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Steele, RH (2016) How offenders make decisions. British Journal of Community Justice, 13 (3). pp. 7-20. ISSN 1475-0279

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British Journal of Community Justice ©2016 Sheffield Hallam University, Sheffield ISSN 1475-0279 Vol. 13(3): 7-20



HOW OFFENDERS MAKE DECISIONS: EVIDENCE OF RATIONALITY

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Abstract

This paper examines the results of a study which set out to ascertain applicability of Rational Choice Theories of offending to offenders' actual experiences. The Rational Choice perspective views the offender as a reasoning individual who weighs up potential costs and benefits of a crime. Though subject to criticism, this approach is influential as part of the dominant ethos of the Criminal Justice system in England and Wales. Despite this, studies examining actual offending experiences rather than a student or non-offending population are relatively rare. Forty six offenders were interviewed, with mixed offending backgrounds. Results suggest that rationality can be seen to vary both within and between individuals and within and between offence types. Suggestions are made as to how an offenders' motivation can affect their ability to make a decision, and how these motivations can be understood in the context of the offence.

Keywords

Decision making; acquisitive; violent; Rational Choice.

Introduction

The Rational Choice approach to crime is closely aligned with the dominant ethos of the Criminal Justice System in England and Wales (Jones, 2008). The current UK criminal justice system essentially sees an individual as responsible for his or her actions, and applies punishment as a deterrent for engaging in illegal behaviour (Sutherland & Cressey, 1974). The Rational Choice Theoretical approach has at its core an assumption that a decision to offend takes place, and that such a decision is taken by a reasoning and (at least minimally) rational individual, weighing up the costs and benefits of the action. This view of individuals as makers of fully-reasoned decisions has been criticised for lack of realism. Instead, Cornish and Clarke (1987) describe individuals as acting within the limits of their ability, the information available, and time pressures. Cornish and Clarke refer to this as 'Bounded Rationality' (1986). This approach recognises that decisions are affected by the individual's perceptions as well as the circumstances in which they find themselves. Newer iterations of Rational Choice Theory (RCT) place the motivation of the individual as central to decision making, and state that an understanding of the offender's value hierarchy is necessary to understand their decision making.

This investigation seeks to explore the basic assumptions of this approach, that a decision is always at the heart of an offence, and that individuals weigh up their perceived costs and benefits in order to make such a decision.

Rational Choice theories of offending

Early theories of crime, viewed the individual as having free will, and as being capable of guiding his own destiny (Monachesi, 1955). These assumptions of free will and rationality have remained central to the field of criminology since its beginnings (Taylor et al., 1973), and are direct precursors of the modern Rational Choice Theory.

The application of RCT to criminology has been an influential approach, being particularly popular during the 1980s and 1990s when much work was undertaken to examine how rational decisions are made, and if this could be applied to criminal behaviour in individuals. Early iterations of the approach stated that potential offenders would avoid offending for fear of potential punishment (Akers, 1990). The assumption is that individuals act under free will, and in doing so will seek to avoid costs, and that the rewards of an action or behaviour will be weighed against those costs.

However, this approach has been criticised, in particular the assumption of the 'normative' status of the individuals making a decision. Cornish and Clarke (1987) suggest that individuals are unlikely to go through such a deliberate, calculating mental process and 'intuit' the values and costs of an action, being unable to process information to the level assumed by this normative model (Cherniak, 1986). Instead, offenders operate under a 'bounded rationality' in which offenders are seen as making a weighted decision, but in a more 'rudimentary and cursory way' than advocated by the classical economic approach to decision making. It is also recognised that while an individual can make a measured decision based on expected utility of various outcomes, their range of actions may be limited by circumstances.

The central tenet of an RCT of crime that offenders are active, rational beings encourages researchers to find out exactly what an individual's subjective perceptions of costs and benefits are, and whether through applying this approach, crime can be explained sufficiently well. Furthermore, if a decision is fully understood then logic could theoretically be applied to change similar future decisions. When the theory is applied to real people, and real offenders, it is difficult to assume that decisions are made in this fully informed manner and that any individual could possibly process and be aware of every factor that may affect the outcome.

