

Table 2—Sleepwalking and Violent Behavior

Case Name or Reference	Violent Behavior	Circumstances	Evaluation	Verdict of Court
Arizona v. Falater <sup>1</sup> (1999)	Two attacks on victim 1. Stabbed wife 44 times 2. 45 minutes later found her apparently alive, dragged her to swimming pool and held head underwater	1. First attack not witnessed. Defense suggested sleepwalking defendant had exited house to fix pool pump. Victim followed him out and attempted to stop him resulting in attack 2. Witnessed by neighbor. While victim lay motionless on patio in back yard, defendant stood over her, left scene, retrieved work gloves from garage, returned to body and moved her in several planned stages to pool, pushed her in and held head underwater. Victim did not resist.	1. Not witnessed, if defense theory correct, could have been provoked by victim 2. Unprovoked, victim was near death and could not resist.	Convicted
R. v. Parks <sup>2</sup> (1985) Canada	Stabbed mother-in-law to death, stabbed father-in-law who survived.	Defense experts report they believe defendant was found wandering in house by his in-laws, who attempted to restrain him.	Probably provoked attack due to in-laws physical contact	Acquitted
Bonkalo #5	Killed night watchman with gun	Awakened early in night by wife who was shouting incorrectly there were burglars in house. Grabbed gun, went to window and shot night watchman on street.	Provoked	Not Reported
Mass. V. Tirrel (1841) Boston	Cut throat of lover, set fire to room.	Approximately 4 AM loud bang heard, followed by someone running from home and fire breaking out. Defendant left city and went into hiding. Eventually captured in New Orleans several months later.	Defense included extensive testimony by family members and other regarding defendant's prior sleepwalking, but his behavior at scene is incompatible with current knowledge. Setting fire to room to cover up crime, fleeing scene and going into hiding are inconsistent behaviors.	Acquitted
Indiana v. McLain (1993)	Assaulted police officers, resisted arrest	Severely jet lagged. Only 15 hours of sleep in previous 4 days. 1.5 beers and marijuana. While a passenger in a car, stopped. Police officer approached. Stated incorrectly that he knew officer, got out of car and sat down in police car. Officer drove him over to where friends were. Both exited police car. Defendant assaulted officer. Was subdued by several officers.	Proximal cause of attack not clear. Potentiating factors sleep deprivation and alcohol present. Amnesia for event. Was in close proximity to victim	Convicted.
US v. Clayton (2000) <sup>3</sup>	Hit victim in head with hammer several times. Chased victim down street with hammer.	Requested to borrow hammer from fellow officer. Then requested screwdriver. When victim turned around, attacked him with hammer	Unprovoked	Convicted
California v. Reitz (2004)	Smashed flowerpot against girlfriend's head, dislocated elbow and wrist, stabbed repeatedly in back of neck with his pocketknife resulting in her death.	Defendant stated he awoke after dreaming about intruder. Stated type of wounds to neck similar to those he used to kill sharks.	Close proximity. Significant history of sleepwalking behaviors acknowledged by prosecution. However, his violent behavior was not thought to be out of character as he had history of domestic violence while awake.	Convicted
R. v. Lowe (2005) Manchester England	Beat father to death with repeated attacks in 3 locations of his father's home, resulting in 90 separate injuries	Both defendant and victim were severely intoxicated. Defendant apparently went to sleep in a separate room from victim. Beating continued on at least 3 occasions on different floors of the house and ended on the front walk of house.	Were apparently not sleeping in close proximity. Repeated nature of beatings in different locations not consistent with typical sleepwalking violence.	Acquitted.
R. v. Catling <sup>4</sup> (2005) Dorset, England	Stabbed girlfriend 9 times and cut throat.	Victim attacked while asleep and lying motionless in bedroom. Defendant in living room. Defendant severely intoxicated along with at least 6 tablets of zopiclone - a sleeping pill. Had argued with victim. Victim had threatened to prevent him from seeing daughter.	Unprovoked attack.	Eventually withdrew sleepwalking defense and pleaded guilty
Pennsylvania v. Ricks-ger <sup>5</sup> (1993)	Shot wife in hip. Bullet deflected upward resulting in her death.	Approximately 1 hour after reported bedtime defendant awakened by sound of gunshot. He had retrieved gun from hiding place under mattress and shot wife in hip. Called police.	Pt. Found to have severe obstructive sleep apnea based on clinical history and polysomnography. Coroner stated this was not a homicide because of manner in which gun was fired. Provocation unknown.	Convicted

<sup>1</sup>The author appeared as an expert witness for the prosecution in this case in Maricopa County, Arizona. <sup>2</sup>The author appeared as an expert witness for the prosecution in this U. S. Army General Court Martial case. <sup>3</sup>The author acted as a scientific consultant for the Crown Prosecution Service in this case. The sleepwalking defense was eventually withdrawn and defendant sentenced to life in prison.

## Parassonnie del sonno NREM e comportamenti violenti

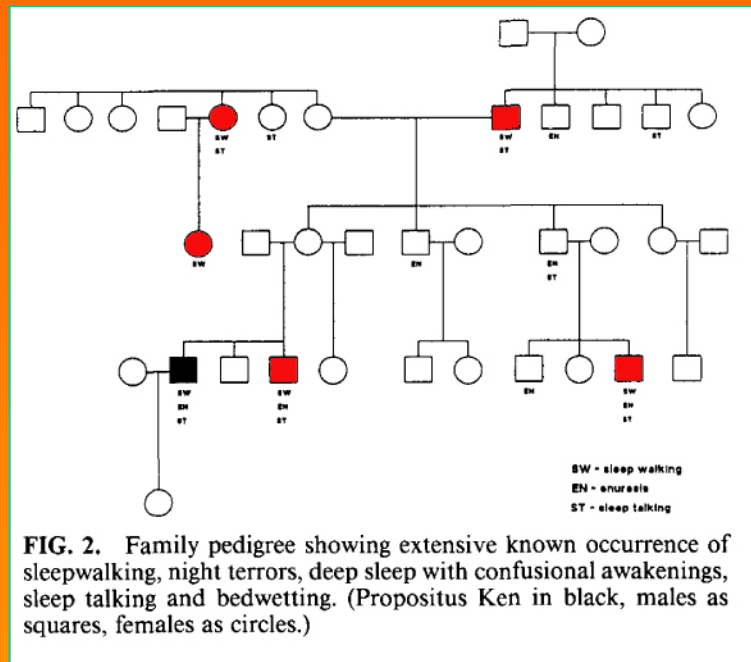
## Sonnambulismo

- Uno dei più clamorosi casi di sonnambulismo è stato quello di Kenneth Parks, di Toronto, nel 1987, accusato per l'uccisione della suocera e il ferimento del suocero. L'allora 23 enne soffriva in quel periodo di insonnia, dovuta a un momento difficile: era senza lavoro ed aveva diversi debiti di gioco.
- La mattina del 23 maggio 1987 si è alzato dal letto, è salito in macchina ed ha guidato per 23 km fino a casa dei suoceri, dove ha accoltellato a morte la suocera e ferito il suocero, coi quali aveva peraltro avuto fino a quel momento ottimi rapporti.
- Parks si è recato poi in una stazione di polizia dove ha detto ad un agente: “Credo di avere ucciso delle persone”, per esclamare subito dopo “le mie mani!“, rendendosi conto solo in quel momento di avere profondi tagli su di esse, che hanno poi richiesto un intervento chirurgico

*Medico-legal Issues*

Homicidal Somnambulism: A Case Report

\*R. Broughton, †R. Billings, ‡R. Cartwright, §D. Doucette, †J. Edmeads, §M. Edwardh, #F. Ervin, †B. Orchard, †R. Hill and \*\*G. Turrell



Familiarità del disturbo  
(esiste un chiaro e  
dimostrato ruolo dei  
fattori genetici)

TABLE 2. Sleep measures during initial incarceration in detention center and after long-term oxazepam administration

	Jan 22, 1988	Jan 23, 1988	July 25, 1989 <sup>a</sup>	Normal range <sup>b</sup>
Time in bed (minutes)	343.3	393.7	436.0	420-460
Sleep period duration (minutes)	321.3	249.0	349.5	403-446
Total sleep time (minutes)	287.0	229.3	361.0	397-441
Sleep efficiency (%)	89.3	92.1	91.5	89-100
Sleep latency (minutes)	21.7	144.3	23.0	5-32
SWS latency (minutes)	10.0	9.7	24.0	10-31
REM latency (minutes)	100.3	100.0	131.5	56-120
Waking after sleep onset (%)	10.7	7.9	8.5	0-4
Stage 1 (%)	8.8	14.7	17.6	2-7
Stage 2 (%)	34.9	45.5	54.8	38-53
Stage 3 (%)	13.0	10.8	0.8	4-8
Stage 4 (%)	15.1	12.6	0.0	8-20
REM sleep (%)	17.5	8.7	18.4	18-30
REM period efficiency (%)	97.0	76.0	99.0	80-100
Mean REM period duration (minutes)	19.2	14.8	24.3	18-40
Mean cycle length (minutes)	87.3	147.3	117.5	80-135
No. awakenings > 1 minute	7	10	7	0-7
No. stage shifts	128	170	148	25-60
No. stage shifts/hour	23.9	41.0	22.5	4-8
No. SWS-to-wake awakenings	5	8	0	0-3

<sup>a</sup> A repeat follow-up recording the next night on July 26, 1989 contained essentially identical findings.

<sup>b</sup> Normal values for patient's age and sex are from published sources [especially Williams et al. (39)] and from the data bank of the Ottawa General Hospital sleep laboratories.

