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The end: Final disposition of serial killers (Part 26)

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Day 200, Germany, trial against neo-nazi engaged in 8-year murder spree

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The legal process kicks in after the capture of serial killers. Is there a trial? Is a psychiatric defense used? Is there a conviction and imprisonment? What is the sentence? Is the sentence served? These are the questions we ask when we come to the final disposition of a case. Ultimately, we want to know: What happens in the end?

This issue is one of the most important aspects of a serial killing – or any murder - but particularly the kind that so readily calls attention to itself. The penalty is critical in deterring future acts of violence. “Punishment” refers to both formal and informal negative sanctioning, through which we learn not only about a murder but also about its consequences: whether or not our nation values life by its invariable condemnation of the

act of murder.

For this reason, [Beccaria \(1764\)](#), one of the most influential writers of the Enlightenment, (quoted by Thomas Jefferson in his inaugural address), viewed murder as the reason punishment exists ([Foucault, 1977](#)). For punishment to be effective, it must be certain *and* widely known, and written in a book of laws that is always open to the public. “Only printing can make the public as a whole, and not just a few persons, depositories of the sacred code of the laws” (Beccaria in Foucault, p. 96). Philosophers of the time believed that there must be a certain equation between the idea of crime and the idea of its punishment. They did not mean that the punishment should be severe or as cruel or painful as the crime was to the victim. They meant, rather, that when the *idea* of crime arises, it must be followed by the *idea* of punishment, so that the one is seen as following naturally from the other. The penalty must apply to all. For the link between crime and punishment to be strong, those in power must renounce the use of arbitrary measures to eliminate one person’s punishment. “Nothing so weakens the machinery of the law than the hope of going unpunished,” Foucault explained (p. 96). But these philosophers did not believe in severity for its own sake; they argued against torture as well as the death penalty. For the purposes of deterrence, the punishment need only be slightly more onerous than the benefit to be derived from the crime.

Disposition is the final issue discussed under “Findings” in the Ritter (1988) dissertation, [Multiple Murderers: The Characteristics of the Persons and the Nature of their Crimes](#). The material is more complex, with less clarity, than might be expected for this topic. Some of the complexity stems from the methods of this study: It spans 100 years and 4 countries, with selection of cases through 1983. In addition to being the first such dissertation, it is the only one that provides extensive details for each topic, from childhood through disposition, for each of the 27 identified cases. There are benefits to be gained from a study spanning such a long period. One of these has been the discovery of the changing relationship between crime and its punishment, over time. In addition, the systematic use of all available materials on serial murderers led to the finding of two different eras in the history of serial murder dispositions.

The first era, encompassing most of the non-U.S. subjects, and all males born in the 19th century through the first decade of the 20th, can be distinguished from a second era by the clarity and consistency of the outcomes: Each was tried, convicted and executed. Still, as [Jenkins \(1988\)](#) found for serial killer outcomes in the English justice system, Americans have less reason to feel safe. In England, apprehension can be anticipated within four years. Then there is a trial, in which Freudian analysis is much less tolerated. In the past, the killer could anticipate a sentence of death. But, by the 1980s, the killer received at least

one mandatory life sentence. When Jenkins wrote, there were no known ongoing serial murder cases in England, even though there had been an increase in that country similar to the one in the United States.

Most American researchers (e.g. Egger, 1998) have shown little interest in dispositions for serial murder, and murder in general, over the past four decades. (Levin and Fox, 1985, are an exception.) The second era, which covers the beginning of American serial murder research, reveals a difference between serial killers and almost all other offenders. Holmes and DeBurger (1988, p. 150) make this difference clear when they pose the problem of disposition as "Punishment versus treatment."

While a few authors claim that proportionally more serial killers are black, if this were true, and researchers believed it, serial killers would not be so readily offered justifications, and such petty and ill-defined excuses for murder as "traumatizations," "stresses," "frustrations," or "*feelings* of oppression." Perhaps influenced by Wolfgang and Ferracuti (1967), white middle-class murderers are regularly perceived as having some form of psychopathology, and, rather than arrest, the police put them in the care of forensic psychologists. Wolfgang suggested that the middle-class would not be affected by any changes in policies, as they internalize the dominant culture's values of nonviolence. Consequently, criminologists need not study this group, but, rather, should focus on the statistically more common "aussaltive" offenders, those who are poor, black and live in a "subculture of violence" where all segments of the population approve of aggression and suffer no guilt about its use.

In the second era of serial murder dispositions, the penalties, and the reasons behind them, if any, have been as obscure as they were when Beccaria (1764) wrote, when power rested in the hands of a monarch: Both crimes and punishments were totally arbitrary, made behind men's backs, using ritual as well as language that left the public in the dark, [i.e., Latin], rather than evidence or common sense.

Today, the public is still left out and cannot even obtain statistical reports that cover both murder and its punishment, since data on these issues is handled by separate government agencies. Further, the public has received little information about the effects of a variety of new, experimental policies that may well have changed the disposition for murder: e.g. juvenile and adult diversion, and sex offender programs, for mentally disordered sex offenders.

But, in America, there has never been an "open book of laws" demonstrating that the penalties for all murderers are equal and certain. Americans have had a 150-year long

tradition of viewing murder as a legitimate means for resolving conflicts, of committing acts of brutality in the name of noble causes, and of favoring severe punishments accompanied by low rates of conviction. We have maintained an extraordinary tolerance and glorification of extreme acts of violence - so long as these acts are in line with a conservative bias of the middle-class, and never threaten the status quo or the values of a property-holders' state (see e.g. [Graham & Gurr, 1969](#); [Hofstadter & Wallace, 1970](#); [Holmes & DeBurger, 1988](#); [Leyton, 1986](#); [Lunde, 1976](#)).

Read the second part of this article on Sunday, May 24, 2015.

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