Studies of Rational Choice and the offending experience

Rational Choice Theory has been applied to various types of offence, ranging from shoplifting to violent offences. In 1992, Corbett and Simon applied RCT to driving offences, finding that offenders viewed the likelihood of receiving a penalty for poor driving as low. A study of shoplifters by Schlueter, O'Neal, Hickey and Seiler (1989) suggests that 'official' costs are not considered as a deterrent. Goals were identified as including money, convenience and the 'challenge'. Schlueter et al. thought it important that non-monetary goals were recognised as motivating the behaviour of the offenders. Carroll and Weaver (1986) also studied shoplifters, finding that they did think about risk, and were well aware of the penalties, but set this aside once focused on their actions.

There have been several studies carried out to investigate how RCT explains burglary, such as Wright and Decker's 1994 study suggesting that burglars were clear about the benefits, such as monetary gain, drugs, and social standing, but tried not to think about things going wrong. As well as robbery (Feeney, 1986), corporate crime (Paternoster & Simpson, 1993) and 'car-jacking' (aggravated car stealing) (Jacobs, Topalli & Wright, 2003), RCT has also been used to try and explain the commission of non-acquisitive offences, though to a lesser extent. For example, Beauregard and LeClerc (2007) applied RCT to the offending process of sex offenders. Results from interview suggested that the participants were rational, although bounded in their rationality, and that decisions were being made at each part of the process leading up to the offence. In a similar way, Topalli (2005) describes how violent offenders can use cues to 'read' a situation to their advantage and help them guide events.

Despite the close alignment between current crime management in the UK and the Rational Choice approach (Jones, 2008), the number of studies relating this theory to actual offender experiences is limited. Many studies on the RCT of crime use non-offending populations, and measure intention to offend, rather than examining actual offending, a drawback when applying findings to real world situations. This study therefore aims to investigate the self-report narratives of a range of offending individual's histories to examine if there is any evidence of decision making, and what factors the individuals themselves sees as pertinent.

Methodology

Given that the aims of this research included obtaining the offender's perspective on whether a decision making process takes place, it was appropriate to adopt a qualitative methodology. In particular, the interview technique was utilised as the best way to collect

the type of data that would inform the research question. This interview was semi structured in style, including areas the researcher wanted to cover, but with enough flexibility to allow the participant to talk tangentially, and to feel free to include whatever information he or she felt was pertinent. A similar approach was used by Zamble and Quinsey (1997) who used this technique to research the criminal recidivism process. Zamble and Quinsey employed a semi-structured interview, in which they asked their participants (recently released Canadian prisoners) about the events leading up to their most recent re-offence. They supplemented this interview with the use of two 'timelines' which prompted the participants to recall their thoughts, feelings, and time taken between the first 'thought' of an offence occurring, and the actions to the point at which commission of that offence took place. Bennett and Wright (1984) used a similar technique; applying semi-structured interviews to more than one hundred and twenty burglary 'specialists' in order to examine what affected their decision to offend.

The interview schedule was designed loosely upon the ideas used by Zamble and Quinsey which is to elicit information from the offender about his or her offending, and the thoughts, circumstances, and feelings that led to that action being taken. Unlike Zamble and Quinsey, who asked the offender to 'plot' six milestones from the first passing thought of the offence to the point of apparent inevitability, the approach taken within the current study was not so defined, and allowed the offender to determine their own timelines based on what they saw as influencing factors.