## Esame polisonnografico

(valutaz. della frammentarietà del sonno)

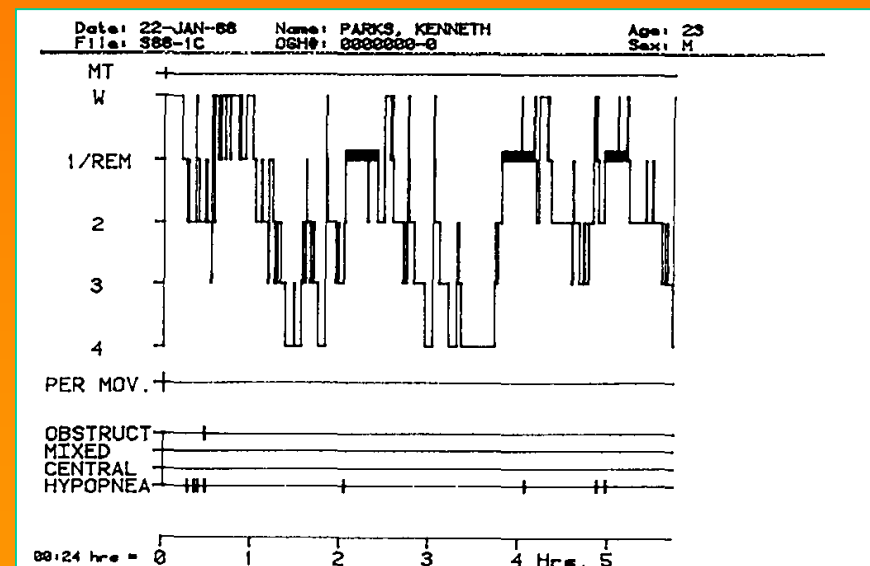
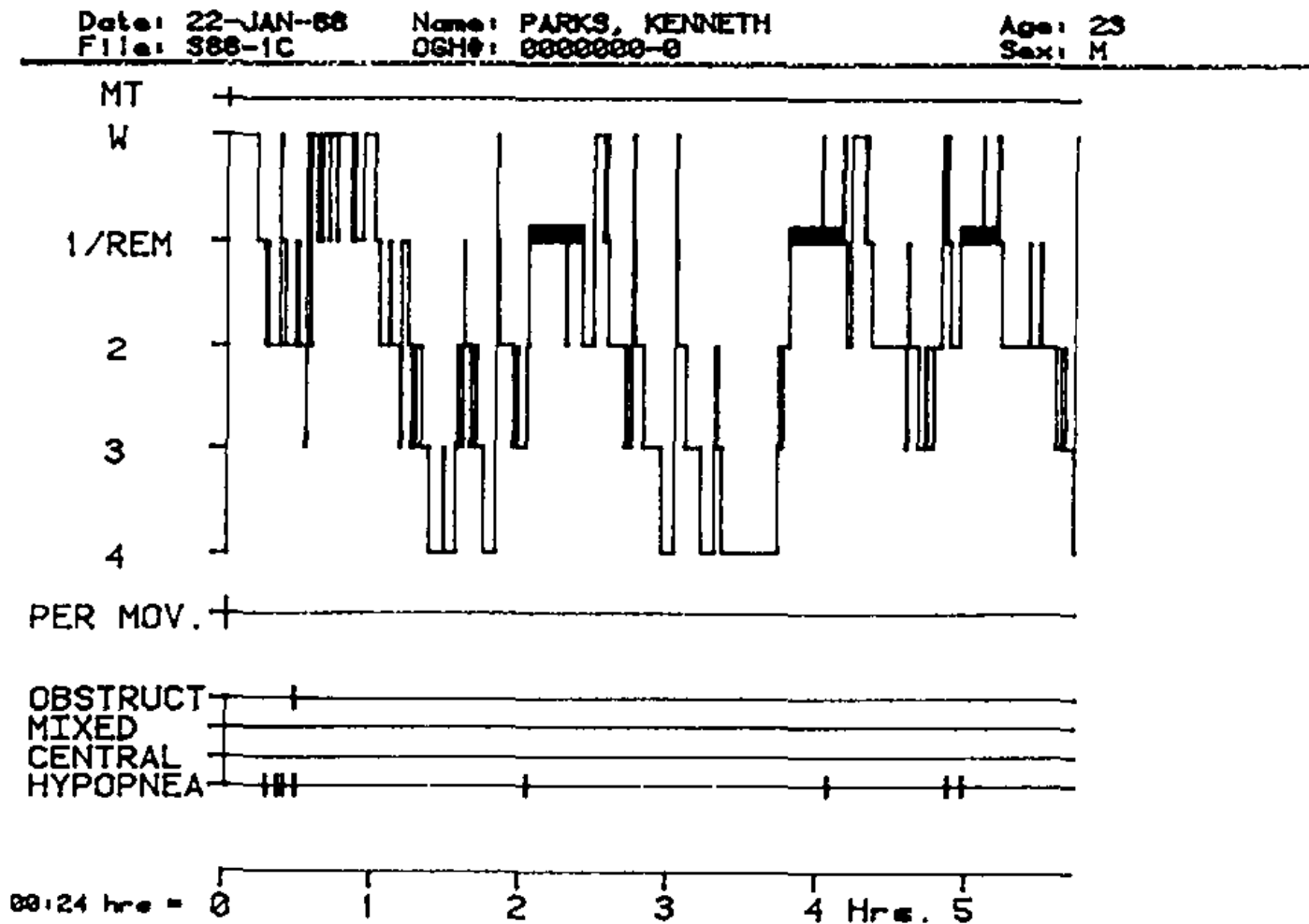
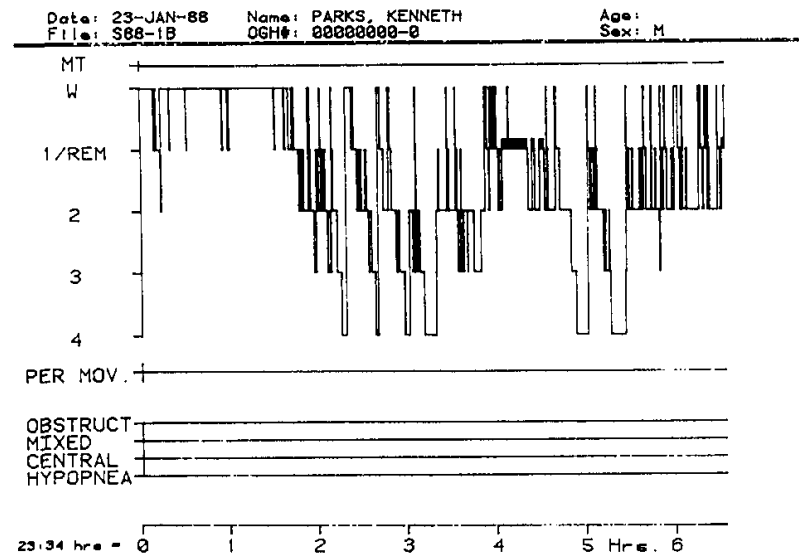


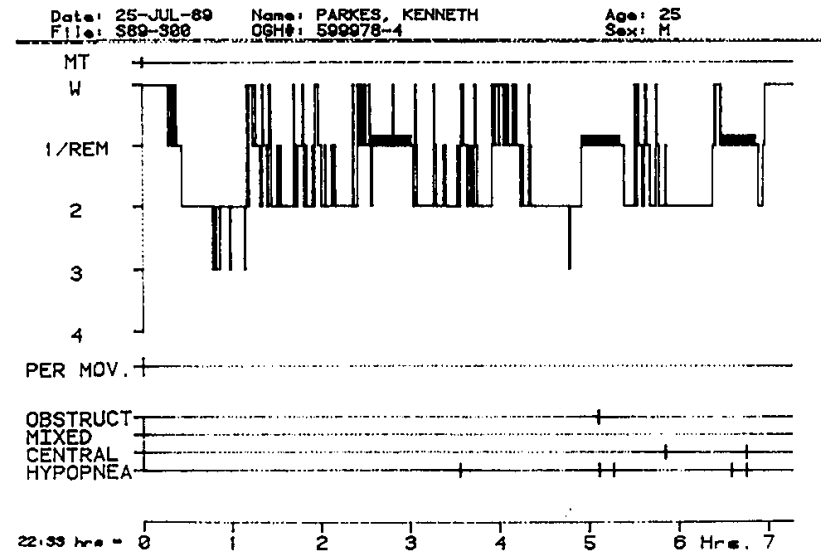
FIG. 3. Sleep histogram on first night in detention center. It shows state instability (especially of nonrapid eye movement sleep), five direct SWS-to-wake arousals (at about 0.4, 1.8, 2.8, 3.2 and 5.8 hours after sleep onset) and high amounts of SWS.



**FIG. 3.** Sleep histogram on first night in detention center. It shows state instability (especially of nonrapid eye movement sleep), five direct SWS-to-wake arousals (at about 0.4, 1.8, 2.8, 3.2 and 5.8 hours after sleep onset) and high amounts of SWS.



**FIG. 4.** Sleep histogram of subsequent detention center night, which included three forced arousals. It shows greater sleep onset insomnia, high instability of nonrapid eye movement sleep and eight direct SWS-to-wake arousals (two of which were experimentally induced),



**FIG. 5.** Follow-up PSG some 18 months later, showing suppression of SWS (on chronic benzodiazepine therapy) with maintenance of sleep fragmentation.

**Replicabilità delle  
valutazioni cliniche  
polisonnografiche**

**Scomparsa del sonno  
profondo dopo l'avvio  
al trattamento  
farmacologico**

## Il caso di Mr. A

In Arizona, un uomo fu assolto nonostante avesse colpito la moglie con 26 coltellate, perché considerato affetto da sonnambulismo nel momento dell'omicidio

FIGURE 1. Pedigree Showing Reported Occurrence of Sleepwalking, Bed-Wetting, Sleep Talking, Night Terrors, and Teeth Grinding (Bruxism) Among Relatives of Mr. A

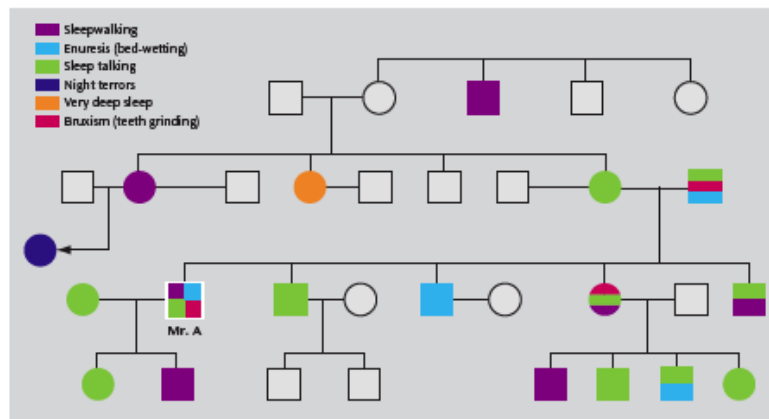
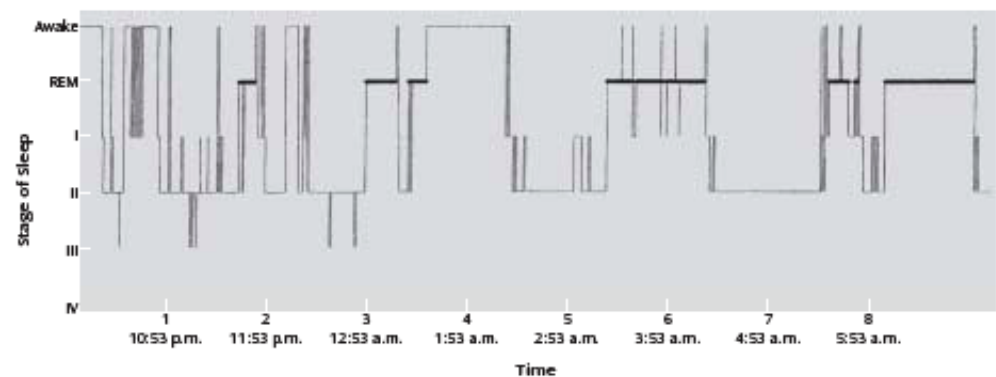


FIGURE 2. Hypnogram for First Night of Sleep Studies for Mr. A\*



\* Shows sleep instability in all stages of sleep, especially the first 2 hours.

