

Letters to the Editor

Only letters that are responsive to articles published in previous issues of the *Journal* will be accepted. Authors of these published articles are encouraged to respond to the comments of letter writers. The Editorial Board hopes that this section will enhance the educational mandate of the *Journal*.

The Iller the Killer, the Worse the Purpose

Editor:

In their article "Not Guilty by Reason of Insanity: Clinical and Neuropsychological Characteristics" (25:161-71, 1997), Nestor and Haycock* discuss the relation between mental illness and homicide. They note that Aristotle distinguished between people of weak will who do wrong against their real wishes and intentions and vicious people who do wrong contentedly and with conviction; and that in the best-practice modern scenario, forensic science rigorously distinguished between moral and clinical judgments, between the bad and the mad. A fundamental assumption is being made here, that evil and insanity have nothing

to do with one another, can easily be separated and even that they don't coexist. A recent analysis of mine suggests that this assumption is quite false.

While browsing through an old psychiatric journal I stumbled across a short editorial drawing attention to a British Parliamentary Paper on Capital Punishment published shortly after hanging was abolished for many offences.¹ This compared capital offences committed in the five years before and after hanging ceased, and clearly showed no increases. This little-known survey seems to me to be the best statistical evidence that hanging does not deter. It had three main strengths:

1. It did not rely on any data about murder, which is such a special and emotive case, and hard to analyse clearly.

2. Lack of deterrence was evident for each of about 18 offences listed separately.

3. The most striking feature was that considerable planning, foresight and organisation was involved in these crimes (coining, forgery, horse-stealing, arson, piracy, high treason, robbery, return from transportation, etc). These should be just the sort of offences that should be deterred by hanging, if any were.

This led on to my checking just how intentional most so-called murders are, since I suspected that many are spontaneous and unplanned, and thus unsusceptible to any deterrent effect. I rated case vignettes for the 764 persons indicted for murder in England and Wales from 1957 to 1962 for the *mens rea* of the offender,

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* The reply to this letter written by Drs. Nestor and Haycock was received too late to print in this issue and will therefore be published in the next issue.

or the inferred intention to kill.² In other words, I assessed in how many of these cases the homicide was true murder, i.e., where there was *intention* to kill. This could then be compared with the jury verdicts or the court outcomes. This simple clear definition of murder is that of Morris and Blom-Cooper (p. 318), and consistent with that of Cole, for three centuries the U.K. lawyers' operational definition (unlawful killing with malice aforethought).

Although the case summaries were quite brief, in most cases it was not hard to infer if premeditation or intent was present. Premeditation was assumed if there was evidence from the perpetrator's actions or statements of a plan to kill formulated at a different time or place to the homicide site. Someone who picked up a nearby weapon in a rage would be classed as impulsive, whereas someone who went to fetch a knife from the kitchen would not be given the benefit of the doubt, and this would be classed as murder. In general, murder would not apply to killing in quarrels, fights, accidents, panic, temper, many robberies, sexual activity where vagal inhibition could not be excluded, and where there was intent to harm but not kill. The minimum time for which intent had to be shown was set at half an hour, so as to exclude impulsive homicide and to allow enough thinking time for any deterrent effect of hanging to operate. After all these exclusions, we should be left with a core group of true murderers—the truly wicked, as opposed to the unlucky, the careless, the confused, or the deluded. This independent diagnosis of murder can

Table 1
Incidence of Intentional Killing (True Murder) in Relation to Medicolegal Verdicts in Those Indicted for Murder

Legal Outcome	Total Cases	Willful Murder
Murder and failed suicide	70	56 (80%)
Unfit to plead	70	45 (64%)
Guilty but insane	48	24 (50%)
Manslaughter	320	103 (31%)
Murder, not executed	187	42 (22%)
Executed for murder	25	4 (16%)

now be compared with the decisions of the juries and courts. Information was also available on the mental state of the offenders, which proved unexpectedly illuminating.