The interview schedule began by asking the participants to describe their most recent, or index, offence (the offence for which they were currently subject to probation). After outlining it, participants were prompted to describe what happened in the period preceding the offence. No timescale was specified, and instead the participant was allowed to describe as long or as short a period as they preferred. Moving forward, participants were asked to describe in detail how they felt, what they then thought, and what circumstances they were in at the stages during and following the period leading up to the offence. Participants were allowed to introduce whatever topics they felt were relevant to this narrative, and in effect, were encouraged to tell a 'life story' of their offence. Offenders were led through the events leading up to their offence. After describing these events fully, offenders were taken backwards through them again, being prompted to consider what elements had led them to be in their particular position. Participants were also asked to describe their views on what happened next, after the event.

In total, interviews were conducted with 46 participants, each of whom had been convicted of at least one offence. Participants were aged between 18 and 60, with a mean age of 33.9 years. Twelve were female, and the rest male. All were currently subject to some form of supervision, whether as part of a post custody licence or as part of a Community Supervision Order. Offence types ranged from shoplifting to murder.

Findings

Though RCT has been applied to a range of different offences, its economic roots have led to the predominant research focus being into acquisitive crime. However, in order to be a useful applied theory of offender decision making, a theory must explain all offending decisions, those which are violent or emotive as well as the acquisitive. With this in mind, narratives were split into categories based on the nature of the index offence, creating a category of acquisitive crimes, and a category of violent or emotive offences. There was, in general, a difference in the phrases individuals used about their offences. Offenders in the acquisitive category appeared to make decisions about their offending, whereas the individuals in the violent/emotive category did not make such explicit decision statements. Statements such as 'I planned' and 'I thought' were common within the acquisitive category, but not present within the other category of offenders. Acquisitive offenders' narratives are marked by their desire to meet a need, and frequently stated that they made a decision, and thought about achieving their desired outcome.

'I always planned to get lists of what people wanted me to get for them, I knew I wouldn't be able to get rid of some stuff but there were always some things you knew you could always get rid of like CDs, DVDs. Things like that I would always take.'

Offenders, quite apart from ensuring they get what they need, seem quite good at making things go smoothly by managing others' perceptions. One enterprising female shoplifter became skilled in avoiding the attentions often focused on a known criminal.

'When I shoplifted I planned loads. I used to wear uniforms - nurses' uniforms, hairdressers' outfits. 'Cause I've got short hair I used to wear wigs - look completely different. I made foil bags, and go on the train - Chester, Warrington, St. Helens. It was like going to work - doing a day's work. I went there yesterday, so I'll leave there today. I wore that wig with that uniform last time, so I'll change.'

It does appear that there is evidence to suggest that some individuals make a decision about their offending to maximise their gain, or 'maximising their expected utility' (Carroll & Weaver, 1986). It is interesting to explore the idea of what the individual perceives as the gain, or utility of the offence. Equally, the negative consequences of an offence, as they appear to the offender, are important.

Thinking about consequences

Previous studies have shown great variety of costs or risks that influence decision making, far beyond the official sanctions or punishments. In order to be a useful theory of crime, RCT must recognise the wide range of costs and benefits that may affect an offending decision (Paternoster & Simpson, 1996). The offenders' perception of costs and benefits are what matters, and the importance the offender places on them. This perception is limited by knowledge and circumstances and it is often argued that offenders do not fully understand the consequences of offending, often referred to as 'bounded rationality'

(Cornish & Clarke, 1986). The text suggests however that these individuals in fact do understand these consequences, but simply do not think about them.

'When you do it you don't think about the consequences, you just go ahead and do it. Not that you don't know them, Oh no, you know what can happen, you don't think about it at the time. You don't care - it's not important.'

As consequences are perceived to be more serious, the interviewees are nevertheless just as matter of fact. Another female shoplifter says:

'Because I shoplift every day, I know I'll get caught now and again. I'll only get a couple of weeks in jail. That usually does me good and settles me down a bit.'

It seems that offenders view the likelihood of capture or arrest as low, and reason that even if it does happen, that prison is something they know they can cope with. In fact, some individuals went as far as to say it was a positive outcome for them.

Other costs of offending

Of course, it is not only official outcomes that are a consideration. Many individuals worried about the impact on their family and relationships.