## Sleepwalking Violence: A Sleep Disorder, a Legal Dilemma, and a Psychological Challenge

Rosalind Cartwright, Ph.D.

**Objective:** The purpose of this article is to further an understanding of the psychological state when aggression follows an episode of partial arousal from early non-REM sleep during which some areas of the brain appear to be functioning as in waking while others appear to remain in a state of sleep. To illustrate this, the author examines a case of homicide for which the defense argued lack of responsibility due to sleepwalking.

**Method:** A review of the forensic literature on sleepwalking aggression and sleep studies suggests that these fall into one or both of two DSM-IV-TR diagnoses: sleep-

walking disorder and sleep terror disorder. The new case, which would meet criteria for an overlap disorder in which sleepwalking is followed by sleep terror, is compared to one previously published.

**Results:** These findings support sleepwalking violence as a distinct overlap disorder with common disturbed psychological functioning during and for a period up to 1 hour following an aggressive episode.

**Conclusions:** Research clarifies the pathology of this disorder and highlights the need to both refine the differential diagnosis and test the efficacy of treatment protocols.

(*Am J Psychiatry* 2004; 161:1149-1158)

**TABLE 1. Criteria for Sleepwalking Disorder Met by Four Subjects Evaluated in the Rush Sleep Laboratory After Reported Injury to Another and by Mr. A and Mr. B**

Criterion	Previous Cases, in Which Sleepwalking Disorder Was Ruled Out				Current Cases, in Which Sleepwalking Disorder Was Diagnosed	
	Subject 1	Subject 2	Subject 3	Subject 4	Mr. A	Mr. B <sup>a</sup>
<b>DSM-IV-TR</b>						
Arousals in slow-wave sleep	Yes	Yes	Yes		Yes	Yes
Unresponsiveness during episode	Yes		Yes		Yes	Yes
Amnesia for episode	Yes				Yes	Yes
Confusion after awakening	Yes				Yes	Yes
Clinical distress					Yes	Yes
Not due to substance use or general medical condition	— <sup>b</sup>	— <sup>b</sup>	Yes	— <sup>b</sup>	Yes	Yes
<b>Other</b>						
Personal or family history of sleepwalking	Yes	Yes			Yes	Yes
No motivation for attack	Yes	— <sup>c</sup>	— <sup>c</sup>	— <sup>c</sup>	Yes	Yes
No cover-up	Yes	Yes	— <sup>d</sup>	Yes	Yes	Yes

<sup>a</sup> This case has been described previously (10).

<sup>b</sup> Marijuana and/or alcohol use before event.

<sup>c</sup> Marital infidelity; attacked wife.

<sup>d</sup> Immediately after strangling his wife, this subject checked to ensure the children were asleep, put his wife's body in the trunk of her car, abandoned the car, and walked home (cover-up).

## SLEEPWALKING VIOLENCE

TABLE 2. Psychological Functioning During Violent Sleepwalking Episodes of Mr. A and Mr. B

Function	Mr. A	Mr. B <sup>a</sup>
Perception: spatial orientation	Mr. A demonstrated good spatial orientation. He walked from his bedroom to the garage, where he kept his tools and work clothes, changed clothes, and began to repair the swimming pool motor with a knife, which was identified as that used in his wife's death.	Mr. B's spatial orientation was intact, as indicated by his ability to drive to his in-laws' house about 8 miles away, a 15-20-minute drive, before attacking his father-in-law, who was beaten unconscious, and his mother-in-law, who was stabbed with a knife from her own kitchen.
Hearing	Mr. A did not hear his wife's screams, which were heard by the next-door neighbor.	Mr. B did not hear his mother-in-law's screams, which were heard by the two children in an upstairs bedroom.
Facial recognition	Mr. A did not recognize his wife and reported that what hurt him most was that "I did not know I was killing her, but she did."	Mr. B did not recognize his victim and reported that he "woke up over the face of a woman, with a 'Help me' look on her face."
Motor and affect control	Mr. A appeared able to perform the routine work on the pool motor he intended to finish the next day. It is presumed that his wife came out to lead him back to bed and was attacked in consequence. It appears that after the attack Mr. A returned his tools to their usual place in the garage, changed out of his work clothes, went back into the house, and applied a bandage. He then returned outside, stared at the body, got work gloves, and dragged the remains into the pool before going back to bed and to sleep. He appeared "bewildered" to the neighbor but did not hide the body.	Mr. B appeared to be able to perform the routine of driving and entering the house he and his wife had planned to visit the next day. The defense lawyer's conjecture was that he lost affect control when challenged by the in-laws, who were sleeping in a first-floor bedroom. They may have attempted to restrain him. After the attack, Mr. B attempted to calm the children's fears, but they report he was not capable of articulate speech. He then drove to a police station and announced, "I think I may have killed some people." He made no attempt to cover up the crime.
Memory	Mr. A's mind appears to have cleared when he was awakened by the police, but he retained no memory of having left the bed earlier, of having gone out to work on the pool motor, or of the stabbing and drowning of his wife.	Mr. B's mind began to clear after the attack, when he became aware of the children's cries behind their bedroom door. However, he had no memory of leaving home, of driving to the in-laws' home and entering, or of the beating or stabbing. He did ask if he could be helped by hypnosis to regain his memory. When asked if he would want that, he paused for a moment before he answered, "Only if you could take it away again."
Motivation	Mr. A started the event that led to his wife's death with a benign sleep walk, carrying through on a promise to her to fix the filter on the pool motor, to complete a job she had requested. She had also advised him to do nothing about the stressful decision he faced the next day, whether to tell his manager and team the truth. Mr. A spoke of his inability to comprehend how he could kill his best friend, the only woman he ever loved.	The motivation for the sleep walk, the initial portion of the event, is clearer than the sleep terror aggression that followed. Mr. B drove to his mother-in-law's house not to kill her but because he went to sleep that night with the next day's visit on his mind. He had promised his wife to face his problems by telling his in-laws the truth about his gambling and financial problems. Mr. B was still puzzled by his behavior when he was interviewed in jail, and he asked, "Why would I do that when I had nothing to gain and everything to lose?"

<sup>a</sup> This case has been described previously (10).

**Table 3—Sleep Terrors Followed by Sleepwalking and Violent Behavior**

Case Name or Reference	Violent Behavior	Circumstances	Evaluation	Verdict of Court
R. v. Cogden <sup>48</sup> (1950) Australia	Killed daughter in next room with axe.	Previous night had entered daughter's room in apparent somnambulistic state and made brushing motions on face. Reported to physician who prescribed sedative. Next night had vivid image of soldiers attacking daughter. Left house, grabbed axe, entered daughter's room and "defended her" by hitting twice with axe.	No provocation. Inappropriate response to frightening imagery.	Acquittal
Howard and D'Orban <sup>49</sup> (1987)	Strangled wife to death	One hour after falling asleep had frightening image of 2 Japanese soldiers chasing him and wife through jungle. He strangled one soldier and kicked at the other.	Close proximity to victim. No provocation. Inappropriate response to frightening imagery	Acquittal
Podolsky <sup>48, 51</sup> (1957)	Shot to death father and brother, wounded mother	16 yr. old girl "dreamed" that burglars had entered home and were killing family. Grabbed 2 guns and fired 10 shots total.	No real provocation. Inappropriate response to frightening imagery.	Acquittal
R. v. Griggs (1859)	Threw baby out window	Reported vivid "dream" that someone was shouting fire. Tried to save child by tossing out window.	No provocation. Inappropriate response to frightening imagery. Close proximity to victim.	Acquittal
R. v. Nhete (1941) S. Africa	Killed man with axe	While sleeping around a camp fire "dreamt" he was being burnt. Jumped up and grabbed axe.	No provocation. Inappropriate response to frightening imagery. Close proximity to victim	Not reported
R. v. Dhalami (1955)	Stabbed man to death	Dreamt he was being attacked by several men. He defended self.	No provocation. Inappropriate response to frightening imagery. Close proximity to victim	Not reported
R. v. Ngang (1960)	Stabbed man	Image of being attacked by evil spirit. Defended self	No provocation. Inappropriate response to frightening imagery. Close proximity to victim	Convicted, but reversed on appeal
R. v. Price (1961) mentioned in Williams, G. <sup>49</sup>	Marine attacked corporal with bayonet	Reported awakening from dream	? Close proximity to victim	Not reported
Howard and D'Orban <sup>49</sup> (1987)	Stabbed and beat friend with club	Fell asleep in sleeping bag next to victim's bed. Awakened about 2 hours after sleep onset. Had frightening image of 3 figures trying to attack him. Has memory of hitting and punching attacker. Awoke to find friend severely injured.	No provocation. Inappropriate response to frightening imagery. Close proximity to victim	Acquitted
Ohio v. Himes (1993) Ohio	Aggravated burglary and assault on elderly residents of home with rolling pin and knife	Had been awake for 22 hrs. After consuming 2-3 bottles of wine, fell asleep and awakened with a feeling of panic and sense someone was chasing him. Started running through woods and came upon house. Entered house picking up rolling pin and butcher knife. Walked up stairs where he encountered elderly resident walking to bathroom. Scuffle broke out between them.	Victim came to sleepwalker. Defendant had an extensive history of sleep terrors and sleepwalking documented in medical records prior to this incident. Alternate dx would be severely intoxicated behavior.	Acquitted
HMS Advocate v. Fraser <sup>44</sup> (1878) Scotland	Smashed baby against wall.	Reported vivid image of wild animal rising from floor and attacking child. Tried to defend child from beast, grabbed child instead, threw against wall killing him	No provocation. Close proximity to victim. Inappropriate response to frightening imagery	Acquittal

Parasonnie del sonno NREM  
e comportamenti violenti

Terrori notturni  
accompagnati  
da sonnambulismo





## Asti, accoltellò la madre durante un episodio di sonnambulismo: il giudice lo rimette in libertà

*I medici: "Il suo cervello non era ossigenato, incapace di intendere e volere"*



Lo leggo dopo

25 febbraio 2017



Ha accoltellato la madre in stato di sonnambulismo, ed era quindi incapace di intendere e di volere, Pier Luigi Sibona, il commerciante di 51 anni a processo per il tentato omicidio dell'anziana donna. Lo ha stabilito il giudice del tribunale di Asti Alberto Giannone che, al termine dell'incidente probatorio, ha disposto la revoca degli arresti domiciliari dell'uomo. L'episodio lo scorso 18 settembre a Benevello, in provincia di

Cuneo. "I periti - spiega l'avvocato dell'uomo, Roberto Ponzio - hanno accertato che il fatto delittuoso è stato commesso con automatismo del sonno, perché il cervello dell'imputato non ossigena e si determinano questi comportamenti automatici, non frutto di coscienza e volontà". Ora gli atti torneranno al pm Delia Boschetto che dovrà esprimersi a riguardo. Il caso Sibona "è unico - conclude il legale - e potrebbe far riscrivere alcune pagine della storia della letteratura scientifica".

