

Formulating Performance Crimes

Ryan C. W. Hall, MD, and Terry Day, MSSA, JD, LLM

J Am Acad Psychiatry Law 52:280–85, 2024. DOI:10.29158/JAAPL.240052-24

Key words: criminal behavior; motivation for crime; performance crime; Internet; technology

In 2024, the Thomas R. Kline Center for Judicial Education held a special symposium on “performance crimes” to educate judges about this relatively new criminal classification, primarily born out of the technologic advancements of the Internet and smart phones.^{1,2} The conference covered topics such as the definition of performance crimes, copycat crimes, the motivation of people who engage in these crimes, as well as how to judicially address these crimes without running afoul of the First Amendment.

In a broad sense, a performance crime has been defined by criminologists as criminal activity where people actively post or stream criminal behaviors, usually their own, either at the time of the crime or after the fact.¹ Considering we live in an age where there are roughly five billion people worldwide on social media, it is understandable that some crimes will be posted, but the number of anecdotal examples (e.g., engaging in illegal harassment, vandalism, thefts, and assaults) seems to be increasing.³ This raises potential philosophical and psychological questions about why people would engage in a behavior that seems to go against their best interest, namely not getting caught committing a crime.

In some ways, these are new crimes that were not seen previously, such as the viral trend of “ghost riding the whip” (e.g., running next to or riding on the hood of a moving car with no one behind the wheel).⁴ Although most people who engage in this behavior may see it as a harmless form of entertainment or

content generation, this behavior is at the very least a traffic violation if not potentially manslaughter if someone gets killed because of the stunt.⁵ Although there has always been an element of underground content, society is now at an epoch where there has been a great leap forward in access to information and sharing of ideas. In many ways, this is similar to the effects of the invention of the printing press, which revolutionized society in many positive ways but also contributed to a prolonged period of religious schisms, political and legal upheaval, and destructive wars.⁶ Technology, in and of itself, is not good or evil, but it is a disruptor, especially when there is rapid expansion of and access to information.

For most of the 20th century, to have access to the means of video production and distribution, an individual had to have funding, potentially work in a broadcast industry, and gain skills over time (e.g., film or journalism schools or work internships). This led to creators being trained and having oversight (e.g., legal departments, acceptance committees for schools or film festivals, or oversight of financiers and employers) before their product could be viewed by the public at large. Since 2007 (the year the iPhone started to include cameras), however, the general population has had increasing access to a video camera that directly connects to the Internet.⁷

One of the possible explanations for the increase of performance crimes is that society is now in a stage where it is no longer the best, the brightest, or the most dedicated people who are producing media for mass consumption. This leads to a potentially more impulsive, unsupervised, and legally and ethically uninformed individual creating content that is being shared with the world. In short, performance crimes are on the rise because most people performing them are just young and foolish. Although this may explain

Dr. Hall is an Associate Professor, School of Medicine, University of Central Florida, Orlando, FL and a Clinical Associate Professor, School of Medicine, University of South Florida, Tampa, FL. Dr. Hall is Adjunct Faculty and Dr. Day is Associate Dean for Student Affairs and Professor of Law, Dwayne O. Andreas School of Law, Barry University, Orlando, FL. Address correspondence to: Ryan C. W. Hall, MD; E-mail: Dr.rcwhall@live.com.

Disclosures of financial or other potential conflicts of interest: None.

some of the increase and demographic in which it is occurring, it still does not fully explain the motivations for why people are performing these actions or explain why older people (greater than age 24 years old) may do so as well.

This leads to the discussion of the psychological motivations for many of the individuals who engage in performance crimes. We would suggest there are six broad categories: attention seeking (a.k.a. narcissism and fame chasing), true believers (a.k.a. political or belief-based protest), revenge, power and control (a.k.a. sadism), psychotic, and monetary. Although we generally identify six broad categories, there is the potential for overlap between the categories (e.g., someone may be motivated by both fame and monetary reasons).

