Prom Mom Killers: The Impact of Blame Shift and Distorted Statistics on Punishment for Neonaticide

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PROM MOM KILLERS: THE IMPACT OF BLAME SHIFT AND DISTORTED STATISTICS ON PUNISHMENT FOR NEONATICIDE

LYNNE MARIE KOHM* AND THOMAS SCOTT LIVERMAN**

Blame is already shifting onto the shoulders of... society for not recognizing the depth of her psychosis.¹

Melissa Drexler became famous at her prom, but not for being voted Prom Queen or Most Likely to Succeed. On June 6, 1997, the night of her senior prom, she delivered a six-pound, six-ounce baby boy in a New Jersey catering hall restroom, and then dumped the child into the trash bin.² She touched up her lipstick and returned to dinner and dancing, as if nothing unusual happened.³ The initial charge was murder, but to spare a murder trial and possible conviction Drexler pled guilty to the lesser charge of manslaughter.⁴ By November of 2001 she had served one-fifth of her aggravated manslaughter conviction sentence and was released a free woman to “get on with her life.”⁵

In 1996, Amy Grossberg and Brian Peterson were charged with the murder of their newborn baby, delivered in a Delaware motel room and then trashed in an outside dumpster.⁶

Kristin Sundberg, a 17-year-old Oregon girl, hide her pregnancy in order to spare her family and friends the implications of an unplanned pregnancy. The baby died during delivery.⁷

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³ Murdock, supra note 2; Dateline, supra note 2.
⁴ Murdock, supra note 2; Wayne Parry, Prom Mother Pleads Guilty, CHATTANOOGA TIMES, Aug. 21, 1998, at A2.
⁵ Mark Stamey, Prom Mom's Slain Baby Forgotten, N.Y. POST, Nov. 29, 2001, at 39. Drexler was sentenced to fifteen years in jail for pleading guilty to a charge of aggravated manslaughter rather than defending a murder charge at trial. She was released after serving only three years. Id.
⁶ Geraldo Rivera Show: Babies in the Closet (CNN television broadcast), Dec. 9, 1997, [hereinafter Rivera].
⁷ Jeff Barnard, Deadly Delivery Mistake Spares Parents, PORTLAND OREGONIAN, Feb. 13, 1997, at E7 (stating that the baby suffocated while trying to be delivered in the breech position).
In 1997, Carlie Depatroni, a 19-year-old Brooklyn woman, wrapped her baby in plastic and left it to suffocate in her bedroom dresser.8

In 1997, Melissa Seaner, a 17-year-old Bucks County, Pennsylvania girl, delivered her baby while at the beach, stuffed it in a duffel bag, and upon returning home hid it in the garage.9

Samantha Pearson, an 18-year-old Burleson, Texas girl, was indicted on killing her newborn son by dumping him in a trash bag in Pearson’s room.10

Michelle Nicole Huey, a 17-year-old high school senior, was charged with murder of her newborn baby when her parents found the dead baby wrapped in a bag and discarded in the garbage can outside their home.11

Tri Minh Hoang, an 18-year-old student from Sunnyvale, California, was charged with attempted murder after abandoning her newborn baby girl in a park on Labor Day weekend.12

Casey Brakefield, a 20-year-old “straight-A student who attended church and never gave her parents trouble[,] . . . delivered a baby girl at home in the bathroom, then hid it in a motel room for three days before finally taking the infant to her older sister’s home.”13 Casey and her child, Ashlie, now live with her mother, but Casey’s second child was not as fortunate.14 Two years later Casey again got pregnant, and again denied it when confronted by her parents.15

In January 1998, Casey told her mother she was going to work, then headed to a motel where she delivered a baby boy . . . . Casey put the baby on the floor of her car, where she kept him for two days while she went to work, had dinner with a friend and went shopping at the mall . . . . [Casey] came home on the third day, bragging to her mother about being able to get into a smaller size of jeans.16

9. Id.
12. Id.
13. Id.
14. Id.
15. Id. Casey’s mother “phoned police with her concerns [and] an officer told her they could do nothing until Casey bore and abandoned the infant.” Id.
When Casey came home her mother phoned police, who informed her that they had already found an abandoned dead baby, which later turned out to be Casey's newborn.17 “Casey was convicted of willful cruelty to a child causing injury or death, and served seven months in county jail.”18

Melissa McManus, a 17-year-old of Lancaster County, Pennsylvania, “was sentenced to life in prison after being charged with placing her newborn son into a plastic bag and dumping him into the Susquehanna River.”19

Stacy Myers, an 18-year-old Virginia student, was charged with murder when she gave birth in a friend’s college dorm bathroom, placed the newborn in a plastic garbage bag, and left it on the window ledge outside her friend’s dorm room.20

Nicole Boyer, a 14-year-old of Elizabethtown, Pennsylvania, is the youngest female in Lancaster County history to be charged with first-degree murder.21 The girl was charged with killing her newborn daughter after giving birth to the baby girl in the bathroom of her parents' home, placing the baby's body in a plastic bag, and hiding it in a cabinet drawer in the basement of her parents' home where investigators found it several days later.22

Stephanie Wernick, a 20-year-old college student, was convicted of criminally negligent homicide for stuffing toilet paper down her newborn child’s throat, putting the baby in a plastic bag, and getting an unwitting friend to dispose of it for her.23

Selfa Silva, a 15-year-old Tucson girl, gave birth to a baby in a friend’s bathroom at a slumber party.24 Silva tried, without success, to flush the baby down the toilet after tying a plastic bag around

17. Id. “After questioning by police, Casey told police she had touched her infant sometime on the second day, felt his cold body and realized he was dead. . . . She discarded the dead boy in a dumpster.” Id.

18. Id. Casey named her dead boy Isaiah, who was given a burial by Casey’s mother. Casey’s mother also adopted Casey’s first child, Ashlie. Her mother says that Casey “has shown no remorse, . . . she should have done some hard-core scary time and gotten some extensive counseling.” Id. (quoting Ms. Brakefield, Casey’s mother).


22. Id.

23. Bookwalter, supra note 20, at 1195-96, (discussing People v. Wernick, 632 N.Y.S.2d 839, 840 (App. Div. 1995)). She was sentenced to one to four years in state prison, and pending her appeal, the court released her on bail to live at home with her parents. Id.

24. Kristen Cook, Girl, 15, Held in Slaying of Newborn Son, ARIZ. DAILY STAR, June 13, 1996, at 1A.
the newborn's throat. She finally abandoned the baby in a trashcan.

A 19-year-old Arizona Community College student was charged with murder and child abuse when her newborn baby girl was found stuffed into a coffee can under a bathroom sink.

An 18-year-old Norfolk State University student was arrested in the death of a baby found in a footlocker in a Norfolk, Virginia storage unit.

A 16-year-old Voorhees, New Jersey girl, was charged with killing her newborn by asphyxiation in November of 1996.

This list is by no means exhaustive. The number of baby-kilings and young female murderers continues to echo loudly in the ears of society. "Tales of high-school girls giving birth at proms and in Disney World bathrooms, and either strangling their children or leaving them for dead, have made chilling headlines." The FBI reported that, between 1976 and 1999, mothers killed 4,118 children under age five. "In the first 10 months of 1999, 13 babies were abandoned at birth in the city of Houston alone. Of these, three were found dead."