**Table 1—Confusional Arousals and Violent Behavior**

Case Name or Reference	Violent Behavior	Circumstances	Evaluation	Verdict of Court
Fain v. Commonwealth <sup>5</sup> (1879) (Kentucky, USA)	Shot hotel porter 3 times.	Porter entered darkened hotel room unannounced and attempted to awaken defendant	Provoked by porter	Convicted and reversed on appeal
Raschka <sup>46</sup> (1984)	Assaulted 2 police officers	Police officers found intoxicated defendant asleep in car, attempted to wake up	Provoked by police officers	Not reported
Bradely v. State <sup>47</sup> (1925) Texas	Shot girlfriend	Disturbed by noise while asleep, jumped up with gun and started firing. Found girl friend dead on bed	Provoked by noise?	Acquitted
Tibbs v. Commonwealth (1910) Kentucky	Beat victim with fists, stabbed to death with knife.	Victim attempted to arouse defendant from sleep.	Provoked by victim	Convicted and reversed on appeal.
Oswald and Evans <sup>48</sup> (1985) Tarsch, 1986	Stabbed husband 3 times, back, chest, thigh	Suffering from cough, shared bed with husband. Awakened by cough? Where did knife come from?	Possibly provoked by cough.	Not reported
As reported in Bonkalo <sup>19</sup> #1 (1600)	Knight stabbed friend to death	Was asleep when friend attempted to awaken him	Provoked	Not reported
As reported by Bonkalo # 3	Killed wife with axe	Defendant was awakened by noise around midnight. Grabbed axe and attacked "stranger" in room.	Provoked	Not Reported
Podolsky <sup>49</sup> R. v. Borshears (1960) England	Strangled prostitute while intoxicated	Awakened to find hands around neck of woman he had slept with. Involvement of alcohol.	Provoked??	Acquitted
Bonkalo #4	Killed employee entering office with gun	Night shift supervisor fell asleep in office. Approximately 30 minutes later, employee entered office and awakened him. Pulled gun in confusion and fired	Provoked	Not Reported
Bonkalo #6	Stabbed boy to death.	Boy shared room with defendant along with 13 others. He tried to pick up something next to the sleeping defendant. Defendant was aroused by disturbance and grabbed knife and stabbed him	Provoked	Not Reported

**SLEEP AND VIOLENT BEHAVIOR**

Disorders of Arousal From Sleep and Violent Behavior: The Role of Physical Contact and Proximity

Mark R. Pressman, PhD

Sleep Medicine Services, The Lanskanau Hospital, Wynnewood, PA, and Paoli Hospital, Paoli, PA; Department of Medicine, Jefferson Medical College, Philadelphia, PA

# Parasonnie del sonno REM

TABLE 1—Cases of RBD\* associated with potentially lethal behaviors, usually during dream-enactment.

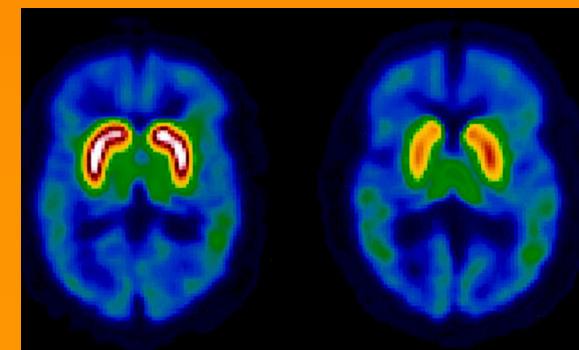
Nocturnal (RBD) Behaviors	Gender	Age (years)	Duration, RBD (years)	Clinical Disorder†	References
Choking/Headlock (bed partner/caregiver)	Male	27	2.5	—	3
	Male	45	4.0	Narcolepsy	19
	Male	60	3.0	Multiple system atrophy	20
	Male	63	10.0	Potential Shy-Drager syndrome	21
	Male	64	0.5	—	22
	Male	65	7.0	Potential Parkinson's disease	3,12
	Male	67	27.0	Potential Parkinson's disease	3,12,23
	Male	67	3.5	? (Uncertain)	3
	Male	68	5.0	Alzheimer's disease	24
	Male	69	4.0	Parkinson's disease	25
	Male	69	7.0	—	15
	Male	70	0.3	Dementia	10
	Male	70	6.0	Stroke	3,10
	Male	72	17.0	Dementia with Lewy bodies	26
	Female	72	10.0	—	27
	Male	77	7.0	Dementia with Lewy bodies	28
	?	?	?	?	29
	?	?	?	?	29
	?	?	?	Parkinson's disease (53 cases)	30
	Female	?	?	Psychiatric disorder	31
Defenestration	?	?	?	Psychiatric disorder	31
	?	?	?	Psychiatric disorder	31
Near-defenestration	?	(child)	?	?	32
	Male	27	2.5	—	3
	Male	67	27.0	Potential Parkinson's disease	3,12,23,33
	Male	67	5.0	Potential Parkinson's disease	25
	Male	70	6.0	Stroke	3,10
	Male	80	(several years)	—	34
	?	?	?	?	29
Diving from bed (into furniture/wall/floor)	Female	25	0.5	Multiple sclerosis	35
	Male	65	7.0	Potential Parkinson's disease	3,33
	Male	70	2.0	Cerebrovascular disease	3
	Male	70	6.0	Stroke	3,10
	Male	73	5.0	—	6
	Male	73	2.0	Cerebrovascular disease	36
	Male	73	10.0	—	37
	Female	74	4.0	SSRI-induced	1
	Female	81	(immediate)	Stroke	38
	?	?	?	?	29

Disturbo  
comportamentale del  
sonno REM, *REM*  
*Behavior Disorder*  
(RBD)

**Table 2** Case reports of sleep-related murder and legal cases during which sleep-related murder was used as a defence (irrespective of the final verdict)

Case name (reference)	Murder	Nature of episode	Verdict of court
Borkalo (Borkalo, 1974)	Defendant awakened by noise around midnight. Grabbed axe and attacked 'stranger in room', killing his wife instead	Confusional arousal	Not reported
Borkalo (Borkalo, 1974)	Night shift supervisor fell asleep in office, ~30 min later employee entered office and awakened him, supervisor pulled gun in confusion and fired, killing employee	Confusional arousal	Not reported
Borkalo (Borkalo, 1974)	Boy tried to pick up something next to sleeping defendant, who was aroused by disturbance, grabbed knife and stabbed boy	Confusional arousal	Not reported
Borkalo (Borkalo, 1974)	Knight stabbed friend to death (was asleep when friend tried to awaken him)	Confusional arousal	Not reported
Fain versus Commonwealth as cited by Pressman (2007)	Porter entered darkened hotel room unannounced and awakened defendant who shot hotel porter three times	Confusional arousal	Convicted and reversed on appeal
Tibbs versus Commonwealth as cited by Pressman (2007)	Victim attempted to arouse defendant from sleep, was stabbed to death with knife	Confusional arousal	Convicted and reversed on appeal
Bradely versus State as cited by Pressman (2007)	Disturbed by noise while asleep, jumped up with gun and started firing, found girlfriend dead on bed	Confusional arousal	Acquitted
Podolsky (Podolsky, 1959)	Awakened to find hands around neck of prostitute he had slept with	Confusional arousal	Not reported
HMS advocate versus Fraser as cited by Pressman (2007)	Reported image of wild animal rising from floor and attacking child. Tried to defend child from beast, grabbing child instead and smashing him against the wall, killing him	Sleep terror followed by sleepwalking	Acquitted
R. versus Nhethe as cited by Pressman (2007)	While sleeping around campfire, dreamt that he was being burnt. Jumped up and grabbed axe, killing a man close to him	Sleep terror followed by sleepwalking	Acquitted
R. versus Cogden as cited by Pressman (2007)	Vivid image of soldiers attacking daughter. Left house, grabbed axe, entered daughter's room and 'defended her' by hitting twice with axe, killing her	Sleep terror followed by sleepwalking	Acquitted
R. versus Dhalami as cited by Pressman (2007)	Dreamt he was being attacked, 'defended himself', stabbing man to death	Sleep terror followed by sleepwalking	Not reported
Podolsky (Podolsky, 1959)	Dreamed that burglars had entered home and were killing family. Grabbed two guns and fired 10 shots, killing father and brother, injuring mother	Sleep terror followed by sleepwalking	Acquitted
Howard and D'Orban (Howard and D'Orban, 1987)	Image of two Japanese soldiers chasing him and wife through jungle. In his dream, he strangled one soldier and kicked another, killing his wife by strangling her instead	Sleep terror followed by sleepwalking	Acquitted
Borkalo (Borkalo, 1974)	Woken up by wife who was shouting incorrectly that there were burglars in house. Grabbed gun, went to window and shot night watchman instead	Sleepwalking	Not reported
Pennsylvania versus Ricksers as cited by Pressman (2007) and Nofzinger and Wettstein (Nofzinger and Wettstein, 1995)	Shot wife in hip. Bullet reflected upward resulting in her death	Sleepwalking	Convicted
Nofzinger (Nofzinger and Wettstein, 1995)	Shot his wife with gun ~1h after falling asleep. Was known for sleep apnoea and chronic respiratory failure	Sleepwalking	Convicted
R. versus Parks (Broughton, 1994)	Stabbed mother-in-law to death and injured father-in-law after a 20 min ride in car	Sleepwalking	Acquitted
Arizona versus Falater (Cartwright, 2004)	Stabbed wife 44 times, 45 min later found her apparently alive, dragged her to swimming pool and held head under water	Sleepwalking	Convicted
California versus Reitz as cited by Pressman (2007)	Smashed flowerpot against girlfriend's head, dislocated elbow and wrist, stabbed in back of neck with pocketknife, killing her	Sleepwalking	Convicted
R. versus Catling as cited by Pressman (2007)	Stabbed girlfriend nine times and cut throat while she was asleep. Involvement of zopiclone	Sleepwalking	Withdrew sleepwalking defense and pleaded guilty

Adapted from Pressman (2007a), with permission; R. = Rex/Ragina.



# Sexsomnia

## State v. James Kirchner —acquitted

Nel settembre del 2008 , James Kirchner andò due volte a processo in Oregon, con accuse di abuso sessuale per aver toccato una ragazza in modo inappropriato. Il signor Kirchner aveva precedentemente avuto una relazione con la madre della ragazza e stava a casa con la figliastra al momento in cui le autorità sono stati inviati per la casa per controllare i tre figli . Un vicino di casa preoccupato aveva inviato il Dipartimento dei servizi umani per la casa, preoccupati che i bambini non mangiavano bene e riferendo che la ragazza le disse che era stata toccata in modo inappropriato. Durante l'intervista, la ragazza testimoniò che il signor Kirchner aveva “strofinato” la sua vagina

Kirchner ammise alla polizia che lui sapeva delle affermazioni della bambina da sua madre, ma negò ogni accusa. D scrisse un incidente in cui stava avendo un sogno sessuale e mi era svegliato con la mano sulla gamba della bambina. Disse che era comune per i bambini addormentarsi sul letto con lui, e che la ragazza deve aver equivocato le sue azioni .

