

**A "Morphological Sphinx": On the Silence of the Assassin
Leon Czolgosz
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Abstract

At the beginning of the twentieth century, the silence of an assassin was taken as a sign of bitterness, brooding, and anger. In this paper, I want to examine the construction of the McKinley assassination by looking less at the assassin, Leon Czolgosz, and more at how the social and medical sciences at the turn of the century derived meaning out of Czolgosz's silences, his words, and his body. In particular, I want to understand how the social and medical sciences created a discourse – a set of rules and practices, an articulation of the expectations, representations, and background of danger – out of the assassination that had implications for criminal justice in the twentieth century.

Key Words: Confession - Czolgosz – Silence

You may strangle this voice, but my silence will be more terrible than speech.

Michael J. Schaack, Anarchy and Anarchists: A History of the Red Terror and the Social Revolution in American and Europe.

Slightly after four o'clock on the afternoon of September 6th, 1901, at the Pan-American Exhibition in Buffalo, New York, Leon Czolgosz shot President William McKinley. McKinley died of gangrene poisoning on September 14, 1901. Following a two-day trial, Czolgosz was executed on October 29, 1901.

THE DISCOURSE OF SILENCE EXPLAINED

By the end of the nineteenth century, a discourse appeared that sought to reveal the truth about behavior through an examination of the abnormal individual, or what Michel Foucault called "the individual to be corrected" (2003: xvii). A discourse can be defined as a system of thoughts "composed of ideas, attitudes, courses of action, beliefs and practices that systematically construct the subjects and the worlds of which they speak" (Lessa, 2006: 285). Crime can be defined as "an intentional act in violation of the criminal law (statutory or case law) committed without defense or excuse, and penalized by the state as a felony or misdemeanor" (Tappan, 1947: 100). But crime can also be seen as part of the discourse of dangerousness that was emerging during the nineteenth century (Bonger, 1916; Arthur MacDonald, 1902a). Indeed, by the end of the nineteenth

century, crime was no longer seen from the singular perspective of a violation of the law. It was functioning within a “discursive practice” (Foucault, 1972: 164) of the new “political anatomy” (Foucault, 1979: 208-09) that bore down on bodies, in an effort to normalize the deviant. Crime, rather than a deviation from the law, is a sign of some kind of deviance, and thus subject to a “series of descriptive statements” (Foucault, 1972: 33) about the character of the criminal. So the question of crime is no longer strictly a legal one – “What *is* this act?” – but a governmental and epistemological one: “How can we assign the causal process that produced it?” (Foucault, 1979: 19; italics in original). From where did this discourse of the dangerous individual arise?

Marie-Christine Leps has noted that narratives played an important role in the development of scientific discourse in the nineteenth century, “for they intervened whenever dogmatic or enthymematical discourse could no longer reason what had to be demonstrated: at that moment, short stories would take over and function as the *direct manifestation of reality*” (Leps, 1992: 56; italics in original). The discourse of the dangerous individual arose out of the space that existed within the then-dominant,

but slowly dying law-based narrative, derived from the Italian philosopher Cesare Beccaria's 1764 treatise, *On Crimes and Punishment*, which focused on the violation of the law as the definition of criminality. As Leps suggests, that discourse fell apart because it could no longer account for the presence of those who, seemingly with conscious intent, broke the law but claimed other, unseen motives were at work (Report of the Trial of Abraham Prescott, 1869). Something, in other words, lay "hidden behind the body wall, beneath the morphological sphinx" (Saldana, 1933: 333).

To explain what was hidden within subjectivity required restructuring the language of criminal justice, without abandoning the key concepts of modern criminal justice. Responsibility had to maintain its hold on the individual, even in the face of disease. Punishment had to be rooted in the administration of justice and not vengeance. To reconstruct the meaning of violence in light of medical breakthroughs and the rise of the dangerous classes, the criminal's story would have to begin at the end, with the event, and the explanation of the

motive would have to flow backward, toward a type. A new discourse was necessary, one starting “at the end of the story,” but “which is there from the beginning, transforming events into indicia of their finality, their making sense in terms of their outcome” (Brooks, 1996: 19).