Knowing that each of the above murders took place at the hands of the newborns' mothers should make identifying who is to blame for these killings simple. This article will show that public reaction toward mothers, as well as judicial punishment, proves

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25. Id.
26. Id.
27. Weissenstein, supra note 10.
31. Murdock, supra note 2. Fathers killed 4,179 children under age 5 during the same period. Id.
32. Charen, supra note 30. The horrors are not limited to Houston:

The FBI says that five infants under age 1 are murdered every week .... Those working in the field estimate that anywhere between several hundred and several thousand babies are exposed or thrown in dumpsters every year. The stories continue to flow in. In Germantown, Md., a baby was found in a trash can in a residential neighborhood. Wrapped in a blanket and placed inside a K-mart shopping bag, along with sanitary napkins, underwear, a chicken bone and other trash, the baby screamed in the freezing temperatures. Neighbors heard her cries and rescued her only minutes before the trash collectors would have dumped the contents of the bin.

In just the past 12 months, newborns – or parts of newborns – have been found on railroad tracks, on supermarket shelves (behind the diapers), in unheated laundry rooms and in a vast variety of trash bins. Id.
that the final blame for murdering babies may not rest solely in the hands of the mothers committing these crimes.

We as a society find it difficult to "understand homicides involving women who have killed their own children . . . because the innocence and the vulnerability of children typically arouse feelings of nurturance and protectiveness." Moreover, when society is exposed to the graphic details of a mother murdering her child, we are disturbed by the horrific nature of the offense, adding to our inability to understand this crime. What should be equally disturbing, however, is Western societies' reaction to this crime.

Michelle Oberman, a leading expert in infanticide, summarizes society's reactions to the crime of infanticide by stating that there are "three basic societal postures toward women who kill their children—denial, punishment, or prevention." Although we may agree with this categorization of societies reactions, there is a need to broaden this list. This article will focus on a necessary fourth category of responsibility: blame.

This article explains that blame, as a reaction to child homicide, is not an anomaly. The frequent use of shifting the responsibility or blame, for the infant's death, from the mother to society or some other source, is a recurrent phenomenon. This article will refer to this shifting of responsibility as "blame-shift."

One could argue that blame-shift may fit into the "denial" category however, as a separate and unique phenomenon blame-shift has become quite pervasive when cases, like the ones outlined above, make the headlines. This phenomenon becomes a public reaction, thereby impacting the public's perception of the offenders of this crime. This sets it apart from the denial posture that society may claim for the crime, and turns it into a shifting of blame, distinctly different from denial.

When mothers kill their children, the crime is classified as a homicide, but more specifically, it is infanticide. There are two categories used to describe mothers who kill their babies depending on the age of the child. "Neonaticide" is the killing of one's own

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34. PATRICIA PEARSON, WHEN SHE WAS BAD; VIOLENT WOMEN AND THE MYTH OF INNOCENCE 64-113 (1997) (recording disturbing accounts of mothers killing their children and using them as "pawns").
36. Since the classifications themselves can reduce the responsibility of the offender and serve as a mechanism for shifting the blame to other sources, it is important to distinguish the major classifications of the crime. See generally id. at 17-18.
child within the first 24 hours of the child's birth, while "filicide" is the killing of one's own child after the first 24 hours. "Infanticide" is often used as the catchall phrase that includes neonaticide and filicide. The classification of infanticide has become the predominant term used when describing the killing of a child by its mother, and the term encompasses all child-killing by the mother. There is, however, no such "official" classification of infanticide in the United States. When a woman takes the life of her child in the United States, it is called homicide, albeit, in varying degrees. When women kill their own children they are occasionally charged with second-degree murder, but are more commonly charged with manslaughter.

The categories of filicide and neonaticide represent two distinct types of killers. Women who commit neonaticide (within the first 24 hours of the child's birth) tend to be young, (usually in their teen-age years), unmarried, with no history of mental illness. In addition, these young women tend to remain in denial throughout their pregnancy, trying to hide their pregnancies from their family. They give birth alone, often in a bathroom or bedroom, and come face-to-face with what they have been hiding for so long. These frightened young women commonly see the killing of the child as the only way to continue the denial and concealment of their pregnancy.

37. Id. at 22. The National Center for Health Statistics "defines neonaticide as the killing of a child younger than 28 days, [while] [t]he FBI defines a neonaticide as the killing of an infant younger than 1 week." Weissenstein, supra note 10.


39. BLACK'S LAW DICTIONARY describes "infanticide" as “[t]he act of killing a newborn child . . . by the parents or with their consent.” BLACK'S LAW DICTIONARY 781 (7th ed. 1999) (emphasis added). This definition is somewhat misleading in that virtually all infanticide laws pertain strictly to the mothers who kill, not the fathers.

A world leader in this area of sociology and the law, for the last several decades, has been Phillip Resnick. Resnick reviewed over one hundred years of literature on infanticide over the years. We discuss his work throughout this analysis because of his experience on the subject. See Phillip J. Resnick, Murder of the Newborn: A Psychiatric Review of Neonaticide, 126 AM. J. PSYCHIATRY, 1414-1420 (1970) (analyzing neonaticide).

40. PEARSON, supra note 34, at 70-113.


42. Id.

43. Id.

44. Id.

45. Id.
By contrast, the women committing filicide (killing the child after the first postnatal day) “tend to be older and married, and to have a history of mental illness. [These women] are frequently psychotic or depressed. They are [also] often in situations of family and social stress, and may believe that killing of the child is the only way to alleviate the child’s suffering or potential suffering.46 Examples of filicide offenders are Andrea Yates47 and Susan Smith.48 The goal of this article, however, is not to discuss filicide, but rather to address the particular reactions to neonaticide.

This article will concentrate on the specific form of infanticide known as neonaticide, and its offenders. It will examine how blame-shift is becoming more commonly used by defenders when mothers commit neonaticide, and what impact this has on the offender’s punishment. This is not to suggest that mitigating factors are never present, or should not be considered when a young mother kills her child.49 Problems, however, can arise when we, as a society, are so disturbed by the nature of the crime that we revert to a type of collective denial, or even collective blame, and automatically reduce the accountability of young mothers committing this horrific crime. Society must be challenged to collectively deal with the problem of neonaticide now to end this horror for both the child victim and the child mother.

46. Dobson & Sales, supra note 41.
47. On June 20, 2001, Andrea Yates set out to kill each of her five children ranging in ages from six months to seven years, with diabolical precision. One by one, Yates carried each of her five children (the names of the Yates children were: Mary, 6 months; Luke, 2; Paul, 3; John, 5; and, Noah, 7) to a bathroom located inside of her middle-class Houston, Texas home, sinking each of her children’s heads under the water, and holding them under until they drowned. The last of her children to die in her self-made execution chamber was her seven-year-old son, Noah. Although Noah made an attempt to run from his mother, Andrea Yates caught him, dragging him back to the bathroom. In the final moments of his life, little Noah was no doubt startled by the commotion coming from the bathroom. Noah's investigation of the commotion led him to the bathroom where his mother was in the act of drowning his little sister, Mary. After witnessing his mother’s behavior, Noah’s instinctual “fight or flight” response system took over, and he ran. He ran for his life. Andrea Yates would have none of this. Her plan of killing all of her children would be incomplete if she permitted little Noah to run away. As she was forcing him into the bathtub, Noah undoubtedly noticed the lifeless body of his murdered sister still floating inside of the tub. At the age seven, Noah was old enough to realize, as Andrea Yates’s superior strength became too much for him, that his own mother was killing him. Evan Thomas, Motherhood and Murder, NEWSWEEK, July 2, 2001, at 20.
48. Susan Smith achieved nationwide attention when she strapped her two sons in the back seat of her car and rolled the car into a lake causing each of her boys to drown. Karin Lewicki, Note, Can You Forgive Her?: Legal Ambivalence Toward Infanticide, 8 S. CAL. INTERDISC. L.J. 683, 684 (1999).
49. See Bookwalter, supra note 20, at 1198-1206, for a comprehensive discussion on the need to hear, at trial, expert testimony on neonaticide syndrome.
Section I of this article briefly examines the history of infanticide and it's standing today. This section will also explain neonaticide in greater detail. Section II concentrates on the blame shifting trend, its support by various organizations, and how this phenomenon is often perpetuated by the media. Section III discusses the punishment that comes with the crime of neonaticide, and the inconsistent nature of punishment in our society. This section will also briefly contrast the harsh treatment of men who are charged with infanticide with similarly situated women.