Individuals who often engage in content creation for the “dopamine hit” would likely fall under the attention seeking categorization. They are looking for some degree of interaction, approval, or acknowledgment from “their community” (e.g., either small group or world at large). The creators are often catering to an online audience to which they may or may not have a direct connection. This can lead to the underappreciation of the real-world impact of sharing the content. In addition, there may also be a sense of anonymity, in that the act will go unnoticed by authorities while at the same time only be viewed by the audience the creators want to see it.⁸ They may also not understand how digital fingerprints are left (e.g., Internet protocol (IP) address, metadata on a file, how a screen name can be connected to a real identity, law enforcement search and tracking capabilities, or concerned people turning them in), which gives them a further sense of anonymity. In short, these individuals may fit aspects of the typical behaviors or mindsets seen with a “school of fish” (“I am one of many, so why would I stand out”) or a mob mentality, just without the real-world mob.

There is some question of whether aspects of performance crimes are more common in the young, especially in the attention seeking category. This is thought to be related to aspects of the young brain not being fully developed, resulting in more impulsive behavior. There is also the question of whether there is a generational component, with the young being more comfortable with video technology and less concerned about privacy because they have grown up in the age of cameras and the Internet.⁹ To some degree, this may result in a reverse Milgram

effect¹⁰ (the closer you are to authority, the more likely you are to follow it), where the more detached someone is, the less likely they think authority will notice them or pay attention to their actions.^{11,12}

Another concern with the attention-seeking group is that, often, initial fame and success may encourage people to start to believe that their success justifies and legitimizes the actions they are taking (e.g., believing their own “hype”).¹³ This potentially occurred in the Ruby Franke case (the mommy blogger who pled guilty to abusing her children).¹⁴ She became famous for her tough parenting style, which attracted millions of followers who frequently praised her online actions even though she crossed the line.

In addition, there is the phenomenon of fame seekers needing to “one up” or “chase the trend” of what came before them.¹⁵ For example, when *Jackass*¹⁶ first premiered on MTV, it led to copycat behavior.¹⁷ Many did not appreciate the planning that went into the *Jackass* stunts, as well as the safety and legal steps taken to determine what was permissible and what was not.^{18,19} Unsophisticated social media users may not understand that certain stunts were more staged than they know and therefore believe they could get away with emulating certain actions that in the real world would have gotten them arrested.

The second major category consists of “true believers,” who are often people filming political protests that violate the law. One of the groups that has recently obtained a lot of notoriety, especially in Europe, for “performing” their protest is the Just Stop Oil ecologic protest group.^{20,21} This group has engaged in tactics such as throwing soup on famous paintings, streaking, and sitting down in busy intersections to block traffic. These types of protests and activities are not necessarily new, but the group often makes sure that there are nonprotesting members filming the actions. This is done for content creation and also for the safety of the protesting members.

Dating back to 1849, Henry David Thoreau obtained similar notoriety for his action and his essay, *Civil Disobedience*.²² At that time, Thoreau was protesting slavery in America and the Mexican-American War. His act of defiance was willful refusal to pay his taxes. Although he was arrested and spent a night in jail, he gained notoriety and popularity for his causes. In many ways, the politically motivated performance crimes of today are Thoreau’s theories carried forward. The difference is that, in 1849, Thoreau’s essays were primarily discussed among

pockets of abolitionists, intellectuals, and academics, not the entire world population, who can now gain quick access through viral social media interactions.

In general, the true believers see their acts as virtuous. The acts are often used to gain more awareness for a topic, recruit new members, and obtain donations. True believers justify their crimes because they are doing it for the greater good. They often feel that, if there is punishment, it will be relatively minor (e.g., nuisance charges or disturbing the peace) because many of them have a relatively light criminal record (e.g., limited to nonviolent offenses). There can be varying age ranges for this category of performance crime, with many of the participants in the videos being young adults to those who appear over the age of 50. Some of these movements are similar to the protest groups of the 1950s and 1960s but, in those cases, the footage was often created or distributed by professional journalists. For example, even famous home movies of historic events (Zapruder films and Rodney King traffic stop) were disseminated to the world through journalists who edited and contextualized the content. At this time, protest groups may still rely on journalists, but they can also control the narrative themselves by posting on their own social media platforms.

