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## The Construction and Transmission of Law Enforcement Discourse as the Dominant Discourse on Serial Killing in the U.S.

### 1. Introduction

American culture produces and consumes an astonishing amount of discourse on serial killing. It comes in popular, journalistic, and scholarly genres, and can be found in newspaper and magazine articles, scholarly journals, books, television series, documentaries, films, advertisements, web sites, and even trading cards. It has reached the point that, as Soothill (1993, 1996) has described it, one can truly call it a “serial killer industry,” one which, like so many other American cultural exports, has spread across much of the globe. This ‘industry’ includes vested interests from social control agents and law enforcement, private businesses, media companies, and newly-created ‘experts’ which can profit, in one sense or another, from the promotion of fear, concern, and/or interest in serial killing. In fact, the degree to which U.S. and other cultures have been penetrated by serial killer discourse can be seen in the way that the serial killer has entered general language as an all-purpose metaphor, used to describe aggressive businessmen, market rat poison, and warn about malaria-spreading mosquitoes (Soothill 1996), to characterize the way the Internet has “destroyed” competing technologies and businesses such as books, newspapers, and music CDs (Landau 2007), or even to criticize political opponents or the government itself. For example, McMastersteve (2009) posted the following to an online forum, in response to the question “who is the worst serial killer in U.S. history?”:

The worst serial killer in the country is the U.S. government with over 3,308 premeditated murders of convicted American citizens. ... John Hopkins University [*sic*] offer[s] convincing methodology to suggest it has murdered up to 942,636 civilian victims in Iraq alone. The U.S government is clearly clinically psychopathic in nature, not concerned with anything but its own self-preservation and self-interest. It's even willing to steal money from its fellow citizens all 303,840,640 victims.

Truly an evil entity if ever there was one.

Given the prevalence of discourse on serial killing in the U.S., the level of attention it has received from professionals in various fields, and, above all, the pervasive claims of the increasing frequency (or even epidemic) of serial killing,<sup>1</sup> one can, in the words of Elliott Leyton (1986: 16), “only marvel at how *few* of them walk the streets of America.” It is certainly true that the U.S. has a murder rate that, in comparison with rates in other advanced capitalist countries, could be described as ‘industrial’ in scale. However, political rhetoric about unceasing increases in violent crime aside, there does not seem to be any single, discernible trend in violent crime rates during the past 30 years or so. Homicide rates appear even less trend-bound. The most recent statistics available from the Federal Bureau of Investigation’s (FBI) Uniform Crime Reports estimate that there were a total of 16,272 murders (including nonnegligent manslaughter) in 2008, for a rate

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1 There is some evidence of an overall rise in the number of serial killings since the late 1960s, but not for a continuous, uninterrupted rise over the long term. For example, Jenkins (1989, 1992, 1994) found that there was a similar prevalence of serial homicide in the early and late twentieth century, with a substantial drop in the middle of the period.

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of about 5.4 per 100,000 inhabitants (FBI 2009). This is significantly lower than the early 1980s and the early 1990s: in 1980, there were approximately 23,040 murders for a rate of 10.2, and in 1991 there were 24,700 murders for a rate of 9.8. During the years in-between, the rates varied widely, including a low of 7.9 in both 1984 and 1985 (FBI 2000). The 2008 estimate, while somewhat higher in total numbers than the period low of 15,522 murders (a rate of 5.7) in 1999, is the lowest murder rate recorded during this period, though the rates during the 2000s have been fairly stable, fluctuating between 5.5 and 5.7 (FBI 2009).<sup>2</sup>

However, the reality of serial murder is statistically rather insignificant. Serial murders, though notoriously difficult to quantify given problems of linkage, undiscovered victims, etc., are estimated to account for less than 1% (FBI 2008) to perhaps 1-2% (Jenkins 1994) of all murder victims per year in the U.S.. Hickey (1991: 75), who conducted one of the first comprehensive studies of serial killing, has pointed out that if all of the known victims of serial killers from 1975 to 1988 (a period with a high rate of serial killing) had occurred in a single year, it would only have resulted in a rate of 0.2 per 100,000 population, noting that the risk of being victimized by a serial killer is “inversely proportional to ... the amount of fear and public awareness of this phenomenon.”

Thus, it can be said that the cultural effects of serial killing have become drastically disproportional to the reality of the offense. However, it would be an error to see this (over)production of discourse as simply a harmless, perhaps understandable overreaction to an extreme phenomenon. There have been decidedly and consistently strategic deployments of discourse on serial murder over the past few decades which have been clearly motivated, carefully articulated, and cleverly disseminated through the culture. As Jenkins (1994: 3) has pointed out in what was the first analysis of serial killing in terms of a socially constructed phenomenon, the construction of serial killing has been “used as a multifaceted weapon in political debate”, utilized in a number of ways as leverage for a variety of different cultural critiques, from conservative condemnations of postmodern culture and morality, to feminist critiques of patriarchy, to progressive challenges to capitalist reification and dehumanization, and beyond. In effect, it functions as a “quilting point” (*point de capiton*), a node which allows the articulation of different discourses in the on-going process of hegemonic struggle for the construction of the social (Žižek 1989, 1991). In what follows, one particular aspect of this phenomenon will be analyzed: the way in which serial killing has served to underwrite some of the more extreme penal practices in the U.S., not for serial killers themselves, but rather for a growing number of other offenders.