This article endeavors to understand neonaticide and related problems of infanticide in our society, particularly in light of the tender age of the mothers who commit this heinous crime. In a search to understand infanticide, it is important that the law and our society recognize the trend of “blame shifting” and how its practice continues to perpetuate various harms. These harms include discouraging or inhibiting proper mental health treatment and social services for the offenders (thus allowing more children to be killed), improperly influencing a judge or jury during the punishment phase of a trial, and, most damaging of all, forgetting the newborn victims who will never get a chance at life.

SECTION I. HISTORY AND STATISTICS

A. Historical Record

The term “neonaticide” denotes the killing of a newborn. Neonaticide is not new. “Women frequently killed their newborn children in societies as diverse as ancient Rome, 19th, (20th and 21st) century China and colonial New England . . . .” The practice of infanticide began in primitive cultures primarily for population control, and “humane” disposal of handicapped or deformed children. Primitive cultures viewed the expanded practice of
infanticide as a sensible practice for a variety of reasons. This has not always, however, been the case in the United States. During the puritanical colonial times, infanticide was thought to be one of the more brutal crimes, and many women who murdered their children were executed. Because women are closer to children biologically, infanticide is most repugnant to the public sentiment.

Attitudes concerning infanticide began to change during the eighteenth century. Society began to show sympathy for many of the mothers who committed infanticide, resulting in a decline in the conviction rate of these women. Ironically, much of the sympathy was a result of the harsh penalties that automatically were imposed if a woman was found guilty of killing her children. In addition, in many western societies, mental health issues began to assume a role in the defense of women who were put on trial for the crime of infanticide. If the woman’s mental health was determined to be problematic, often times she would be exonerated for the crime, or

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54. Id. at 956. Infanticide was performed in some primitive cultures as a means of survival during great famine. See 2 Kings 6:24-29, where Ben-Hadad, an invading king from nearby Aram laid siege to famine ravaged Samaria in Israel. As the king of Israel was passing by on the wall, a woman cried to him, ‘Help me, my lord the king!’ The king replied, ‘What’s the matter?’ She answered, ‘This woman said to me, ‘Give up your son so we may eat him today, and tomorrow we’ll eat my son.’ So we cooked my son and ate him. The next day I said to her, ‘Give up your son so we may eat him,’ but she had hidden him.

Id. In that biblical situation, great sorrow and repentance followed these events.

The bible has additional examples of infanticide concerning child sacrifice. Practices of idolatry and pagan religious rituals included child sacrifice. The bible also condemns these forms of infanticide as detestable. See Ezekiel 14:6 (Quest Study Bible New International Version) (stating that “[t]his is what the Sovereign Lord says: Repent! Turn from your idols and renounce all your detestable practices!”); Isaiah 49:15 (King James Version) (asking [c]an a mother forget her sucking child, that she should not have compassion on the son of her womb? Yes, they may forget, yet will I not forget thee.”). See also Moseley, supra note 51, at 345-54, for more historical detail in this regard.

55. Gardner, supra note 53, at 956. Neonaticide was a named crime in 1624 when the Massachusetts Bay Colony passed a law against it. But see Weissenstein, supra note 10 (citing Resnick) (finding that neonaticide is no longer a crime separate from murder and related charges).


57. Gardner, supra note 53, at 956.

58. Id. at 956-57.

59. Id. at 976 (discussing post-partum depression as a mitigating factor). See also id. at 984 (discussing the decriminalization of child abuse for similar reasons).

60. Id. at 957, 976.
at the very least, this problem would be a mitigating factor considered in her sentencing. Thus, “insanity” defenses became popular for women accused of infanticide in western society. These defenses became so popular in Great Britain that “the Infanticide Acts of 1922 and 1938 statutorily recognized a type of ‘insanity’ exclusive to a mother who kills her infant and made ‘infanticide’ a separate crime from homicide.”

“Neonaticide, the killing of a newborn child, is a crime as old as recorded history. But academics have categorized neonaticide as a unique form of homicide only since 1970, when forensic psychologist Philip J. Resnick proposed the label in a groundbreaking article on the phenomenon.” His work is often offered in explanation of such crimes. The United States, however, has never recognized infanticide or neonaticide as a separate crime, unlike other western countries such as England and Canada. Women who kill their children in the United States are charged with murder or manslaughter.

Today, the past justifications of infanticide are no longer acceptable in any modern cultures. Some understand that reasons that once justified infanticide, such as population control, illegitimacy and cost, can no longer be accepted because of birth control options, a comprehensive welfare system, and the changing mores of society.

The issues of sentencing baby-killers have begun to be confused by defenses.

The infanticide statutes from around the world evidence a shared sense that it is both legally and morally wrong for a mother to kill her infant. At the same time, they evince an equally powerful consensus that, both in terms of its genesis and in terms of maternal culpability, infanticide is a far different crime from other homicides.

61. Id. at 976-77.
63. Id. See also Oberman, supra note 35, at 14-15 (describing the infanticide laws as articulating lenience for mothers involved in infanticide killings).
64. Weissenstein, supra note 10.
65. The only exception would be Resnick’s claim regarding the Massachusetts Bay Colony law of 1624. Id.
66. Gardner, supra note 53, at 958. There are numerous other countries that recognize the crime of infanticide, including: Austria, Columbia, Finland, Greece, India, Italy, Korea, New Zealand, the Philippines, and Turkey. Oberman, supra note 35, at 19, 90.
68. Id. at 20.
69. Id. at 19.
Since maternal culpability causes lawmakers and judges to look at the crime differently the end result, sentencing, differs in infanticide versus other homicide cases.\textsuperscript{70}

\textbf{B. Accurate Statistics?}

There are untold numbers of studies and research concerning male offenders in the field of criminology. And while the resulting statistics are plentiful concerning male offenders, little exists about female offenders. "Of the 314 studies published on human aggression by 1974, only 8 percent focused on women or girls".\textsuperscript{71} The paucity of research that does exist usually concerns prostitution, juvenile delinquency, and property crimes.\textsuperscript{72} "Teenage infanticide cases are scarcely reported and have historically resulted in the lightest of sentences."\textsuperscript{73} These studies create a limited amount of research on mothers who kill their children.