At times, these movements may attract more anti-social or sadistic individuals, but to date, the more organized movements have tried to limit or isolate the inclusion of sadistic people in the videos to not tarnish the message. Generally, the protests are meant to be nonviolent, because violence may limit distribution on platforms such as YouTube or TikTok; however, violence against protestors has occurred.²³ One famous case occurred in 2023, when a 77-year-old man shot and killed two eco protestors blocking a road in Panama, with the event uploaded to social media.²⁴

There have also been cases where there were car accidents because of the protests and situations where ambulances could not arrive to a hospital in a timely manner, resulting in deaths.^{23,25} In England, multi-year incarceration sentences for protestors have been handed down in these situations to try and deter copycat actions.^{25,26} So, although the protestors themselves may not want to cause direct harm to people, it can still occur because of the actions they have taken, and various legal systems are starting to take note.

From a forensic standpoint, concerns may arise regarding the distinction between overvalued ideas and delusions. An additional psychological lens in

some investigation is to consider how much the behavior of a true believer is similar to behavior seen in potential cults. In addition to groups like Just Stop Oil, this categorical grouping may also apply to some far-right true believers as well. For example, the Westboro Baptist Church engaged in protests and actions that resulted in public arrests.²⁷ Whether or not these arrests can be categorized as a performance crime is debatable. In 2011, the U.S. Supreme Court ruled that the group's protests were protected under the First Amendment and reversed a hefty jury verdict against the group for intentional infliction of emotional distress when they protested at a fallen hero's funeral.²⁸

The third category for performance crimes is more personal. This is usually somebody who just wants revenge. This often occurs in posting revenge porn or in posting personal information as occurs in "doxing" (releasing private information, such as identity, location, or address) or "swatting" (calling in a false police report that results in the Special Weapons and Tactics (SWAT) team entering the unsuspecting victim's home). This form of performance crime has been seen in general social media and in gaming communities, where swatting occurs during the victim's livestream (person playing and commenting on a game when police enter and falsely arrest them with guns drawn).²⁹⁻³¹ The people who engage in revenge performance crimes may not be in the videos themselves, but there have been some cases where people actually film themselves coming up to someone's house, which reveals the identity and location of the targeted individual. Doxing may incite violence or result in some type of harm or harassment against the doxed or swatted individual.³²

People who engage in revenge performance crimes often feel justified in what they are doing, because they perceive that they were personally wronged, a group they are "white knighting" for was wronged, or the target is a bad person (e.g., has undesirable traits or views) who deserves to be punished. Instigators often feel they will not be held accountable for the action because of the anonymity in which the action was done or because the victim does not want to call more attention to the act. These type of revenge acts are starting to become more political.^{33,34} These are not true believers, because the acts are more personal in nature and done in a manner that does not bring positive attention for the cause. It appears that individuals who engage in these types of behavior tend to

have more Cluster B personality traits and share similarities with the Mullen stalker classification of socially incompetent and resentful.³⁵

The next category is power and control, which can include varying degrees of sadism. This can be seen in many different contexts. For a while, there was a trend of people paying or encouraging homeless persons to engage in “bum fights” or activities of self-harm for alcohol or money. The videos were sold online and led to copycat crimes.³⁶ This was often done to show that the individual had control over other people and could get people to engage in activities to embarrass or humiliate the subservient individual. In the early phases of this trend, many of the people initiating the fights did not actually believe they were committing a crime, because the disadvantaged person was engaging in the action willingly.³⁶ The perpetrators often viewed themselves more like a fight promoter than a criminal, even though they were violating several laws, such as regulations established for sanctioned sports events. The motivations for such activities include boredom or desire to taunt authority or defy cultural norms, to obtain excitement and pleasure, or to enforce their own world view.