Amid the explosion of discourse on serial killing, a dominant discourse has emerged which has produced and disseminated a particular concept of serial killers. The history of this construction and its transmission is important, not simply because it is an interesting curiosity but because it has had wide-ranging cultural effects. This discourse operates as a specialized knowledge and, supported by ideological and institutional means, has been communicated through all levels of society. In the process of this saturation, the serial killer has come to be seen not as an aberration or anomaly in the world of violent crime, but rather its most paradigmatic example. Seriality, the idea that crimes follow an unstoppable path of compulsive regularity or intensification, has become a central idea about crime in general, and has helped justify and perpetuate increasingly harsh and expansive incarceration regimes as well as the death penalty, even in the face of falling violent crime rates.

## 2. Background

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<sup>2</sup> Contrast these numbers with, for example, Canada, with 611 homicides, for a rate of 1.8 in 2008 (Statistics Canada 2009), the United Kingdom (England and Wales only), with 763 homicides for the recording period 2007/2008, for a rate of 1.41 (Povey et al. 2009: 9), or Italy, with 621 homicides, for a rate of 1.1 in 2006 (Ministero dell’Interno 2007: 114, 118).

Serial murder is certainly nothing new. While in a very broad sense the types of multiple killing we now term ‘serial’ have occurred throughout history, the codification of the ‘serial killer’ as a defined entity, as an image or set of characteristics with a specialized vocabulary to describe it and a particular type of narrative producing knowledge about it, is a phenomenon particular to the post-World War II era and especially to the discursive regimes of the 1980s and 1990s. Scholarly and popular accounts of historical murders have by now identified and popularized a relatively large number of (retroactively defined) serial killers pre-dating even Jack the Ripper in the late 19th century (see, e.g., Schechter/Everitt 1997). Particularly well-known are Gilles de Rais in 15<sup>th</sup> century France, Hungarian Countess Erzsébet Báthory in the early 1600s, and Sawney Beane and his clan in Scotland in the late 16<sup>th</sup> and early 17<sup>th</sup> century. Although the actual number of their victims is impossible to know with any precision – hundreds of victims are often attributed to each of them – there is clear historical documentation of their having committed numerous murders over time (see, e.g., Vronsky 2004).

What is new is its particular discursive construction since its ‘invention’ as a category in the late 1970s by agents of the FBI’s Behavioral Science Unit (BSU, since renamed the Behavioral Analysis Unit, or BAU). The origins of FBI discourse on serial killing can be traced to the Criminal Personality Research Project, an unofficial project to interview incarcerated violent criminals (Douglas/Olshaker 1995; Ressler/Shachtman 1992). The result of these interviews and further research projects was a data set that defined and sustained the very idea, and subsequent categorization, of serial killers. Prior to this, there was a broader category of multiple homicide, or multi-cide, or these crimes were lumped together under the term mass murder. Although not universally agreed upon, today, a terminologically precise, three-way division between mass, spree, and serial homicide is widely accepted, based upon the number of victims, the number of discrete events, and their temporal relationships (see Table 1). While there have been some recent changes proposed to this classification scheme by the FBI (2008), these have not yet been taken up by academics, journalists, or other commentators, nor have they entered popular culture.

Style	Single	Double	Triple	Mass	Spree	Serial
Number of victims	1	2	3	3+	2+	3+
Number of events	1	1	1	1	1	3+
Number of locations	1	1	1	1	2+	3+
Cooling-off period	n/a	n/a	n/a	n/a	No	Yes

Table 1. Homicide classification by style and type (Douglas et al. 1986: 408)

Though serial killers have been defined in several different ways, the most influential by far has been the FBI’s early claim that serial murder consists of “three or more separate events with an emotional cooling-off period between homicides” (Douglas et al. 1986: 409). With this definition in place, certain generalizations were made and a typology created. Capitalizing on its institutionally privileged position regarding access to inmates and case files, the FBI set out not only to create a specialized knowledge about an emerging public concern after a series of highly publicized cases in the late 1970s and early 1980s, but to create a perceived necessity for their own ‘expertise.’ Chouliaraki/Fairclough (1999: 81) have noted that in modern social life expert systems have become increasingly important: “Trust in the efficacy of expert systems becomes a vital condition of contemporary social life—for people’s ontological security, their sense of being all right in the world.” FBI ‘expertise’ was constituted through a “skillful courting of the mass media” through which the FBI established “ownership of the emerging problem” (Jenkins 1994: 78). Inflated statistics about the scope of serial murder disseminated by Justice Department officials, enchaind to a narrative of escalation, helped create a panic, for which only the FBI and its expert ‘profilers’ could offer the possibility of containment.