Despite the limited research, infanticide is not a rare occurrence in the United States.\textsuperscript{74} According to the most recent Center for Disease Control and Prevention (CDC) report, "Americans are at least 10 times more likely to be murdered on the day of their birth than at any other point in their lives . . . . About 89 percent of the known killers was [sic] female, typically the mother . . . ."\textsuperscript{75} There are more than 1000 known infanticides each

\textsuperscript{70} \textit{See infra} Section III. Women and women's problems evoked deep public sympathy, resulting in a unique sentiment toward mother's who kill their own children.

\textsuperscript{71} Pearson, supra note 34, at 17.


\textsuperscript{74} This is clearly demonstrated in the opening pages of this article.


When based on years of exposure per person, the homicide rate for infants on the first day of life was about 10 times greater than the next most vulnerable group -- adults between the ages of 20 and 24.

Dr. Len Paulozzi of the CDC's National Center for Injury Prevention and Control noted that the actual rate of infanticide among newborns on the first day of life might be even higher because of the potential for underreporting of such murders.

\textit{Id.}
year in the US, but this number is far from exhaustive.\textsuperscript{76} Since there are limited statistics on mothers who kill their infants, it is hard to fully understand the magnitude of the problem, but it is undeniable that there is a problem.

Even without concrete statistics, juvenile mothers who commit infanticide cannot easily be ignored for much longer. One way to approach statistics on baby killings is through abuse cases because "[i]t has been well documented for years that mothers are responsible for much, if not most, fatal child abuse in North America."\textsuperscript{77} Mothers often perpetrate child abuse, neglect, and harm. The younger the mother, the more lacking is her capacity to care for a child, and the greater the possibility of death of the newborn. "The Third National Incidence Study of Child Abuse and Neglect (NIS-3, 1996) from the Department of Health and Human Services reported that mothers perpetrate 78 percent of fatal child abuse."\textsuperscript{78} Even with these statistics, some organizations have a difficult time seeing mothers as the blame for these deaths.\textsuperscript{79}

Consider this example. The website for the United States Department of Justice (DOJ) reveals some statistics related to infanticide.\textsuperscript{80} In the Bureau of Justice Statistics Section labeled "Homicide Trends in the U.S.: Infanticide," several small line-graph charts are pictured with different elements related to infanticide.\textsuperscript{81} One of the charts deals with parents as the perpetrator. The heading states that "[a] parent is the perpetrator in most homicides of children under age 5."\textsuperscript{82} This statistic becomes misleading when, under the chart it states that "[p]arents includes stepparents."\textsuperscript{83} In other words, these statistics put a stepfather and a stepmother on equal ground with a biological father and mother. This method can tend to distort the statistics on female neonaticide offenders since

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\textsuperscript{77} McElroy, supra note 1.
\textsuperscript{78} Id.
\textsuperscript{79} There are other social problems, such as poverty or mental illness, which are blamed for the murders.
\textsuperscript{80} U.S. DEPT OF JUST., BUREAU OF JUST. STAT., HOMICIDE TRENDS IN THE UNITED STATES: INFANTICIDE, available at http://www.ojp.usdoj.gov/bjs/homicide/children.htm [hereinafter DOJ]. The Department of Justice (DOJ) states: "The younger the child, the greater the risk for infanticide." Id.
\textsuperscript{81} Id.
\textsuperscript{82} Id. This data offers no explanation as to why the dividing line used was the age of five.
\textsuperscript{83} Id.
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it allows killings by a stepmother to stand the same as killing by a biological mother.

According to Patricia Pearson, "[s]tepparents have often posed a particular threat to infants and small children, . . . [h]ence the origin of wicked stepmother figures in fairy tales." Pearson also states that "psychologists Margo Wilson and Martin Daly point out that in the United States a preschool-age stepchild is one hundred times more likely than a biological child to fall victim to familial homicide." Considering that most children with divorced parents live with their mothers, the information concerning stepparents is an extremely important point, and is noticeably absent from the DOJ site. This reduces the validity and credibility of the DOJ information, and obscures the issues. The arguments protecting mothers who kill the child would be less effective if a great number of the mothers were stepmothers instead of biological mothers.

Considering that a large number of people rely on these statistics when researching the serious problem of infanticide, any distortion can have a significant impact on the validity of the research. This analysis illustrates how this distortion can be used by any international news source as well as for myriad purposes, particularly to shift the blame for the infanticide from one party to another.

Furthermore, the figures used by the DOJ in these charts are actual known cases. It should be emphasized that these figures, by necessity, undercount the actual incidence. Research indicates that many of the deaths of children being reported as "accidental" or caused by Sudden Infant Death Syndrome (SIDS) are actually infanticide cases in disguise. Again, this information is absent from the DOJ site.

84. Pearson, supra note 33, at 77.
85. Id. at 78.
86. The DOJ site states that "[o]f all children under age 5 murdered from 1976-99: 31% were killed by fathers; 30% were killed by mothers; 23% were killed by male acquaintances; 6% were killed by other relatives; [and] 3% were killed by strangers." DOJ, supra note 80. The distinction between stepparents and biological parents seems to us to be an important one but the DOJ fails to provide an explanation or disclaimer on the difference between biological parents and stepparents. This statistic does not indicate whether the 31% of fathers includes stepfathers or whether 30% of mothers include stepmothers.
87. See discussion infra section II, "Blame-Shift."
88. DOJ, supra note 80.
89. Stuart S. Asch, Crib Deaths: Their Possible Relationship to Post-Partum Depression and Infanticide, 35 J. Mt. Sinai Hosp. 214, 214 (1968). Dr. Asch states that there is good psychiatric reason to believe that a large number of the twenty to thirty thousand infants found dead each year due to unknown causes are the result of infanticide. See also Barton, supra note 73, at 612-14 (discussing the misdiagnosis of infant murder with sudden infant death syndrome (SIDS)).
These omissions in the DOJ site makes it important to contrast the DOJ statistics with research done by other organizations. Researchers at the Heritage Foundation found that adults providing care to a child or children kill 2,000 children in their care each year.\textsuperscript{90} More importantly, this study clearly defined who is doing the killing. Of the estimated 2,000 children killed, the U.S. Department of Health and Human Services estimates 1,100 are killed by biological mothers, 250 are killed by stepfathers, 513 are killed by live-in boyfriends, and 137 are killed by biological fathers.\textsuperscript{91} Other research verifies the staggering statistics of young women killing their own babies. "Of 1,262 American children murdered in families in 1996, women murdered 984 and men murdered 278; biological mothers murdered 768, biological fathers murdered 30."\textsuperscript{92} Pearson states that "[w]omen commit the majority of child homicides in the United States... [and] an overwhelming share of the killings of newborns..."\textsuperscript{93}

Finally, there is additional evidence that child homicide and infanticide rates continue to rise in the United States. Child fatalities rose forty-nine percent between 1985 and 1992, from 1.3 per 1,000 children to 1.94.\textsuperscript{94} Forty-six percent of all child fatalities were infants.\textsuperscript{95} This increase could reflect an actual increase in the number of child fatalities or it is quite possible that some research is presented in a distorted manner because of the natural empathy evoked for women's issues, and that distortion shows up with neonaticide statistics.