L'avvocato difensore di Kirchner documentò una storia di sonnambulismo e sonniloquio. La madre di Kirchner spiegò che, da giovane, avrebbe parlato una lingua strana durante il sonno. Kirchner trascorse i primi tre anni della sua vita in Germania, e ha avuto una babysitter tedesca. Anche se Kirchner non ha mai parlato tedesco da adulto, la madre avrebbe sentirlo parlare in una strana lingua nel sonno. Ulteriori indagini rivelarono che la lingua era una forma di tedesco che probabilmente è rimasto profondamente nella memoria di Kirchner , emergendo solo quando parlava nel sonno .

Kirchner è stato assolto in entrambi i processi.

## **Alan Ball Case (2007, England) —acquitted**

Nel 2007, Alan Ball, di West Lancashire, in Inghilterra, era andato a un veglione di Capodanno, aveva bevuto molto e si era addormentato su un divano. Ad un certo punto durante la notte, andò al piano di sopra e si mise a letto con una ragazza minorenni e la baciò sulle labbra .

Il 35enne camionista (e il padre) aveva una storia di sonnambulismo al momento dell'incidente e non aveva alcuna memoria degli eventi. Durante il processo la corte appurò che aveva una storia personale e familiare di sonnambulismo .

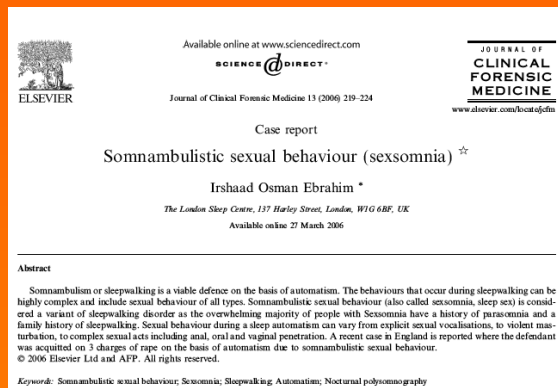
Dopo la testimonianza di esperti che l'imputato non aveva alcuna intenzione di abuso, perché stava dormendo, le accuse furono ritirate

## JB Case (2005) — acquitted

JB, un ragazzo di 22 anni, impiegato in servizi di informazione al momento del suo arresto all'inizio del 2005, fu svegliato dalla polizia circa alle 10:30 del mattino e arrestato con l'accusa di stupro. Non scelse neanche un legale, sostenendo di non aver alcun ricordo degli eventi per i quali era accusato. JB fu accusato di tre capi di imputazione per stupro, anale, vaginale e orale. Tutti e tre verificatisi in sequenza nell'arco di pochi minuti durante un unico incontro con la denunciante.

## JB Case (2005)

La vittima raccontò di avere avuto un rapporto di fiducia e amicizia per anni con JB e che era stata aiutata da lui a preparare il letto perché lei era ubriaca. Successivamente, JB si era recato a dormire su un divano in una stanza separata. Circa un'ora dopo era stata svegliata sentendo improvvisamente una mano che le accarezza i seni. Poi, in rapida successione, subì violenza anale e vaginale, per poi essere forzata a un rapporto orale. Dopo che JB lasciò la stanza lei si rivestì e mentre si apprestava a lasciare l'appartamento incrociò JB che aveva uno sguardo vitreo nel corridoio. L'unico ricordo di JB degli eventi dopo essere andato a dormire sul divano era di aver salutato l'amica mentre lasciava l'appartamento. Gli esami forensi accertarono la presenza di materiale biologico della vittima sul pene di JB. JB non fece alcun tentativo di negare le prove.

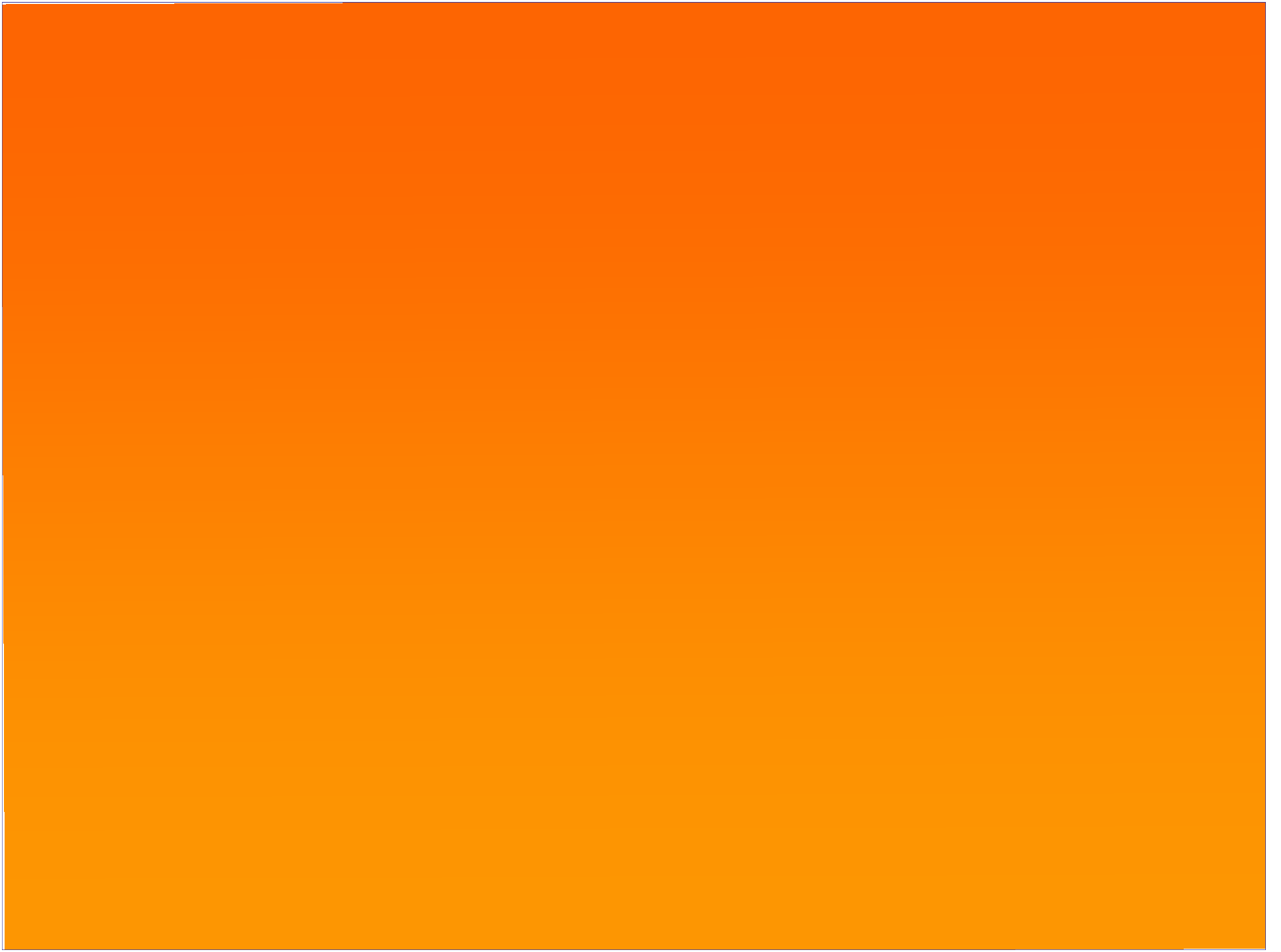


## 4. Medical guidelines for sleep-related violence

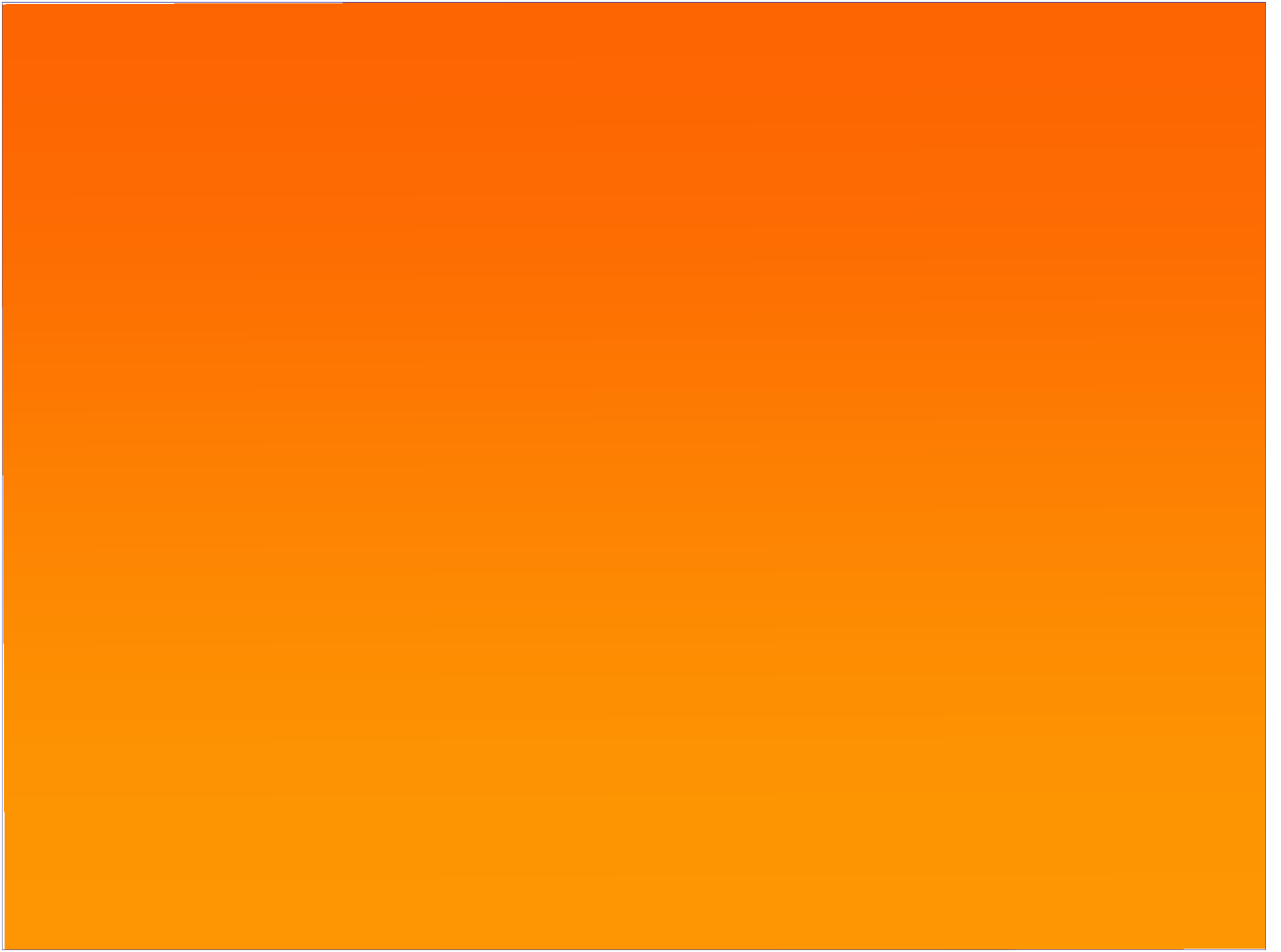
To assist in the determination of the causative role of an underlying sleep disorder in a specific violent act, the following proposed guidelines have been compiled in the medical literature.<sup>9–11</sup>

- There should be reason (by history or formal sleep laboratory evaluation) to suspect a bona fide sleep disorder. Similar episodes, with benign or morbid outcome, should have previously occurred.
- There is evidence of lack of awareness on the part of the individual during the event.
- The victim is someone who merely happened to be present, and who may have been the stimulus for the arousal.
- Immediately following the return of consciousness, there is perplexity without attempt to escape, conceal or cover-up the action.
- With high alcohol blood levels, some confusional behaviour on awakening might be expected.
- Other risk factors for sleep-related automatism are being male; having a previous history of parasomnias and sleepwalking; showing a sleep schedule disorder, e.g., shift workers; mood and anxiety disorders; occasional limb jerking while asleep; having a high daily caffeine intake; and, especially, consuming bedtime alcohol or, often, to have abused drugs.

