

THE INTENT TO KILL

Making Sense of Murder

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Preface

This is a book about the many ways we comprehend the moral incongruity of people killing people. My thinking on the subject began more than fifty years when I took my first courses in sociology and psychology and evolved over the forty years that I have taught university courses on the subject of crime. During that period I experienced a growing discomfort with certain customs of criminological thought relative to the causation of crime. The first is the elevation of any trait, condition, or circumstance statistically or clinically associated with crime to the status of *cause*. The second is the scientific dogma that there are *many* causes of crime, and the third is the platitude, that no one cause is decidedly more important than others. In testing these doctrines I limit my inquiry to the crime of homicide. The diversity among the various forms of crime in definition, behavior patterns, and view of their gravity would unduly complicate the task for crime generally. Much of what I shall have to say, however, applies to all forms of violent crime

Criminology texts note literally scores of reputed causes based on the observation of conditions under which homicide is more or less likely to occur. But they offer no generalization on how these conditions transform into the resolve to kill. The job of answering this question in individual cases has been preempted by clinical psychologists and psychiatrists who serve the criminal court in judging the mental states of offenders. The untidy methodology of their diagnoses and their partisanship, for the defense or the prosecution, justify little confidence in their opinions.

Virtually every branch of knowledge has something to say about the impulse to kill. The law, in its own matter of fact idiom, goes directly to the seat of awareness in declaring the *intent to kill* to be the cause of homicide. The law has nothing to say, however, about the conditions which give rise to that intent. Fiction writers are free to construct the plot and setting for their killings and to lay out every nuance of thought and feeling experienced by the killer as he moves from the inception of the intent to kill to the aftermath. But they use this license, alas, in the service of sensationalism rather than truth as they think of new angles to titillate jaded readers with gruesome details of killings by psychological monsters.

Science, on the other hand, balks at the question of the intent of the killer with the excuse that, *intent*, like *purpose* or *will*, is a metaphysical concept, uninvestigable by the scientific method. Accordingly, science has restricted the search for the causes of crime to measurable conditions which have a material base. This restraint effectively bars the scientific consideration of *the individual's resolve to kill, the one cause into which any and all other "causes" must converge in order for a killing to take place.*

Nevertheless some theories of the cause of murder are verifiably more efficient than others in identifying the conditions under which homicide occurs. They are the ones which bring us closest sequentially and meaningfully to the intents and purposes of the murderer. By this standard, the natural sciences provide the weakest explanations. They seek the causes of murder in conditions as remote from the schemes and purposes of killers as stormy weather, nutrition, the phases of the moon, defective genes, organic defect, mental disorder, and the Pavlovian conditioning of responses. The social sciences locate the causes of murder much closer to the awareness that mobilizes and directs the energies of the individual. Sociologists and social psychologists delve into the social and cultural environment which nourishes the individual's world of meanings to discover the attitudes, values, sentiments, and beliefs which produce a propensity for homicide. But they stop short of explaining how that propensity gets transformed into the most crucial link in the chain of causation: *the intent to kill.*

The scientific inhibition on probing the intent of the killer has chilled efforts to go directly to the heart of the problem. Theories of violent crime commonly begin with data on the characteristics or situations of offenders, but often conclude with abstraction piled on

abstraction. The thinking, feeling, intending person is dissolved in the statistical and theoretical “models” that criminologists construct to impart a scientific gloss to their ruminations.

My mission in this treatise is to restore the killer, as a calculating, adaptive, self-determined actor to the homicidal scenario, from which he or she has been removed by the dictates of law and science or the exaggerations of popular literature. The task pools data and insights from scientific, legal, and literary perspectives to identify the conditions which prompt the homicidal solution to problems of personal adjustment and to clarify the transformation of those conditions into the intent to kill.

To accomplish the job I propose to ascertain the killer’s intents and purposes by a method of controlled deduction. This exercise bears a resemblance to the clinical artistry claimed by psychiatrists who testify on the mental states and motivation of criminal offenders. But the data of analysis are quite different, since I find no sound basis for attributing violent crime to organic or psychological states. The technique which I put forth is disciplined by the requirement that inferences concerning the intents and purposes of killers heed the social, cultural, and situational stimulation which inform choice. The material on killings consist of case studies developed from the rich literature of official reports and documentary studies of homicides. The resulting insights will be applied to the evaluation of theories of criminal homicide, the process whereby criminal courts arrive at judgments of intent and motive in murder trials, and to the appraisal of public policies for the suppression of violent crime.