'I feel bad, not about the nicking stuff, but about lying to my family about where I got stuff. Once, my mum insisted on giving me the money for a pair of trainers for the (kids) I'd pinched, and I said "No, it's fine" but she insisted and I felt really bad.'

The negative effect on family is a common theme, and can be described in various ways. Another individual describes the long term negative effect his offending has had on his ability to live 'normally'. Sometimes, these non-official sanctions have only become a concern to the individual months or years after the offence. None of these realisations appeared to be a concern at the time of making a decision to offend; indeed they seem instead to be borne of a long spell of consideration. It may be that these emotional consequences are difficult to imagine when a person has not had direct experience of them previously.

The benefits of offending

Just as important as the offender's perception of the personal costs or risks of an offence is their view of the benefits or gains. These gains are subjective to that individual, and to their own feelings and views on their circumstances. As stated earlier, the offences within the acquisitive category were marked by the individual's intentions to meet a need, or get something they want. The simplest expression of what an individual wants out of an offence is described by one male shoplifter: '(I needed) basic stuff, clothes, trainers and T shirts. I had nothing. I was at a pretty low point.'

From basic needs such as food and clothes, another common need was money. In addition to the general demands of life, money for drugs was also a common theme. A male shoplifter puts it simply:

'I needed drugs, so I needed money. It was a complete struggle.'

Aside from money, some interviewees also describe other positive effects of their actions. These range from social reasons, to personal gratification or positive emotion.

'I was terrified doing a burglary, but once you've done it, you get a buzz.'

The 'buzz' or excitement experienced through committing an offence was a recurring theme. So far, it certainly appears that the costs, benefits, risks and rewards outlined in the general definition of a rational offender can clearly be evidenced for these acquisitive offence types.

Situational influences and constraints

Although these individuals describe their goals and the planning of offences, their options of how to achieve their goals were limited. If an individual needs drugs, or money, they may have little choice in how to obtain these items, being limited by their own circumstances (Felson, 1986). Many offenders described how they would rather not offend, but felt they had no choice. This is touched on by the offenders who commit offences in order to obtain money for drugs which overcame all other considerations.

'If it wasn't for needing the drugs I probably wouldn't have done it, or if I did it, it would be a one off. Say for instance my son needed something I would go out and get it, but not daily.'

Whether to take drugs or not is not felt by addicted individuals to be a choice, but a given. Another interviewee, who was afraid of being arrested, nevertheless went on to commit an offence because she was more scared of what would happen to her if she refused. Her violent partner pressured her into shoplifting, and she was too intimidated to refuse.

'Yeah. I run through things in my head - getting caught and stuff - at first I was terrified I case I got caught, what would happen in court. It got to the stage though, (where I was more worried about) what he would do if I didn't go back with something.'

As these individuals describe, a decision to offend was made, but only as a last resort. It is clear that choices are being made, but only from the limited range of options that appear to be open at the time. Stated within the terminology of RCT then, their rationality is not only bounded by knowledge, skill and time, but also by the range of options actually viable as an outcome. This range of options will be determined by the needs and situation of the offender and therefore any decisions must be considered in this context.

Other types of offending

Looking at the narratives of violent/emotive offenders, there are fewer references to making a decision, or planning, but instead interviewees speak about acting under a compulsion, or against their better judgement. This group describe things that 'just happen' to them and to the individual these events may be perceived as being beyond their control.

When one man was describing how he committed a violent assault, he says:

'It was too quick. Nothing happens really, just blank and adrenaline, and go for it. It is me or them, so I go in first.'

This seems to be a common experience. Other offenders describe this experience variously as a 'blank mind' or as 'seeing red'. Consider this example:

'I saw red, and went for her.'

This offender was convicted of serious assault on his partner. The 'red' he describes in this case for him was a common theme in violent offence description. Offenders describing this sort of incident frequently referred to something 'snapping' or being out of their usual frame of mind. The experience of 'flipping' or lashing out is a common one, even if the victim was someone they cared about. While many of the offenders described above talk about an 'absence' or 'blankness' of thought, other participants described that some thought took place, but that their thinking was not 'usual'.