Filmati mmc 1-2 (autoerotismo) in sonno  
NREM









Scott Falater, di Phoenix Arizona,  
violentò, buttò in acqua (piscina) e uccise  
con 44 coltellate (in tutto il corpo e da  
diverse direzioni) la moglie Yarmila



# Supreme Court upholds 'sexsomnia' rape conviction

6:23 am on 18 March 2017

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Dean Bedford

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A convicted rapist who claimed he should have not been found guilty because his actions were carried out while he was asleep has had his legal appeal rejected by the Supreme Court.



The Supreme Court ruled that the jury that convicted the man was properly directed by the trial judge. Photo: RNZ / Rebekah Parsons-King

The man, who has name suppression, claimed to suffer from "sexsomnia", a condition where people carry out sex acts unknowingly in their sleep.

The man was convicted of raping and indecently assaulting his wife.

She at first believed he was suffering from sexsomnia, but later came to have doubts.

The man's lawyer, Paul Dacre, argued the prosecution needed to prove the man was awake at the time of the offences.

But the Supreme Court ruled that the judge in the trial had directed the jury on the issue, and the jury had rejected the view that the man's actions were not deliberate.

No one at the trial had given evidence that the man had been diagnosed as suffering from sexsomnia and it was merely a possibility that he did have the condition, the court said in its judgment.

It said his wife had made it clear she did not want to have sex with her husband while she was asleep.

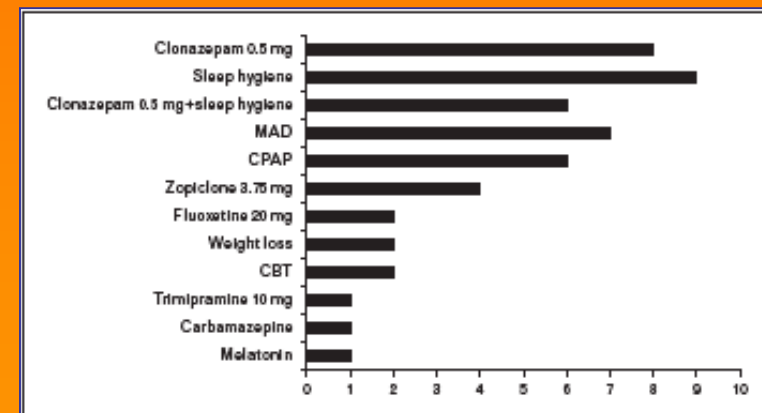
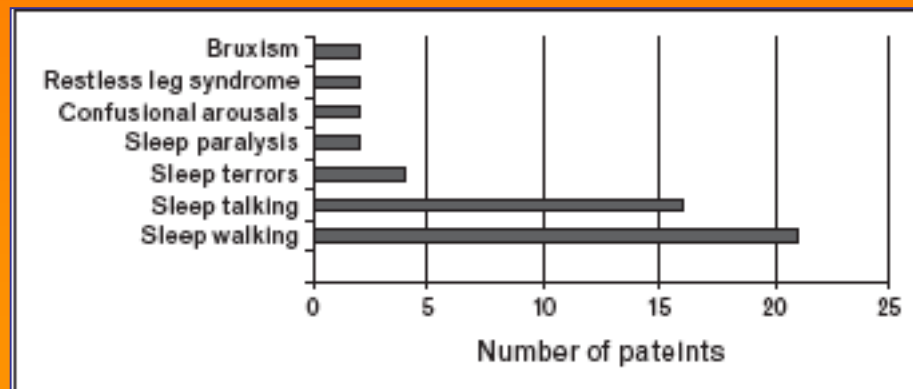
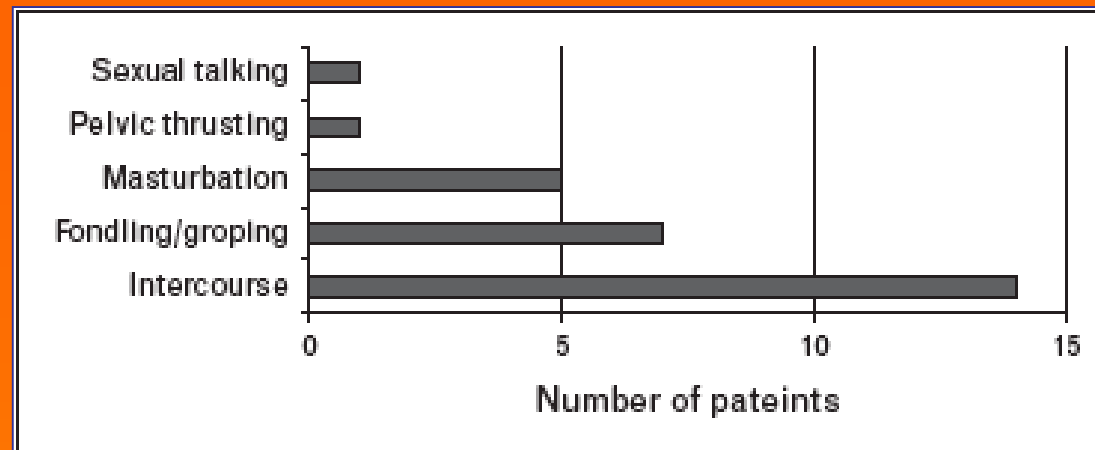
While at first she accepted his claim, she later came to have doubts when he admitted to being awake during some of the offences.

The man is serving a five-year jail sentence.

## **Table 1**—Sleep Related Disorders and Abnormal Sexual Behaviors and Experiences

- I) Parasomnias with abnormal sleep related sexual behaviors (sexual vocalizations/talking/shouting, masturbation, fondling another person, sexual intercourse with or without orgasm, agitated/assaultive sexual behaviors):
  - A) Confusional arousals (with or without obstructive sleep apnea)
  - B) Sleepwalking
  - C) REM sleep behavior disorder (RBD) (?)<sup>1</sup>
- II) Sleep related sexual seizures (sexual vocalizations/moaning/shouting, masturbation, libidinal hyperarousal, genital arousal, ictal orgasm, sexual automatisms, agitated/assaultive sexual behaviors)

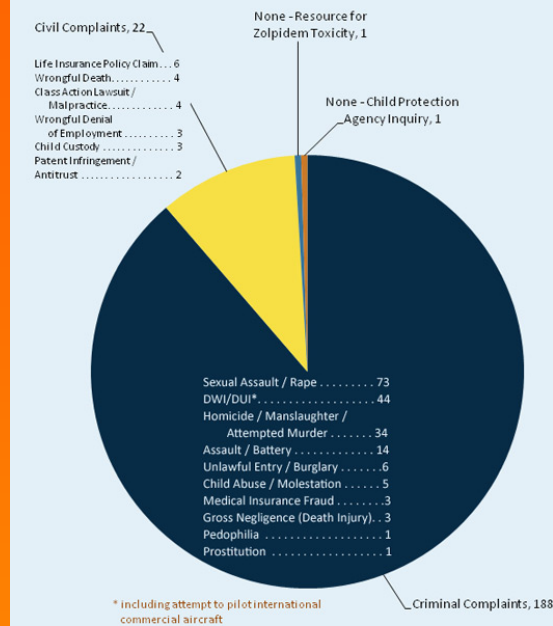
- III) Sleep disorders with abnormal sexual behaviors during wakefulness and wake-sleep transitions:
  - A) Kleine-Levin syndrome (broad range of hypersexual and deviant sexual arousal and behaviors)
  - B) Severe chronic insomnia (increased libido, genital arousal, compulsive sexual behaviors)
  - C) Restless legs syndrome (masturbation, rhythmic pelvic/coital-like movements)
- IV) Special clinical considerations:
  - A) Narcolepsy (compelling sexual hypnagogic/hypnopompic hallucinations and REM-onset dream attacks, cataplectic orgasm)
  - B) Sleep exacerbation of persistent sexual arousal syndrome (genital-sensory sexual arousal without increased libidinal arousal; sexual behaviors)
  - C) Sleep related painful erections and increased sexual activity (increased sexual behaviors—masturbation and intercourse)
  - D) Sleep related dissociative disorders (pelvic movements and other sexualized behaviors, attempted reenactments of past sexual/physical abuse scenarios)
  - E) Nocturnal psychotic disorders (sexual delusions/hallucinations after awakenings)
  - F) Hypersexuality after nocturnal awakenings
  - G) Miscellaneous (naps; [REM] sleep erections and sexual vulnerability; medication-induced states) (masturbation, sexual intercourse, sexual hypnagogic/ hypnopompic hallucinations with or without sleep paralysis)



