

Psychiatric-Legal Analysis of Criminal Defendants Charged with Murder: A Sample Without Major Mental Disorder

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ABSTRACT: A sample of 31 criminal defendants who were charged with murder but without major mental disorder was studied. The sample was derived from a large urban multi-ethnic, multi-cultural community pool. Subject characteristics and information about the homicide and decedents are described. Suggestions for further study are briefly discussed.

KEYWORDS: psychiatry, homicide, murder, substance abuse, violence, aggression, cultural factors

Homicide remains a vexing ongoing problem. The news media regularly, if not daily, reports stories involving homicide. This reflects perhaps contemporary American society's concern with this deadly crime. From a legal perspective, all jurisdictions in the United States prohibit the unlawful killing of others and provide severe sanctions for those convicted of the crime of homicide.

American law generally divides criminal homicide into murder and manslaughter. In California, murder is defined as the "unlawful killing of a human being, or a fetus, with malice aforethought" [1]. Other states have a similar definition. Conviction for the crime of murder may subject the defendant to capital punishment in those states allowing its implementation.

Despite the severe legal sanction meted out for a murder conviction, the high frequency of homicidal behavior persists as evidenced by the results of a recent survey that measured the national homicide rate at greater than 21,000 per year. This rate is 1.5 times greater than the rate in the 1950s. Moreover, homicide is the fifth leading cause of death for persons under 65 in the United States. Clearly, homicide is a significant and increasing public health problem [2]. Of course, although the criminal justice system can incapacitate convicted killers, it has not deterred others from committing homicide. Lowering the homicide rate will therefore require in large part, implementation of preventative measures. To assess possible preventative actions, the retrospective study of those who have killed remains one of the best available research tools to study homicide [see for example, 3–12]. Consistent with the methodologies of other psychiatric studies of murderers [see

for example, 3–12], our sample is based on persons who were personally examined.

In this paper, we provide information derived from psychiatric evaluation of criminal defendants accused of having committed murder and suffering from no diagnosable major mental disorder. Because these evaluations were pretrial, none of these individuals had actually been convicted of murder at the time of the evaluation. Our sample was drawn from the county of Los Angeles which has a diverse multi-ethnic, multi-cultural population numbering about 9 million persons [13]—a population exceeding that of most states [14].

Methods

The data for this study were collected during the period from March 1987 to January 1992, from psychiatric evaluations of 63 defendants performed at the request of the Los Angeles County Superior Court. Of these 63 persons, 31 suffered from no DSM-III-R Axis I mental disorder except for substance use disorder [15] and formed our study sample. Information was obtained by record review of each subject. The review gathered information on the defendant's demographic profile, psychiatric history, diagnosis, forensically relevant mental states during the alleged murder, use of alcohol or drugs near the time of the alleged murder, information about the homicidal act, characteristics of the decedent, and the psychiatric-legal issues of the case. A report on 25 of the defendants from this sample of 63 who suffered from a psychotic disorder has been previously reported [16]. The other seven defendants qualified for a diagnosable mood disorder and were therefore not included in either the psychotic or non-major mental disorder groups.

Results

Demographic Information

The 31 defendants allegedly killed 32 persons as one double homicide allegedly transpired. The average age of the group was 27.1 years. The group contained 1 (3.2%) female and 30 (96.8%) males. The ethnic breakdown of the group was 6 (19.4%) African-American, 0 (0%) Asian/Pacific Islander, 20 (64.5%) Hispanic white, 4 (12.9%) other white, and 1 (3.2%) Hispanic black. Concerning marital status, 10 (32.3%) were married, 16 (51.6%) were single, 1 (3.2%) was divorced, and 4 (12.9%) were separated. Sixteen (51.6%) of the group were born in the United States, 6 (19.4%) in Mexico, and 9 (29%) elsewhere. Sixteen (51.6%) were English-speaking, 12 (38.7%) only spoke Spanish, and 3 (9.7%) were bilingual in English and Spanish.

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Diagnosis and Relevant History

Nineteen (61.3%) of the sample met criteria for a substance use disorder. The only person with a history of inpatient psychiatric hospitalization was the female subject in the sample. This defendant reported a long history of polysubstance use with the hospitalization for symptoms associated with such use and did not present any psychotic symptoms at the time of the alleged murder or during the psychiatric evaluation. None of the 31 subjects were in psychiatric treatment or prescribed psychotropic medications at the time of the alleged murder.

Among the 31 subjects, 15 (48.4%) had a prior criminal history (prior felony arrests) and 15 (48.4%) had a prior history of physical violence. Ten (32.3%) of the subjects had a positive history for both crime and violence.

