)	t(328)=0.16 p = .87

Highlight = statistically significant (p < .05)

Results: Offender characteristics

	Offenders with psychosis (n = 25)	Offenders, no psychosis (n = 307)	Test statistic (df), p-value
Age at offense, mean (SD)	30.1 (1.7)	26.5 (0.4)	t(330) = -2.21 p = .028
Age at execution, mean (SD)	44.5 (1.6)	39.0 (0.5)	t(330) = -3.06 p = .0024
Years spent on death row, mean (SD)	13.0 (1.2)	10.9 (0.2)	t(330) = -2.21 p = .028
Prior violent offense, yes (%)	12 (50.0)	86 (28.4)	$\chi^2(1)=4.95$ p = .026

Highlight = statistically significant (p < .05)

Results: Offense characteristics

	Total sample, % yes (n = 332)	Offenders with psychosis (n = 25)	Offenders, no psychosis (n = 307)	Test statistic (df), p-value
Sexual element to crime?	23.3%	36.0%	22.2%	$\chi^2(1) = 2.45$ $p = .12$
Economic element to crime?	60.1%	60.0%	60.1%	$\chi^2(1) = 0.0002$ $p = .99$
Victim was in law enforcement?	7.9%	12.0%	7.5%	$\chi^2(1) = 0.64$ $p = .42$
Child victim involved?	20.5%	20.0%	20.6%	$\chi^2(1) = 0.0049$ $p = .94$
Home invasion involved?	33.5%	28.0%	34.0%	$\chi^2(1) = 0.37$ $p = .54$
Substance use during crime?	10.0%	12.0%	9.8%	$\chi^2(1) = 0.12$ $p = .73$
Admitted guilt at time of arrest?	17.2%	36.0%	15.7%	$\chi^2(1) = 6.69$ $p = .01$

Highlight = statistically significant ($p < .05$)

Results: Victim characteristics

	Offenders with psychosis (n = 25)	Offenders, no psychosis (n = 307)	Test statistic (df), p-value
Multiple victims, % yes	11 (44.0)	121 (39.4)	$\chi^2(1) = 0.19$ p = .66
Mean number of victims (SD)	1.8 (0.2)	1.7 (0.1)	t(330) = -0.62 p = .54
Gender of victims			
- Male	8 (32.0)	134 (43.8)	$\chi^2(2) = 1.97$ p = .37
- Female	11 (44.0)	95 (31.1)	
- Both	6 (24.0)	77 (25.2)	
Race/ethnicity of victims			
- Non-Hispanic white	10 (62.5)	160 (61.3)	$\chi^2(4) = 7.09$ p = .13
- Non-Hispanic black	0 (0)	42 (16.1)	
- Hispanic	5 (31.3)	48 (18.4)	
- Other	0 (0)	8 (3.1)	
- More than one	1 (6.3)	3 (1.2)	

Highlight = statistically significant (p < .05)

Results: Last statements

Last statements (% yes)	Offenders with psychosis (n = 25)	Offenders, no psychosis (n = 307)	Test statistic (df), p-value
Makes a final statement	21 (84.0)	268 (87.3)	$\chi^2(1)=0.22$ p = .64
Acknowledges guilt	12 (57.1)	94 (35.1)	$\chi^2(1)=4.08$ p = .043
Expresses contrition	11 (52.4)	101 (37.7)	$\chi^2(1)=1.77$ p = .18
Protests innocence	4 (19.1)	42 (15.7)	$\chi^2(1)=0.17$ p = .68
Admonish victim's family	3 (14.3)	21 (7.8)	$\chi^2(1)=1.06$ p = .83

Highlight = statistically significant (p < .05)

Results: Last statements (cont'd)

Last statements (% yes)	Offenders with psychosis (n = 25)	Offenders, no psychosis (n = 307)	Test statistic (df), p-value
Admonish state	6 (28.6)	48 (17.9)	$\chi^2(1)=1.46$ p = .23
Express religiosity	10 (47.6)	131 (48.9)	$\chi^2(1)=0.012$ p = .91
Expression of love	12 (57.1)	212 (78.7)	$\chi^2(1)=5.15$ p = .023
Implication of others	0 (0)	10 (3.8)	$\chi^2(1)=0.82$ p = .37
Thank TDCJ	2 (9.5)	10 (3.8)	$\chi^2(1)=1.63$ p = .20

Highlight = statistically significant (p < .05)

Discussion

- 7.5% of executed offenders had psychotic disorders
 - At least twice the general population
- Why were they older?
 - Age-crime curve vs. age of developing mental illness
- Why more time on death row?
 - Appeals?
 - Delays from incompetency to be executed?