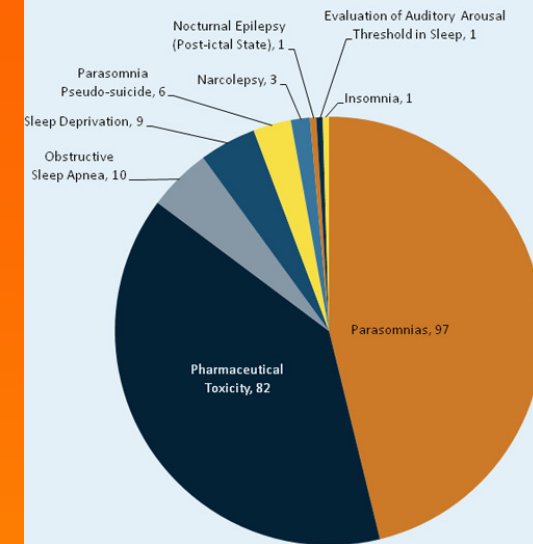
Authors	Description	Charge	Defense	Forensic evaluation and expert's conclusion	Verdict
Thomas, 1996	38-year-old male mechanic with a long-term partner was found drinking a beer while naked in a major urban thoroughfare.	Indecent exposure	SW	Psychiatric evaluation of the defendant and telephone interview of the partner. Conclusion: SW.	Acquittal
Borum and Appelbaum, 1996	31-year-old single man loudly knocked on door of communal bathroom while yelling; when the female occupant opened the door, he pushed and struggled with her, and his hand touched her breast.	Indecent assault/ battery, assault with intent to rape	Not explicitly stated	Neurological evaluation. Conclusion: nocturnal complex partial seizure.	Acquittal
Schenck and Mahowald, 1998	26-year-old man, with partner, engaged in sexual behavior with his friend's 4-year-old daughter, who had crawled into bed with him during the night.	Sexual misconduct	SW	Interviews of defendant, his mother, his sister and his current partner. Conclusion: parasomnia.	Acquittal
Rosenfeld and Elhajjar, 1998	45-year-old married businessman fondled his 14-year-old daughter's female friend, who was sleeping downstairs in the living room of his house.	Sexual battery	SW	Neurologic and psychiatric evaluation. Conclusion: SW.	NR
Guilleminault et al., 2002	18-year-old single student placed his finger into the vagina of a young woman who was sleeping in the vicinity.	Sexual assault	SW	Clinical assessment*; 2 urine drug tests; EEG in regular and sleep-deprived conditions; video-PSG; MSLT. Conclusion: NREM parasomnia.	Acquittal
Shapiro et al., 2003 (case C.J)	35-year-old married man sexually touched his 9-year-old daughter, who had climbed into bed with her parents during the night.	Sexual touching	Not explicitly stated	Video-PSG study. Conclusion: parasomnic behavior.	Acquittal
Shapiro et al., 2003 (case A.F)	32-year-old single unemployed man inserted a finger into the vagina of a 10-year-old girl with whom he was sharing a bed.	Sexual assault	Not explicitly stated	Video-PSG study. Conclusion: parasomnia.	Acquittal
Ebrahim, 2006	22-year-old single employed man rapidly penetrated a female friend orally, anally, and vaginally; they were sleeping in different rooms in the defendant's house after a party.	Three counts of rape	SW	Medical, psychiatric and neurological evaluations; Epworth Sleepiness Scale; 3 night PSGs (including a night with alcohol challenge). Conclusion: SW.	Acquittal
Cicolin et al., 2011	38-year-old divorced man repeatedly fondled the 8-year-old daughter of his current partner over a 6-month period.	Repeated sexual fondling	Sleepsex	Clinical assessment*; standard EEG; brain MRI; 5 night PSGs (4 under sleep restriction at 4 h/night). Conclusion: parasomnia overlap disorder (SW, sexual behavior during sleep, RBD).	Acquittal

## Sexsomnia

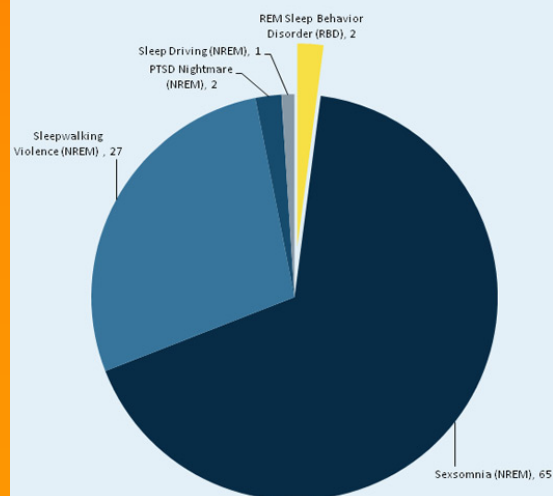
### SFA Case Referrals Prior to Disposition Determination: Criminal vs Civil Complaints



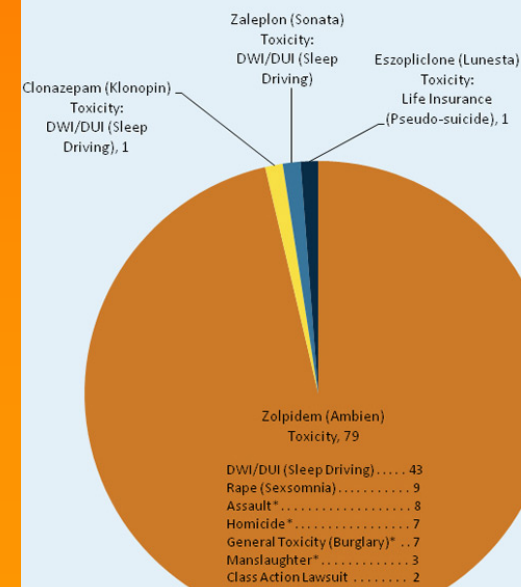
### SFA Case Referrals Prior to Disposition Determination: Possible Sleep Disorder Subtypes Implicated



### Breakdown of Parasomnia Cases



### Breakdown of Pharmaceutical Toxicity Cases



\* Toxic considerations to include: anterograde amnesia, sleepwalking, rage reactions, etc

# Aspetti forensi

La difesa legale nei casi di associazione sonno-violenza è basata sull'assunto che l'atto di violenza (*actus reus*) è commesso in uno stato di sonno, rendendo l'individuo non responsabile o responsabile per l'azione (*mens rea*)

# Aspetti forensi

Il processo di determinazione forense richiede un'impegnativa valutazione del grado e della natura della consapevolezza (cosciente) durante l'episodio di sonno con violenza

# Aspetti forensi

Responsabilità giuridica delle proprie azioni implica e richiede che una persona sia consapevole delle azioni e in grado di controllare queste azioni

Il termine "Coscienza" si può considerare all'interno di un continuum; qualcuno può ignorare completamente, qualcuno può essere in parte consapevole o pienamente consapevole

# Aspetti forensi

La storia clinica deve contenere:

- Descrizione dettagliata dell'evento e grado di amnesia
- Disturbi del sonno attuale, passato o familiare
- Disturbi medici attuali, passati o familiari
- Abitudini sociali
- Droghe / medicinali / assunzione di alcol
- Informazioni sul lavoro e eventuali difficoltà potenzialmente correlate a disturbi del sonno.
- Determinazione della frequenza di violenza e la sua natura stereotipata

# Aspetti forensi

*La perizia deve includere interviste con il partner, sposo, compagno/a di letto e familiari relativamente a*

- Le manifestazioni e gli eventi precedenti
- Collocazione temporale durante il ciclo sonno/veglia
- Frequenza degli eventi nel tempo
- Età di esordio e associati eventi/traumi della vita
- Grado di amnesia osservato
- Atteggiamento del soggetto quando è completamente sveglio dopo l'evento

# Aspetti forensi

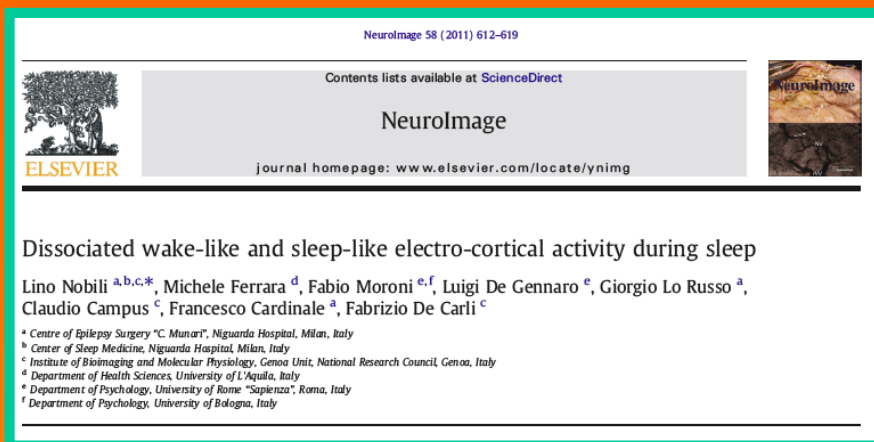
*La perizia deve includere interviste con il partner, sposo, compagno/a di letto e familiari relativamente a*

- Predisposizione basata su precedenti disturbi legati al sonno (se dichiarati)
- Associazione del comportamento anomalo con attività diurne, quali:
  - a) stress
  - b) deprivazione del sonno
  - c) farmaci/assunzione di alcol
  - d) stati febbrili
  - e) eventi della vita

# Aspetti forensi

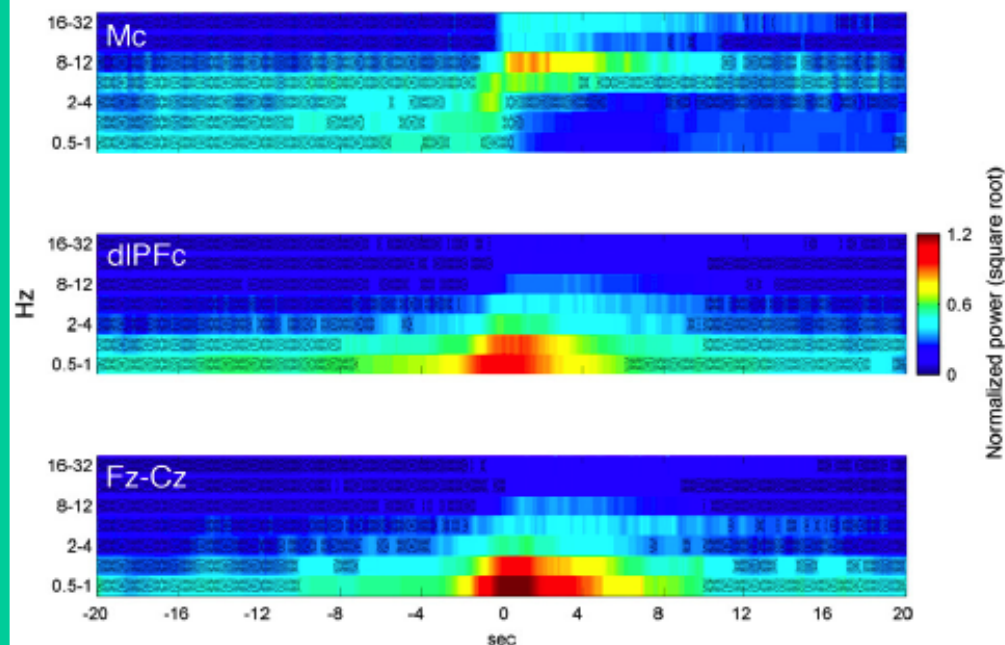
- E' necessaria una completa visita medica e psicologica/psichiatrica, e la valutazione mirata dei risultati associati a disturbi del sonno specifici
- Determinazione di laboratorio e altri test necessari per confermare un disturbo del sonno e il suo tipo
- Farmaci e screening farmacologico sono sempre necessari