There is also a subform of this type of performance crime that involves a “Karen” or “Ken” who wants to “see the manager” or violates private property laws (e.g., Homeowners Association members feeling they have the authority to enter another person’s backyard). A Karen or Ken is typically thought of as a middle-aged person who is perceived as entitled or excessively demanding for the situation in which they are involved. They will often take out their phone and film the confrontation they are creating, because they feel it justifies their world views and gives them power over the individual being recorded. At times, these interactions may go further than the entitled Karen and Ken intended, resulting in the police being called. There is also a variant of this, where persons who are being bullied by the Karen or Ken post their own video, such as a business’s security camera footage, as a way to try to shame the Karen or Ken who went too far.

Individuals who engage in sadistic or power-and-control tactics often are trying to teach lessons to others, with the meaning being “this is what I can get away with,” “I’m so powerful,” or “I’m in the right,” so “I can do this, and nothing will happen to me.” A classic example of a sadism livestream was a 2016 video of four individuals, mostly adolescent to young

adults, who brutally assaulted an autistic individual, claiming political motivation.³⁷ At one point during the livestreaming, one of the individuals commented “y’all not even commenting on my shit.” Individuals who engage in sadism often display some degree of narcissism, sense of entitlement, or sense of being smarter than others, but the main point is the enjoyment of shaming the other person and trying to make them uncomfortable. Although money can also be a factor, the key motivation for such brutal or shaming behavior is to emotionally or physically humble or harm someone.

The next category, which is especially important for forensic psychiatrists, is the psychotic or delusional individual. These are often people who have some form of delusional belief that, by videotaping or livestreaming what they are doing, it will protect them from harm or show that their actions are justified. For example, there was a case of a potential psychotic individual who livestreamed an attack on law enforcement and later claimed at trial that his livestreamed video was a forgery.³⁸ In evaluating these types of cases, the potential for nonpsychotic motivations (such as setting up a false alibi) need to be considered and ruled out as a possibility. These types of individuals may have legitimate insanity defenses, and at times, there may be concerns with competency to stand trial.

The last category is monetary. Although reimbursement may vary from platform to platform, it is estimated that a YouTube video that is monetized earns roughly one to three cents per view.³⁹ If someone has “a viral video,” it can lead to real income. For example, Logan Paul could have earned roughly \$60,000 for his infamous 15-minute video of him in the “Japanese suicide forest” that had over six million views.^{40,41} This video may have violated Japanese laws, even though Mr. Paul claimed his intention was to bring attention to the topic of suicide.⁴¹

Conclusion

These potential categorizations begin to formulate a way to understand people’s general motivations for engaging in performance crimes. Although the technology that has allowed for performance crimes to occur is relatively new, many of the motivations have been studied in other contexts of forensic psychiatry, including narcissism, mob mentality, civil disobedience, sadism, stalking, or a delusional basis for committing a crime.