Following the construction and dissemination of FBI discourse on serial murder in 1970s and 1980s, the FBI's specialized knowledge about serial killing was transmitted widely and hegemony attained in the 1990s. Central to this popularization was the figure of the profiler who can 'get inside the mind' of the serial killer in order to catch him, a figure which has become quite common in American TV and film,<sup>3</sup> spreading the fundamental assumptions that undergird the FBI's discourse on serial killers.

### 3. Construction

As Fairclough (1995) has argued, ideologies affect not only the content of discourse but also its structuring into orders of discourse. Discourse on serial killing is no exception. The dominant discourse on serial killing in the U.S., in contrast to elsewhere, comes from law enforcement. Psychology, psychiatry, sociology, and other disciplines that typically dominate discourse on 'abnormal,' 'deviant' individuals and their behavior, are extremely marginalized in the U.S. While their distrust in relation to crime is part of a broader trend which favors punitive rather than treatment-oriented models (see Cullen/Gendreau 2000; Jenkins 2006), in the context of serial killing, it has also been directly cultivated in FBI discourse. The agents who first worked on serial killing cases dismiss psychological and psychiatric discourse as 'jargon,' useless and academic (a negative quality in the U.S.) because it is not rooted in law enforcement experience. Ressler/Shachtman (1992: 128-129), for example, state that,

to characterize the types of offenders for police and other local law enforcement people we needed to have a terminology that was not based in psychiatric jargon. It wouldn't do much good to say to a police officer that he was looking for a psychotic personality if that police officer had no training in psychology; we needed to speak to the police in terms that they could understand.

Douglas/Olshaker (1995: 94) comment, in reference to a course in Applied Criminal Psychology:

as popular and useful as this course was, it was based mainly on research and teaching from the academic discipline of psychology. . . . at that time, the only ones who could speak from the authority of organized, methodical, broadly conducted studies were the academics. And there was a dawning realization among many of us that these studies, and this professional perspective, had only limited applicability to the field of law enforcement.

Further, Douglas/Olshaker (1995: 126) state that they:

tried to get away from the academic, psychological jargon and buzzwords and more into clear-cut concepts that would be of use to law enforcement personnel. To tell a local detective that he's looking for a paranoid schizophrenic may be intellectually interesting, but it doesn't tell him much that's useful in catching his UNSUB.

Rather than maintain the terminology of psychological and psychiatric discourse, the FBI moved to sever serial killing from this discursive field. Instead of being contextualized within the broader continuum of mental illness, serial killing was constituted as a unique 'thing,' needing new terms and a new discursive frame.<sup>4</sup> In fact, if their accounts are to be believed, the first thing they did was invent the name 'serial killer' itself for this new category.<sup>5</sup> Effectively, the FBI 'made up' a new category of person (Foucault 1990; Hacking 1986) for which it was the 'natural' expert agency for management and control. Of course, the creation of categories and classification systems

3 Profilers have not only become common characters in thrillers and police dramas but have become protagonists of entire television series. Each major U.S. broadcast network has, in fact, had at least one profiler-centered show: *Profiler* (NBC, 1996-99), *Millennium* (Fox, 1996-99), *Cracker* (ABC, 1997), *Criminal Minds* (CBS, 2005-present).

4 FBI analysts went so far as to create the *Crime Classification Manual* in 1992 (Douglas et al. 2006) as an alternative to the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* to even more definitively separate FBI analysis from other frameworks.

5 FBI sources uniformly make this claim, which has passed to many other sources as an unquestioned 'fact.' However, there are other claims on the term (or variations on it) which pre-date the FBI's alleged 'invention' (see Schmid 2005; Skrapec 2001).

is far from 'natural'. They are products of particular, contingent historical forces of construction (Hall 1997) which come into being by differentiating the other through a process of exclusion (Laclau 1990). In this case, however, the perceived transparency and naturalness of the categories and qualities created for the serial killer are particularly persistent, strengthened by repetition and through widely disseminated popular representations in all types of media.

To achieve this 'naturalness,' FBI analysts entextualized 'common sense' terms rather than psychological 'jargon,' meta-discursively redefining these terms to create a distinct discourse of their own. The primary terms employed were *organized* and *disorganized*, which were enchainned to a series of descriptive and evaluative terms (Hazelwood/Douglas 1980; Ressler et al. 1992) (see Table 2).