Inspection of the Table leads to the following conclusions:

1. There was a clear *inverse* relation between actual intent to kill and degree of wickedness as reflected in the punishment and judged responsibility. Thus intent was apparent in only 16 percent of those executed, which was actually less than the 22 percent in those convicted of murder but not executed. The Oxford English Dictionary defines manslaughter in Law as criminal homicide without malice aforethought, yet the actual intent rate was 31 percent, higher not lower than for those convicted of murder. Clearly juries took no notice of legal definitions of murder or manslaughter when reaching their verdicts.

2. The true murder incidence amongst those executed was only about 16 percent. So even if hanging were a deterrent, there was little scope for it to act in that group where it was most needed.

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3. There is a *direct* relation between intention to kill and mental illness. The iller the killer, the worse the purpose. Thus the murder incidence rises to 50 percent for those found guilty but insane, to 64 percent in those found unfit to plead, and to 80 percent in those found guilty of murder after bungling a suicide attempt after the murder. This latter group was compiled as a proxy for the large murder plus suicide group who of course never came to trial (about 50 homicides a year during this period³).

4. For advocates of capital punishment who believe it deters and prevents future killings, the *logical* conclusion from the above is that it is the mentally ill who should be executed, as they are the ones who plan their killings. It could be offered on a voluntary basis to those contemplating killing themselves and taking others with them!

5. Madness causes badness, if we equate malice with intent. This equation is generally accepted in the euthanasia debate—the doctrine of double effect. If a doctor gives a large dose of analgesic to a terminally ill patient with the aim of pain relief but in the process kills him, he is regarded as a hero by patients and families, but if the same drug dose is given in order to kill the patient, the doctor is now a villain, in fact clearly guilty of murder, and if convicted must be sentenced to life imprisonment in the U.K.

Failure to recognise a connection between wickedness and insanity leads to enormous confusion and injustice, and not just amongst laymen. This was perfectly illustrated by the case of the York-

shire Ripper, who roamed the streets hunting women he saw as evil prostitutes. Despite a unanimous psychiatric opinion that he had schizophrenia, he was found guilty of murder and sentenced to life imprisonment.⁴ Public opinion clearly thought wickedness and insanity were mutually exclusive, and simply asked the question, Did the accused intend to carry out the murder? In Gunn's opinion, Peter Sutcliffe carefully planned all his killings for excellent psychotic reasons. Sometimes this line of false reasoning has been made explicit,⁵ as by the doctor who gave evidence for the prosecution against Dr. A. Baker, stating "a person who can lay all his plans for carrying out anything desired to be accomplished, would not be laboring under insanity." On the gallows Baker rehearsed his psychotic delusions and gloried in his bloody deed.

Nestor and Haycock's data are consistent with the above formulation, in that insane murderers were more likely to kill blood relatives and less likely to use drugs than the non-insane ones. Their homicides depended more on psychotic systematized experiences than on anger, rage, and jealousy, so were more likely to show clear intent, i.e., true murder. They were also potentially more open to deterrence from capital punishment, as the sort of reasoning needed to weigh up risks and benefits is tapped by the Information, Comprehension, and Similarities IQ subtests, on which the insane scored higher.

In common with much of the pediatric and dyslexic literature, Nestor and Haycock omit the most sensitive analysis on their IQ data, where subjects are used as

their own controls. Their non-insane murderers would be expected to disproportionately comprise former recidivist juvenile delinquents, where learning disability is a frequent finding and in whom the most striking and long-established neuropsychological finding is specific depression of verbal IQ, but not non-verbal IQ. Consistent with their significantly higher reading ability, mean verbal minus performance IQ in the insane was +8.7 points, in the non-insane -1.2 points, a group difference of 10 IQ points. Perhaps the authors could confirm that this is now a statistically significant difference? This relative imbalance of verbal/non-verbal ability is probably an important cause of

underachievement, frustration, crime, and non-psychotic homicide.

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