References

1. Surette R. Performance crime and justice. *Curr Issues Crim Just.* 2015; 27(2):195–216
2. Duquesne University. Thomas R. Kline Center for Judicial Education [Internet]. Available from: <https://www.duq.edu/academics/colleges-and-schools/law/thomas-r-kline-center-for-judicial-education/index.php#speakerseries>. Accessed April 6, 2024
3. Wong B. Top social media statistics and trends of 2024. *Forbes Advisor* [Internet]; 2023 May 18. Available from: <https://www.forbes.com/advisor/business/social-media-statistics/>. Accessed April 6, 2024
4. Surette R. A copycat crime meme: Ghost riding the whip. *Crime Media Cult.* 2020; 16(2):239–64
5. The Associated Press. Hip-hop car stunt claims at least two lives [Internet]; 2006. Available from: <https://www.today.com/popculture/hip-hop-car-stunt-claims-least-two-lives-wbna16395647>. Accessed April 6, 2024
6. Roos D. 7 ways the printing press changed the world [Internet]; 2023. Available from: <https://www.history.com/news/printing-press-renaissance>. Accessed April 6, 2024
7. Morries N. Evolution of iPhone camera (2007-2024) [Internet]; 2024. Available from: <https://siliconfeatures.com/history-of-iphone-camera/>. Accessed April 6, 2024
8. Chauhan S, Panda N. Online anonymity. In Chauhan S, Panda N, editors. *Hacking Web Intelligence. Open Source Intelligence and Web Reconnaissance Concepts and Techniques*, First Edition. Waltham, MA: Syngress; 2015. p. 147-68
9. Anderson M, Jiang J. Teens and their experiences on social media [Internet]; 2018. Available from: <https://www.pewresearch.org/internet/2018/11/28/teens-and-their-experiences-on-social-media/>. Accessed April 7, 2024
10. Milgram S. Behavioral study of obedience. *J Abnorm Soc Psychol.* 1963; 67(4):371–8
11. McLeod S. Milgram shock experiment [Internet]; 2023. Available from: <https://www.simplypsychology.org/milgram.html>. Accessed May 18, 2024
12. Cooke B, Hall R, Friedman SH, *et al.* Professional boundaries in corrections. *J Am Acad Psychiatry Law.* 2019 Mar; 47(1):91–8
13. Parsons E. Building a better hype machine: How we can achieve the promise of social media [Internet]; 2020. Available from: <https://computerhistory.org/blog/building-a-better-hype-machine-how-we-can-achieve-the-promise-of-social-media/>. Accessed April 7, 2024
14. Jones C. Mommy vlogger Ruby Franke pleads guilty to four counts of child abuse; attorneys for Franke have said she was “led astray” by her business partner, Jodi Hildebrandt. *Rolling Stone* [Internet]; 2023 Dec 18. Available from: <https://www.rollingstone.com/culture/culture-news/ruby-franke-guilty-plea-mommy-vlogger-youtube-1234931869/>. Accessed April 6, 2024
15. Creastodina A. We surveyed 11,051 bloggers over 10 years. Here’s what we learned [Internet]; 2023. Available from: <https://www.linkedin.com/pulse/we-surveyed-11051-bloggers-over-10-years-heres-what-andy-crestodina>. Accessed April 7, 2024
16. Jackass [television broadcast]. USA: MTV; 2001-2003
17. ABC News. MTV denies blame for copycat injuries [Internet]; 2001. Available from: <https://abcnews.go.com/Entertainment/story?id=106053&page=1>. Accessed April 6, 2024
18. Cameron C. How much of Jackass Forever is actually scripted? [Internet]; 2022. Available from: <https://screenrant.com/how-much-of-jackass-is-scripted/>. Accessed April 24, 2024
19. Colussi M. 24 behind-the-scenes stories and secrets from “Jackass” that range from “super interesting” to “oh my God.” [Internet]; 2021. Available from: <https://www.buzzfeed.com/marylcolussi/jackass-behind-the-scenes-facts>. Accessed April 6, 2024
20. Just Stop Oil. What will you do to protect your loved ones? [Internet]. Available from: <https://juststopoil.org/>. Accessed April 7, 2024
21. Haigh E. Why won’t they stop THEM? Police confront man tearing banners from Just Stop Oil zealots holding up traffic but DON’T haul away eco-activists—as Home Secretary tries to bring in laws to allow cops to drag protesters off roads [Internet]; 2023. Available from: <https://www.dailymail.co.uk/news/article-12024267/Here-Just-Stop-Oil-zealots-hold-traffic-stage-protest-London.html>. Accessed April 28, 2024
22. Bankston C. Thoreau’s “Civil Disobedience.” A living document [Internet]; 2016. Available from: <https://theimaginativeconservative.org/2016/03/henry-david-thoreau-civil-disobedience-carl-bankston.html>. Accessed April 7, 2024
23. ITV News. Just Stop Oil protester punched to the floor and kicked after car crash at London protest [Internet]; 2023. Available from: <https://www.itv.com/news/london/2023-07-19/just-stop-oil-protester-shoved-to-the-floor-and-kicked-after-car-crash>. Accessed April 24, 2024
24. Quinn L. American arrested in Panama after video apparently shows fatal shooting of 2 eco-protesters who blocked road. *People* [Internet]; 2023 Nov 9. Available from: <https://people.com/american-arrested-accused-shooting-killing-two-protestors-panama-8399929>. Accessed April 26, 2024
25. Bose K. Two people die during Just Stop Oil protest [Internet]; 2022. Available from: <https://www.energylivenews.com/2022/10/21/two-people-die-during-just-stop-oil-protest/>. Accessed April 7, 2024
26. Horten H. Just Stop Oil protesters jailed for Dartford Crossing protest. *The Guardian* [Internet]. 2023 Apr 21. Available from: <https://www.theguardian.com/environment/2023/apr/21/just-stop-oil-protesters-jailed-for-dartford-crossing-protest>. Accessed April 7, 2024
27. Anti-Defamation League. Westboro Baptist Church [Internet]; 2017. Available from: <https://www.adl.org/resources/profile/westboro-baptist-church>. Accessed April 17, 2024
28. *Snyder v. Phelps*, 562 U.S. 443 (2011)
29. Reddit. Beef between two YouTubers turns into doxxing [Internet]; 2023. Available from: https://www.reddit.com/r/youtube/comments/177mx0p/beef_between_two_youtubers_turns_into_doxxing/?rdt=42649. Accessed April 24, 2024
30. Temple-Raston D, Jarvis W. Swatting started in the gaming world and it’s coming for the rest of us [Internet]; 2023. Available from: <https://therecord.media/swatting-click-here-podcast>. Accessed April 7, 2024
31. Gupta R. What’s up with Twitch streamers being ‘swatted’? [Internet]; 2023. Available from: <https://junkee.com/what-is-swatting-twitch/351679>. Accessed April 7, 2024
32. Hanna J, Lynch J. Casey Viner, who solicited a ‘swatting’ call that led to a death, gets 15 months in prison [Internet]; 2019. Available from: <https://www.cnn.com/2019/09/14/us/swatting-sentence-casey-viner/index.html>. Accessed April 7, 2024
33. Associated Press. Virginia candidate performed sex acts with husband in videos [Internet]; 2023. Available from: <https://ny1.com/nyc/all-boroughs/news/2023/09/13/virginia-house-of-delegates-susanna-gibson>. Accessed April 7, 2024
34. FOX 5 Atlanta Digital Team. Georgia Lt. Gov. Burt Jones reports swatting incident, bomb threat [Internet]; 2023. Available from: <https://www.fox5atlanta.com/news/georgia-lt-gov-burt-jones-reports-swatting-incident-bomb-threat>. Accessed April 7, 2024
35. Racine C, Billick S. Classification systems for stalking behavior. *J Forensic Sci.* 2014; 59(1):250–4
36. Terri D. Bumfights and copycat crimes. . . connecting the dots: Negligent publication or protected speech? *Stetson L Rev.* 2008; 37(4):825–53