<u>Organized</u>	<u>Disorganized</u>
• Good intelligence	• Average intelligence
• Socially competent	• Socially immature
• Skilled work preferred	• Poor work history
• Sexually competent	• Sexually incompetent
• High birth order status	• Minimal birth order status
• Father's work stable	• Father's work unstable
• Inconsistent childhood discipline	• Harsh discipline in childhood
• Controlled mood during crime	• Anxious mood during crime
• Use of alcohol with crime	• Minimal use of alcohol
• Precipitating situational stress	• Minimal situational stress
• Living with partner	• Living alone
• Mobility, with car in good condition	• Lives/works near crime scene
• Follows crime in news media	• Minimal interest in news media
• May change jobs or leave town	• Minimal change in life-style

Table 2. Profile characteristics of organized and disorganized murderers (Ressler et al. 1992: 122)

Organized indicates a psychopathic or antisocial personality, legally sane, whose crime is planned, while disorganized usually indicates a psychotic individual, often legally insane, whose crime is spontaneous or opportunistic. As one of the creators of this opposition has put it, the difference is "between crazy (psychotic) behavior [disorganized], and irrational yet sane (psychopathic, or antisocial) behavior [organized]" (Michaud/Hazelwood 1998: 84). Moreover, these FBI authors argue that the dynamics of the crime reflect the personality of the perpetrator and that, thus, in the traces left behind at the crime scene can be found signs which reveal the personality type of the offender. Thus, crime scenes can also be characterized as organized or disorganized (see Table 3).

<u>Organized</u>	<u>Disorganized</u>
• Offense planned	• Spontaneous offense
• Victim a targeted stranger	• Victim or location known
• Personalizes victim	• Depersonalizes victim
• Controlled conversation	• Minimal conversation
• Crime scene reflects overall control	• Crime scene random and sloppy
• Demands submissive victim	• Sudden violence to victim
• Restraints used	• Minimal use of restraints
• Aggressive acts prior to death	• Sexual acts after death
• Body hidden	• Body left in view
• Weapon/evidence absent	• Evidence/weapon often present
• Transports victim or body	• Body left at death scene

Table 3: Crime scene differences between organized and disorganized murderers (Ressler et al. 1992: 122)

While these categories are rather (too) beautifully paired (see Canter et al. 2004 for a critique), in reality, even the BSU has admitted that they are too simple to describe every case, leading to the addition of a *mixed* type to the categories (Ressler et al. 1992; Ressler/Shachtman 1992).

To this simple division FBI researchers enchain an equally simple, unimodal causal model which emphasizes that childhood trauma and the poor social environment in which serial killers grow up produce a profound lack of attachment to other people. They develop distorted perceptions and a rich fantasy life in which violence and sex are intertwined. They seek to make their fantasies reality, gradually escalating to the point of repeatedly killing other people (Burgess et al. 1986; Prentky et al. 1989; Ressler et al. 1992).

The final piece of the construction was an emphasis on individual choice and thus responsibility. In the first two stages, categorizing and explaining causation, the serial killer is rendered ‘transparent,’ understandable, while in the third the possibility of moral judgment upon him is created. While a few serial killers, certain disorganized ones, may be genuinely psychotic and thus not responsible for their actions, the vast majority are described as choosing to kill for reasons of self-fulfillment. According to the FBI, serial killers develop defective cognitive mapping processes as a result of their development and environment, leaving them with a profound disregard for, or inability to consider, others. Substituting fantasy for real social relations, the serial killer develops a sense of entitlement to self-expression, regardless of impact on others, which eventually leads to choices intended to make fantasized visions of mastery and control over others real (Burgess, et al. 1986; Prentky et al. 1989; Ressler et al. 1992). Profoundly selfish, the serial killer is the prototypical psychopath or antisocial personality. With an instrumental view of others and no moral compass to mitigate his interactions with them, the serial killer, from this perspective, has no desire to stop his behavior, and is thus absolutely untreatable, beyond possibility of rehabilitation: “there is no possibility of rehabilitating this type of individual. If he is ever let out, he will kill again” (Douglas/Olshaker 1995: 319). The insertion of this ‘personality defect’ behind the actions of the serial killer not only constructs him as a specific ‘type,’ but also adds a dimension of scope: the killer, seeking to fulfill his fantasies, commits horrific acts in reality, and because fantasy can never live up to the reality, he will always need to try again: “for serial killers, the problem is that reality—the actual killing of a victim—never lives up to their best fantasies” (Ressler/Shachtman 1997: 155-156).

At the same time that they were constructing the serial killer, the FBI was also constructing itself and its profilers as the only experts on them. The process of distinguishing their discourse from others also operates at the indexical level, in which linguistic differences become mapped onto “stratified patterns of social, cultural and political value-attribution” (Blommaert 2009: 14),

converting linguistic differences into social inequalities (Blommaert 2005, 2009; Scollon/Scollon 2003). ‘Orders of indexicality’ which structure discursive space, stratifying and organizing distinctions between those of greater and lesser value, help define not only one’s sense of belonging to a group, but also one’s externally defined social role and identity (Blommaert 2005, 2009; Silverstein 2003).

