

Chapter Two

Leopold and Loeb (1924) and the Cause of Crime

A fourteen-year-old boy, Bobby Franks, was cold-bloodedly clubbed to death with a chisel after being picked up during the late afternoon of May 21, 1924, in Chicago by two young men driving a rented Willys-Knight automobile. The killers came from very wealthy families and had remarkable academic records. Richard A. Loeb, eighteen years old, committed the murder, while Nathan F. Leopold, Jr., who was nineteen, drove the car. The victim had been selected virtually at random—by “pure accident” was how his killers put it—while he was walking home from a schoolyard where he had been playing. Erle Stanley Gardner, a well-known mystery writer, would note that Bobby Franks merely was “the most likely-looking subject who became available.”

Another boy, initially picked for this death-dealing enterprise, had been spared because he could not be located. Seventy-two years later, Armand Deutsch, the eleven-year-old boy who had been slated for death, would look back on what he sardonically called “my murder,” and remember that he had been saved only because he had been picked up from school that day by the family chauffeur who took him to a dental appointment. Deutsch was the grandson of Julius Rosenwald, probably the richest man in Chicago. In his later life, Deutsch would reflect whimsically on the vagaries of fate as they bear upon human life—and death:

When one measures the number of my dental appointments against the number of days in the school year, the odds against me were so formidable that no self-respecting Las Vegas gambler would have made book on it. While not partial to dentists, since then I have always viewed the breed with an understandable tolerance.

Deutsch went on to work as a motion picture producer with Metro-Goldwyn-Mayer and Warner Brothers, and wrote a book describing his very

close friendships with Frank Sinatra, Nancy and Ronald Reagan, the comedian Jack Benny, the multimillionaire Walter Annenberg, and the publisher Bennett Cerf.

Leopold and Loeb's lawyer would say that his clients killed Bobby Franks "not for money, not for spite; not for hate. They killed as they might kill a spider or a fly, for the experience."

After the murder, Leopold and Loeb wrapped the body in a blanket and placed it on the floor in front of the back seat of the car. They then drove to the Dew Drop Inn, a restaurant in Hammond, Indiana, where they had a hot dog and beer. After that, they rode about aimlessly until it got dark. Finally, they carried the body some two hundred feet and placed it face down and head forward into a waterlogged culvert under a railroad embankment in Wolf Lake, an out-of-the-way marshy area twenty miles south of Chicago. They presumed the body would not be found in this remote spot and that in time it would decompose from the water running over it. They had stripped Bobby Franks naked. To make identification difficult they used hydrochloric acid to burn his face, his circumcised penis, and a scar on his body. Earlier Leopold and Loeb had argued about whether it was better to use hydrochloric or sulfuric acid for the job.

The murderers had composed a ransom note addressed to "Dear Sir," since when they wrote it they did not know who their victim would be. The letter, typed on good quality linen paper, was signed "George Johnson" and self-evidently had been written by someone quite literate. It emphasized the "futility" of calling the police, threatened death to Bobby for the slightest "infraction" of the instructions, and talked about the "execution" of the planned ransom exchange.

Leopold and Loeb had concocted what they believed was a foolproof method to obtain money from the Franks family. A few hours after they had murdered his son, they called Jacob Franks, a multimillionaire real estate dealer, and told him that the boy was safe, but that he would be killed if the police were informed that he was missing. The next morning, a special delivery letter to Franks demanded a cash ransom of ten thousand dollars in old twenty- and fifty-dollar bills. Further instructions were relayed by telephone that evening: the father was told that a taxi would be sent to his home to take him to a pay phone located in a nearby pharmacy. The kidnappers planned to call there and to order Franks to board a specified train heading to Michigan City, Indiana. He would have been directed to look for a message stored in the

box in the last train car, a box that was used for the deposit of communications that were later to be telegraphed. The message would direct Franks to throw the ransom from the rear platform of the train while facing east. He was to count to three after the train passed a red building with a black water tower that had the word CHAMPION (for the Champion Manufacturing Company) in white letters on its side. The boys anticipated being at the site to retrieve the package after it was tossed from the train.

Bobby Franks's father had gathered together the ransom money, but the scheme collapsed when Bobby's body was discovered by a work crew member who saw the feet sticking out beyond the funnel-shaped culvert opening. The father, having just heard from the kidnappers, was certain that the body was not that of his son. An uncle was dispatched to the morgue. Just before the father was to leave to hand over the ransom money, the uncle telephoned to tell him that it was his son's body in the morgue.

A number of teachers at the private school attended by Bobby Franks were early suspects. One later won a claim against the city of Chicago on the charge that his fingers had been crushed in a doorway as part of the interrogation process. In one of the more bizarre aspects of the case, Loeb voluntarily assisted the detectives trying to track the killers, and several times supplied leads for them to follow.

A pair of horn-rimmed glasses had been found next to Bobby Franks's body. The frame spring on the glasses had been patented recently and it was sold by just one Chicago outlet, Almer and Coe, a fashionable optical company. Only three people had purchased glasses with this kind of frame. One was Leopold, who had bought the eyeglasses to try to relieve headaches but had stopped wearing them three months before. Psychiatrists, amateur and professional, later would claim that the dropped glasses were a giveaway sign of Leopold's desire to be caught.

Leopold had taken off his jacket when he was disposing of Bobby Franks's body and the glasses had fallen from a pocket when Loeb was handing the garment back to him. Those less disposed to psychiatric explanation would charge the dropped glasses to bad luck, compounded perhaps by anxiety associated with what was going on. That poor luck was multiplied manyfold by the fact that the glasses, with a prescription that fit thousands of Chicago residents, happened to have the most unusual frame.

When the police questioned Leopold, he insisted that he had probably dropped the glasses when he was shepherding one of the numerous bird-watching groups he worked with: Leopold was an expert ornithologist and had

published papers on the subject. He said that he had spent the day of the murder with Loeb and two young women they had picked up; he knew only the first names of the women. When Loeb was taken to the police station, he soon told the police all about the killing, though he maintained that he had driven the car and that it was Leopold who had killed Bobby Franks. Loeb said that their original plan had been to knock Bobby unconscious and then to strangle him with each of them pulling on different ends of the rope in order to share the guilt equally.

The best understanding today is that Leopold and Loeb killed Bobby Franks purely for the excitement, a monstrously daring adventure made more exhilarating by the necessity to avoid being caught. Six months earlier, the two boys had begun their adventures by robbing Loeb's fraternity house at three o'clock in the morning. They wore masks and carried two loaded revolvers and a rope for tying anyone who might interrupt them. They also had a chisel wrapped in tape, to knock persons they might encounter unconscious. They stole several watches, a typewriter, and about seventy-five dollars in cash. This business apparently was too tame; murder was more challenging.

The absence of a sensible motive for the killing of Bobby Franks, the stunning intellectual abilities of the killers, the great wealth and high social standing of their families, and their "different" (that is, Jewish) cultural heritage contributed to the most intense public attention ever to be focused on a murder in the United States. In the Jewish community it was regarded as fortunate, in a terrible kind of way, that the boys had chosen a Jewish victim. Otherwise, as one writer noted, "righteous public indignation, combined with Ku Klux Klan leadership, might have resulted in race riots." Newspaper reporters dubbed the killing the "Crime of the Century," presumably confident that in the seventy-six years that remained in the twentieth century nothing so sensational possibly could occur.

Loeb had graduated from the University of Michigan at seventeen; no one younger had ever received a degree from that institution. Leopold, who obtained his bachelor's degree from the University of Chicago when he was eighteen, was attending law school at Chicago and anticipated transferring to Harvard Law School the following fall. Of the two, Leopold was the smarter, with an IQ so far above the regular scale that it was impossible to attach a precise figure to it. Estimates are that he scored between 210 and 220 on the Binet scale. Loeb had an IQ of 160. Leopold also had been a precocious child. It is said that he had taken his first step at two months and was talking clearly when he was four months old.

Leopold, though brighter, was relatively unattractive, awkward, and socially ill at ease. William Byron, a longtime professor of sociology at Northwestern University, an elite school in the Chicago suburbs, later would befriend Loeb and Leopold: Leopold would dedicate his prison autobiography to Byron. When Byron taught at Pomona College in California after his retirement, he would tell a visitor that among the thousands of highly intelligent college students with whom he had associated, he would rate Dickie Loeb as possessing the most winning personality. Leopold described Loeb similarly: "His charm was magnetic—maybe mesmeric is the better word. He could charm anybody he had a mind to. He seemed to have an inborn knack of making friends, of winning everyone's affection."

The families of the accused boys hired Clarence Darrow to defend their sons. Darrow was then sixty-seven years old and the most famous criminal lawyer of the time. The newspapers called it the "million-dollar defense." Darrow, lumbering about, his hands buried in old galluses, his hair unkempt, his briefcase a battered relic, and his wrinkled clothes looking as if he had slept in them for days on end, gave the impression of a country hayseed on a jaunt away from the family farm. But Darrow had a razor-sharp mind, and his bumpkin ways often endeared him to the common folk who made up the juries with which he dealt.

