

1943

A Study of Twenty-Two Men Convicted of Murder in the First Degree

Ralph S. Banay

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Ralph S. Banay, A Study of Twenty-Two Men Convicted of Murder in the First Degree, 34 J. Crim. L. & Criminology 106 (1943-1944)

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

A STUDY OF TWENTY-TWO MEN CONVICTED OF MURDER IN THE FIRST DEGREE

Ralph S. Banay¹

Twenty-two men convicted of first degree murder were used as the basis of a study to detect any similarities, recurrent elements, or common denominators in their psychosomatic reaction which might throw light on the factors underlying this greatest of all anti-social acts—premeditated murder.

Premeditation, in its accepted sense, involves a deliberate plan or intention in preparing for the commission of the act. In retrospect, there appears to be no mitigating circumstances in the eyes of the law. No element of self defense or legal insanity can be proven. When murder occurs during the commission of a felony, it automatically becomes first degree murder to every one of the individuals taking part in the felony. In this study—eight out of the twenty-two were sentenced for this crime who actually did not commit murder.

Due to the severity of crime and its mandatory sentence of death, the perpetrators receive special care and supervision. Constant medical and psychiatric attention is focused on them in order to detect whether or not they are in any way different from other criminals. An investigation of this question is the purpose of the present study.

Throughout the ages, as the result of a deep-seated moral disapproval, the murderer has been portrayed as a physically repulsive person. This projecting mechanism in folklore and in the popular imagination, portrayed the murderers as diabolical, as devils in human form or as monsters and giants. Artists, playwrights, and poets have created a procession of grotesque and fearsome characters as a prototype throughout the pageant of history. So were born the ace-monsters of fiction—the Draculas, Franksteins, Bluebeards and the two-toned Jekyll-Hydes. Even in modern detective and crime stories and film dramatizations, the villain is usually trademarked by some physical deformity or other outward signs of a supposed inward or spiritual depravity. Is the mark of Cain so apparent that a potential murderer can be immediately recognized as such? The obvious answer is “no”. *His portrayal in fiction and in the public imagination is a psychological fact only and does not exist in reality.*

¹ Psychiatrist-in-charge Classification Clinic, Sing Sing Prison.

Not one of the entire twenty-two men showed any unusual physical appearance. Their body build, carriage and features showed no distinctive or unusual marks. In fact, the group was in a decidedly better physical condition than the average criminal of all types. The view of some eminent anthropologists that the murderer is physically inferior cannot be strengthened by the findings of this study.

In detail their heights were as follows: 1—5 feet 1 inch; 5—5 feet 4 inches to 5 feet 5½ inches; 13—5 feet 6 inches to 5 feet 10 inches; 3—5 feet 11 inches to 6 feet 1 inch.

Their weight showed that: 8 were 120 lbs. to 145 lbs.; 11 were 146 lbs. to 170 lbs.; 2 were 171 lbs. to 195 lbs.; 1 was 200 lbs.

Even the smallest man, weighing one hundred and twenty pounds and but five feet and one inch in height, cannot be regarded as unusual when we consider that he is a native born Italian with the racial characteristics.

Supplementing this data with complete physical findings, it was found that their health was:

In 15—excellent; 4—constitutional syphilis with no other manifestations but serology; 1—asymptomatic neuro-syphilis; 1—encephaly; 1—history of meningitis as a child.

These findings were confirmed by post mortem examination.

The mental conditions, carefully examined by different clinics and individual psychiatrists attached to the different courts, were not at variance with the findings of our clinic based on six months' to two years' observation. The following breakdown resulted:

8 negative; 1 exhibited paranoid trends; 1 showed alcoholic deterioration; 2 showed schizoid trends; 2 borderline intelligence; 1 mental defective; 7 showed evidence of neuropathies, and showed some of the following symptoms: nervousness, jumpiness and restlessness with tics, stuttering and increased psychomotor activity.

Two of the twenty-two men refused to undergo psychometric testing, but in the remaining twenty:

11 with mental ages of 9.6 to 11.5, I.Q.'s from 65 to 77
9 with mental ages of 12.3 to 19.1, I.Q.'s from 82 to 127.

Presuming that the law of averages is maintained in the small group under study, the psychometric testings revealed what is perhaps a significant fact, inasmuch as the percentage of those of borderline intelligence among all criminals was 25% whilst the group of murderers produced more than 50% of borderline intelligence cases.