In this case, the FBI and its discourse index the values of relevance and utility, and the status of professional ‘expert,’ to those using their terms rather than those from other discourses. The ‘true’ professionals are the FBI’s profilers, who use ‘clear’ terms, while the others fall into two types. There are the naïve, jargon-using do-gooders who want to coddle criminals rather than punish them (illustrated by examples of psychiatrists or psychologists who are ‘duped’ by serial killers, while the profiler sees them for the unredeemable psychopaths that they are), and there are ‘talking heads’ who seek attention and whose opinions are invalid because they lack the experience and expertise of the FBI. In fact, one FBI publication defines “self-proclaimed profilers” as “pseudoexperts,” as opposed to those with proper FBI credentials, who are the “true experts” (FBI 2008: 43). Further, Hazelwood/Michaud (2001: 132) state that “the *only* legitimate profiling courses have been programs within the FBI.” Importantly, the FBI’s ability to provide public legitimacy, as a centering institution (Blommaert 2005; Silverstein 1998), utilizing the resources of the State and its reputation as the best police force in the U.S., has helped stratify the indexical order, facilitating the entrenchment and hold of these terms.

#### 4. Transmission

This process did not ‘just happen,’ either; rather, this process was part of a concerted effort by the FBI, from establishing itself as *the* expert institution on serial killers, to defining the terms for analyzing them, to disseminating these concepts via mass media and educational institutions. Schmid (2005: 79) has noted that FBI treatment of serial killers has followed an identical process to that of gangsters in the 1930s and communists in the 1950s: “define a crime problem in the most extreme terms possible, generate a siege mentality among the American public, and then offer the FBI as the only feasible solution to the problem.” The FBI’s “extremely sophisticated use of popular culture” (Schmid 2005: 67) has even included using media as a conduit for disseminating misleading and false information that helped create this “siege mentality.” Jenkins (1988, 1994) has devastatingly debunked the statistics disseminated by the Justice Department which helped create what he has called the “Serial Murder Panic of 1983-1985,” which claimed there were 3,000 to 4,000 serial killings per year and 30-35 active serial killers at any given time (see, e.g., Lindsey 1984; Starr 1984). These dramatic numbers, a ten-fold exaggeration of the actual number of victims, helped hegemonize the public’s consent for FBI jurisdictional and funding expansions,<sup>6</sup> but more importantly helped create a perceived need for the heroic FBI “Mind Hunters” (Porter 1983), the only experts believed to be able to stop this threat.

The single most important resource for popularizing FBI discourse on serial killing has been the profiler. Insisting that “behavior reflects personality” and, thus, that crime scenes contain observable traces of the killer, the FBI claims that profilers can discern biological, biographical, behavioral, and social characteristics of the killer by observing the physical evidence and studying the victim: “facets of the criminal’s personality are evident in his offense. Like a fingerprint, the crime scene can . . . aid in identifying the murderer” (Ressler et al. 1986: 291). The fictional profiler not only embodies the law enforcement hero but also ‘teaches’ us about the serial killing menace, disseminating the FBI’s view of serial killing. As the profile is explained to the uninitiated local police or members of the public, the real public is also introduced to the vocabulary,

6 Ressler/Shachtman (1992: 229-230) acknowledge FBI complicity in “playing up the problem”: “we at the FBI . . . did add to the general impression that there was a big problem and that something needed to be done about it. We didn’t exactly go out seeking publicity, but when a reporter called, and we had a choice whether or not to cooperate on a story about violent crime, we gave the reporter good copy.”

concepts, and ideology of FBI discourse. Presented by the heroic profiler, who is inevitably proven to be correct when the killer is identified (if not arrested), these lessons become credible, at the very least by sheer repetition.

Serial killing and profiling have been the subject of a vast array of non-fiction works. Jenkins (1994: 91-95), for example, found that in one four-year period (1990-93), over 40 'True Crime' titles describing individual cases of multiple homicide came out. Particularly influential have been accounts by former FBI profilers and others who investigate serial killings. These present the terms and models of FBI discourse in a simplified context, typically illustrated by a few case studies, from which generalizations are made about all serial killers. Between 1991 and 2005 alone, over 30 non-fiction books about profiling were published, the majority of which were written (or co-written) by former FBI agents (Herndon 2007). These same retired profilers also regularly appear in documentaries, print and TV interviews, and as expert commentators in many media outlets. For example, after the recent arrest of Anthony Sowell in Cleveland for the alleged murder of up to 11 women whose bodies have been found in and around his house, Douglas, the former FBI agent cited above, provided "expert" commentary in the Cleveland *Plain Dealer*. Despite the fact that the investigation is ongoing and little is known about Sowell beyond the fact that he had previously served 15 years in prison for attempted rape, Douglas stated with absolute certainty that: "I can guarantee you, every place [the killer] lived, you're going to find cases of women just like these being raped and killed just like this... There is no way he only started killing a few years ago" (Brown 2009).