In a surprise legal maneuver, Darrow elected to have Leopold and Loeb plead guilty to the two offenses they were charged with—first-degree murder and kidnapping for ransom—either of which could be punished by death. The latter had only recently been made a capital offense in Illinois over the objection of people who sensibly pointed out that since kidnapping and murder carried the same penalty, kidnappers now were more likely to kill their victims to prevent identification.

Instead of a jury, which Darrow believed would be irretrievably hostile to the defendants, he chose to argue his case in a mitigation or aggravation hearing that would deal with the sentence the judge would impose. During the hearing, which took three months, Darrow sought to persuade the judge that there were sufficient circumstances favoring life imprisonment instead of the death penalty. The judge, sixty-four-year-old John R. Caverly, had been born in England and was a devout Catholic who had paid for his legal education by carrying water in steel mills for eighty-seven cents a day. As Chicago's city attorney, he had broken up a ring of personal-injury lawyers who had swindled the city out of millions of dollars. He was rewarded with a municipal court judgeship and later promoted to the trial court.

An array of psychiatric talent testified on Leopold and Loeb's behalf, seeking to persuade the judge that the killers were strange, different, and immature, though these expert witnesses had to maneuver delicately to avoid claiming that Leopold and Loeb were not legally responsible because of their mental condition. That would have demanded a plea of "not guilty by reason of insanity" and a mandatory jury trial. So intense was the public interest in the mental processes of the killers that publisher William Randolph Hearst, searching for a scoop, offered to pay Sigmund Freud half a million dollars plus his transportation costs from Europe to examine the accused killers. Freud backed off, saying that he was too ill to travel.

The major defense psychiatrists—dubbed the "Three Wise Men from the East" by the prosecutor and the press—were William Alanson White, director of St. Elizabeth's Hospital for the Insane in Washington, D.C.; William Healy, onetime director of the psychopathic clinic in Chicago, who in collaboration with Augusta F. Bronner, his wife, had done pioneering work on the causes of juvenile delinquency; and Bernard Glueck, formerly the alienist (as forensic psychiatrists were then called) at Sing Sing Prison in New York, and in 1924 a staff member at Columbia University College of Physicians and Surgeons. There were lesser lights on the defense psychiatric team as well, including James Whitney Hall, who made the uncommon professional gaffe of putting on record a prediction that was categoric—and, as it turned out, quite inaccurate. "Within five years Leopold will go crazy," Hall insisted. "Loeb will follow, though his lack of reaction will buoy him up for a while." Despite the pressures of the prison environment, both killers remained satisfactorily sane for the remainder of their lives.

Though Darrow was willing to stipulate to the truth of the case, the prosecution insisted on parading 102 witnesses to the stand, only two of whom Darrow elected to cross-examine. In his summation, Darrow, who had considerable experience as a stump speaker and often had debated in opposition to capital punishment, talked for twelve hours over two days, presenting his plea for mercy in a courtroom where the temperature reached ninety-seven degrees. "I had exhausted all the strength I could summon," Darrow would say later. His address often has been reproduced as a masterpiece of courtroom eloquence. Analyzing Darrow's speech, Alan Dershowitz of the Harvard Law School thinks that "its brilliance lies in the obviousness of his arguments. He makes it easy for the listener to agree with him. He appeals to common sense, to every experience and to moral consensus. As you read his words, you begin to nod your head in agreement with his premises. Before long, he has you agreeing with his conclusions."

Darrow called attention to the violence that he said had been magnified in the United States by the First World War, then only six years behind the country. But the shrewdest segments of Darrow's speech were his appeals to Caverly's humane impulses. First there was this observation:

I am aware that a court has more experience, more judgment, and more kindness than a jury. And then, your honor, it may not be hardly fair to the court, because I am aware that I have helped to place a serious burden upon your shoulders. And at that I have always meant to be your friend. But this was not an act of friendship. . . . If these boys hang, you must do it. There can be no division of responsibility here. You must do it. You can never explain that the rest overwhelmed you. It must be your deliberate, cool, premeditated act.

Then Darrow stated his view regarding the archaic and ugly nature of capital punishment:

Your Honor stands between the past and the future. You may hang these boys; you may hang them by the neck until they are dead. But in doing so you will turn your face toward the past. . . . I am pleading for the future; I am pleading for a time when hatred and cruelty will not control the hearts of men, when we can learn by reason and judgment and understanding and faith that all life is worth saving, and that mercy is the highest attribute of man.

Darrow pointed out that during the previous ten years 450 persons had pled guilty to murder in Illinois and only one had been hanged, and that person was forty years old. The judge who had ordered hanging in that case was Robert E. Crowe, the present prosecutor.

Crowe, visualizing the Leopold-Loeb case as the key to his aspiration for higher political office, in a pique of temper said that Darrow had sought a "friendly judge" who would buy into his shabby arguments. Caverly took strong exception to this remark. For the first time during the trial, one reporter wrote, the judge "showed a flash of passion," and called the comment "a cowardly and dastardly attack on the integrity of this court," one intending to "intimidate" him. Crowe apologized hastily, but his innuendo may well have harmed his case. The judge also probably was less than pleased with Crowe's indecent observation that "if a jury . . . returned a verdict without death punishment, every person in the community . . . would feel that the verdict was founded on corruption."

Darrow also focused on an item that more than any other would dictate the judge's decision. "Is youth a mitigating circumstance?" he asked rhetorically, then answered his own question:

We have all been young, and we know that fantasies and vagaries haunt the daily life of a child. . . . Here are two boys who are minors. The law would forbid them making contracts, forbid them marrying without the consent of their parents, would not permit them to vote. Why? Because they haven't that judgment which only comes with years, because they are not fully responsible.

The strong effect of Darrow's appeal was obvious. On its conclusion, a newspaper correspondent wrote: "There was scarcely any telling where his voice had finished and where silence had begun. Silence lasted a minute, two minutes. His own eyes, dimmed by years of serving the accused, the oppressed, the weak, were not the only ones that held tears." Several newspaper stories said that the judge himself was crying by the time Darrow had finished his speech.

Caverly's decision, announced two weeks after the end of the hearing, wrote off the voluminous psychiatric testimony as beside the point. The judge echoed Darrow's emphasis on the burden he had been made to bear; then he offered his reason for choosing life imprisonment instead of death by hanging for the killers of Bobby Franks:

It would have been the path of least resistance to impose the extreme penalty of the law. In choosing imprisonment instead of death, the Court is moved chiefly by the consideration of the age of the defendants, boys of eighteen and nineteen years. . . . [T]he court thinks it is within his province to decline to impose the sentence of death on persons who are not of full age.

This determination appears to be in accordance with the progress of criminal law all over the world and with the dictates of enlightened humanity. More than that, it seems to be in accordance with the precedents hitherto observed in this state.

Caverly noted that "the records of Illinois show but two cases of minors put to death by legal process—to which number the court does not feel inclined to make an addition."

One wonders how Caverly would have ruled had the age of minority been defined then, as it is today, as under eighteen.

Caverly gave Leopold and Loeb penitentiary sentences of life plus ninety-nine years. Leopold, who has left a record of his time in prison, adjusted quite well, though he had some grievous times in solitary confinement, particularly after Loeb's death.

Loeb was killed in a shower-room brawl on January 28, 1936, stabbed fifty-two times by James Day, another inmate. A clever *Chicago Daily News*

reporter wrote one of the meaner lines in the annals of journalism: "Richard Loeb, who graduated with honors from college at the age of fifteen," the story read (chopping two years off the actual figure), "and who was a master of the English language, today ended his sentence with a proposition." *Time* joined in the journalistic orgy. "Prison," it reported, "only exaggerated Loeb's unnatural appetites." The magazine also maintained that "non-partisan citizens," in the wake of Loeb's death, were concerned that "prisons pamper wealthy prisoners" and "place perverts in positions of authority." This about a man who originally had been portrayed as a threat to young womanhood, with bevy of respectable ladies drawn like moths to the menacing glow of his radiant good looks. Loeb's death also played into the 1936 primary race for Illinois governor, as the Kelly-Nash machine smeared Henry Horner, the German-Jewish incumbent, for allowing "two degenerates to have private baths, conduct a school, and play poker for \$1,500."

Records show a totally clean sexual slate for both Leopold and Loeb in prison. The best interpretation of Loeb's stabbing is that he was killed because he withdrew the financial help he had been giving Day, his onetime cellmate, after the warden cut the size of allowances prisoners could receive from their families. Day had been handed a straight razor by another inmate as a group of prisoners of which he was part marched by the room where Loeb was showering. Day slipped away from the pack and confronted Loeb. The incident obviously had been planned and obviously was retaliatory or designed to gain an advantage.

After Loeb's death, Leopold organized the prison library, contributing many of the books himself, inaugurated a pioneering and very successful correspondence school for prisoners, and taught himself braille so that he could train a blind inmate to read. Leopold also took a leading role in work to predict parole success inaugurated by Ernest W. Burgess, a preeminent University of Chicago sociologist. "Parole Prediction as a Science," written by Leopold under the pseudonym William F. Lanne to avoid calling public attention to himself, was published in the *Journal of Criminal Law* in 1935. Nonetheless, the *Chicago Tribune* learned of the actual author, and when it published the story, Leopold was transferred from the parole prediction office, though he later was permitted to resume his research work. Seventeen years later, with Lloyd Ohlin as the first author, Leopold would publish "A Comparison of Alternative Methods of Parole Prediction" in the *American Sociological Review*. This time he wrote under the name Richard A. Lawrence. The initials of the pseudonym are those of Loeb.