Ten of the twenty-two men were excessive alcoholics. Their mental condition was as follows:

2 showed no other manifestations; 2 showed schizoid tendencies; 2 were of borderline intelligence; 1 showed alcoholic deterioration; 1 was a mental

defective; 2 were neuropaths, nervous and restless with tics, stuttering and increased psychomotor activity.

A personality study of the men indicated, twelve—or more than half—were primarily extravert, eight being primarily introvert, with one, sullen, morose, and anti-social, and one, suspicious and potentially paranoid.

While the foregoing facts seem to reveal certain data, it should be borne in mind that in themselves they are just elements and carry no significance in an understanding of criminal tendencies. It is the combination of these elements or characteristics, and the proportion of them that is likely to bear crimino-genic (or etiological) significance. The fine interplay between these constitutional and psychological units as a whole within the environment, produces a compound which has explosive, anti-social tendencies—not unlike a chemical compound such as nitroglycerine with its individual elements of carbon, oxygen, hydrogen and nitrogen. Separately, they are harmless and even when combined in certain potentially dangerous proportions another specific condition is necessary to produce an explosion.

In illustrating some of the psychosomatic reactions, I give, in an abbreviated form, a few individual studies:

A twenty-one year old boy, shy, almost of the student type, extremely fond of literature, very meticulous in his appearance and clean to the extent of not being able to go to sleep if the slightest disorder existed in his cell, had had dreams of becoming an aviator since his early childhood. When nine or ten years of age, he used to sneak into the hangars of a nearby airfield just to be near the machines or so that he could touch the parts of an airplane. Later, he attempted to materialize his dreams, and while working as a messenger in a Postal Telegraph office, he made continuous efforts to enlist in the Army or Navy Air Service. Due to his slight build, he was rejected, and the reaction to this disappointment seemed to form the kernel of his anti-social attitude. From then on, he lost all interest in his work. He looked for substitute excitement and toyed with the idea of living dangerously for a while, getting as much out of life as he could. Being frustrated in his dream of raising himself aloft by his own efforts, flying in a commercial plane did not appeal to him and he made no attempt to purchase a ticket for a flight. The criminal tendencies which developed were the expression of an abject discouragement about his chances and qualifications, to achieve a feeling of personal value and prestige on the socially useful side of life. He became increasingly interested in weapons and it was not long before he bought a gun and carried it along with him. The possession of it made him feel more important among the group of boys whom he succeeded in organizing.

The next step toward planning a hold-up was soon made and he intended to kill all of his victims and any persons at the scene of crime to avoid detection. Shortly after making these elaborate plans, which were not carried out, he was apprehended for committing a murder while a hold-up was being staged.

This boy was so tender-hearted and sentimental that the sight of babies and young mothers would bring tears to his eyes. Yet in his enterprise, he did not hesitate to pull the trigger on the first occasion and kill three men in quick succession. He was definitely of the schizoid type. He was the type who might just as easily have set a new world's record in the air or a feat equal to the first trans-Atlantic flight, had his early desires been fulfilled. Frustration brought about the very antithesis of this, the desire to destroy himself. Besides the schizoid tendencies, he was extremely addicted to alcohol, which released or activated this ruthless performance. Here we have the unfortunate combination of a man with a schizoid pattern, frustrated in his aims, who became an excessive user of alcohol. The presence of any one of these characteristics in one individual would have indicated no inherent potentiality for crime, but the combination of these plus an individual reaction produced a multiplex premeditating murderer.

In two instances, narcotic addiction induced paranoid states and the well-known desire to kill, owing to the influence of extreme addiction to marihuana. One young man walked into a place called a "whiskey joint", where a former friend, whom he believed was alienating his acquaintances and friends, was reclining on a couch. Without any hesitation, he pulled out his revolver and shot him dead. After confinement, when the toxic effects of the drugs were eliminated, these paranoid tendencies cleared up completely.

Or take the case of two young individuals. One is domineering, and both of them of the subconscious homosexual type. They became very closely associated in crime. While one made every effort to adjust in time to a legitimate existence, the other, more positive one had such an overbearing influence on him that all his efforts to reform were nullified. The merest suggestion or offer from his friend to participate in any venture met with no resistance, and he became the partner in a murder performed during a hold-up.