Characteristics of Alleged Homicide

Of the 32 decedents who died at the hands of the alleged perpetrators, 3 (9.4%) were spouses, 3 (9.4%) were relatives, 14 (43.7%) were friends or acquaintances, 12 (37.5%) were strangers. One (3.1%) of the subjects from the sample allegedly committed a double murder involving a gang-related killing of two strangers.

The 32 alleged murders by the 31 subjects were reported to have been done by the following methods: 15 (46.9%) by guns only, 8 (25%) by a knife-type weapon, 1 (3.1%) by a combination of weapons (gun and knife), 1 (3.1%) by a heavy object (and also strangulation), and 7 (21.9%) using no weapons (by the available reports of the defendant, police, or autopsy) in the commission of the alleged murder.

Among the 32 murders allegedly perpetrated, 3 (9.4%) occurred at the decedent's residence, 4 (12.5%) at the defendant's residence, 10 (31.3%) at the joint residence of the decedent and defendant, 9 (28.1%) in the "streets," 5 (15.6%) elsewhere, and 1 (3.1%) in which the location was unknown.

Forensic Issues

None of the 31 subjects gave any history consistent with psychotic, mood, or organic mental disorder during the time of the alleged murder. Sixteen (51.6%) reported a history of alcohol or drug use preceding and near the time of the alleged murder.

The issue of whether the defendant was competent to stand trial was requested in 11 cases with none (0%) thought by the psychiatric examiner to be incompetent. The issue of whether the defendant met California's M'Naghten-type insanity criteria was requested in 15 cases with none (0%) of these thought by the psychiatric examiner to meet the insanity standard.

In 21 cases the legal system requested evaluation of the defendant's mental state with respect to premeditation, deliberation, harboring malice aforethought, or having killed as a result of a sudden quarrel or in the heat of passion. A defendant is guilty of first degree murder if he or she had premeditated, deliberated, and harbored malice aforethought, but only second degree murder if he or she did not premeditate or did not deliberate [17]. A defendant is guilty of voluntary manslaughter if the killing was as result of a sudden quarrel or in the heat of passion [18]. Thus, psychiatric factors, including the effects of voluntary intoxication, may be relevant in the trier of fact's determination of whether a murder had been committed by allowing the defense of "diminished actuality" [19,20] which could disprove that a defendant had the mental states of premeditation, deliberation, or harboring malice aforethought at the time of the alleged killing, that is, the mental states that the

prosecution has to show existed in order to obtain a murder conviction. In three cases, the psychiatric examiner thought that psychiatric factors were likely to have played a substantial role in the killing. Two cases were thought to qualify for a "sudden quarrel" or "heat of passion" situation, which would allow a voluntary manslaughter conviction instead of murder. The third case involved alcohol and cocaine intoxication in which the defendant shot another person in a barroom.

Discussion

The greater than nine-to-one ratio of males to females in our sample reflects the underlying gender ratio of persons comprising the local jail and prison populations from which our sample was gathered. The average age of our total sample was young at 27.1 years, with 32.3% married at the time of the alleged murder. Thus, the typical murder defendant in our sample was a young unmarried adult male.

The 1990 census indicated that the ethnic/racial mixture of Los Angeles county's population was 40.8% Anglo, 37.8% Latino, 10.5% African-American, and 10.2% Asian-American [13]. The ethnic/racial breakdown of our sample reflects the prevailing heterogeneity and diversity of the larger population pool from which it was drawn. The apparent over-representation in the number of Hispanics in our non-mentally disordered sample likely reflects the non-random assignment of forensic psychiatric evaluations, especially in view of an apparent preference for assigning minority defendants to forensic examiners of the same minority background with the expectation that this would facilitate evaluation [21,22].

The number of non-U.S.-born defendants accounted for about one-half of our sample. Only about one-half of our sample were fluent in English. This finding suggests that further studies are needed to determine the possibility that social factors such as immigration and the degree of language proficiency of the dominant society, or factors such as social alienation, may play a contributory role in some cases of murder.

Diagnostically, more than one-half (61.3%) of our sample met criteria for a substance use disorder. Our result is similar to that found in a comparable recent study of 100 pretrial murder and negligent homicide defendants in which 58% were found to have substance abuse [12], although this latter sample commingled defendants with and without major mental disorders. More striking is the relative frequency of substance abuse found among our sample of murder defendants compared to an approximate frequency generated from the study of the general population in community-based sample. From such a study, the lifetime prevalence rates were 13.5% for an alcohol use disorder and 6.1% for a non-alcohol substance use disorder [23]. These community-based figures support the hypothesis that a substantially higher frequency of substance abuse can be found among defendants charged with murder than in a sample drawn from the community-at-large. However, whether there is a true causal relationship between substance abuse and murder cannot be answered based on the data from the present sample. There is, however, little doubt that substance abuse is at least a substantial risk factor for homicidal actions, in view of the higher frequency of violent behaviors found among those with substance abuse than those without it [24].