Leopold also worked for three and a half years during the Second World War as a volunteer for the Federal Coordinating Board for Malaria Studies on a project that involved testing the toxicity on human subjects of a band of new drugs that the government wanted to develop in seeking a cure for malaria. This was, Leopold noted, "probably the most stirring and exciting event of my life." He grants that one of his motives for taking part in the project was the hope of accruing points toward release. Over the protests of some of the doctors that he was more valuable as a laboratory assistant, Leopold insisted that he be included in the group of volunteers infected by malaria-carrying mosquitoes. Leopold also published a scientific paper based on the malaria experiments.

In time, inmates who participated in the malaria experiments were given some consideration toward release by the Illinois governor, but political issues constantly inhibited parole boards from freeing Leopold. One board chaired by Joseph Lohman, a former Cook County (Chicago) sheriff who later served as dean of the School of Criminology at the University of California, Berkeley, seemed on the verge of releasing Leopold after a number of impressive witnesses testified on his behalf. But that board was fired, and a different one appointed within hours after a new governor was sworn in on January 1, 1953. It would be another five years before Leopold was released. That release was helped greatly by the appearance before the parole board, speaking for Leopold, of the eminent poet Carl Sandburg and Father Eligius Weir, the Catholic chaplain when Leopold was admitted to Joliet and his friend thereafter.

Others supporting Leopold included Hans Mattick, who had worked closely with Leopold when Mattick served in the prison as sociologist-actuary, offering predictions on the likelihood of the success of individual inmates if they were to be paroled. In a previously unpublished letter, Mattick, who later ran the jail in Chicago and then joined the law faculty at the University of Chicago, offered his view about what had gone wrong in Leopold's case:

There was a certain ascetic strain in Leopold's upbringing, as if certain Protestant elements had joined into, and had a moderating effect on the already subdued Americanized Jewish tradition in which he was brought up. This expressed itself not only in the father's relative lack of approving response to Leopold's early achievements, but also had the effect of training him not to make a public display of his emotions. The criticism of lack of remorse for the crime is often imputed to Leopold, but this early training in emotional restraint is a more likely explanation for the lack of tears, breast-beating, and open effusions of verbal expression.

"*I knew Leopold well*" (his emphasis), Mattick pointed out to the parole board, adding that as part of his job he had interviewed thousands of prisoners with a critical mind, and had a large sample against which to evaluate Leopold. "On the basis of that experience, I do not hesitate to say that Leopold is one of the best candidates for parole that can be encountered."

Mattick ended his six-page, single-spaced communication with a plea:

Finally, gentlemen of the Parole Board, may I pray that God give you wisdom and strength to judge what passes for "public opinion" when you are obliged to act. . . . Partisan voices always seem disproportionately strong because the great majority of people remain silent and neutral while those with convictions make themselves heard. There will always be a small minority, vocal and strident, whose main talent lies in their ability to give the semblance of organized expression to emotional hysteria. . . . I urge you to note the qualifications of both those who speak for and those who speak against Leopold's parole. . . . For the sake of Leopold, for the sake of modern penology, and for the sake of Christian virtues we all hold dear, I pray you grant Leopold parole.

With this kind of support, after thirty-three years, six months, and two days of incarceration Leopold was given his freedom on March 13, 1958. By this time he was in poor health, suffering from rheumatism, diabetes, kidney trouble, and a heart ailment. Mercilessly hounded by the press (he had been forbidden as a condition of parole to deal with the media), Leopold vomited incessantly as he was driven away from the prison toward Chicago. A newspaper reporter, following Leopold's vehicle, laconically wrote: "Nathan Leopold walked out of Stateville Prison Thursday into the wonderful world of free men. He promptly got sick."

Leopold moved almost immediately to Castañer, a remote Puerto Rican village high in the mountains. There he went to work for the Church of the Brethren as an X-ray technician, a trade he had learned in prison. Later he obtained a master's degree in social medicine at the University of Puerto Rico, where he finished first in his class and was elected president of the student body. He thought passingly of going for a medical degree or a doctorate in sociology or parasitology, but decided he was too old to set out on so long an educational haul. Leopold also taught mathematics at the university, lecturing in Spanish, one of the many languages he commanded (as a young man he had taken Greek in college and pursued correspondence courses in French, Latin, Sanskrit, Umbrian, Russian, and Oscan). Leopold also published a book on ornithology and studied leprosy on the island. In 1961, he married Trudi Feldman Garcia Quevado, a woman he met at a Passover seder shortly after arriving in Puerto Rico.

Following completion of his time on parole, Leopold became a compulsive world traveler, trying during the thirteen and a half years before his death to see things he had missed while in prison. It was at the end of his first European tour that Leopold would write a friend that he felt the balance had finally tipped, that he now was glad that he had not committed suicide when he first was taken to the Illinois penitentiary. He died in San Juan of a heart ailment at the age of sixty-six on August 29, 1971. He had donated his body to the university's school of medicine and his eyes to the school's eyebank.

Why Did It Happen?

The killers of Bobby Franks defy standard theories of crime causation that pretend to offer thoroughly comprehensive explanations about why people commit illegal acts in general and why they commit specific offenses such as murder. At best, proponents of most such theories may shrug their shoulders and say that theory can explain only so much crime, not all of it.

Leopold himself deemed that trying to understand his own behavior was a hopeless endeavor. "How can anyone hope to enumerate the components of



At left, Richard Loeb and Nathan Leopold at the time of their trial in 1924; at right, a 1963 picture of Leopold in Puerto Rico, after his release from prison. AP/Wide World Photos

human motivation in real life? Isn't it only in fiction that jealousy, or revenge, or hatred, or greed is found, simple and unadulterated, as the wellspring of human action?"

Popular Culture and the Leopold-Loeb Case

The media, primarily newspapers and radio, engaged in a feeding frenzy from the moment the body of Bobby Franks was discovered. So intense did the media focus remain that Leopold and Loeb often suffered deprivations in prison because wardens sought to avoid any press report that they had been accorded favors, even though they might reasonably have been entitled to them.

Leopold was removed from a teaching position early in his stay at Joliet because of a newspaper comment that he was not a fit person to exercise influence over the minds of his fellow inmates. He undoubtedly would have been released earlier had not the authorities been wary of adverse political consequences. By 1958, Leopold had been imprisoned longer than all but three inmates at either Joliet or Stateville: many murderers with similar sentences and equally or more brutal offenses and much worse crime records had long since been back on the streets.

The explanations of the killing offered by the media changed dramatically as time passed. Paula Fass offers a meticulous analysis of what she labels these "reimaginings." At first, Leopold and Loeb were portrayed as monsters, bold and self-sufficient savages who thought they were supermen, not answerable to the rules that apply to ordinary mortals. In large measure, this caricature derived from their interest in the writings of Friedrich Nietzsche.

This initial analysis was abetted by reference to the "science" of constitutional research, popularized in the United States by the translation into English of the writings of Cesare Lombroso, an Italian medical doctor who maintained that atavism—that is, the possession of human bodily anomalies characteristic of lower forms of life—was responsible for criminal behavior. The testimony of one of the prosecutor's psychiatrists is vintage Lombroso: Dr. Harold S. Hulbert told the court that his examination of Leopold had located "considerable pathology." According to Dr. Hulbert, "The hair development is pronounced. His eyes are somewhat prominent. One eyelid is lower than the other. His face is not the same on two sides, there being asymmetry." The *Chicago Tribune*, following this line of reasoning, ran a sketch of the heads of Leopold and Loeb and noted that one or the other of them was marked by

things such as "sensuous lips," "excessive vanity," "love of excitement," a lack of "reason," and an absence of "moral and benevolent power."

There were stray hints of sexual "irregularities" between Leopold and Loeb in the psychiatrists' reports, but the newspapers would not publish such material, regarding it as unfit for family consumption. A 1924 book on the case by Maureen McKernan, a Chicago reporter, after obliquely referring to the sexual information and innuendos, characterized them as "unprintable."

A few years later, the newspapers had turned to what they depicted as Leopold and Loeb's faulty upbringing. These stories were intended to convey moral lessons, warnings to parents of the dangers they faced if they failed to raise their children satisfactorily. The parents of Leopold and Loeb were too rich and too respectable for direct reproach. Instead, the newspapers reported that Leopold, whose mother had died when he was sixteen, had been scarred by feelings of physical inferiority and, at the age of fourteen, sexual abuse by a German-speaking governess—a women nicknamed "Sweetie" who was described by the psychiatrists as "homely, suspicious, irritable, not tactful, oversexual in unusual ways, scheming, and very immature in her judgment." Her seduction of Leopold was a matter that was discussed privately in the judge's chambers rather than in open court. Loeb, too, was portrayed as overindulged by the family's hired female help. Both boys now were depicted in the media as fragile, flawed, and lonely creatures rather than as brutal monsters.