Another man was so alcoholic that he practically never was sober, and in this state, his aggressive, anti-social tendencies were so pronounced that he himself boasted he wouldn't hesitate to kill anyone, even his own mother, on the slightest provocation when he was drunk.

Among the group of murderers of borderline intelligence, and where hysterical fugues were apparent, was a young man who had

no previous criminal record and who had made arrangements to take out a girl, who had the reputation among his friends, as being a woman of easy virtue. When this girl refused his advances, he became so outraged that he murdered her with a wrench, pouring five cents worth of gasoline over her body and attempting to burn her. The blow to his self-esteem and ego was so great when he knew the girl had consented to intimate relations with his friends that he passed the threshold of irritability and lost his emotional control. An actual amnesia developed, and the facts and circumstances of his crime were entirely effaced from his memory.

The mental defective is typified by a young man who played the part of a finger-man in a hold-up. He gave the information necessary to carry out the plan, and was the tool in another, more aggressive, man's hand.

In these cases we find an enormous diversity of characteristics in the different murderers and much variance in the physical circumstances surrounding the crime—but the reaction pattern is constant.

To complete the review of the psychosomatic elements, the socio-economic aspect was next taken into account. Regarding this, it was found that:

6 came from broken homes; 5 came from a good family environment; 3 lived in comfort; 4 came from homes having marginal finances; 4 came from poverty-stricken homes.

Disregarding the men whose families were broken up, there emerges the fact that just as many came from comfortable to good homes as came from homes of a needy or poor level.

It is interesting to note that 16 out of the 22 men were unemployed at the time of the crime. Not one of the entire 22 was skilled in any trade or profession and they disclosed a uniformly low educational level, only two of them having progressed beyond the 8th grade of public school. These two had attended Junior High School and High School respectively.

Combined figures show that these individuals fall below the intellectual, occupational and educational standards of the total prison population.

Their ages indicate that the criminal act was carried out while they were at the height of psychosomatic performance. Eighty-six per cent, or nineteen, of them were between 20 to 35 years old and the other three between 36 and 44 years.

The question of emotional endowment must be considered in conjunction with their racial background. Seventeen of them were white and five colored. Of the 17 white men, 10 were born in Italy or were of Italian parentage. The remaining seven included Russian Jews, Poles, an Irish-Scot and an American white.

A previous criminal history was present in all but four cases which were emotional killings and a murder committed in the course of another felony. The remaining 18 had been convicted from 2 to 30 times on misdemeanors or felonies. A few had been held for previous homicides, but were not convicted.

By far, the majority of the men used a gun to commit the crime. A hammer, wire, icepicks, rope, a knife and a wrench were used in the other cases in inflicting death.

In summing up these findings one would be inclined to feel that a man who has been convicted of murder in the first degree is probably a man between 20 and 35 years old, in good physical health with no major symptoms of any marked nervous condition. He will probably be unskilled in any trade and unemployed at the time of the crime, if not for sometime previous to it. He will have been convicted before on some felony and have committed a crime of an acquisitive nature. Further we find that his economical status is a little higher than the standard of the prison population. Three to one that the murderer's weapon will be a gun. One to three that he himself committed no murder but was involved in a felony at the time of the crime. The chance that he is an excessive alcoholic is 50% and the same ratio applies to his being an extravert with no particular marks or characteristics in his body-build, appearance and manners.

According to this study, the superstition of stigmata on a murderer of the most serious type cannot be substantiated. No individual characteristics can be found which would be specific to this type of crime. It appears that the *interplay of constitutional, psychological, and socio-economic elements is an etiological factor of the greatest importance.*

TO SHARE A KNOWLEDGE OF COMPARATIVE LAW

"Many years ago, while living in Japan, the author came under the spell of what is called Comparative Law. The world-wide stimulus of Maine's 'Ancient Law' was then unique; there was little knowledge, few workers, and scanty materials. Times have moved on. The field of Comparative Law, as known to scholars, has been vastly enlarged; and every country now has its specialist contributors. The trend of the times urges to greater and more intelligent interest by the peoples of the world in each other; and Maine's inspiring call to that knowledge still echoes to our profession. But the legal profession at large has not hitherto been vouchsafed an opportunity to share this knowledge, summarized in feasible form and with living interest. The present work seeks to offer that opportunity."—From *A Panorama of the World's Legal Systems*, 1928. By John Henry Wigmore.