The McKinley assassination is not a legal text, subject to textual analyses. But it contains documents – a trial record, published and unpublished confessions, commentary by legal and medical writers – that provide the researcher with the keys to understand the emergence of power and knowledge at the end of the century. In this paper, then, I describe the historical understanding and a theory of silence, as well as an analytic of power. By theorizing silence, I mean to provide an overall theoretical understanding of the tradition by which silence implied guilt. But as I make clear in the second half of this paper, Czolgosz’s silence is not the preserve of the legal profession. His body was analyzed for its true meaning, a meaning not given by Czolgosz in words. Silence, then, belongs to no one idea or theoretical construct. To theorize silence would be to universalize silence. But the McKinley assassination

represents a new beginning for the meaning of silence. Silence belongs, following Foucault, to the analytics of power, to an attempt to refrain from theorizing about what silence was at the turn of the century, and to concentrate the reader's attention on the discursive powers that made Czolgosz's silence, speech, and body parts mean more than they had been just twenty years earlier. My point is to get the reader to see how the power of silence operates in a particular historical epoch and in a given context. To begin to understand the McKinley assassination with a focus on an assassin's silence as already ensconced within a discourse of dangerousness, then, is to shine a light on how that new discourse had, before the century ended, already taken into account the danger that lurked within Czolgosz (Foucault, 1988: 126-127).

At the end of the nineteenth century, silence had broken free from its strictly legal meaning and was linked with the medical gaze. Speech, or the lack thereof, was now equated with neurological and psychological disorders (Collins, 1907; Bastian, 1898). Silence became something larger than a legal strategy. To be sure, silence has been part of the discourse of danger for

some time, but that discourse has largely been framed by legal language: silence hides motive, shields associates (Langbein, 2006). The end of the nineteenth century undermined the status of the legal profession's equation of silence with guilt. Silence now hid unclean thoughts, moral and political perversions (Peterson and Haines, 1903, vol. I: 688). The subject's silence, along with things said, his background, mental condition and physical abnormalities found itself imprinted within the language of atavism, dangerousness, and degeneration (Pick, 1989).

But by making silence part of the discourse of deviance and dangerousness, rather than a strictly legal entity that implicates guilt, there was an acknowledgement, on behalf of the legal community, that there had been an alteration in the way courts perceive guilt; that more not less was needed from the defendant. The medicalized discourse of silence operates beneath the language of rights, seeking to extricate the precise point of danger lodged in the body. The importance of the law diminishes. But at the same time, it reinvigorates itself by forcing the defendant to speak, to explain his crime, his motivation, and his reason for snuffing out a life. Together, the

late nineteenth-century medico-juridico discourse produces the dangerous subject. Discourse, then, the effusion of language that erupts out of the space that exists between words and things, that produces knowledge of these gaps, represents a will to truth, an effort made to identify and order the signs and symbols of an era that are in need of new representations or meanings.

Czolgosz's "silence" is a complex discursive event. It needs to be understood in the context of the medico-juridical discourse of dangerousness that was prevalent during the turn of the century. He did speak. But his words were either taken to have multiple meanings or they were ignored. Into this breach, his body spoke. As I describe later in this article, Czolgosz's body, in life and death, revealed the source of his motive as much as anything said or unsaid. Czolgosz's body and his silence were understood as possessing dangerousness because his associations were understood as dangerous; because his vague utterances about McKinley and the poor were understood as dangerous; because his background as a Pole and a factory worker were considered dangerous. Once classified as such,

nothing about him was innocent or mitigating (Lombroso, 1891). His silence, then, was taken both metaphorically and materially as a manifestation of his embodied dangerousness, as part of his innate guilt.

The purpose of this article is to reveal the new criminological discourse, understood here as part of "relations of force" (Foucault, 1980: 114), rather than to explore the hidden semiological meaning of legal silence. In reconstructing an assassin's motive, we are in the realm of power, of observations of the body and exertions against the deviants, and not within the mire of linguistic differences, because the discovery of the assassin's inherent dangerousness was never part of a formal scheme of "language and dialogue." Rather it belonged, from its very inception, that is, from the minute Czolgosz was heard to exclaim, after shooting McKinley, "I done my duty," to the "hazardous reality of conflict" (Foucault, 1980: 115).

To unearth this warlike discourse over silence at the time of the assassination, I want to stress that I see Czolgosz's silence (and the effusion of discourses about Czolgosz's deed) as part of what Foucault calls "power/knowledge." The confluence

of the “deployment of force and the establishment of truth” (Foucault, 1979: 184) about the subject, in this view, renders Czolgosz’s silence part of something larger: a “discursive formation” (Foucault, 1994: xi) of what it meant, at the turn of the century, to look dangerous and to be dangerous.

After giving a brief reason for killing McKinley – “I shot the president because he was the enemy of the people, the good working people,” and “I killed President McKinley because I done my duty. I didn’t believe one man should have so much service and another man should have none” (Briggs, 1983 [1921]: 251) – Czolgosz remained mostly silent for the greater part of his time in prison and in court. What do I mean by silence when Czolgosz certainly spoke?