After the Second World War, when public discussion of sex became more acceptable—even mandatory for newspapers seeking large circulations—the previous public image of Leopold and Loeb yielded to one focusing on what were said to be their sexual perversions. This lifting of taboos fueled portraits of Loeb as a master criminal, with Leopold his subordinate and willing sexual slave. The script now being sold was that Loeb would allow Leopold sexual access to him if Leopold, for his part, agreed to engage in whatever "adventure" Loeb conceived. Leopold was openly depicted as wildly in love with Loeb. Two motion pictures, *Compulsion* (1959) and *Swoon* (1992), would highlight erotic homosexual tension between Leopold and Loeb as the explanation for the plot that ended in the death of Bobby Franks.

For his part, Leopold would attempt to nudge public opinion toward still another perception of the murder of Bobby Franks. Eager to win the favor of the parole board, he diligently sought to distance himself from the now-dead Loeb. Paula Fass notes how a former university classmate of Leopold's pressed this new theme during a 1957 parole hearing:

In the minds of a good many people [Leopold and Loeb] have been thought of as one individual. This is not true. They were totally different as youngsters. Their life patterns have been totally different. Loeb was a leader, aggressive, crafty, smart. Leopold was definitely a follower. Loeb induced Leopold to make the tragic mistake of his life.

Though it sometimes can be risky to blame the dead for behavior in which the living also have been culpably involved, the tactic possesses the distinct advantage of not being directly rebuttable. Nonetheless, parole boards almost invariably are unrelenting in their demand for unqualified admissions of guilt and expressions of remorse if they are to permit an inmate to be released. Leopold artfully sought to place the blame for the planning of the murder and the actual death-dealing blows on Loeb, but he also invariably granted his own awful guilt. Nor did his affection for Loeb seem to diminish significantly after the murder. At first they were housed in separate penitentiaries, but later they were reunited and collaborated on a number of prison projects. When he was free and living outside the United States, Leopold hung on the wall of his house a few pictures of persons to whom he felt especially close. Loeb's was prominent among them.

Leopold on Leopold

Having spent a third of a century in close contact with convicts who had committed serious criminal offenses, Nathan Leopold developed his own ideas about what leads to law breaking, though he thought his own behavior pretty much inexplicable. Leopold had echoed Clarence Darrow, who described his crime as "a senseless, useless, purposeless, motiveless act of two boys." "Why did they kill little Bobby Franks?" Darrow had asked rhetorically during his summation at the sentencing hearing, and then sought to provide an answer:

Not for money, not for spite, not for hate. They killed him as they might kill a spider or a fly, for the experience. They killed him because they were made that way. Because somewhere in the infinite processes that go to the making up of the boy or the man something slipped, and those unfortunate lads sit here hated, despised, outcasts, with the community shouting for their blood.

Are they to blame for it? There is no man on earth who can mention any purpose for it all or any reason for it all. It is one of those things that happened; and it calls not for hate but for kindness, for charity, for consideration.

Thirty years later, a parole board member would ask Leopold why he had participated in the killing of Bobby Franks. "I had no answer that I could

give," Leopold remembered of that hearing, "no reason that made sense even to me." Turned down by the board, Leopold knew that he had to offer some explanation when he had a rehearing. This is what he said then:

I have been trying desperately to fathom the situation. I will never quit trying. I admired Richard Loeb extravagantly, beyond all bounds. I literally lived and died on his approval and disapproval. I would have done anything he asked, even when I knew he was wrong, even when I was revolted by what he suggested. And he wanted to do this terrible thing. Why, I cannot be sure. Certainly it was mad, irrational. Maybe there was some kind of juvenile protest, an overwhelming desire to show that he could do it and get away with it.

Leopold added: "The only thing that comes out of my thinking that even bears on it is that at nineteen my growth and development were unnatural; my thinking was of a grown person, but I had the feelings of an undeveloped infant."

"I was," he said, "like an intelligent savage."

More than three decades earlier, during the psychiatric examinations before his sentencing hearing, Leopold had supplied an inkling of another explanation in answer to a leading question by one of the examining doctors. Leopold recalled:

"Wait a minute, Nate," said Dr. Adler. "You and Dick set out to commit a crime that would startle the world, didn't you?"

"Yes," I had to answer.

"Well, you did!"

Many who seek to understand the Leopold-Loeb case believe that the synergy, the coming together of these two very unusual boys, was essential for the murder to have taken place: neither youth would have done it alone, and it is unlikely that either might have located someone else who would have been able to play the part laid out for him in that lethal drama.

Criminal Justice and Leopold-Loeb

The sensational ingredients of the cold-blooded and seemingly senseless slaying of fourteen-year-old Bobby Franks thrust the Leopold-Loeb case into national prominence. Most murders go largely unattended, even in the city in which they occur, especially if it is a metropolitan area. It takes something very special to create intense national interest: how the killing was done (Lizzie

Borden took an axe and gave her mother forty whacks) or the uncommon nature of the victim or the perpetrator. The ancient Greeks appreciated that particularly powerful tragedy has to involve people on high who are doomed to meet a terrible destiny because of their personal failings.

These were the kinds of ingredients that made up the Leopold-Loeb case. Leopold and Loeb were very unlikely killers and they came from prominent families. There was an innocent youthful victim, an opportunity for some to feed their latent or overt anti-Semitism, and a colorful and extraordinarily articulate attorney. Neither radio broadcasts nor newspaper stories had the vivid immediacy that later would be conveyed by television, but at the same time there was a good deal less competition for citizens' attention. The lengthy hearing to determine whether Leopold and Loeb would live or die was a media sensation, heralded, as we have noted, as the "trial of the century."

What took place, though, was not a trial: the guilty plea eliminated that and probably explains why the Leopold-Loeb case had little if any impact on how criminal justice was then or would later be administered either in Chicago or nationally. But the case raised several issues that would be reprised in later criminal trials. The most important concerned the relationship between the wealth of the defendants and the search for an ideal form of criminal justice.

Darrow's striking talents had been purchased in large part because Leopold's and Loeb's parents could afford him, and probably in part because of the notoriety that followed the crime. If the defendants had been slum kids and the victim a member of a rival gang, the Leopold-Loeb case very likely would have been treated as a run-of-the-mill occurrence, worth a back-page newspaper item if it received any media attention at all. Paradoxically, though, the sentence might well have been much the same: the defendants likely would have been allowed to plead guilty to some degree of homicide in exchange for a life term or perhaps even more lenient treatment. In that sense, the wealth and social position of Leopold and Loeb may have not only endangered them more than otherwise, but also allowed them to employ a high-powered attorney able to convince the judge to spare their lives.

Without Darrow and with an attorney of the caliber usually available for murder defendants, Leopold and Loeb also possibly would have been hanged by the neck until dead. That they were not may have had a minor and temporary impact on the tendency of judges to spare the lives of killers under the age of twenty-one. While the case added nothing directly identifiable regarding issues of insanity, it demonstrated how a shrewd defense strategy could focus on irrationality without crossing the line into a plea of mental

incompetence. Such defenses have recently come into play increasingly in the administration of criminal justice, involving such matters as victim trauma syndromes and prior wife-battering, tactics that may foreshadow successful pleas based on childhood sexual or physical abuse or on an upbringing in areas where few are able to avoid neighborhood brutishness.

Leopold and Loeb were spared from the gallows because, at eighteen and nineteen, they were considered too young for the judge's conscience to allow him to sentence them to hang. Today, of course, both young men would be treated as adults, with their age much less likely to have any influence on their fate.

Surprisingly, the issue of executing young persons has moved in a direction quite contrary to that advocated and presumed by Clarence Darrow. In the centuries before their time, the sentiments that saved Leopold and Loeb were much less pronounced; as late as 1833, a boy of nine had been hanged in England for stealing. But Darrow had correctly sensed the mood of his times. Capital punishment was declining throughout the world and seemed to be well on its way to removal from the roster of acceptable punishments for crime.

The resurgent "get tough" mood in the United States, however, has not only dramatically increased the imposition of the death penalty, but also elicited calls for the execution of juvenile murderers. Of the thirty-seven states now permitting capital punishment, fourteen set the lowest age for the penalty at eighteen, with sixteen establishing it at between fourteen and seventeen, and seven having no set minimum age for execution. In California, in 1997, the governor expressed his willingness to consider executing thirteen-year-olds.

About 300 persons under the age of eighteen have been executed in American history, with 125 of them under sixteen. Amnesty International reports that since 1979, thirteen youths under eighteen have been executed worldwide, nine in the United States, the remainder in Pakistan, Rwanda, Bangladesh, and Barbados. All of these other countries have since outlawed juvenile executions. As one commentator notes, "U.S. politicians vow to string up eighth-graders too young to smoke a last cigarette." All told, the story of capital punishment since Leopold and Loeb were spared its reach in 1924 indicates that today, all other things being equal, they would have been much more likely to have gone to the gallows.