'I was not in my right mind.'

Despite the references to not being in control, or 'not being myself', it cannot be assumed that this group of offenders do not identify benefits of their actions, despite the unplanned nature of the offence. A male offender, convicted of a serious assault discusses the feelings around his offence.

'He made me feel so horrible, to make it go away, I nearly killed him.'

This individual saw his action as a release of unpleasant feelings. Several other individuals describe a feeling of release in committing a violent offence, which they see as stemming from a desire to 'get away' from negative feelings. Whereas 'gain' is a focus for acquisitive offenders, it appears that relief of feelings or pain is a perceived positive outcome for violent/emotive offenders. This could be described as a desire to become 'pain-neutral'.

The narratives of violent/emotive offenders may not fit within the RCT decision making model as well as those of acquisitive offenders, but despite the lack of an obvious 'offence participatory decision' there is evidence of other choices being made. Offenders describe

choices made which alter their circumstances, despite knowing that this may increase the risk of something happening, or making an offence more likely. This awareness of 'risky choices' may speak of the actions of a rational, if bounded, actor. One offender describes a set of small choices which resulted in him committing an assault on two men he found in bed with his partner.

'We (self and partner) were rowing, so I stayed at a friend's...I got a call from my ex, she said call round I want to see you...I went there, and got in the front and said to her kids "where's your Mum"? They said "upstairs" and I could see that they were frightened, I said "what's up?" they said "nothing". When I walked in they looked terrified.'

'Could I have done it different? ...She chose a night I would be drunk. I would have gone back down and said to the kids "come on with me" and taken them to my mates...but for her to have those kids there and for them to know what she is doing and they know I'm coming they were terrified; one shouted to me "don't get arrested" as I went upstairs.'

Within this situation, the offender has made a set of choices, each leading him closer to an offence. While not constituting a onetime 'participatory' decision, he was self-aware enough to know that what he was doing was a bad idea. Although an individual committing a violent offence may recall 'snapping', he may be able to describe how he moved into a set of circumstances that make the offence more likely. Whereas the acquisitive offender seems to make decisions based on whether they will gain, then the violent offenders' choices lead simply to a situation where the offence is more likely.

Mixed thinking

Despite these differences between offence types, there is evidence to suggest that both of these behaviours, impulsive and rational, exist within the same individual. It is important to consider that many offenders have a mixed history of offence types, and indeed many of the offenders in this sample have experience of both acquisitive and violent/emotive types of offences. For example, one offender specialising in well-planned armed robberies has a parallel record of violent assaults, committed while he was in custody. The same individual is capable of meticulous planning, and spontaneous violence in high security custody.

'Stake out the office where they keep cash for a few weeks to see when the money is taken. Go and loosen the hinges on the door. Then on the day go to the cashier office and kick the door in.'

'I (have) spent about 30-odd years in prison. Every time I am in, I am fighting so I was always in solitary confinement. Last time...I broke my jaw, busted my wrist and broke my eardrum. Two years on top (of my sentence) just because I pushed someone and they fell downstairs.'

The contradictions within this case are interesting, more so as the same offender says he prefers prison to Probation supervision. On further examination of his narrative, this individual clearly feels more comfortable in custody than living in the community, preferring a controlled and limited environment. This may also make sense of the violent assaults committed within the prison, as they are likely to earn him more time in custody - which he prefers.

In a similar vein, there are many other individuals who expressed a mixture of rational, planned offences and other, less apparently rational offences. One individual was accused of pushing a victim from a high sea wall, causing his victim serious spinal injuries. The offender describes his lack of recollection of doing this.

'It was a nice day; me and mates had gone to the...sea front. We got some beer in and seen a group...jumping off the sea wall and rolling in the sand...I remember going to the toilet and coming back and looking over and seeing a lot of people there, but I don't know whether I've done it or not you see so apparently I pushed him off the sea wall but instead of rolling he's landed on his feet, and jolted his back.'