Discussion

- Last statements
 - Less likely to express love
 - More likely to acknowledge guilt
- Similar to other studies

Discussion

- Why are psychotic offenders more likely to admit to guilt at time of arrest?
 - 36% vs. 15.7%
 - More likely to acknowledge guilt in last statements too
- What might this say about this population?
 - Motives
 - Contrition (last statements: 52.4% vs. 37.7%)
- What implications does this have for their competency?
 - Risk of coercion, suggestibility
 - “Competency to confess”

Summary

- Executed offenders in Texas had a significantly higher prevalence of psychotic disorders than the general population.
- Offenders with history of psychosis were older at time of offense and execution, and spent more time on death row.
- They were more likely to admit to guilt at time of arrest, raising important questions about “competency to confess.”
 - Offenses were otherwise similar between groups.
- Last statements were comparable between groups, except offenders with psychosis were more likely to acknowledge guilt and less likely to express love.



Acknowledgements

- Southern Psychiatric Association
- Stephanie A. Rolin MD, MPH
- Paul S. Appelbaum, MD
- Marty Davidson, BA
- Benjamin R. Nordstrom, MD, PhD
- Frank Baumgartner, PhD, and his research team
- Biscuit

References

- Constitutional Rights Foundation (2012). "A History of the Death Penalty in America." www.crf-usa.org.
- Cunningham, M. D., & Vigen, M. P. (2002). Death row inmate characteristics, adjustment, and confinement: A critical review of the literature. *Behavioral Sciences & the Law*, 20(1-2), 191-210.
- Fazel, S., Gulati, G., Linsell, L., Geddes, J. R., & Grann, M. (2009). Schizophrenia and violence: systematic review and meta-analysis. *PLoS Med*, 6(8), e1000120.
- Häkkänen, H., & Laajasalo, T. (2006). Homicide crime scene behaviors in a Finnish sample of mentally ill offenders. *Homicide Studies*, 10(1), 33-54.
- Hanlon, R. E., Rubin, L. H., Jensen, M., & Daoust, S. (2010). Neuropsychological features of indigent murder defendants and death row inmates in relation to homicidal aspects of their crimes. *Archives of Clinical Neuropsychology*, 25(1), 1-13.
- Link, B. G., Andrews, H., & Cullen, F. T. (1992). The violent and illegal behavior of mental patients reconsidered. *American Sociological Review*, 275-292.
- Minero, V. A., Barker, E., & Bedford, R. (2017). Method of homicide and severe mental illness: A systematic review. *Aggression and violent behavior*, 37, 52-62.
- Robertson, G. (1988). Arrest patterns among mentally disordered offenders. *The British Journal of Psychiatry*, 153(3), 313-316.
- Robinson, Matthew (2011). "The Death Penalty in North Carolina: A Summary of the Data and Scientific Studies."
- Statista (2020). "Total number of executions in the United States from 1976 to 2020, by state." Accessed from www.statista.com, 1 Mar 2020.
- Taylor, P. J. (1985). Motives for offending among violent and psychotic men. *The British Journal of Psychiatry*, 147(5), 491-498.
- Wallace, C., Mullen, P. E., Burgess, P., Palmer, S., Ruschena, D., & Browne, C. (1998). Serious criminal offending and mental disorder. *The British Journal of Psychiatry*, 172(6), 477-484.
- Hickey, E. (Ed.) (2003). "Not Guilty by Reason of Insanity." *Encyclopedia of murder and violent crime*. Sage Publications.
- Baumgartner F, Davidson M, Johnson K, Krishnamurthy A, Wilson C. *Deadly Justice: A Statistical Portrait of the Death Penalty.*: Oxford University Press; 2017.