Understanding infanticide requires more than the number of children affected each year. It is also important to understand who the killers are and how they accomplished their crime. There are several characteristics of mothers who kill their children that are similar in most cases. First, mothers usually commit neonaticide

\textsuperscript{91} Id. It should be noted that crimes such as these require some estimation for several reasons: 1) not all of the killings will be detected, and 2) many of the bodies are never recovered. \textit{Id}.
\textsuperscript{92} See Walter H. Schneider & Candis Mclean, More Deadly Than the Male: Media Hide the Fact Women are Far Likelier to Kill Their Children Than are Men, ALBERTA EDITION REP. NEWSMAGAZINE, Feb. 28, 2000, at 36, available at http://forever.freeshell.org/fv/deadlier.htm.
\textsuperscript{93} Pearson, \textit{supra} note 34, at 7.
\textsuperscript{94} Asch, \textit{supra} note 89, at 214.
\textsuperscript{95} \textit{Id}. 

alone.96 The mother also tends to conceal her pregnancy from all family and friends and then delivers the baby in secret.97 A final common tendency is that the mother almost immediately discards the baby in secret.98 These identifying behaviors are typical of neonaticide offenders between the ages of fifteen and thirty-eight.99 The neonaticide syndrome comes from this pattern of behavior has come.100 The naming and defining of neonaticide as a syndrome is an attempt to explain this horrible act and its incredibly high incidence rate.

Although the statistics are distorted at times, it is clear that young women are killing their own children in increasing numbers and biological mothers are much more likely to kill their children than biological fathers. Moreover, it appears that women overall are more likely to kill their children than men. Because of the difficulty in finding good statistics concerning infanticide and the biased way in which these statistics are presented, society’s understanding of commonality of infanticide is distorted. Distortions in statistics only work to misrepresent the placement of proper blame for these crimes and allowing for the continuing collective denial of the existence of serious problem. An alcoholic would say the first step in an attempt to recover from the problem is truthful acceptance of the problem and the only way to accept infanticide is to accurately report the crime. For many reasons, some in our society may wish to keep the true nature of the problem from the general population, thus inadvertently allowing young mothers to continue to suffer from their mental health issues, and allowing their newborn children to die, so it is imperative that we confront this distortion and analyze why it is occurring.

SECTION II. "BLAME-SHIFT"

Neonaticide is often typified by a behavior pattern of concealment and particularly denial,101 where the young woman not

96. See Resnick, supra note 39.
97. See id.
98. See id. at 1414-19. See also Oberman, supra note 35, at 23-26 (describing the similarities among young women who commit neonaticide, and how their dead babies are found); Ian Wilkey et al., Neonaticide, Infanticide & Child Homicide, 22 MED. SCI. & L. 31-32 (1982).
99. The largest numbers are found in women less than twenty-five years of age, with the vast majority being teenagers. IAN BROCKINGTON, MOTHERHOOD AND MENTAL HEALTH 447 (1996).
100. Resnick, supra note 39, at 1414.
101. See id. at 1415-16 (describing patterns of behavior in women who kill their newborns).
only refuses to believe she is pregnant, but also disassociates herself with the pregnancy. An analysis of this pattern tends to place blame for the young mother's homicidal behavior on something other than the murdering mother herself. The young mother's psychological disassociation facilitates a denial of the pregnancy. This disassociation involves "shutting out an idea or perception from consciousness through selective attention." Does the distortion or lack of statistics indicate society's denial of the problem? Do they demonstrate our attempt to disassociate ourselves from the problem? Or do we merely lack a desire to deal with the core issue? Sometimes denial and disassociation lead one to think that the problem will just go away. Are we doing that with neonaticide? Or do we just not know who to blame?

102. Id. See also Oberman, supra note 35, at 23-25 (describing the similarities among young women who commit neonaticide). Oberman's study included forty-seven women accused of neonaticide.

Most of the women accused of neonaticide are young and single. The modal age of my sample was only seventeen. The vast majority live either with their parent(s), guardian(s), or other relatives.

Virtually none of the women were married to or lived with their male partners at the time of the neonaticide. In part, this may reflect the relatively young age of this population and the fact that many still lived with their parent(s).

The high school-aged women, who commonly reported that the relationship was a one- or two-week romance that ended before they even knew they were pregnant.

An even more fundamental similarity among these cases is the accused woman's seemingly self-imposed silence and isolation during pregnancy. Very few of the accused women told their families or friends that they were pregnant.

The most profound similarities arising from modern neonaticide cases involve the patterned circumstances that lead to the infants' deaths. [The women] spent hours alone, most often on the toilet, often while others were present in their homes. At some point during these hours, they realized that they were in labor. They endured the full course of labor and delivery without making a noise.

After delivering the baby, the women's actions range from exhaustion to utter panic. Many of the women temporarily lost consciousness, leaving the baby to drown in the toilet. Others left the baby in the water while they frantically cleaned the messy remains of the delivery from the floors and walls of the bathroom. Still others immediately pulled the baby from the toilet and actively contended with their situations. In several cases, the women threw their babies out of bathroom windows. More commonly, the women suffocated or strangled the babies in order to prevent them from crying out. A few of the women silenced the baby with blows to its head or stab wounds inflicted with scissors.

Id. (citations omitted).


104. Id. at 67.
When high profile cases like those cited in the opening of this article occur, an intense debate ignites over who is to blame for the children's deaths.105 “The blame for most teenage infanticide cases stems from the fact that teenagers rarely feel secure enough to seek help from parents, doctors, teachers, or available social services. Thus, they often act out of desperation.”106 Many say that the blame rests with the medical or mental health system.107 Some purport that “a moral climate that rejects extramarital sexual relations can also induce denial by perpetuating a fear of the results of disclosure, or even ostracization.”108 Others say that the mother offender might have a diminished mental capacity and immaturity; therefore, she should not be held responsible for her actions.109 Others blame the mother’s behavior on poverty and a lack of quality social services.110 One scholar purports that neonaticide could be explained as being “built into the biological design of our parental emotions. The capacity for neonaticide... might be evolution’s way
of letting unprepared parents focus their energy on children who
would be more likely to survive." Still others say much of the
blame rests on a man within the female offender's life, while
others feel that there is a combination of factors that contribute to
the crime of neonaticide. And a relatively small number of people
believe that the responsibility rests solely with the offender.

To complicate matters more, the media uses its resources and
to power to serve as a conduit for pundits to present their message.
They will often use their influence and bias to support a particular
point of view. More tragic, while the pundits are busy pointing
the finger of blame, usually with agenda-driven motives, the true
victims are all but forgotten.