Chapter 1 establishes the frame of reference of the inquiry. Chapters 2-4 identify and evaluate the major factors and variables embodied in theories of the cause of criminal homicide. Chapter 5 sets forth a classification of homicides based on the individual interests served and the group interests violated by killing people. Chapters 6-10, respectively, elaborate on each of the forms of homicide identified in Chapter 5. Chapters 11-15 show how confusion over the causes of homicide distorts the fact-finding and judgmental processes of the murder trial. Chapter 16 confronts the conventional views of the causation of homicide with an existential view of reality. Chapter 17 delivers a critical evaluation of existing policies and programs for the control of violent crime. The easy availability of guns adds to the pessimism. In a more optimistic vein

the chapter goes on to specify what needs to be done to obstruct and stifle the intent to kill.

In writing this book I have had a number of readerships in mind. Criminologists will recognize the work as a criminology of homicide that balances the view of a rigidly materialistic determination of violent crime with a humanistic view of self-determination. To the journalist-crime writer, the true crime buff, or the curious citizen, I offer a guide for evaluating the conventional, and some unconventional, wisdom concerning the nature, causes, and control of homicide. Criminal lawyers will find fresh ideas to supplement outworn theories of forensic psychiatry in arguing issues of motive and responsibility. They may also find useful some experimentally validated techniques for influencing the direction of judgments which juries are asked to make in murder trials. Finally, for policy makers, activists, and concerned citizens, I show why existing policies have not dented homicide rates and what should be done to utilize more effectively existing resources for combatting violent crime.

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Contents

Acknowledgments	vii
Preface	ix
1. Perspectives On Homicide	1
2. The Killer Within	24
3. Who Kills Whom	48
4. The Social Context Of Murder	62
5. The Kinds Of Homicide	81
6. Killing For Profit	90
7. Robbery Murder	101
8. Defensive Homicide	123
9. Recreational Murder	141
10. Murder For High Principle	161
11. Interpreting The Facts	174
12. Assessing Responsibility	193
13. Murder Trial Tactics	218
14. Killing And Forgetting	247
15. The Evil Mind	257
16. Killing Without A Cause	276
17. Nostrums And Cures	285
18. References Cited	313
Name Index	326
Subject Index	332

1

Perspectives On Homicide

Murder as a Social Problem

If we accept the dictum of the nineteenth century French physician Alexander Lacassagne that societies get the criminals they deserve, the massive toll of murder in the United States of America is an acute embarrassment. In the past twenty-five years criminal violence in the United States has claimed more than half a million lives, ten times the number of American battle deaths in the Viet Nam War. Fear of victimization rends the social fabric, implanting suspicion of the stranger and hobbling freedom of movement in crime-ridden localities. A conservative estimate of the material cost of the carnage, including loss of income of both victims and offenders, insurance, legal fees, maintenance of offenders in prison for an average of fifteen years, and welfare assistance to the families of victims and imprisoned killers adds up to an estimated \$1.5 million per case; for all cases, a total in one year of \$112.25 billion, an amount equal to one-half of the average annual federal budget deficit for the years 1986-1990. No dollar amount, however, can make up for the emotional devastation and dislocation of the lives of survivors, condemned to an unending anguish fed by the constant reminder in photos on the mantel of the incompletely fulfilled lives of loved ones.

The United States has the highest homicide rate of all technologically advanced nations, higher even than most less developed nations. We proclaim ourselves the world's standard bearer in the advancement of human rights, yet fail to indoctrinate large segments of our population with the respect for human life and self-restraint

required for participation in an orderly society. We lament the toll of premature death from AIDS, heart disease, or cancer, convinced that a cure can be found if enough resources are devoted to research, yet suffer murder with the same resignation that we endure earthquakes and tornadoes. The near constancy of murder rates over long periods of time reinforces the attitude of inevitability. Sedated by the trivialization of murder resulting from the glut of its coverage in the news and its antiseptic portrayal in the entertainment media, dread yields to apathy.

Homicide and Human Nature

Although homicide threatens the most basic of human values, it also usefully serves human interests. The adaptive functions and prevalence of homicide, plus the diversity in the personal characteristics of killers and the circumstances of killing, bolster the opinion common to legal, scientific, and literary texts that humans share with other animal species a latency for killing their own kind.