The proper role of expert witnesses in criminal cases also came in for momentary attention in regard to the Leopold-Loeb case. John Wigmore, a giant figure in the field of criminal law, was appalled by the partisan roles played by the two sets of psychiatrists at the hearing. Wigmore pointed out

that the defense psychiatrists always talked of Loeb as "Dickie or Dick," and spoke of Leopold by his nickname, "Babe," using, in Wigmore's words, these "endearing, youthful innocent epithets" in order to convey a certain image of the defendants to the judge. Wigmore thought that expert witnesses ought to be hired by the court and be responsible to the court, not to one or the other side. Almost seventy-five years later this issue remains unresolved.

Leopold on Crime Causation

Trying to understand the criminal behavior of his fellow inmates, Leopold indicated that existing explanations did not do a particularly good job. "I've read a good many different theories of crime," Leopold wrote in 1958, when there were many fewer such theories than there are today. "I must confess," he added, "that none of them satisfies me completely." Then he explained why he had come to that conclusion:

Each of them contains some element of truth, but where they fall down, it seems to me, is that they try to explain too much, to cover too much territory. Each takes one particular viewpoint, explains one facet of the problem, and then claims to cover the whole field.

This is a notably intelligent observation, very much on the mark. Leopold goes on to point out that the category "criminal" embraces a very wide spread of offenses, including spitting on the sidewalk, parking near a fire hydrant, and failing to throw back a fish under the legal limit. Most everybody commits some of these offenses, so that any attempt at a general explanation of all crime degenerates into an attempt to interpret not crime but human behavior itself.

The most serious offenders, the felons who end up in the penitentiary, Leopold noted, seem to form "a class apart." Members of that criminal class appear to outsiders to be more or less homogenous, each like the other, because "their behavior is so foreign to the ordinary non-criminal norm." But to regard felons as similar, Leopold maintains, "is as grave an error as to believe that the stars that form the Great Dipper must be close together because we see that they are all so far from Earth."

The only characteristic that felons share, Leopold says, is that they've been convicted of a felony:

Any theory that tries to embrace all the individuals in prison is doomed to failure just because they have so little in common. The man guilty of manslaughter through negligence, the murderer who kills the man he finds with his wife, the pyromaniac who

receives sexual stimulation from setting fires, the embezzling bank president, and the professional stick-up man are all as different from each other as they are from the normal, law-abiding citizen. No one causal explanation will cover all the cases.

Leopold recommends that for purposes of explanation, felons should be grouped into smaller units. For him, one large and important group comes close to what the average person means by "a criminal." That group consists of predatory offenders: murderers, burglars, automobile thieves, and rapists from the high-delinquency slum areas of the big cities. Members of this group, Leopold maintains, "are distinguished by a common social history, by a common world outlook." Looking for an interpretative rope that will bind together members of this group, Leopold first discounts heredity, then concentrates on their family and neighborhood environments. His explanation, Leopold says, is "sociological, not biological." Leopold labels the key factor "hereditary environment" and explains himself in the following manner:

The neighborhood play group is the child's primary group; it is here that he becomes a social being. What he has been taught about right and wrong at home and at Sunday School has made an impression . . . , but that all has been told him by grownups, those inexplicable and often arbitrary creatures from another world, whose dicta about things like how many pieces of candy you eat or how late you can stay up at night simply don't coincide with what you want to do. These kids in the gang are his own age, they see things as he does. He's got to go along and do what they do—or else. Or else he'll be considered a sissy, a scaredy-cat and—horrible thought—perhaps be excluded from the group entirely.

With pressure like that, it takes extraordinary strength to hold out, to be different. . . . This is all social, environmental. But the kid didn't pick his own playfellows. That choice was determined for him by where he lived, where he went to school. And that, in turn, was determined largely by the socioeconomic status of his parents.

These paragraphs contain a good number of tantalizing thoughts. Readers may note that while the final lines of the second paragraph refer to ghetto and slum conditions, the remainder of the quoted material is eerily apropos of Leopold and Loeb to a much greater extent than it is to the street-hardened felons among whom they found themselves in the Illinois penitentiary. What slum kid grows up in a home where the questions of how many pieces of candy he might eat and how late he can stay up at night are matters of deep import?

The follow-up to the paragraph about the terrible pressures of the peer

group tells precisely the tale that analysts of the case thought applicable to Leopold's relationship to Loeb: his inability "to hold out, to be different" when faced with the pressure to "go along" or else be regarded as a "sissy" and be excluded. Leopold probably is revealing a good deal more about himself than he is telling us about the best way to understand the roots of the kinds of felonies that were so heavily represented in the prison population of which he was for so long a member.

Criminological Theory and the Leopold-Loeb Case

The killing of Bobby Franks by Nathan Leopold and Richard Loeb also stands as a challenge to the major interpretative and predictive powers of theories and ideas about crime. "Crime has its cause," Clarence Darrow proclaimed before Judge Caverly. For his part, Darrow gave a passing nod to biological explanations, noting rather ominously and perplexingly that at least one of his clients may have been corrupted by "the seed" of "remote ancestors." More than seventy years later, an attorney in a Georgia murder case would echo Darrow's theme when he sought to overturn a death sentence by claiming that his client's killing of a store manager was the result of the absence of free will, shown by the fact that vicious crimes had marked the lives of his aunts, uncles, and cousins. Therefore, the attorney argued, the tendency to murder was genetically programmed into the man who had been sentenced to die. The appeal was not successful, but similar kinds of claims surely will proliferate as scientific breakthroughs pinpoint biological roots of behavioral predispositions.

Darrow also told the Illinois court that "perhaps all crimes do not have the same cause, but they all have some cause. And people today are seeking to find that cause."

Where has this trail, this search for an understanding of the roots of crime, taken us during the past seven decades? What are the current prevailing explanations of criminal behavior offered by sociologists, psychologists, and others? And what can we learn by determining the fit between these formulations and the facts of the Leopold-Loeb case?

Academic criminologists have devoted a great deal of time, energy, and imagination to the search for a single cause of all crime and for particular causes of particular kinds of crimes. It is possible, of course, to deal with a condition without knowing its origin—note, in this regard, the use of quinine to control malaria before we became aware of the role of the anopheles

mosquito in the genesis of the illness. But cures and control are much more likely to be effective if we understand what led to the situation we want to cure. And the desire to "cure" crime, or at least to bring it under more effective control, has become a paramount social and political issue of our time.

The pursuit of an explanation for crime both gains and suffers from the fact that most everybody is certain that they know what leads others to violate the law. Oldsters are more inclined than younger persons to mention drugs. The explanations also vary by gender, with women more likely than men to focus on dysfunctional families as the root of crime. Such commonsense wisdom, often apparently on target, or at least somewhere near the target, nonetheless has the tendency to fall short when studies seek to confirm or repudiate it. Poverty—another presumed cause—may feed into crime but, as we see in the case of Leopold and Loeb, the inevitable association of the two is far from certain. Oversimplified explanations constantly falter in the face of such "model" youngsters as Leopold and Loeb when they commit awful crimes. At the same time, the more sophisticated and sometimes convoluted explanations of crime by experts often suffer a similar fate. The biggest problem that these



Renowned attorney Clarence Darrow defends Nathan Leopold and Richard Loeb before Judge John R. Caverly. AP/Wide World Photos

grand theories have, Thomas Huxley once wisely pointed out, is that they often are put to shame by little facts.

How do the little facts of the crime of Leopold and Loeb contribute to or contradict the postulates of leading ideas about the causes of crime?

PSYCHIATRIC THEMES

The psychiatrists in the Leopold-Loeb case promoted the standard insights that their trade offered, views that unconscious conflicts from childhood traumas prompted the killings. Their report on Leopold illustrates the common tendency of psychiatrists to locate pathology after the fact by references to traits that never would have been taken to indicate such abnormality before the fact:

Leopold represents a picture of a special abnormal type, the paranoid psychopathic personality. His ability as a conversationalist and as a student has led to his being unrecognized for what he really is, and the delusional conceptions about himself have therefore not been taken seriously. His very manic (over-excitable and over-energetic) tendencies have been misinterpreted as evidence of cleverness. The fact that he has been able to carry himself along in the world without being recognized as abnormal is in itself typical of individuals who belong to this special group of mental disorders.

There is a great deal of double-talk in this portrait. It was not Leopold's "over-excited and over-energetic" behavior that was "misinterpreted as cleverness," but rather an extraordinarily superior intelligence test score and an outstanding academic record. Nor was Leopold much of a conversationalist, then or later. And what is one to make of the proclamation that an ability to appear sane is a characteristic of a mental disorder? Yet, as we shall subsequently see, the marking of Leopold as psychopathic, entering him onto the rolls of a very controversial diagnostic category, at least offers more of an explanation than the other standard interpretations of the pair's murderous act.

WHAT SAY THE CRIMINOLOGISTS?

The Leopold-Loeb murder is a case study that demonstrates the inadequacy of every major social science theory that has been put forward to account for the genesis of actual criminal acts, a matter said by Robert Merton, a guru in the field of sociology, to reflect a prevailing separation of theory from empirical fact.