Positive histories for criminality (48.4%) or physical violence (48.4%), or both (32.3%) were obtained. This result is consistent with the hypothesis that past criminality and past violence are associated with an increased risk for future criminal or violent acts found among many reviewed studies [25].

We found that of the 32 victims, the murder defendant knew his or her victim (as a spouse, relative, friend, or acquaintance) in a majority (62.5%) of the cases. This finding is consistent with a recent national survey that found that 80% of murder victims were killed by acquaintances of family members [26]. We found that spouses or relatives comprised 18.8% of the decedents, similar to the 16% found in the aforementioned survey [26,27]. In addition, slightly more than one-half (53.1%) of the victims in our sample were killed in either their own home, the home they shared with the defendant, or the defendant's home. These findings confirm conventional wisdom that familiarity plays an important role regarding who is murdered and where the murder occurs. Nonetheless, our sample also reported murdered persons unfamiliar with the defendants in a substantial portion (37.5%) of the cases. This latter figure, of course, are the murders that the public fears, such as killings by strangers in a "random act of violence."

Guns were used in 50% and knife-type weapons were used in 28.1% of the alleged murders. In a recent national homicide survey, guns accounted for 61.6% of the homicides and knife-type weapons accounted for 18.8% [2]. Although our Los Angeles county sample of non-mentally disordered murder defendants used guns less often and used knife-type weapons more often than nationally [2], our findings for total percentages for these two most popularly carried weapons is comparable to the national figure. This raises the issue of controlling the distribution of weapons as a necessary potential solution for reduction of the murder rate [28,29].

The use of alcohol or other drugs preceding and near the time of the alleged murder was found in slightly more than one-half (51.6%) of the cases suggesting that substance abuse may have some degree of influence on the defendant's (homicidal) thinking and/or behavior. This figure is comparable to the 48% found intoxicated in a recent study of 100 pretrial homicide defendants [12]. However, as previously mentioned, in this other study, some persons with major mental disorders comprised part of the sample. Even though we found that a majority of cases in our sample were associated with substance use, in only one case did we opine that substance usage likely affected the defendant's legally relevant mental states of premeditation, deliberation, or harboring malice aforethought.

Although the psychiatric-legal factors of the evaluation revealed no clearly discernible relationship to the characteristics of the murderer, their consideration nevertheless may have some relevance to psychiatry's interface with the legal system and for the legal disposition of the individual case. For example, in none of the 11 requests for competence to stand trial assessments or 15 requests for insanity evaluations did the psychiatric examiner provide an opinion supporting incompetence or insanity, respectively. Only in one of the 21 requests to evaluate the mental states of premeditation, deliberation, or harboring malice aforethought at the time of the alleged murder was the defendant's mental state such that an opinion supporting diminished actuality was provided. However, it should be noted that in two other cases, the psychiatric examiner opined that the defendant's actions were the result of a "sudden quarrel" or in the "heat of passion" leading him to suggest that the defendant would qualify for voluntary manslaughter instead of murder.

Future Directions

The modal profile for the non-mentally disordered murder defendant is a young, unmarried, adult male who has a history of substance abuse or dependence, a history of criminality, a history

of physical violence, and weapon ownership. This profile suggests areas for further study as well as policies aimed at implementing preventative measures. This consideration would seem especially important given the alarming number of homicides in the U.S. [30]. Insofar as psychiatry and other mental health disciplines are concerned, treatment of substance use disorders merits particular attention as the greatest potential preventative measure of homicidal behavior. However, it is important to emphasize that other apparent factors associated with the backgrounds of our sample of murder defendants included a history of criminality and physical violence. These factors may have their roots in the larger sociocultural matrix and preventative programs addressing them are likely to involve areas far removed from the mental health field such as sociopolitical solutions designed to limit access to firearms.

The results of this study are subject to the limitations inherent in the retrospective design and the sample's non-random nature. In addition, the study of murder is a subset of the larger subject of the study of violence. In the study of violence, individuals can be followed longitudinally in a variety of settings such as psychiatric and penal institutions as well as in the community. However, limiting the study of violence to the study of murder (or homicide), the opportunity to longitudinally follow these subjects is limited, as once identified by the criminal justice system, those who illegally kill will likely receive legal sanction consisting of placement for many years in a highly structured and supervised setting specifically designed to control violent behaviors. While it is theoretically possible to study a cohort of persons convicted of murder and then paroled (or otherwise released) into the community, such a sample is likely to be small and difficult to study longitudinally for reasons of funding as well as individual rights. Thus it would be difficult to ascertain if homicidal violence differs from other types of violence and if it is a singular or recurrent event. Careful data collection in large well controlled samples and the formulation of improved violence risk assessment and management [31,32] hold promise for better solutions to address violence in general and such future studies of violence may also improve the understanding of homicidal violence.

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