37. Yan H, Jones S, Almasly S. Chicago torture video: 4 charged with hate crimes, kidnapping [Internet]; 2017. Available from: <https://www.cnn.com/2017/01/05/us/chicago-facebook-live-beating/index.html>. Accessed April 17, 2024
38. Medina D. Man gets life in prison for attacking Orlando police officers on Facebook Live [Internet]; 2024. Available from: <https://www.fox35orlando.com/news/man-sentenced-to-life-for-attacking-orlando-police-officers-on-facebook-live>. Accessed April 18, 2024
39. Christianson C. How much does YouTube pay per view? We tested it! [Internet]; 2023. Available from: <https://blog.hootsuite.com/how-much-does-youtube-pay-per-view/#:~:text=Most%20sources%20on%20the%20internet,create%20this%20table%20of%20averages>. Accessed April 24, 2024
40. Adelstein J. Japanese cops say Logan Paul videos broke the law—and they’d just love to nail him [Internet]; 2018. Available from: <https://www.thedailybeast.com/japanese-cops-say-logan-paul-videos-broke-the-law-and-theyd-just-love-to-nail-him#:~:text=Paul%20apologized%20and%20explained%20that,since%20are%20a%20different%20matter>. Accessed April 18, 2024
41. Lorenz T. YouTuber Logan Paul apologizes for video of Japan ‘Suicide Forest’ corpse [Internet]; 2018. Available from: <https://www.thedailybeast.com/youtuber-logan-paul-apologizes-for-video-of-japan-suicide-forest-corpse>. Accessed April 24, 2024