The grandfather of criminological theory—called "differential associa-

tion"—was proposed by Edwin H. Sutherland who, as a faculty member at the University of Chicago, often visited Leopold in Stateville Prison in connection with the correspondence school for inmates that Leopold and Loeb operated. Sutherland was one of five persons on the advisory council for the correspondence school, and one of a dozen or so individuals Leopold would honor with the mock-serious award of a diploma written in formal Latin and conferring the degree of *Ovum Bonum*—Good Egg.

Leopold particularly remembered Sutherland's interest in the "glim box," a homemade device for lighting cigarettes that was put together because inmates were forbidden to possess matches. A glim box usually was built into an empty snuff can. Charred material from tobacco sacks that had been set afire earlier was placed in the box to provide tinder, which was lighted by blowing on a spark produced by whirling a metal shirt button rapidly on a piece of thread or string. Leopold constructed a glim box for Sutherland, who, he said, "was proud as a peacock when he learned to operate it."

Sutherland's differential association theory lists a conglomeration of principles of learning by means of which a person is said to come to engage in criminal behavior. In essence, the theory argues that those who commit crime learn to do so from association in intimate groups with others who transmit attitudes about lawbreaking. At best, such ideas provide only slight insight into the roots of Leopold and Loeb's murderous behavior. Except for each other, Leopold and Loeb were overwhelmingly in contact with persons who were upright and notably law-abiding. Loeb's enchantment with detective stories could be said to have played a part in generating the crime, but it is more likely that this reading reflected rather than impelled his drive to kill, if it had any effect at all.

It is interesting that Leopold persistently claimed afterward that he had never believed that he and Loeb actually would do what they talked about; for him, he would say, it was all words, until he found himself driving the rented car with the dead body of Bobby Franks in the back seat. Clearly, Leopold had not been able to pull back from the scheme. If his self-statement is accurate, his participation could be regarded (somewhat) more as a sin of omission than one of commission. But theories of human behavior tend to be deficient when it comes to providing insight into the roots of acts of omission. It is much easier to locate more or less persuasive reasons why somebody did something than to understand why he did not do something when he might reasonably have done it.

Another prominent interpretation of crime today is that it results from a

failure in "social bonding," that is, from the weakness of a person's ties to legitimate society. Significant ties include those to parents, teachers, and peers. A person's belief in the legitimacy of conventional values and awareness of the costs involved in lawbreaking, such as its threat to aspirations for a college education and a high-status job, are also said to be related to criminal behavior. Finally, the theory maintains that time spent on "constructive" activities—that is, activities that relate to legitimate objectives—will reduce the likelihood of criminal activity.

Social bonding theory is no more persuasive than differential association for explaining the actions of Leopold and Loeb. The ties between the two young killers and their families were close, and Leopold constantly expressed deep and obviously sincere remorse about the shame that he had brought on his family. Members of that family visited him in prison regularly until their deaths, particularly his father, his aunt, and his older brother (who, as did another brother, changed his name to Lebold after the murder). The commitment of both boys to achievement by means of educational success was extraordinary and the jeopardy that the murder posed to their lifestyles, both present and future, would have been more than adequate if social bonding theory were relevant to their behavior. Leopold's family already had purchased tickets that would take him on a summer trip to Europe, and both boys enjoyed very generous allowances. Indeed, it is difficult to imagine two young men with rosier futures.

Failure in social bonding as the explanation of crime has been upstaged in recent years by the idea that all crime can be interpreted in terms of the absence of a single crucial factor—self-control. This theory is said to explain not only all illegal acts, but also some things not in violation of the law, such as alcoholism and smoking. Poor family upbringing is said to be the root cause of inadequate self-control, which is marked by (a) a failure to defer gratification; (b) an absence of diligence and tenacity; (c) a preference for adventure instead of caution; (d) a leaning toward physical activity rather than cognitive behavior; (e) self-centeredness and indifference to the suffering of others; and (f) minimal tolerance of frustration.

As a portrait of either Leopold or Loeb this list seems woefully off the mark. Some of the items may fit somewhat (as some undoubtedly would for most human beings), but others are very farfetched.

Other major attempts to explain the roots of criminal acts are no more helpful in analyzing what Leopold and Loeb did. Psychologists note that frustration can produce aggression, but the two Chicago killers seemed to suffer

much less frustration than most of us. The widely-acclaimed thesis of Charles Murray and Richard Herrnstein that intelligence, genetically determined, is highly correlated with crime looks ludicrous in the face of the Leopold-Loeb facts. Nor were the two young men victims of slum conditions. The attempt by one commentator to locate the act of Leopold and Loeb in the temper of the times hardly helps us to understand why they killed Bobby Franks.

This was . . . a peculiar period in our history—a time of speakeasies, of devil-may-care attitudes, of lawbreakers who were not only accepted but even lionized. Al Capone gave lavish parties at his fabulous home in Florida. Pious churchgoers were known to accept invitations to them. Random killings were rife. It is conceivable that two adolescents, in the spirit of the age, may have contrived the slaying of Bobby Franks with careless gaiety.

“Conceivable” most certainly, but our understanding is hardly advanced very significantly by such ideas. It does not tell us why these particular boys, rather than millions of others, might have succumbed to the atmosphere of the times.

Other concepts carry us no farther. Labeling theory suggests that responsibility for crime results from thrusting offenders out of the mainstream of society once they have been trapped in the jaws of the criminal justice system. “So they think I am bad,” says the labeled transgressor. “I’ll show them what bad really is.” But there was no labeling imposed on Leopold or Loeb. Nor did the inordinate American stress on material achievement—the key explanatory theme of what is called strain theory—appear to play much of a role in Bobby Franks’s murder. Rational choice theory assumes that offenders calculate the benefits and costs of breaking the law and then act in terms of that inventory. This idea is self-evident, but it has great difficulty saying, at least beforehand, how different people will regard what stands to be gained and what stands to be lost (for instance, the excitement of a random killing against being hanged, whatever the odds on the latter might be).

Ideas looking only at murder have focused on the fact that homicide offenders tend to be part of a “subculture of violence.” Others have focused on the idea that murder is a form of “self-help” because it resolves what the killer sees as a moral imbalance created by acts of his victim. Since Bobby Franks merely happened to be a convenient target, such ideas could be supported only if his death had some deeper symbolic meaning, a conclusion that would have to be based much more on imagination than apparent fact.

Finally, critical or Marxist theories do not offer much help in comprehend-

ing what circumstances led to the murder of Bobby Franks. The killers were hardly hapless victims of capitalist exploitation.

Albert Einstein pointed out that "the supreme goal of all theory is to make the irreducible basic elements as simple and as few as possible without having to surrender the adequate representation of a single datum of experience." By that standard, none of the contemporary theories of criminal behavior approaches the kind of elegance that marks a satisfactory explanation. The reason is probably quite simple: that it is a feckless endeavor to look for explanations that adequately comprehend the roots of all crime. The well-known sociologist Anthony Giddens was right on target when he wrote:

The wish to establish a natural science of society, which would possess the same sort of logical structure and pursue the same achievements as the science of nature probably remains, in the English-speaking world at least, the dominant standpoint today. . . . But those who still wait for a [social science] Newton are not only waiting for a train that won't arrive, they're in the wrong station altogether.

Also on target was the eighteenth-century satirist Jonathan Swift when he depicted the mythical Brobdingagian's employing a tactic used by today's criminological theorists to try to explain away the cases that fail to dovetail with their interpretative ideas.

He [the deviant] is then handed over for examination to the great scholars attending the court, who eventually agree that he must be a luxus naturae—a freak of nature. For in the face of a phenomenon that does not fit in with their preconceived ideas, the scholars make no attempt to revise their thinking, but only produce a meaningless formula that dismisses the phenomenon as an exception.

Psychopathy

The Leopold-Loeb killing probably fits best with the concept of psychopathy, as it was then known, or sociopathy, as it later was named, or the antisocial personality, as the personality trait now tends to be labeled. Antisocial personality, the current designation, however, is tied directly to criminal acts and tends to fall heir to a considerable amount of tautological thinking; that is, inexplicable criminal activity is caused by those who have an antisocial personality and those who have such a personality are identified by means of their inexplicable criminal activity. This being so, we will stay with "psychopath," the earlier designation.

A psychopath has been defined by William and Joan McCord as "an anti-

social, aggressive, highly impulsive person, who feels little or no guilt and is unable to form lasting bonds of affection with other human beings." Sir David Henderson, a British psychiatrist, who may have coined the term, observed that psychopaths "rarely if ever show any particle of remorse." Philippe Pinel provided the first clinical description of the condition, calling it *mania sans délire* (mania without frenzy). Another approach emphasizes that a psychopath is a person who lacks empathy, that is, an affective approach more appropriate to someone else's situation than one's own. The string of adjectives used by Hervey Cleckley for psychopaths includes egocentric, grandiose, manipulative, dominant, forceful, cold, impulsive, and sensation-seeking. Psychopaths are said to represent 3 to 4 percent of the male population and 1 percent of the female population.