111. Weissenstein, supra note 10. We find this utterly ridiculous, totally unscholarly and
a stretch of the absurd. In this line of reasoning, any heinous act can be explained by a
"biological design," which ultimately (even if unintentionally) blames the design creator,
rather than the person who did the evil act of murder.
112. McElroy, supra note 1.
113. Anna Cekola, 'Pregnancy Depression' on Trial with O.C. Mother Courts: Woman Who
Twice Discarded Newborns Claims Insanity in Murder Case; Such Defenses Show Mixed
Results, L.A. TIMES, Jan. 19, 1997, at A1 (interviewing Dr. Resnick) (asserting that
neonaticide offenders may think of the newborn as a foreign entity or merely an object rather
than a child). This list is not meant to be all inclusive of every entity that may receive blame
during these tragedies.
114. Barton, supra note 73, at 605-07 (describing the disparate sentencing in infanticide
cases as a "slap on the wrist," seemingly frustrating to only prosecutors). See also No Justice
for the Dead Baby, WASH. TIMES, Feb. 1, 1997, at C9 (discussing a mother who killed her
daughter and was then sentenced to probation).
115. See infra Section III. B. (detailing the bias and influence of media broadcasters and
journalists in cases like this).
116. It should be obvious, although often times it is not, that the true victims, in these
cases, are the murdered children and the affect that their deaths have society. However,
often because they are not named, their deaths go unrecorded. Recently, however, the
Virginian-Pilot listed baby abandonment deaths when a First Colonial High School student
delivered a baby in the high school girls' room toilet. Matthew Roy, Virginia Has Twice
February 1995: Baby Angel Valentine, found at the Southeastern Public Service
Authority trash-to-steam plant in Portsmouth.
June 1996: Baby June, found at the same SPSA plant.
December 1996: Baby Hope, a girl found in a plastic bag hanging on a coat hook
at the Lillian Vernon distribution center in Virginia Beach.
February 1997: Baby Michael, found in garbage bag in a sorting line at the
SPSA plant.
March 1998: Baby boy found in a duffel bag tossed in a ditch in Norfolk.
September 1998: Baby boy found in a trash can in a York County campground.
September 1999: Baby boy found in the toilet of an Isle of Wight home.
July 2000: Baby boy found in the back yard of a house in Norfolk.
February 2002: Baby girl found in a footlocker in a Norfolk storage unit. Police
believe she died in October 2001.
February 2002: Baby boy found in a Chesapeake mobile home.
March 2002: Baby girl found in the restroom at First Colonial High School.
Id.
Still others blame these incidents of neonaticide on the right to abortion. "According to the National Center for Health Statistics, neonaticides decreased soon after the U.S. Supreme Court upheld the legality of abortion in 1973, but they have risen steadily since then." Neonicaticide Syndrome explains the disassociation the young mother experiences in that she does not see the product of her pregnancy as a child, but rather as an object. "There's a sense that it isn't quite a real person yet. There's a fine line between fetus and live human." This distinction presents an interesting dilemma, as this is exactly the language used to promote abortion. "What's the difference between an abortion and what Samantha Pearson has done . . . Does the amount of time a heart beats have a bearing on who goes to jail for murder and who should walk away scot free?" Resnick says that "the great bulk of neonaticide murders are committed simply because the child is unwanted." There may be some merit to each of these claims, but the blame is always displaced in some way.

Since the finger pointing may frequently be done by organizations with a political agenda, awareness of the goals of each agenda is necessary before the bigger picture can be adequately and accurately viewed. This became very clear in the Andrea Yates murder case. When an organization is quick to become a mouthpiece for the offender in cases like these, that organization's position warrants some analysis. The feminist agenda was promoted by fostering the Yates case defenses.

A. The Feminist Position

In many articles relating to infanticide, the feminist position follows a similar pattern. It starts the blame shifting with a broad-brush stroke by including all of society, and the "patriarchal

118. Id.
119. Id. (quoting Professor Natalie Hull of Rutgers University School of Law).
120. Id. (quoting from an anti-abortion letter to the local paper in Burleson, Texas, where Pearson delivered and then was charged with killing her child).
121. Id. Isn't the unwanted child the same reason for abortion? Parallels between neonaticide and abortion are indeed fascinating, but are beyond the scope of this article.
123. Id. NOW in particular has placed itself in a precarious position to further its agenda. Supporting the mother who murdered five small children and promoting forced abortion in other countries seems somewhat ironic.
system” that is in place.\textsuperscript{124} Then, it narrows the focus to the oppressive nature of motherhood, and the lack of gratitude all mothers receive for their efforts as mothers.\textsuperscript{125} Finally, the task is often to reduce the generalities to a specific party who should shoulder more of the blame than the mother.\textsuperscript{126} This “scapegoat” is often times the father of the children,\textsuperscript{127} or someone who has exerted influence over the mother.\textsuperscript{128} “Blame is already shifting onto the shoulders of her husband and society for not recognizing the depth of her psychosis.”\textsuperscript{129} Additionally, the lack of quality medical and mental health care is a common target of blame.\textsuperscript{130}

As an illustration of this phenomenon of blame-shift in neonaticide, take for example the suggestion that psychological passivity is the true culprit. Neonaticide offenders, some suggest, are said to display unusual passivity due to fear of “shame, disgrace and mockery contribute to both the offender’s passive reaction and denial of her condition.”\textsuperscript{131} Clearly, however, that passivity ends when the young mother actively harms, discards, abandons and kills her newborn baby. Even if she does so in fear and panic, these are not actions of psychological passivity. Unfortunately, excuses and syndromes are commonly heard with high profile infanticide cases, and may indeed become a contributing factor regarding why young women who desperately need help will probably never get it.

\textsuperscript{124} McElroy, \textit{supra} note 1 (stating that “[w]omen’s violence is the fault of men and male culture”).


\textsuperscript{126} See generally Roberts, \textit{supra} note 72, at 96-98 (showing how women are defined through their role as mothers).


To be just the teensy-weeniest judgmental about these things, if your wife’s on Haldol, you probably shouldn’t leave her at home all day every day, alone with five children under the age of seven. You don’t have to be a rocket scientist to figure that out, though by forlorn coincidence Mr. Yates is: he’s a computer expert at NASA’s Johnson Space Center in Houston.

\textsuperscript{128} “A moral climate that rejects extramarital sexual relations can also induce denial by perpetuating a fear of disclosure and ostracization.” Bookwalter, \textit{supra} note 20, at 1191.

\textsuperscript{129} McElroy, \textit{supra} note 1 (describing the blame shift trend with Andrea Yates in the death of her children).

\textsuperscript{130} Id.

\textsuperscript{131} Bookwalter, \textit{supra} note 20, at 1193. \textit{See also} Brockington, \textit{supra} note 99, at 447 (stating that “[p]assivity, as an attitude to sexuality as well as to pregnancy, is emphasized . . . as the most important temperamental characteristic of these women”). There was much media discussion of this type of passivity during the Andrea Yates murder trial. \textit{See} McElroy, \textit{supra} note 1.
A commonly espoused position of many feminists relates to a mother’s opportunity to commit filicide against her child. One scholar states, “[g]enerally, mothers spend more time with their children than do fathers, and are society’s designated caregivers.”\textsuperscript{132} She continues by saying, “[h]ence, the opportunity for abuse and murder is far greater for mothers.”\textsuperscript{133} To complete the feminist theory a man is pulled into the equation, thereby reducing the culpability of the killing mother. “Fathers may escape the potential for harming their young by simply leaving the family household and children with their mother.”\textsuperscript{134} This type of reasoning might be compared to society reducing the culpability of a taxicab driver who was drunk driving, since he spent more time driving. This reasoning borders on the absurd. It makes little sense to admit that women abuse their children but then deflate that admission by reminding society that women spend more time with their children then do most men. Society must face the fact, women abuse their child, without first explaining why these women abuse their children.\textsuperscript{135}

Many feminists believe that motherhood is an oppressive role that subordinates women, and keeps them imprisoned at home. In her 1993 article entitled “Motherhood and Crime,” Dorothy states that “[s]ociety assigns women the enormous responsibility of childrearing. Society not only does not pay women for this labor, but degrades it as well.”\textsuperscript{136} This theory indeed purports the belief that when a woman like Melissa Drexler or Andrea Yates kills her child(ren), she is trying to break the shackles of oppression, and live free. To be free to enjoy the prom, or free from childrearing in general. The president of the National Organization for Women (NOW), Patricia Ireland, echoed this mantra saying, “the Yates case revealed America as a ‘patriarchal society’ where ‘women are imprisoned at home with their children.’”\textsuperscript{137} But NOW and similar feminist propaganda organizations have their critics. “To NOW, stay-at-home moms are not merely poised to murder their children at alarming rates, they are also victims of white male culture whenever they snap. In this context, Yates is being cast as a

\textsuperscript{132} Janet Ford, Note, Susan Smith and Other Homicidal Mothers – In Search of the Punishment That Fits the Crime, 3 CARDOZO WOMEN’S L.J. 521, 537 (1996). Much of Ford’s feminist perspective on this issue came from Roberts, supra note 72.