By silence, I mean more than silence itself and more than the right to silence, the right against self incrimination. The right to silence refers to the “common law principle” that a court “should not be invited or encouraged to conclude...that a defendant is guilty merely because he has refused to respond to allegations...or has refused to testify in court in his own defence” (Greer, 1990: 710). Although there are many ways to examine

the problem of law and language, and the right to silence in particular (Tiersma, 2000; Brooks, 2000; Conley, 2005; Milovanovic, 2007; Wegner, 2010), my approach relies on a historical and discursive reading of silence as it emerged out of the late nineteenth century's battles over the problem of the subject, governance, disciplinary boundaries, and population control – in short, I see the meaning of Czolgosz's silence through the battles over the construction of the subject at the end of the nineteenth century involving questions of power that accompanied that construction (Foucault, 1979: part 3), and not as a legal struggle to establish a constitutional right to silence. The attempt here is not so formal. To emphasize a discursive silence, a coded silence, I cannot stress the meaning of the assassination over the construction of the subject. To do so would be to favor the objects and signs that constitute the assassination's meaning over the birth of the management of subjects and populations, and that, I find, in this context, would be ahistorical. The former view is too formal to fully express the role that power plays in discourse formations. It would require, in my view, ignoring how Czolgosz was constructed by discourse

as a dangerous anarchist at a point in time. In Nathan Moore's terms, if the sign is linked with the subject, then the methodology is Foucault's; if linked with the event, then it belongs to the Deleuze of signs (Moore, 2007: 34).

There is a correlation between the understanding of silence (a "discursive formation") in criminal trials at the end of the century and a pronounced effort to link silence with political practices then in operation ("non-discursive domains"; see Foucault, 1972: 162-165.) My analysis, therefore, relies on the work of Foucault because it was Foucault who linked silence not with the opposite of speech or mental illness, to any case law, or to signs themselves, but with the rationale of government regarding deviant populations. By the nineteenth century, we entered an age, Foucault writes, "in which the flesh appears as the correlate of a system of power that comprises an exhaustive discursiveness and a surrounding silence installed around this obligatory and permanent confession" (Foucault, 2003: 203). Silence, for Foucault, is not just a withholding which presupposes guilt. It is indicative of a strategy that exists within a particular age or episteme that allows for "no obscurity, no respite"

(Foucault, 1990: 20). It is a war-like strategy, rather than calm, formal, and structured by rules (Foucault, 1980: 114). Silence, then, becomes part of a way of assessing guilt that is linked with confessions, and also with psychiatry, neurology, and the medical sciences in general. In the *History of Sexuality*, vol. I, Foucault shows that, because talking about sex was repressed in the eighteenth century, sex in the nineteenth became part of a discourse, a discourse that silences kinds of speech about sex and produces other kinds of speech. The discourse of the dangerous individual defines silence: silence discourses.

In viewing silence through the lens of the social and discursive construction of deviance and danger, I do not mean to suggest any absolute silence on Czolgosz's part. Czolgosz was not absolutely silent. Though the tools were there, we are not dealing with a neurological problem, such as aphasia or mutism, though some doctors thought Czolgosz was an epileptic (Christison, 1902). To be sure, if epileptic, then insane (Spitzka, 1973 [1887]: ch 18); if insane, then not responsible. But Czolgosz was never considered insane because he was deemed responsible, and so the discourse works backward: if

responsible, then not insane, then not epileptic. Czolgosz's mental feebleness, apathy, and occasional stupor, any or all of which could have been linked with his periods of silence to form a judgment of mental disease (Briggs, [1983 [1921]: 299; Hoisholt, 1901), was never associated with any kind of known insanity. The murder of the innocent and righteous McKinley, coupled with a need for justice in the face of anarchy, swallowed that narrative (Buffalo Evening News, 1901).

Insofar as Czolgosz was mute, it was considered an elective affinity (Parker, 1901). As Dr. Carlos MacDonald wrote in his autopsy of Czolgosz:

We deem it an error to regard Czolgosz's mutism in court when called on to plead and before his counsel as an attempt to simulate insanity. This conduct is in line with his rôle expressed in the theatrical declaration: "I am an Anarchist and have done my duty." As it was his "duty" to slay the President, it is his duty to go to death with his lips sealed, and with this intent, first the plea of guilty and his conduct are perfectly consistent. He shows no reluctance to converse on matters disconnected from the crime, nor

even on matters connected therewith provided they do not touch its preparations and thus betray his associates (MacDonald, 1902b: 383)

MacDonald's use of mutism in a non-neurological, indeed metaphorical sense, points to the medical profession's unwillingness, in the face of the tragedy of McKinley's death, to take seriously the possibility that Czolgosz's silence was derived from a flaw in his nature (Hoisholt, 1909). Rather, his "mutism in court" was instantly sealed within the discourse of anarchism and danger. Thus, when he speaks, he invokes danger. And in his silence, his dangerousness is even more pronounced. Silence is the "element that functions alongside the things said" (Foucault, 1994: 27).