The individual certainly does not describe any forward planning or rational intent to this offence. However, the offender later reveals that the victim of the assault was his previous landlord, who had recently evicted him, and admits harbouring negative feelings of revenge towards him.

Most of the individuals in the sample had a mixed offending record, having committed both acquisitive type and violent/emotive type crimes to varying extents. It therefore appears that rationality differs within individuals, as well as between offence types. In addition it is also possible to observe a variation in rationality even within the same offending incident. Examining one narrative, it certainly appears that to some extent, rationality (albeit imperfect) appears even within a violent offence.

An individual was prosecuted for a serious assault on his partner. He described leaving the pub one afternoon to look for his partner.

'I went outside and saw her necking some bloke. I saw red and went for her.'

With this action he has committed what appears an irrational action, but even as this was happening he recalls having a clear thought:

'I went for her, not him. He ran away fast and besides, he was bigger than me.'

These findings seem to suggest that far from evidence to support rationality being tied to the offence type, it appears that the same offence type can result from very different motivations, such as shoplifting for gain vs. shoplifting under pressure from a partner, or assaults committed deliberately to extend a prison sentence vs. those carried out to release negative emotion.

Discussion

Any theory of offending must fit the experiences of offenders and place the offence within the personal and social context in which it is made. In seeking an holistic model of the 'offence event' it may be useful based on this evidence to view both actions taken in seeking both pleasure or benefit enhancement, as well as actions taken based on the motivation to be 'pain-neutral' are rational. Understood in this way, it is possible to apply to these findings what Hechter and Kanazawa (1992) refer to as 'thick' models of RCT, that is, a model within which the circumstances and perceptions of the individual are taken into account.

This 'seek gain/release pain' dichotomy can be understood as two separate goal regulation type processes, that is, the desire to attain a want or need *versus* the desire to relieve or avoid an undesirable state or situation. Human decision making is complex, so it is possible to conceive that an individual may engage in one or other of these processes at any point in time, and indeed, individual variations found within this study show this to be the case. It is also true that enough variation exists in the motivation of two different individuals to commit the same type of offence, that these motivations cannot be assumed from the offence type. Given that each individual will be operating under different circumstances with different motivations and different levels of stress, then the cognitive status, or decision making landscape of each individual will be unique.

These findings suggest that identifying the goal regulation processes the individual is involved in could assist in understanding the needs, concerns, feelings and circumstances of the offender's thinking leading up to an offence. The analysis of the costs and benefits to an action will be heavily influenced by the goal regulation process that the individual is operating under, clearly shown by the differences between the extensive planning shown by shoplifters and burglars and the inward focus on negative emotions described by some violent offenders. The inward focus caused by strong emotion, could lead the individual to neglect consideration of long term consequences, instead concentrating on their immediate concern (Bouffard, Bry, Smith & Bry, 2008). This understanding of motivation is particularly important when considering an offender making a series of choices that appear to be putting him or herself under more pressure, a similar finding to that of Beauregard and LeClerc (2007) in their study on sex offenders described above. In many cases these choices are made as the path of least resistance, but result in the offender perceiving that they have no other choice but to 'lash out', behave violently, or become aggressive in order to achieve 'pain neutrality'.

If a decision making approach capable of encompassing these themes could be developed, it would have considerable benefit to the study of offending behaviour, and to those working with offending individuals. It would not only provide a heuristic tool for understanding how individuals make decisions to commit an offence, but could also provide an understanding of how an offender may feel an offence is the best or only choice of action. The primary element of this model would be to identify which offending purpose was currently at play - whether the individual was aiming to achieve an outward goal (that is gaining something) or to minimise or avoid an inward state, that is, to maximise utility or minimise disruption. This understanding has the potential to contribute also to knowledge of how these decisions can become reversed and feed into established knowledge of the desistance process.

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