\textsuperscript{133} Ford, supra note 132, at 537.

\textsuperscript{134} Id.

\textsuperscript{135} Id.

\textsuperscript{136} Id. at 96.

\textsuperscript{137} McElroy, supra note 1.
political martyr, with some success." The behavior of such organizations is summed up as blaming "the murder of the Yates children on everything but the hands that held the struggling heads underwater." The analysis is similar for neonaticide. There are vast attempts to blame everyone for what they did except the mother who delivered the baby in the toilet and trashed it in the garbage when the child was impossible to flush away.

As one example of a response to the NOW position and its resulting steadfast defense of Andrea Yates, Mona Charen says "[t]he National Organization for Women has a moral screw loose. . . . Whether Yates is ultimately judged sane or insane, isn't there something repellent about expressing such sympathy for a woman who has methodically drowned her five children?" It has become clear that the media plays a significant role in society's view of this problem of mother's killing their babies.

B. The Media

Logic dictates that the presentation of a particular story can clearly influence how an audience will receive it. For this reason, media outlets can foster tremendous blame shifting, whether they intend to or not. Considering that the tragedy of infanticide will never be resolved until it is recognized as a problem, the media has a responsibility to report on cases like Melissa Drexel and Andrea Yates without bias. Unfortunately, many in the media do not.

Consider some examples of biased reporting by various media organizations. Gerlado Rivera, while not condoning the actions of Shanta Clark, conducted a sweet and sympathetic hour long interview of Clark, Clark's mother, family and closest friends on the young mother's escapade of delivering a baby in a bathroom and hiding it in her bedroom closet for several days. Katie Couric, a prominent national media figure and one of the hosts of the NBC "Today" show, conducted a sympathetic interview with Andrea

138. Id.
139. Id.
140. Yates as Martyr, supra note 105.
141. Karin Lewicki, Can You Forgive Her?: Legal Ambivalence Toward Infanticide, 8 S. CAL. INTERDISC. L.J. 683, 683-84 (1999) (opening her article with a discussion on the power of the media, or "the media circus," in reporting infanticide cases perpetrated by women).
142. Rivera, supra note 6. "Shanta Clark [was] a 17-year-old Long Island, New York, girl who hid her newborn baby in her closet. Seventeen long days later, Shanta's mother, looking for a pair of slacks, found the infant swaddled in a makeshift cradle of clothing and blankets. The infant boy was apparently none the worse for the ordeal." Clark's baby was one of the lucky ones discovered before he died. Social Services took custody of the baby, but his mother does not expect to have a problem of regaining custody of the child. Id.
Yates’ mother and brother several weeks after Yates had allegedly killed her children. At the end of the taped interview, Couric informed the television audience where they could send financial contributions for Andrea Yates’ defense fund. The address where these donations could be sent appeared on the screen, a clear indication that this was well planned on the part of Couric and the NBC producers. Couric added, “[a]ny money left over will be given to women’s charities dealing with postpartum depression and psychosis.”

The Washington Post, in reporting this story, stated, “arguably, [Katie Couric] is the most influential journalist in America today.” This influence is illustrated when the Post adds that “[Couric] persuaded hordes of Americans to get colonoscopies simply by having her own, on air . . . [which] raised more than $10 million [for Couric’s National Colorectal Cancer Research Alliance] in just a few weeks.” These attempts for influence over the mind-set of the public are forthright. Suggesting that Andrea Yates suffered from a mental disorder, causing her to kill all five of her children before the case has been adjudicated is irresponsible.

In the aftermath of the discovery of the dead Yates children, Newsweek ran an in-depth article about Andrea Yates. Recall the information presented in Section II of this article regarding the statistics from the Department of Justice. The Newsweek article is a good illustration of how these distorted statistics can be used by the media. The article states that “[f]athers are slightly more likely to kill their spawn, according to the Justice Department.” The article does not clarify that “fathers” includes “stepfathers.” This begins a subtle bias in the article that makes Andrea Yates the victim, and her husband the villain. Later the same article asks, “[w]hat possessed Andrea Yates?” Attempts are then made to answer this question. “She may have felt she could never do

144. Id.
145. Id.
146. Id. It is uncertain what the public’s reaction to this plea for money would have been if the suspected child-killer was a man, but it is not likely to be as positive and encouraging as this. Imagine the reaction if the public was given assurance that any extra money would go to “men’s charities.”
147. Id.
148. de Moraes, supra note 143.
149. Thomas, supra note 47, at 21.
150. Id.
151. DOJ, supra note 80.
152. Thomas, supra note 47, at 21.
enough for her demanding husband. In a horribly twisted way, she may have tried to be too good a mother.\(^{153}\) This statement is insulting to all mothers. Furthermore, it is difficult to imagine anyone making such a statement about a father who has killed his children. This distortion of the issues leads to the problem of punishment when young mothers who are convicted of killing their children.

**SECTION III. PUNISHMENT**

Historically, there is remarkable consistency in the lenient treatment of women for the crime of infanticide.\(^{154}\) Clearly, these women are not treated the same as offenders of other homicides.\(^{155}\) Ironically, the lenient treatment started in seventeenth century England largely because of the harsh punishment requirements codified in British law.\(^{156}\) As a result, jurors were refusing to convict obviously guilty offenders because a conviction resulted in an automatic death sentence.\(^{157}\) "Despite the moral condemnation of infanticide, there is considerable evidence that societies have refused to punish it as they do other homicides. When societies enforce laws against infanticide, they do so in a selective, or even [biased] manner."\(^{158}\) For instance, "many nations throughout the world have specific infanticide statutes; all but one of these makes infanticide a less severe crime than ordinary homicide."\(^{159}\) Not only do these statutes make the penalties for infanticide less than murder, but they are also less than manslaughter.\(^{160}\)

The punishment for women who kill their children in the United States’ legal system lacks uniformity. Prosecution and punishment for neonaticide, in particular, is “inconsistent in

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153. Id.
154. Oberman, *supra* note 35, at 7. Many of the crimes charged were that of neonaticide, and were committed by very young women who had sex outside of marriage, and at a very young age, or were raped by family members or employers, making it understandable why they were reluctant to tell others. Because of the frequent mitigation of circumstances, most juries found the sentence of death to be too harsh. Since there was no lesser degree of homicide, a juror could only acquit the offender, or condone her execution. As a result, most women were acquitted of the crime. *Id.* at 23-24.
155. *Id.* at 25-26.
156. *Id.* at 7-9.
157. *Id.*
158. *Id.* at 7. Oberman refers to the bias as “targeted.” We believe it to be more accurate to call the targeted enforcement of certain laws as “bias.”
159. Oberman, *supra* note 35, at 7, 18-19. The only country making the penalty stricter is Luxembourg. *Id.*
160. *Id.* at 14-15.
treatment of the crime of neonaticide" both in sentencing and in characterizing offenders.  