The behavior also has been noted in other cultures. Among the Intuit Eskimos it is called *kunlangeta* and applied to a person who repeatedly lies, cheats, steals things, and takes sexual advantage of the women when the other men are out of the village. He is someone who does not pay attention to reprimands and who is always being brought before the elders for punishment. Other Intuits are likely to invite such persons to go hunting on an ice pack and then push them off into certain death in the freezing water.

David Rowe's explanation of psychopathy is among the more intriguing ideas. He believes that the condition possesses significant value for biological survival and therefore is likely to increase. Rowe maintains that psychopaths are high in terms of "mating effort," that is, in the amount of time and energy they devote to attracting, monopolizing, and defending sexual partners, a matter that contrasts with the "parenting effort," the time and energy devoted to nurturing offspring. The lack of emotional attachment to a current partner makes it easier to cheat on her, Rowe observes, and therefore psychopaths are likely to produce more offspring than "normal" people.

Psychopathy was catapulted into the limelight when Robert Lindner's book *Rebel without a Cause* (1944), a case history of a psychopath, was made into a movie that turned James Dean into a cult figure, particularly after his death in a sports-car crackup that seemed to verify the close fit between the motion picture role he had played and his own character. Psychopaths' public appeal lies in the attraction for many of us of the ingredients of a daredevil charm, a willingness to take risks, and the absence of a working conscience. It is our conscience that keeps most of us from doing the daring, exciting, and criminal things that psychopaths amiably do, things that could add so much zest to what is a good deal of the time our prosaic and routine existence.

The idea of psychopathy tends to be scorned by mainstream criminologists, who regard it as a concept without intellectual integrity. They see psychopathy as a diagnostic scrap-basket into which is placed a large variety of otherwise unclassified personality problems. Virtually all but a relatively small cadre of true believers in psychopathy would agree with Stephen Porter's recent statement that the term "represents an enigma that continues to baffle mental health professionals and the public."

Nonetheless, we must appreciate how closely Loeb's behavior fits the description of psychopathic action, especially when we see how the highly regarded explanations of crime fail to provide more than a scintilla of understanding of the killing of Bobby Franks. As psychopaths are said to be, Loeb was highly impulsive, a young man who felt little or no guilt, and one who was unable to form lasting bonds of affection with other human beings, at least others beside Leopold, who truly worshiped him. It is this emotional numbness that is said to characterize psychopaths. Note, for instance, Loeb's comment after he had been in jail for several weeks: "I know I should feel sorry I killed that young boy and all that, but I just don't feel it. I didn't have much feeling about this from the first. That's why I could do it. There was nothing inside of me to stop me. Of course, I'm sorry about my family, but not as much as I ought to be." It is possible that Loeb knew about conditions that were said to mark psychopathy and that he was seeking to provide a record of his abnormality in order to gain mercy from the court. But the manner in which he had acted throughout his life lends credence to his words.

But the concept of psychopathy can take us only so far. Lee Robins, for instance, found that antisocial behavior of the father was a common background factor for a psychopathic youngster and that Jews manifest a very low rate of psychopathy. In Cleckley's roster of criteria for determining psychopathy, "unexplained failure"—the fact that the psychopathic individual is unsuccessful in constructive activities—is prominent. Loeb? Leopold? As the vernacular has it: No way. The category of psychopathy may for many men be the equivalent of the tag "hysteria" that is so disproportionately put on women who show no manifest physiological malfunctioning.

Novelists on occasion have created—or relied on—persons with characteristics similar to Richard Loeb's, perhaps because such characters afford an opportunity to juxtapose social success with inherent evil. In *To Have and Have Not* (1937), Ernest Hemingway depicted such a person as possessing "an ability to make people like him without ever liking or trusting them in return, while at the same time convincing them warmly and heartily of his friendship; not a

disinterested friendship, but a friendship so interested in their success that it automatically made accomplices; and an incapacity for either remorse or pity, had carried him to where he was now."

Much the same, but more detailed and chilling is the portrayal of James Steerforth almost a century earlier by Charles Dickens in *David Copperfield* (1850). David is magnetically attached to Steerforth, who singles him out for attention, meanwhile appropriating the money he possesses, when David first enters the brutal boarding school to which he has been banished by his stepfather. Literary critics see Steerforth as Dickens's perception of the decadence and dandyism of the English upper classes. One critic believes that Dickens intended to portray a "dissolute gentleman," but instead showed Steerforth as a "contemptuous cad." Few critics have appreciated the remarkable depiction of a personality type that would engage the attention of the best psychological and psychiatric minds in later years.

Though Steerforth violates rules and brutally injures people who are deeply important to David, David's emotional attachment to him never lessens. David saw Steerforth much the way that Leopold would portray Loeb.

There was an ease in his manner—a gay and light manner it was, but not swaggering—which I still believe to have borne a kind of enchantment with it. I still believe him, in virtue of this carriage, his animal spirits, his delightful voice, his handsome face and figure, and, for aught I know, some inborn power of attraction besides (which I think a few people possess), to have carried a spell with him to which it was a natural weakness to yield, and which not many persons could withstand. I could see how pleased [my friends] were with him, and how they seemed to open their hearts to him in a moment.

Steerforth, half a dozen years older than David, possessed, as Leopold often said of Loeb, a "natural gift of adapting himself to whomsoever he pleased, and making direct, when he cared to do it, to the main point of interest in anybody's heart." Both the real Loeb and the fictional Steerforth fit with the philosopher Albert Camus's definition of charm: the ability to get the answer *yes* without having asked the question. Interestingly, Steerforth insisted on calling David "Daisy" and told him: "If you had a sister, I should think she would have been a pretty, timid, little, bright-eyed sort of girl. I should have liked to know her."

One night at school David observes: "I thought of him very much after I went to bed, and raised myself, I recollect, to look at him where he lay in the moonlight, with his handsome face turned up, and his head reclining easily on his arm. . . . I admired and loved him, and his approval was return enough. It

was so precious to me." When David and Steerforth reunite some years after their time at school, David is overcome with pleasure: "I grasped him by both hands, and could not let them go. But for the very shame, and fear that it might displease him, I could have held him round the neck and cried." David finds himself "glowing with pleasure that he had still this interest in me. . . . A dashing way he had of treating me as a plaything was more agreeable to me than any behavior he could have adopted." Later, when drunk, David expresses his deep feelings for Steerforth: "I said (in two words) 'Steerforth, you're the guiding star of my existence.'"

Steerforth seduces Little Em'ly, a charming, innocent young girl engaged to marry a member of the family of Peggotty, David's nursemaid. David comes to understand the core of Steerforth, but he knows that he never would have believed this until the evidence became unquestionable:

If any one had told me, then, that all this was a brilliant game, played for the excitement of high spirits in the thoughtless love of superiority, in a mere wasteful careless course of winning what was worthless to him, and next minute thrown away, I say, if any one had told me such a lie that night, I would have been indignant.

Dickens has Steerforth drop a few hints of his totally unsavory character and the author himself offers an explanation of Steerforth's parallelism to what has been labeled psychopathy. "It would have been well for me (and for more than me)," Steerforth observes, "if I had had a steadfast and judicious father!" Steerforth's face, Dickens writes, had never before for David expressed such a dark kind of earnestness as when he utters these words. Despite Steerforth's terrible exploitation of Emily, David can condemn only intellectually; he cannot desert Steerforth emotionally: "Yes, Steerforth," he thinks to himself, "my sorrow may bear involuntary witness against you at the Judgment Throne; but my angry thoughts and reproaches never will, I know!" Note similarly Leopold's reflections long after Loeb's death:

Some people who have my welfare at heart tell me that I should not write as I do of Dick, that it hurts me, that it indicates that I am still influenced by what was amoral and mad in his character. . . . [But] the simple truth is that we cherish even when we don't emulate.

Conclusion

The great wealth and social prominence of their families proved to be a double-edged sword for Nathan Leopold and Richard Loeb. The crime's notoriety led to a media feeding frenzy that kept their case from being handled

as it might have been under more usual circumstances. Presumably, had the offenders been more lackluster, a life sentence probably would have been negotiated with little fanfare.

Though gruesome and virtually incomprehensible, the murder of Bobby Franks probably would have been recorded as but another more or less routine Chicago killing had the participants been part of the city's defined dross, the virtually anonymous cadre of lawbreakers. A lower-class Leopold would have been back on the streets in a much shorter time than the elite Leopold was. At the same time, without the kind of money that allowed the boys' families to employ so skillful an advocate as Clarence Darrow, it is very likely that Leopold and Loeb would have been hanged. The issue of the relationship between wealth and justice in the criminal courts is an issue that will come to the forefront again when we look at the trial of O. J. Simpson.

Leopold's personality, as formed before the murder and affected by the killing and by his prison experiences, is not easily reduced to a simple portrait. After Leopold's death, Elmer Gertz, an astute observer, tried to sketch with words the person he had known well but, he believed, had understood only imperfectly:

Though I was one of the two or three men closest to him in the last years of his life, I did not feel that I understand everything there was to know about him. I knew all the facts about essentials, and yet the inner truth escaped me. I knew that he had participated in one of the most notorious crimes of the twentieth century, yet I could not think of him as any sort of criminal, let alone a murderer. There was so much that was both appealing and unappealing in him—the gratitude that never dimmed, his utter impatience with those he regarded as inferiors, the continuing prejudice against blacks, the obsession with time and movement and activities, the refusal to accommodate himself to the necessities of his [medical] condition, the glaring contradictions in his character and temperament, the great intelligence mixed with naiveté.