Further, the FBI has actively participated in the creation of fictional images of profilers. The most famous case of this is Thomas Harris's books and their subsequent film adaptations, most notably Jonathan Demme's *The Silence of the Lambs* (1991).<sup>7</sup> Harris did research for the books at the FBI Academy and received official consultation, and Harris's serial killers directly invoke the FBI's model. Though Lecter himself ridicules their simple distinction: "*Simplistic* is the word. . . . In fact, most psychology is puerile . . . and that practiced in Behavioral Science is on a level with phrenology . . . *organized* and *disorganized*—a real bottom feeder thought of that" (Harris 1988: 17-18), Oleson (2005) has noted that, in fact, Lecter exhibits all fourteen characteristics of the organized serial killer as defined by the FBI (see Table 2). Thus, it was rather ironic that, when the FBI (2008) set out to debunk a number of pervasive 'myths' about serial killing, they ascribed these myths to non-professionals and 'talking heads.' In fact, they themselves have created and perpetuated many of them. Of the seven myths identified and debunked in the report (FBI 2008: 3-6), *Silence* alone upholds at least six of them:

1. Serial killers are all dysfunctional loners;
2. Serial killers are all white males;
3. Serial killers are only motivated by sex;
4. All serial murderers travel and operate interstate;
5. Serial killers cannot stop killing;
6. All serial killers are insane or are evil geniuses;
7. Serial killers want to get caught.

Only myth number 7 is not supported by one or the other of the serial killers presented in Harris's book or Demme's film.

Moreover, these myths continue to be perpetuated by fictional profilers who appear in various television programs and, in particular, via the popular TV program *Criminal Minds* (2005-present).

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<sup>7</sup> *Red Dragon* (1981), *The Silence of the Lambs* (1988), *Hannibal* (1999), and *Hannibal Rising* (2006); *Red Dragon* has been made into two films, *Manhunter* (1986) and *Red Dragon* (2002); the other films are *Hannibal* (2001) and *Hannibal Rising* (2007).



While not officially sanctioned by the FBI—Jonathan Solomon (2008), FBI Special Agent in Charge of the Miami Division, has called it “ever-so-slightly unrealistic,” while at the same time praising it for its “true” image of the FBI as “America’s crime-fighters”—*Criminal Minds* not only simplistically parrots profiler platitudes, but packages it in an official-looking way. The show’s opening montage includes the FBI seal and logo, uses institutional terminology (NCAVC, BAU, Quantico, UNSUB), and presents mug shots of many real serial killers interspersed with fictional ones from serial killers featured in the series. BAU agents on the show use phrases that are almost identical, word for word, to phrases from former BSU agents’ memoirs (such as describing profiling a serial killer as “we spend some time in his shoes”), utilize the organized/disorganized typology, and show the same disdain for psychiatry (one early episode features a killer, touted as an example of the successful treatment of psychotic individuals at a medical conference, who goes on a rampage during the trip, even killing his psychiatrist). About to begin its fifth season, *Criminal Minds* is by far the closest to official FBI discourse as well as the most popular of the various shows that have featured profilers as the central characters.

## 5. FBI Discourse and Specialized Discourse

Because of its non-academic origins and orientation, FBI discourse is in some ways a peculiar case of specialized knowledge. Rather than the typical trajectory of academic formulation and legitimation, followed by dissemination through educational and popular forms, FBI discourse on serial killing has instead collapsed these stages together, substituting institutional power and status for legitimation processes such as peer review. While there are a few texts oriented toward more academic specialists, these were often written *after* their non-specialist versions; in fact, these texts seem to be simple formalizations of their popular forms. Relatively simple concepts are not presented in a more complex way; they are just re-presented stylistically more in line with the expectations of academic specialists.

Far and away the majority of FBI discourse is transmitted to both specialists and non-specialists through non-specialist texts. Gotti (2005) distinguishes specialist texts from popularizations by their different audiences and purposes. Texts for non-specialists consist of two types, pedagogical and popular. The first seek to transmit the “secondary culture” (Widdowson 1979) of the field, including disciplinary terms, in order to train new entrants, while the second are primarily informative and present their content in general language. In the case of FBI discourse on serial killing, these two types have, effectively, been combined. This is not so much a ‘flaw’ as it is part of a strategy to co-opt the public to the side of law enforcement. While sometimes subtle, at times this strategy is very direct, including second-person address, an inclusive ‘we,’ and other indexing devices that give the reader an ‘insider’ status (see, e.g., Douglas/Olshaker 1998, 1999). In fact, parallel to the way explanations by TV and film profilers performatively provide lessons to the public, FBI texts perform a sort of law enforcement ‘training’ for their readers. By explaining things in ‘common sense’ terms, setting up a participatory relation, and emphasizing shockingly detailed accounts of brutal violent crimes as cases that prove the norm, the FBI diminishes skepticism. More than a straightforwardly informative purpose, FBI texts have a clear pedagogical function which can be seen in their heavy emphasis on definitional issues and repeated linkage of definitions to their origins (Gotti 2005: 207-208), a feature that also helps reinforce their authority and expertise since these origins are always FBI personnel, or even themselves.

