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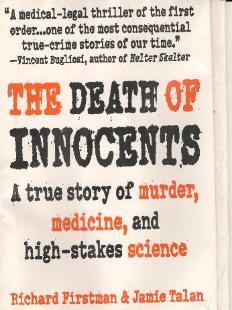
Review of: The Death of Innocents

[Death of The Innocents cover]

Authors: Richard Firstman & Jamie Talan

Publisher: Bantam

Year: 1997

An unbiased expose' is virtually an oxymoron. Firstman and Talan, however, appear to come as close as possible to achieving the impossible. Chronicling "a true story of murder, medicine, and high-stakes science" required extreme diligence to avoid sacrificing accuracy for advocacy. That the authors expended that diligence is apparent as one reads the two pages describing their research activities and the five pages required to list their references. That they achieved an unbiased presentation is perhaps more a matter of opinion, depending on the perspective of the reader, but reading their book definitely left me with that impression.

The central story of the book certainly provided more than ample grist for an expose' mill. The poorly investigated deaths of five babies in one family spawned a multi-million dollar industry in research grants and home baby monitors and, over the next twenty years, helped camouflage hundreds of infanticides as innocent SIDS deaths. The potential for placing blame is abundant. But in the spirit of Dragnet, the authors presented "just the facts." They portrayed their characters as the real people they were, containing both warts and beauty marks. The reader must decide what judgement to pass or even whether or not to pass judgement.

The book, as advertised, reads as a mystery thriller. It contains all of the ingredients of the tabloid -- murder, money, power and politics. It also contains all of the customary problems of the criminal justice system and of science -- ignorance, ego, cowardice, and obsession. And, in counter-point, it contains the solutions for the criminal justice system and science -- intelligence, altruism, courage, and open-mindedness. The various threads are deftly interwoven to maintain interest while providing the requisite, background information.

The task of intelligibly providing accurate background information about SIDS was indeed formidable, especially since so little is known about so much, and much of what is known is wrong. The authors described the torturous attempts of researchers to study the emotional but ethereal problem and the frustrations facing parents, doctors and criminal investigators as they dealt with the sparse and often conflicting information.

The authors not only produced a highly entertaining novel but also provided a valuable public service. They introduced the uninitiated to the radical notions that there are those parents who do the unthinkable -- kill their own children for profit or pleasure -- and, that there are lots of them. In our materialistic society, it is not too difficult to [End page 23] understand the concept of an occasional murder for profit, even of one's own children, and the book opens with an example of that. Murder of one's child to eliminate the pain of postpartum depression or a colicky baby is more difficult to understand, although most mothers can empathize, and the authors present that concept as theories advanced by various researchers and investigators particularly in Britain. Few, however, can envision a seemingly ordinary parent murdering their child for psychological gratification, much less doing it over and over. Making the Munchausen-by-Proxy syndrome believable requires a skillful presentation and the authors made one.

The authors also made a conscientious effort to assure the public, and reassure the parents of truly SIDS babies, that infanticide is a small fraction of the seemingly unexplained deaths of infants. Indeed, I feel that perhaps they went too far by promulgating the maxim that "One unexplained infant death in a family is SIDS. Two is very suspicious. Three is homicide." If the theme of the book teaches nothing else, it is to be suspicious of maxims in an investigation, whether criminal or scientific. The herd instinct is alive and well in the public, in research scientists and in criminal investigators.

One cannot merely trade maxims according to the fad of the times. One must analyze the evidence. The authors made that point from various perspectives but, ironically, the doctor practicing "sophistry" (the second villain in the book), said it most memorably "five ignorants [do not] equal a certainty." The key word is ignorance. A conviction can not be based on ignorance. It requires proof which requires facts. Profiles are not proof but only a collection of facts of a peculiar nature. A profile is only as good as the reliability of the facts of which it consists. Some profiles are the stuff of witch hunts, others can focus an investigation, and, some few can be used as evidence. Until the cause(s) of SIDS is known, the profile that multiple SIDS deaths indicate homicide can focus an investigation and no more.