*A rendere più complesso questo quadro...*

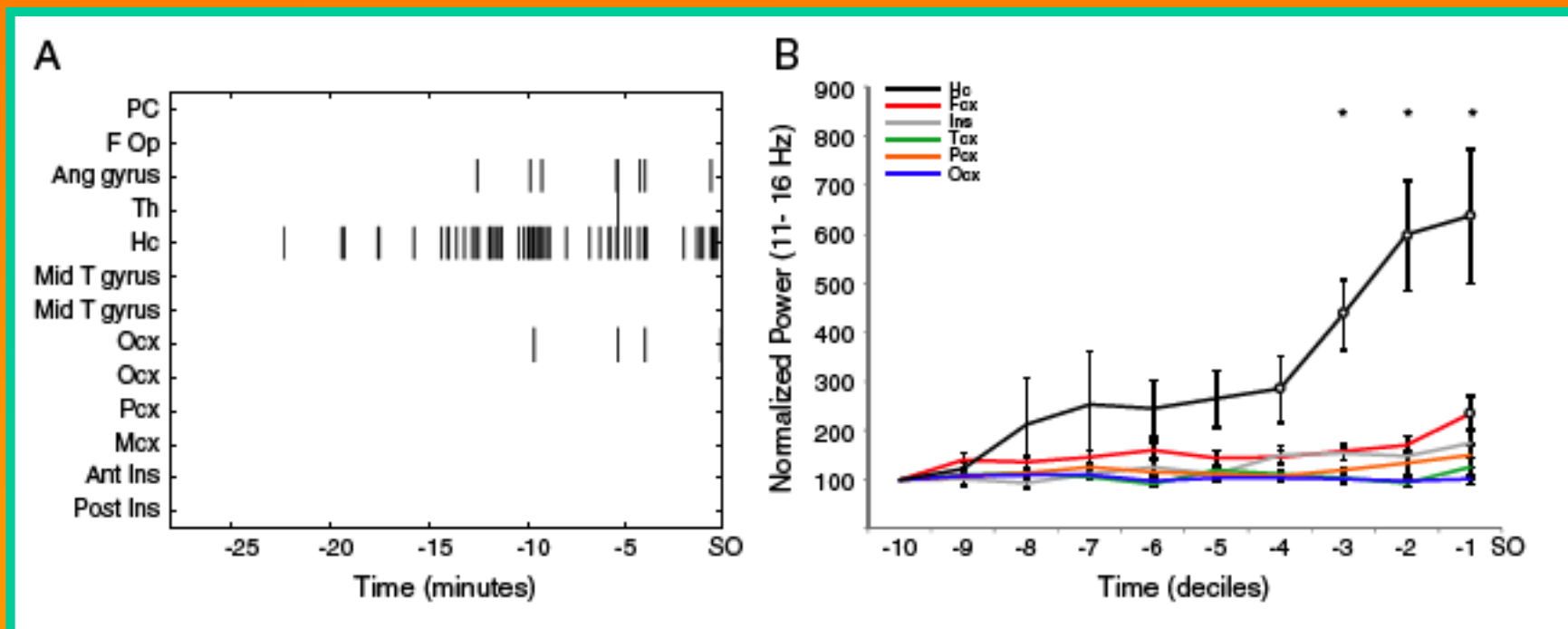
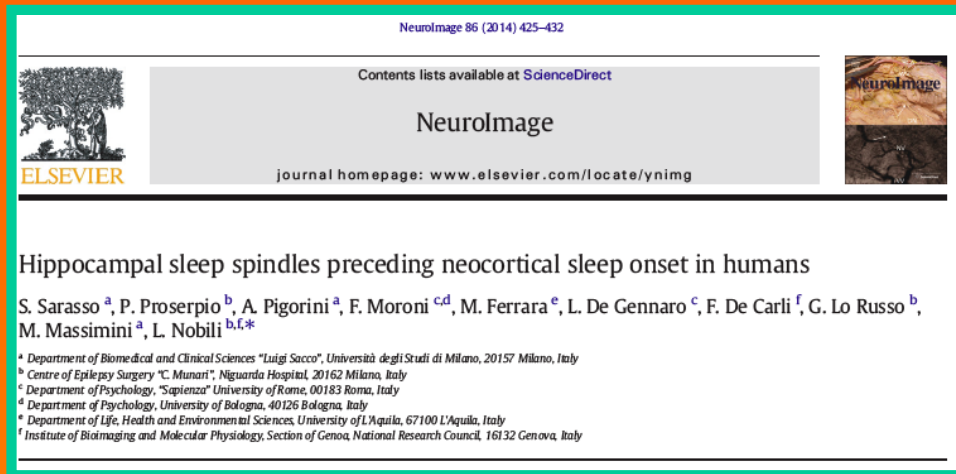


Durante il sonno coesistono  
degli stati simil-veglia e  
simil-sonno:

mentre alcune aree cerebrali  
presentano i segni chiari del  
sonno NREM, la corteccia  
motoria presenta  
caratteristiche dell'attività  
elettrica della veglia  
(coesistenza di veglia e  
sonno)



In fase di addormentamento  
alcune strutture profonde  
(talamo e ippocampo)  
presentano attività elettrica  
tipica del sonno circa 10 min  
prima della corteccia  
cerebrale  
(*asincronicità*)



*.... Queste condizioni servono a ricordarci che sonno e veglia non sono stati mutualmente escludentesi e che il sonno non è necessariamente un fenomeno globale, dell'intero cervello*

*(DSM-V “Parasonnie”)*

## The DSM-V Sleep-Wake Disorders Nosology: An Update and an Invitation to the Sleep Community

Charles F. Reynolds III, M.D.<sup>1</sup>; Susan Redline, M.D.<sup>2</sup>; for the DSM-V Sleep-Wake Disorders Workgroup and Advisors\*

<sup>1</sup>University of Pittsburgh School of Medicine, Pittsburgh, PA;

<sup>2</sup>Case-Western Reserve University School of Medicine, Cleveland, OH

*“L’ho vista alzarsi dal letto, gettarsi addosso la sua veste da camera, aprire con la chiave il suo scrigno, tirare fuori una carta, piegarla, scrivervi, leggerla, poi sigillarla, e di nuovo tornarsene al letto: tutto ciò mentre era nel più profondo sonno...vedete, ha gli occhi aperti... ma sono chiusi al senso.”*

Macbeth, William Shakespeare

# L'accertamento della capacità di intendere e di volere.

*L'art. 85 del nostro codice penale afferma che “Nessuno può essere punito per un fatto preveduto dalla legge come reato se al momento in cui lo ha commesso non era imputabile”.*

*Lo stesso art. 85 chiarisce al comma successivo che è “imputabile chi ha la capacità di intendere e di volere”.*

Dopo aver considerato le situazioni di chi viene posto da altri in una condizione di incapacità di intendere e di volere (*art. 86*) e di chi si pone volontariamente in una condizione di incapacità “*al fine di commettere il reato o di prepararsi una scusa*” (*art. 87*) il nostro codice penale all’**art. 88 e 89** pone i criteri di base per l’accertamento dell’imputabilità.

L'art. 88 c.p. considerando il “*vizio totale di mente*” sancisce che “*non è imputabile chi, nel momento in cui ha commesso il fatto, era, per infermità, in tale stato di mente da escludere la capacità di intendere e di volere*”.

L'art. 89 c.p. considerando il “**vizio parziale di mente**” afferma che “*chi, nel momento in cui ha commesso il fatto era, per infermità, in tale stato di mente da scemare grandemente, senza escluderla, la capacità di intendere e di volere, risponde del reato commesso; ma la pena è diminuita*”.

Una recente sentenza della Corte di Cassazione a Sezioni Penali riunite (**Cass. n° 9163, 2005**), sancendo quali sono i principi ai quali i periti (ed i Giudici) debbono rifarsi nell'accertamento dell'imputabilità, è arrivata però ad affermare che:

*“ai fini del riconoscimento del vizio totale o parziale di mente rientrano nel concetto di “infermità” anche “i gravi disturbi della personalità”, a condizione che il giudice ne accerti la gravità e l'intensità, tali da escludere o scemare grandemente la capacità di intendere e di volere”.*



Confermando una impostazione rigorosa il codice all'art. **90** afferma :  
*“Gli stati emotivi e passionali non escludono né diminuiscono l'imputabilità”.*

All'art. **91** viene prevista la non imputabilità per chi ha commesso un reato in stato di “*piena ubriachezza*” derivante da “*caso fortuito o forza maggiore*”.

L'art. **92** prevede invece la piena imputabilità ( e quindi la piena punibilità ) nei casi di “*ubriachezza non derivata da caso fortuito o da forza maggiore*”. In altre parole l'intossicazione volontaria acuta da alcol non ha rilievo sull'imputabilità.

L'art. **93** prevede che i due precedenti articoli si applichino anche quando il “*fatto è stato commesso sotto l'effetto delle sostanze stupefacenti*”.

L'art. **94** prevede che “quando il reato è commesso in stato di ubriachezza, e questa è abituale, la pena è aumentata. Agli effetti della legge penale, è considerato ubriaco abituale chi è dedito all'uso di bevande alcoliche e in stato di frequente ubriachezza. L'aggravamento di pena stabilito nella prima parte di questo articolo si applica anche quando il reato è commesso sotto l'azione di sostanze stupefacenti da chi è dedito all'uso di tali sostanze”.

L'art. **95** sancisce invece che *“Per i fatti commessi in stato di cronica intossicazione prodotta da alcool ovvero da sostanze stupefacenti, si applicano le disposizioni contenute negli articoli 88 e 89”*.



# Criteriologia

La perizia psichiatrica è *mezzo di prova* (clinica, innanzitutto) solo se redatta in modo:

- documentato
- obiettivo
- motivato
- comprensibile
- convincente
- trasferibile

- ❑ Per motivare le conclusioni psichiatrico-forensi, il perito ha assoluto bisogno di far riferimento ad una classificazione della patologia mentale scientificamente condivisa, lineare, semplice e comprensibile (*I Criterio*).
- ❑ Occorre ricordare che le classificazioni internazionali vigenti ed accreditate (*I.C.D.-10* e *D.S.M.-V*) non sono fondate su verità assolute, ma su convenzioni, però condivise dalla comunità scientifica (*II Criterio*).
- ❑ Il termine malattia deve essere riservato solo ai Disturbi Psicotici ed ai Disturbi di Personalità quando gravi (*III Criterio*).

- ❑ La sola categoria diagnostica non permette mai di stabilire dei parallelismi obbligatori con l'organizzazione profonda della personalità. Una cosa è pertanto formulare una diagnosi *clinica*, altra cosa ben distinta è fare una *diagnosi di struttura* (IV Criterio).
- ❑ Nel conferire “valore di malattia” ad una azione od omissione giuridicamente rilevante, si valuta il reato in rapporto ad un sintomo o ad una sindrome psicopatologica. Occorre cioè evidenziare il funzionamento patologico psichico correlato a quel(i) sintomo(i) e contestualizzarlo (V Criterio).