Nobel Prize winning biologist Konrad Lorenz has taken exception to this view, observing that of all the carnivorous animals, man and the rat stand alone in having no innate inhibitions on killing their own kind. (Lorenz, 229) In a fight between wolves, for example, the baring of the throat by the loser is an instinctively understood signal to the winner to break off the encounter. Naturalist Boyce Rensberger takes issue with Lorenz. Citing the commonness of intra-species killing among free-living animals—lions, gulls, hyenas, hippopotamuses, langurs, and macaques—he regards the imputation of chivalric courtesy to animals as romantic whimsy. (Rensberger, 121) Miss Jane Goodall's extensive observations of chimpanzees, man's closest animal relations, in their natural habitat includes instances of adult members of one band ganging up on and fatally beating individuals of another band. She also notes instances of adult females killing and cannibalizing other females' young. (Goodall) Fossil finds of the crushed skulls of prehistoric human types with nearby stone objects identified as weapons bear witness to the homicidal, and likely cannibalistic, dispositions of the precursors of modern man.

Refinements of brain anatomy which enlarge the thinking capacity of humans account for qualitative differences between

humans and animals in the characteristics of intra-species killing. Among animals, position in a hierarchy of physical dominance depends on sex and the relative size and strength of individuals; in human groupings, intellect and man-made weaponry level the effect of physical inequality. An even wider chasm between man and other animals is the human ability to intuit directly, by means of language, as well as signs, the thoughts and feelings of fellow-beings. Thus killing people presents the paradox that individuals, who have the empathic capability of putting themselves in the place of others, do to others what they would avoid at all costs having done to themselves.

In recognition of the deadly capacities of humans, all societies taboo the killing of members. All civilized nations, historical and contemporary, have enacted harsh penalties for criminal homicide. The origin of the prohibition against life threatening acts has been variously explained in terms of survival instincts, the requirement of social stability, and the empathic faculty indispensable to the interdependence required for communal living.

Some legal philosophers and criminologists, however, find no basis in the natural order for moral absolutes and argue that the moral evaluation of murder, like lesser crimes, such as prostitution and vagrancy, is relative to time and place. Thus heinous crimes in one historical or geographical setting may be socially approved conduct in another—a claim supported by accounts of the wholesale slaughter of subject peoples, captives, heretics, or enemies in the name God, folk, or morality. Such atrocities do not, however, prove the provisional character of the prohibition of murder since the ban applies only to those who are regarded as members of in-groups; members of out-groups may be fair prey. The more tightly knit the in-group, the less the restriction on killing outsiders. Anthropological lore contains frequent references to non-literate peoples whose word for members of their own group is the equivalent of “human”; outsiders are denoted by terms that mark them as less than human. In historic civilizations the status of *infidel*, *pagan*, or *barbarian* deprived one of the rights and privileges of humankind.

History repeatedly tells of mass slaughter and the annihilation of whole peoples in struggles over land, wealth, limited resources, and religious truth. The dehumanization of religious or racial minorities has provided oppressor groups with license to proclaim their moral

superiority and to scapegoat the subjugated class. Lacking an identifiable minority to domineer, the Puritan clergy in Massachusetts colony created one of menopausal women whose erratic behavior, later labelled *involutional melancholia* in psychiatry, earned them denunciation as witches and death by hanging. In the American pre-Civil War South some preachers pondered from the pulpit whether the Negro possesses a soul. Those who concluded they don't, felt justified in regarding them as animals, suitable for enslavement and ineligible for protection by law. European anti-semitism originated in the theological dogma that the Jews forfeited any claim to the ordinary mercies because they killed the Lord. Belief in the Jews' depravity has generated waves of accusations concerning their involvement in evil schemes. The alleged machinations have changed over the centuries in accordance with the delusive imagery of the times—collaboration with the devil, the use of the blood of Christian children in ritual and the manufacture of matzos, economic voracity, and conspiracy to take over the world. The defamation has continued unabated into the modern period, marked by recurrent massacres and the extermination of millions of Jews in Nazi death camps.