Moreover, there are significant differences in how punishment is administered to women versus how it is administered to men committing the same offense. Some scholars state "that there exists an almost universal public sentiment in favor of reduced blame for mothers, as compared with fathers who commit identical crimes." Many agree that there has been, and continues to be, a clear "bias in favor of leniency toward mothers who kill their children." Furthermore, "[m]others who kill their children are likely to be placed in a mental institution or on parole, whereas fathers who commit the same crime are overwhelmingly convicted of homicide and sentenced to prison." Public opinion, often as influenced through the media, maintains that if a woman kills her child she must have been mentally ill, whereas a father who kills his child must be a criminal. Neither the court system nor public opinion has sympathy for men when they commit the crime of infanticide. The current climate of political correctness fostered by the media and the inevitable blame shifting may indeed be some of the reasons that men are receiving harsher treatment, over similarly situated women, when they commit infanticide.

The Delaware case of Amy Grossberg and Brian Peterson presents an interesting analysis in this regard because it involved both a teen mother and a teen father. Both were college students and members of affluent families, and were known as likeable, talented, successful and happy kids. Amy called Brian to tell him she was in labor. He picked her up and took her to a motel room where she delivered a healthy six-pound baby boy, whom they trashed in the motel dumpster, dead from a fractured skull, and they then checked out of the motel. Both were charged with

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161. See Bookwalter, supra note 20, at 1188.
162. Dobson & Sales, supra note 41, at 1101.
163. Id.
164. Id. at 1102.
165. Id.
166. Id.
170. Id.
murder, and both pleaded not guilty. Prosecutors stated that they would seek the death penalty for both teenage parents.

The behavior of both teens seems characteristic of neonaticide teen mothers. Amy only revealed her pregnancy to Brian who appears to have also concealed the pregnancy. Both were desperate and likely in denial that they were about to have a baby. As a result, the baby was born in secret and dumped as if it were an object rather than a person. In 1998, Grossberg and Peterson requested the use of mitigating circumstances in lessening their sentences. The court denied their request and subsequently found them guilty of manslaughter. Amy Grossberg was given a harsher sentence than many of the other young women discussed in this article. This difference in treatment could stem from the fact that both the mother and the father were charged in the murder of their newborn child.

In *People v. Doss*, an Illinois teenage mother received an adult punishment for killing her newborn baby. Doss was charged with concealing the baby throughout her pregnancy and then stabbing the baby once the child was born. An appeals court confirmed the first-degree murder conviction, even though the defendant was only fifteen. This case stands to show that society's patience for these types of crimes has run out, whether or not the father is involved in the murder.

In the Grossberg case as well as *People v. Doss*, the court sentenced the parties to fairly harsh punishments. These may be

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175. Melissa Drexler pled guilty to aggravated manslaughter, was sentenced to fifteen years but only served 3 years in prison. *True Crimes, Infanticide: Melissa Drexler*, available at http://www.karisable.com/drexler.htm.
176. In cases where a male and female are charged in the death of a newborn, the female advantage becomes moot, allowing for a fluctuation in the sentencing pattern. Barton, *supra* note 73, at 605-07.
178. *Id.*
179. *Id.*
180. *Id.*
181. It will be just as important to see how much time these parties spend in jail. It is possible for the sentence to sound harsh from the initial wording but then the prison stay
two cases demonstrating the modern trend toward treating mothers who kill their children with no leniency. Despite these cases, researchers, in numerous studies, have confirmed the fact that leniency toward women who killed their children is common throughout the world. This includes various court systems throughout the world, and world public opinion as well. Moreover, in countries that recognize the distinct classification of infanticide, a woman offender can expect to receive significantly more lenient treatment in criminal proceedings just by the very nature of the classification. This lenient treatment in punishing infanticide is the very essence of blame shifting because courts punish according to gender bias and not in relation to the crime.

CONCLUSION

In our search to understand infanticide, neonaticide in particular, it is important that we as a society recognize the phenomenon of “blame shifting.” Its practice continues to harm society for several reasons. For instance, blame shifting inhibits proper mental health treatment for the offenders, thus discouraging potential offenders from seeking help. This, in turn, could allow more children to be killed. Blame shifting also improperly influences judges or juries during the punishment phase of a trial. Worst of all, blame shifting allows us to forget the child victims.

As this article illustrates, there is not a plethora of research and study relating to violent women. More specifically, there is a lack of studies on women who kill their own children, and who in particular, commit neonaticide. Criminologists need to broaden their approach to violence and include the crime of infanticide. As long as the media and scholars fail to speak the truth about the offenders of these horrific crimes, the pattern of violence will continue, and innocent children will continue to die by the hands of their own mothers.

Some have suggested solutions to neonaticide. The most obvious, but least chosen, solution is adoption. “Adoption and social services agencies offer counseling and help in placing babies for adoption . . . [but] many people wrongly view adoption as a

handed out is short or nonexistent, lessening the impact of the initial sentence.

182. See Barton, supra note 73, at 605-07; See generally Lewicki, supra note 141.
stigma." Even so, better the fictional "stigma" of adoption than the conviction of murder.

Several states have proposed safe harbor laws, which allow a woman to drop her baby off at a hospital, social service agency, or fire station and relinquish her parental rights with no questions asked.

Safe Harbor laws, and legislation affectionately termed Baby Moses regulations, may alleviate the blame-shifting trend because no questions are asked. When no questions are asked, there is no room for excuses. However, those who proffer that the child is robbed of any knowledge of his or her biological heritage, criticize such regulations. Others assert that prevention is necessary. Regulations promoting safe harbor of unwanted newborns would not aid psychological problems faced by the prom moms who commit such acts. Some worry these laws "may even promote irresponsible behavior." Nothing could be more irresponsible than killing your newborn.


No one knows exactly how many newborns are discarded by young mothers — many are found alive and their mothers never identified. But the number of babies found tossed in dumpsters, zipped in duffel bags, even thrown over a cliff, is rising enough to spur legislators in California and around the nation to push for laws allowing mothers to abandon their newborns at safe places without fear of prosecution.


186. Raum & Skaare, supra note 185.
187. For example:

Opinions differ . . . on how to prevent such tragedies. Some counselors advocate more sex education, more access to birth control, and more information about abortion and adoption. Others stress abstinence and stronger rule-setting by parents. The different approaches can work against a united campaign. But the various camps do agree on this: Teens and young people need open discussion with parents and other responsible adults. And family and friends of young women need to be connected to them, and to know the resources in the community that can help when a crisis pregnancy occurs.

Simpson, supra note 28, at A17.

188. Id. Silva was convicted as a juvenile of first-degree murder and served only six and a half months time in a mental facility when she was able to return to her home on parole.
Adoption and safe harbor regulations offer some good alternatives to neonaticide. Infanticide prevention, however, must start by addressing three primary areas: 1) denial of the problem; 2) blame shifting; 3) punishment of the crime. Once these areas are addressed in a positive and truthful manner, perhaps we will begin to understand just how widespread this problem really is. Then our society will be on the way to hopefully reducing the prevalence of prom mom murders.