Another aspect of specialized discourse that helps make FBI discourse so effective at hegemonizing this field is their use of metaphor. Gotti (2005) identifies different uses of metaphor in specialized discourse, with catachresis being important in the creation of clear, concise specialized terminology and other kinds of metaphors being more common in popularizations, especially for their ability to establish links with the public’s general knowledge. For example, the organized/disorganized distinction does not so much use pre-existing words in a new sense to express a new concept as it simplifies the object to fit the pre-existing sense from general language. While these kinds of metaphors help make things easier to comprehend, there is another, more important kind

of metaphor that permeates these texts which is used to smuggle in ideological associations and value judgments rather than create terminological transparency or clarity.

Taking advantage of the ability of metaphor to add expressive connotations to a concept, FBI authors present a consistent set of metaphors for both profiling practice and serial killers. The central metaphor of profiling is, strangely, art criticism. “If you want to understand the artist, look at his work” (see, e.g., Douglas/Olshaker 1995: 110) is a constant refrain in these texts, as is “behavior reflects personality” (see, e.g., Douglas/Olshaker 1995: 11) meaning that, by looking at a crime scene you can understand something about the person who committed the crime. Further, FBI texts claim that in most crime scenes can be found the killer’s ‘signature,’ “the aspect of the crime that emotionally fulfills the offender,” and which is consistent from crime to crime (Douglas/Olshaker, 1999: 58; see also Douglas/Munn 1992; Douglas et al. 2006). Two things stand out about these choices of metaphor. First, they insist on a transparent relationship between behavior and identity, with the former being simply the direct expression of the latter, an idea that has a little currency in the academic world of art criticism as it does in social sciences. Second, if the profiler is the expert who can interpret the ‘work,’ then the serial killer is, logically, the ‘genius’ who created and ‘signed’ it, an idea which, although identified by the FBI as a myth about serial killing, has been very important in fictional representations.

For serial killers, common metaphors, unsurprisingly, include references to predatory animals and use of the term ‘monster.’ For example, Douglas/Olshaker (1995: 12) begin their description of the profiling process: “*Put yourself in the position of the hunter,*” followed by a comparison to: “a lion on the Serengeti... He’s trained himself to sense weakness, vulnerability, something different in one antelope out of the herd that makes it the most likely victim. It’s the same with certain people. If I’m one of them, then I’m on the hunt daily,” a metaphor he has also used in his recent commentary on Anthony Sowell mentioned above (Brown 2009). The use of metaphors such as these not only instills a sense of the serial killer as driven by instinct and ‘nature,’ but also explicitly dehumanizes him as well, consigning him to a category outside of humanity. Ressler even goes so far as to use the term ‘monster’ in the titles of his books, *Whoever Fights Monsters* and *I Have Lived in the Monster*. And it is precisely this ‘othering’ that has made FBI discourse so effective at creating a perceived need for, and justifying, ‘innovative’ penal practices.

## 6. Cultural Work

America is well known for its high incarceration rate and use of the death penalty. Recent statistics show that over 2.3 million people (approximately 1 in 100 adults) are incarcerated (Pew Center on the States 2008: 5), with nearly 10% of these serving life sentences (Nellis/King 2009: 3), and over 3,200 prisoners currently awaiting execution (Bureau of Justice Statistics 2009). While serial killers make up a tiny portion of the inmate population and are not often sentenced to death because prosecutors make deals in exchange for information about other victims or to avoid the high cost of prosecuting capital cases, serial killers are responsible, to some extent, for American incarceration rates and support for capital punishment. The idea of serial crime has been one of the central concepts used to support a shift in ideas of criminality from models of correctible behavior and socio-economic causation to the idea that crime is caused by character defects which are unchangeable. Thus, someone who commits a crime is destined to commit more, and since they won’t stop, they must be locked up at the earliest opportunity and, if possible, never released again.

This logic of preventive detention (‘incapacitation’) dominates today, undergirded by the notion of serial crime. And the transfer of the term ‘serial’ from one category of crime to others has increased rapidly. In the late 1990s, Kosci and Irwin (1998: 199) noted that ‘serial’ was only consistently applied to murder, rape, and arson, and that it implied a “specific inner drive” that was not present, for example, in sequences of theft, for which the term “habitual thief” was preferred. The same cannot be said in 2009, when a quick Internet search of newspaper headlines and articles returns thousands of instances of the terms ‘serial thief,’ ‘serial robber,’ ‘serial burglar,’ and

even ‘serial bigamist.’ Not only has the term ‘serial’ migrated to these contexts, but the conceptual frame of a “specific inner drive” has also come to these categories, linking them to the same logic of ‘addictive’ criminality which is ascribed to serial killers. The repeat offender is no longer merely a ‘career criminal,’ with crime defined not as behavior but as a vocational path; now he is a serial criminal, with behavior determined by a defective personality that leads to the compulsive choice of committing crimes for self-fulfillment.