The typification of Jews, Gypsies, political undesirables, sexual deviates, and the mentally diseased in dehumanizing terms validated acts of extreme brutality in World War II extermination camps by German SS officers and camp personnel who in their private lives were esteemed by themselves and others as decent people. Those who supervised the killers were unwilling, however, to submit this validation to the judgment of public opinion or history, but attempted to conceal the slaughter with a cloak of secrecy and stringent security precautions. The mass removal of Jews to death camps was disguised as relocation to labor camps, a deception maintained to the end. As the doomed victims marched into extermination centers, they beheld the slogan over the portals, *Arbeit Macht Frei*. (Work Will Free You.) The camp at Theresienstadt for a period was maintained for display to the International Red Cross as a place where Jews were humanely confined.

Not all governments under German control found it necessary or even desirable to gloss over their deadly intentions. Slovakia began in 1939 to enact anti-Jewish laws similar to Germany's. "In 1942 the Slovakian Parliament legislated a deportation of Jews, paying Germany a fee of 500 Reichsmarks for each man, woman and child

sent to their deaths, and confiscating their possessions. No other country under German domination sanctified such actions by law.” (*New York Times*, 12/3/91, 5)

The equivocation over whether a deliberate killing, neither in self-defense nor for any other legally sanctioned reason, is necessarily a crime is not confined to totalitarian régimes. The disposition in the case of Lt. William Calley, the American army officer court-martialed for his role in ordering the extermination of civilians in the village of My Lai during the Viet Nam War, illustrates the subordination of the legal and moral significance of killing to political considerations. Few questioned the enormity of the slaying of unarmed men, women, and children. Calley was convicted and sentenced to twenty years. But in the sundered political mood of the time, Calley was viewed by many as a victim: first, as a scapegoat for higher echelons of the military beleaguered by criticism of an unpopular war and, second, as a casualty of the brutalizing influence of a war in which Vietnamese women and children allegedly threw grenades at unsuspecting American soldiers. Political pressure helped to bring about a reduction of the sentence to ten years. After only three years of confinement, not in a federal penitentiary, but on a military base, with full freedom of movement, Calley was paroled. The Secretary of the Army declared that he understood how a person in Calley's position might have construed his orders to mean that it was correct to kill unarmed civilians.

Killing in warfare is legal by national and international law so long as it is directed at military targets. The effectiveness of a military unit depends on how efficiently training procedures wipe out inhibitions on killing people. Not until World War II did systematic research give credence to what previously had been military folklore: the refusal or reluctance of many soldiers to use their weapons with maximum effectiveness. Some soldiers in combat fear that shooting their rifles will give away their position and bring down enemy fire. Others have a moral block against killing which is overcome only in situations where killing is the alternative to being killed. Those who survive learn that staying alive depends on their effectiveness at killing. Those who do not grasp this truth are more likely to become casualties.

Gains from Homicide

Homicide has meaningful functions for the offender and the community. Prudently or imprudently effected, murder is impelled by mundane wishes routinely satisfied non-violently in everyday relationships. Killers seek to eradicate threats and obstacles to personal goals. Killing facilitates the attainment of material and sensual gratification, novelty, security, power, and admiration in circles that regard killing as a respected vocation or a test of courage. The layers of faulty judgment and the maladroitness of performance characteristic of most killings do not disprove the rationality of the killer's goal or the means for achieving it.

Murder, paradoxically, confers benefits upon the law-abiding population. The awareness of disaster which has befallen victims fuels primal adaptive dynamisms in the human psyche. The facts of a killing inform us vicariously of the horror of sudden death and offer lessons on avoidance. The gawking of motorists passing an auto collision, the conversion of the site of a natural disaster into a tourist attraction, the gathering of a crowd around the blood-stained site of a killing, the witnessing of an execution or a lynching—all express outwardly a universal curiosity over what it's like to get killed and, inwardly a gush of relief at being alive. The outrage directed at the murder and the vengeful mood of the legal ritual attending its suppression invigorate the moral order and fortify social solidarity. The social marginality of a large proportion of homicide offenders and victims accommodates the Malthusian solution to the problem of excess population: society gets rid of unproductive and troublesome elements by death or incarceration.

On the practical side, the theme of murder sustains many vocations. For authors, publishers, and booksellers, the topic of murder, fictional or true, has great commercial value. The literary treatment of the subject reflects intellectual and emotional interests ranging from the intriguing challenge of the classic English manor-weekend murder mystery novel to the vicarious fulfillment of sado-masochistic fantasies in the horror genre of murder fiction. Murder is a main staple of motion picture and television stories. The monotonously repetitive exchange of gunfire between the criminal and the lawman, or opposing gangs of criminals exposes the poverty of