None of the usual theories to explain why Leopold and Loeb did what they did takes us very far, though Loeb at least fits very closely, albeit far from perfectly, with the kinds of people who are labeled psychopaths. But there are millions of people who equally well show the traits defined as psychopathic, and very few of them murder innocent youngsters.

Paula Fass, in her review of the twists and turns in the media's choreography of the Leopold-Loeb case, noted that "over time, the themes of childhood, psychology, and sexuality gathered sufficient strength to make us (almost) forget that in 1924 Leopold and Loeb were two rich kids who tried to get

away with murder." Fass's prosaic summary offers perhaps the most sensible interpretation of what went wrong on the awful day in 1924 when two exceedingly rich and bright young men combined to kill a young boy by bashing him on the head with a chisel covered with adhesive tape so that they would not hurt their hands.

For Further Reading

Two books deal exclusively with the murder of Bobby Franks by Nathan Leopold and Richard Loeb. Maureen McKernan, a Chicago journalist, wrote *The Amazing Crime of Leopold and Loeb* (Chicago: Plymouth Court Press, 1924) shortly after the court's decision was handed down. McKernan's book is largely made up of verbatim reproductions of the psychiatric reports and the lead attorneys' arguments: a reissue of the book (Birmingham, Ala.: Notable Trials Library, 1989) contains a brief introduction by Alan Dershowitz, the Harvard Law School professor who later served as a member of the O. J. Simpson defense team. The second book, Hal Higdon's *The Crime of the Century: The Leopold and Loeb Case* (New York: Putnam, 1975), provides a thorough review of the events.

Nathan Leopold's autobiography, *Life Plus Ninety-Nine Years* (Garden City, N.Y.: Doubleday, 1958), is essential to an understanding of the case. In addition, John Bartlow Martin wrote a series of well-documented articles about Leopold's prison experiences a few years before Leopold was paroled. The articles appeared under the title "Murder on His Conscience" in the *Saturday Evening Post* on successive weeks: Part I on April 2, 1955, pp. 17-18, 86-88; Part II on April 9, pp. 32-33, 65-66; 71-72; Part III on April 16, pp. 36, 198, 201-202; and the final installment on April 23, pp. 28, 135-138. On the stabbing of Loeb see Gladys A. Erickson, *Warden Ragen of Joliet* (New York: E. P. Dutton, 1957).

More recently, Paula Fass has offered an excellent analysis of the shaping in popular culture of interpretations of the case in "Making and Remaking an Event: The Leopold and Loeb Case in American Culture," *Journal of American History*, 80 (December 1993):919-951.

There is a considerable literature on Clarence Darrow that includes discussion of his role in the Leopold-Loeb hearing. See in particular Irving Stone, *Clarence Darrow for the Defense* (New York: Doubleday, Doran, 1941), pp. 380-421; and Kevin Tierney, *Darrow: A Biography* (New York: Crowell, 1979), pp. 320-331. Darrow's autobiography, which goes over the Leopold-Loeb case

lightly (pp. 226-243), is titled *Story of My Life* (New York: Scribner's, 1932). Darrow's speech before Judge Caverly has been reprinted numerous times. A good source is Arthur Weinberg, ed., *Attorney for the Damned* (New York: Simon and Schuster, 1957), which provides the speech's highlights (pp. 16-88) as well as an assemblage of Darrow's other writings and speeches. The full text of the speech can be found in Alvin V. Sellers, *The Leopold-Loeb Case* (Brunswick, Ga.: Classic Publishing Co., 1926), pp. 118-232, which also offers the statements of the prosecutors and Darrow's associate attorneys, and excerpts from the psychiatrists' reports. Most of the same material can be found in *Attorney Darrow's Plea for Mercy and Prosecutor Robert E. Crowe's Demand for the Death Penalty in the Loeb-Leopold Case, the Crime of the Century* (Chicago: Wilson Publishing Co., 1924). Another source for Darrow's presentation is *Clarence Darrow's Plea in Defense of Loeb and Leopold* (Girard, Kans.: Haldeman-Julius, 1926). A list of materials by and about Darrow can be found in Willard D. Hunsberger, *Clarence Darrow: A Bibliography* (Metuchen, N.J.: Scarecrow Press, 1981), with pages 150-160 detailing sources regarding the Leopold-Loeb case.

Elmer Gertz, who handled Leopold's parole appeal and became a close friend, discusses the case in *A Handful of Clients* (Chicago: Follett Publishing Co., 1965), pp. 1-192, and in *To Life: The Story of a Chicago Lawyer* (New York: McGraw-Hill, 1974; reprinted Carbondale: Southern Illinois University Press, 1990), pp. 189-199. *To Life* presents details about Leopold's life after his release from prison.

Additional material can be found in Francis X. Busch, *Prisoners at the Bar* (Indianapolis: Bobbs-Merrill, 1952), pp. 145-199; John Cassity, *The Quality of Murder* (New York: Julian Press, 1958), pp. 52-61; Alan Hynd, "The Case of the Curious Cubs," in Hynd, ed., *Murder, Mystery, and Mayhem* (New York: A. S. Barnes, 1958), pp. 47-56; William Kunstler, "The State of Illinois *versus* Richard A. Loeb and Nathan F. Leopold, Jr.," in Kunstler, *First Degree* (New York: Oceana, 1960), pp. 74-86; and, much less reliably, George Murray, *Madhouse on Madison Street* (Chicago: Follett Publishing Co., 1965), pp. 333-344. The book by Armand Deutsch, the first intended victim of Leopold and Loeb, is *Me and Bogie* (New York: G. P. Putnam's Sons, 1991).

The case is discussed from the viewpoint of mental health professionals in Maurice Urstein, *Leopold and Loeb: A Psychiatric-Psychological Study* (New York: Lecouver Press, 1924); Editorial, "The Crime and Trial of Loeb and Leopold," *Journal of Abnormal Psychology and Social Psychology*, 29 (October-December 1924):223-229; and Sheldon Glueck, "Some Implications of the Leopold and Loeb Hearing in Mitigation," *Mental Hygiene*, 9 (July 1925):449-468.

Meyer Levin's novel *Compulsion* (New York: Simon and Schuster, 1956) mixes fact with fiction, with a considerably larger proportion of the latter. The motion picture *Compulsion* (1959), made from Levin's book, wanders even further from the truth. Orson Welles, who played Darrow in the film, made a bit of motion picture history by delivering Darrow's speech in a monologue that lasted twelve minutes—a motion-picture record. Two other films—*Rope* (1948), an Alfred Hitchcock production, in which Farley Granger plays Leopold, and *Swoon* (1992)—also take considerable liberty with the facts.

Many of the private papers of Leopold and Gertz are held in the Special Collections section at Northwestern University in Evanston, Illinois; other papers of Leopold, including letters to and from many prominent criminologists of the time, are housed at the Chicago Historical Society. In writing this chapter, we also benefited from the kindness of Elaine Cressey Ohlin, who loaned us a treasure trove of material that included newspaper clippings and magazine stories about Leopold and Loeb and letters exchanged by Leopold with Edwin H. Sutherland and Donald Cressey.

Reviews of theories of crime include Ronald L. Akers, *Criminological Theories: Introduction and Evaluation*, 2nd ed. (Los Angeles: Roxbury Press, 1996); Francis T. Cullen and Velmer S. Burton, Jr., eds., *Contemporary Criminological Theory* (New York: New York University Press, 1994); Don C. Gibbons, *Talking about Crime: Problems and Issues in Theory* (Englewood Cliffs, N.J.: Prentice-Hall, 1994); and Marilyn McShane and Frank P. Williams III, eds., *Criminological Theory* (New York: Garland, 1997).

The vast literature on psychopathy can be sampled in three major treatises: Hervey M. Cleckley, *The Mask of Sanity: An Attempt to Clarify Some Issues about the So-Called Psychopathic Personality*, 3rd ed. (St. Louis: Mosby, 1955); Robert M. Lindner, *Rebel without a Cause: The Hypnoanalysis of a Criminal Psychopath* (New York: Grune & Stratton, 1944); and William McCord and Joan McCord, *The Psychopath: An Essay on the Criminal Mind* (Princeton, N.J.: Van Nostrand, 1964). For a recent overview see Stephen Porter, "Without Conscience or without Active Conscience: The Etiology of Psychopathy Revisited," *Aggression and Violent Behavior*, 1 (1996):179–189. The journal *Behavioral and Brain Sciences*, 18 (1995):523–599 offers a theme article on psychopathy by Linda Mealey and forty-two short responses by other scholars.

Interpretations of the relationship between David Copperfield and James Steerforth are found in William H. Marshall, *The World of the Victorian Novel* (New York: A. S. Barnes, 1964), pp. 169–185, and A. O. J. Cockshut, *The Imagination of Charles Dickens* (London: Collins, 1961), among other sources.