The book is replete with examples of the need for an open mind by everyone involved with an unexplained, unattended infant death. Keeping an open mind is an affirmative action. It requires that one consciously recognize that an unattended infant death may be due to natural causes, neglect, accident, infanticide or, most likely, SIDS. Infanticide may be due to an escalation of battering, postpartum depression, failure to cope with the stresses of parenting, Munchausen-by-proxy, elimination of competition for affection, profit or a combination.

But, simply recognizing the possibilities is not enough; facts are required. The authors pointed out, however, that too often, the key fact is a confession. Indeed, it may be the only substantial piece of evidence in the investigation. Through their examples, the authors make a convincing case for reforms in the interrogation process. First, sensitivity training is required. Most unattended infant deaths are SIDS and [End page 24] parents do not need any additional guilt. Second, video taping of interrogations is advisable for two reasons. The general public does not trust the police behind closed doors and, too many people are overly vulnerable to suggestion, particularly by police interrogators.

Implicit in the theme of the book is that the task of the investigator is to consider probabilities rather than seek proof for preconceived "certainties." Those interested in why it is so difficult for the human mind to conduct such a rational investigation should read the anthology, On Scientific Thinking. In the first place, it is implicit in the concept of probability that there is more than one theory, otherwise it would be a certainty. Firstman and Talan vividly related numerous instances in which scientists and criminal investigators make the critical error of concentrating on a favored theory only to precipitate disastrous consequences. This book should be required reading for both criminal investigators and scientists along with an article written almost 100 years ago, On Multiple Hypotheses, that describes in colorful language how to avoid the problem.

Firstman and Talan also illustrated some weaknesses in the criminal justice system that are not often considered. For example, when the coroner system was replaced by the medical examiner system, it corrected one problem but created another. The coroner was making legal decisions (the manner of death) about a medical subject (the cause of death) with no medical training. That was such an obvious problem that it seems strange that it did not occur to anyone that doctors have neither the legal training nor the subpoena powers of the coroner necessary to make the legal decision competently. Left unsaid by the authors is the reform that would split the duties of the coroner among the medical examiner and the district attorney. The other example is the distinction among doctors as healers, doctors as researchers and doctors as forensic scientists. Even when examining the same subject, they do so with a different mindset. One diagnoses, one discovers and one reconstructs. The tragic effects of failing to consider the distinctions are amply illustrated throughout the book.

The more familiar problems are also well documented. The behind-the-scene descriptions of the investigative and adjudicative processes convey the usual unease about the criminal justice system. The community holding the trial harbored a "sometimes overwrought mistrust of the police." The privileged presumption accorded to doctors by investigators, prosecutors and judges colored their judgement throughout the investigations. That the political ambitions, egos, and insecurities of prosecutors often supercede justice is common knowledge but was no less disquieting when encountered in the strategy sessions throughout the book. Equally disquieting was the description of the politics of the medical field. The resistance of doctors to change their mind, to consider new paradigms, or to listen to nurses have all been described before but seldom in the context of criminal matters. Likewise the flaws in the nexus of government with science, in the form of agencies such [End page 25] as the National Institute of Health, are well documented elsewhere, but it was particularly disturbing to encounter both a waste of money and a waste of lives in the same scenario.

In summary, one can hope that this dual expose' of science and the law will improve both. In addition to its obvious entertainment value, the book contains the potential for a significant educational impact and may even provide some stimulus for reform among the general public. In any event, among the academic community, the book provides a "real-life" tool for teaching points in medicine, public administration, investigation, forensic science and general criminal justice courses. I wish I had read it before sending in my book orders for next semester.

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REFERENCES

Chamberlin, Thomas C. (1904) "On Multiple Hypotheses." In Tweney, Ryan D., Michael E. Doherty & Clifford R. Mynatt (Eds.). (1981) On Scientific Thinking. New York: Columbia University Press.

Tweney, Ryan D., Michael E. Doherty & Clifford R. Mynatt (Eds.). (1981) On Scientific Thinking. New York: Columbia University Press.

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