Now all crime is, potentially, serial, and there is allegedly a trajectory of increasing violence rooted in the alienation caused by the complexity of postmodern society (see Ressler/Shachtman 1997: 51-52). This kind of rhetoric makes serial killing appear to be an inevitable by-product of late-capitalist, globalized society. Indeed, Ressler/Shachtman (1997: 242) see serial murder spreading globally: “That the number and intensity of [crimes of interpersonal violence] are increasing, worldwide, is testament that society is developing a more and more virulent, aberrant strain.” Because it is inevitable, the only remedy is a social control model which seeks to subject as many individuals as possible to the expanding criminal justice system, which permits not only their physical control but discursive control as well, through the permanent “branding” of potentially dangerous people (Seltzer 1998: 3) as “lethal predators” (Brantley/Ochberg 2003). Thus we have teenagers locked up for life, with no possibility of parole, even for only a single crime (a matter currently before the U.S. Supreme Court on grounds that it contravenes the 8<sup>th</sup> Amendment’s ban on “cruel and unusual punishment”), ‘three strikes’ laws for which a third crime, no matter how minor, can result in life imprisonment, sex-offender registries for life, for a single offense, and the possibility of indefinite civil detention for ‘dangerousness’ even after an offender has served his criminal sentence (*Kansas v. Hendricks* 1997). And, despite the fact that serial killers are overwhelmingly white, the effects have been vastly disproportionate on non-whites who are much more likely to be subjected to these enhanced penalties.<sup>8</sup>

The idea of crime as always (potentially) serial and escalating is pervasive. The following example, encountered casually during the writing of this paper, illustrates just how far this idea has penetrated the consciousness of the American public. Earlier this year, Cynthia Roberson, her two children (12 and 14), and some other young males went on a robbery spree, which included robbing one child of a lollipop and another of a cell phone. Newspaper accounts, however, made comparisons to Ma Barker and her boys, who killed a lot of people during a robbery spree in the 1930s. Having set up this analogy, the article finishes with the comment that “Police believe that if [they] hadn’t been caught when they were, their crimes could eventually have become much more serious,” supported by the words of a police Sergeant: “What I see is when people start off doing small crimes, and they become successful . . . especially when they’re violent crimes—the violence seems to escalate” (Myers 2009). There is perhaps no better articulation than this of the simple, beautiful logic that the serial killer has helped spawn, one that persists even in the face of an increasing body of critical work and facts that simply do not support it.

## 7. Conclusion

Serial as a word connotes not only a sequence of actions but the sense of an unfolding narrative with defining patterns and themes unifying them. It implies a consistent narrative logic and a developmental progression over the course of the events which make up the series. The application of this term to multiple homicides, coupled with the subdivision into organized and disorganized types, has facilitated the creation and dissemination of a certain model of criminality. Divorcing its terminology from academic discourse on behavior and motivation, the FBI has moved strategically to invent an extreme category of criminality which it, and only it, is capable of understand-

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8 For example, two-thirds of inmates serving life sentences are black or Latino (Nellis/King 2009: 3). Whites (including Latinos) have made up over half of those sentenced to death since the death penalty was reinstated in 1976, while blacks make up 40% of the total. (Bureau of Justice Statistics 2009). For men of all races between age 20 and 34, 1 in 30 are incarcerated, and for black men, the number is 1 in 9 (Pew Center on the States 2008: 34).

ing and combating. The concept of the serial killer, a criminal wholly Other from humanity itself because of his unwillingness to resist fantasy-based antisocial impulses, has subsequently been transported, along with the term 'serial' itself, to other types of crime, resulting in their inclusion into the same conceptual category. Chained to a rhetoric of ever-increasing violent crime, even in the face of falling crime rates, the serial killer has thus served as an important resource for the politics of fear which prop up America's controversial penal practices.

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The United States uses a federal system of government. In theory, this means that the States hold general police power, while the national government only has power over crime between different states, crimes affecting interstate commerce, criminals who cross state lines, or crime committed by members of the national armed forces, or crime that crosses the international borders. Hang with us. That was the easy part. Law enforcement operates primarily through governmental police agencies. The law-enforcement purposes of these agencies are the investigation of suspected criminal activity, referral of the results of investigations to the courts, and the temporary detention of suspected criminals pending judicial action.Â County police tend to exist only in metropolitan counties and have countywide jurisdiction. In some areas, there is a sheriff's department which only handles minor issues such as service of papers and security for the local courthouse. In other areas, there are no county police and the local sheriff is the exclusive law enforcement agency and acts as both sheriff and county police, which is more common than there being a separate county police force. 6 Discourse Ethics, Legal Positivism and the Law. Part III Constitutional Rights. 7 Political Liberalism and the Structure of Rights: On the Place and Limits of the Proportionality Requirement. 8 Proportionality, Discretion and the Second Law of Balancing. 9 Human Rights and the Claim to Correctness in the Theory of Robert Alexy. 10 Three-Person Justification. Part IV Discourse and Argumentation. 11 Law's Claim to Correctness. 12 A Teleological Approach to Legal Dialogues.