To be sure, an assassin's silence could not be completely tolerated, by both the medical and the legal communities. The defense of one's urges or behavior became a necessity because it was understood that the criminal has more than a corporeal existence; he has a linguistic substance and a narrative form inscribed within his body (Cole, 2001). Throughout the nineteenth century, criminal anthropologists, psychiatrists,

medical doctors and sociologists were instrumental in “creating born criminals” out of the silence of the body: the shape of their heads, fingerprints, and individual background (Rafter, 1997). By focusing on tattoos, physical deviations, and other visible signs of degeneracy, nineteenth-century medical and social scientists created a language by which the idea of criminals, criminality, and deviance developed (Fink, 1962).

Czolgosz’s deed, therefore, needed to be explained not by a singular narrative with stable icons representing meaning, but through a juridical-medical discourse that criminalized behavior without regard for antecedent or present urges. Now, rather than pronounce a verdict solely within the confines of the law, the courts could, with the backing of the natural sciences, assert that Czolgosz’s silence in the face of his enormous misdeed made a political-economic statement that reinforced his depravity: the discourse of criminality is open to new discourses.

THE LAW OF SILENCE

Silence has a long tradition in the common law of being equated with guilt. The English legal system has had a historical unwillingness to sanction a defendant’s silence (Moschzisker,

1922). From ancient times to the seventeenth century, a defendant's courtroom silence ("standing mute") was taken as a confession of guilt and "equivalent to a conviction" (Parker, 1901: 85). In the event, the courts would impose bodily punishment to force the accused to speak, to eviscerate any lingering doubt regarding the defendant's manifest guilt (Griswold, 1934: 657). According to William Blackstone:

The English judgement for standing mute was as follows:

That the prisoner be remanded to the prison, from whence he came; and put into a low, dark chamber; and there be laid upon his back, on the bare floor, naked, unless where decency forbids. That there be placed upon his body as great a weight or iron as he could bear, and more; that he have no sustenance, save only on the first day, three morsels of the worst bread; and on the second day three draughts of standing water, that should be nearest to the prison door; and in this situation this should be alternately his daily dish till he died, or (as anciently the judgment ran) till he answered (Blackstone, 1875: 604).

At Czolgosz's trial, the situation was not as bleak, but Czolgosz's silence was not tolerated.

Mr. Penney, District Attorney: Czolgosz, have you a lawyer?

The prisoner shook his head, and when the question was repeated he gave a simple stare.

Mr. Penney: Czolgosz, you have been indicted for murder in the first degree. Do you want counsel to defend you? Look at me and answer.

The prisoner remained mute.

...

The Court: how do you plead?

The Prisoner: Guilty.

The Court: That plea cannot be accepted in this court. The clerk will enter

a plea of not guilty, and we will proceed with the trial

(Kansas v. Oberst,

1929, 494).

Because no innocent man willfully remains silent, unless he has something to hide, English common-law courts from before Blackstone's time to the twentieth century understood silence as a deliberate attempt to protect the defendant and other guilty parties (Chase, 1996). This view was also prevalent well into the nineteenth century under American law (Steiner, 1899). In *Kelley v. New York*, for example, the court of appeals held that "silence...is but an implied acquiescence in the truth of the statements made by others, and thus presumptive evidence of guilt" (1874).

Czolgosz's silence was not taken adversely in a legal sense. His courtroom silence was constitutionally protected. Although the "right to silence" had not yet been declared part of the Due Process Clause of the Fourteenth Amendment, in New York, where the trial took place, "The defendant...in his silence, is behind the shield of the Constitution, and enjoys absolute protection against every species of judicial compulsion as a witness to self-accusation of crime" (*New York v. Smith*, 1914: 544; Silvernail, 1901: 349). This was also the law throughout many jurisdictions at the time (Abbott, 1902: 29). The court also

accepted his written confession as binding (more about the confession below) (Silvernail, 1901: 157; *New York v. Kennedy*, 1899), though a written confession alone, according to New York law, is not sufficient to establish guilt. One must acknowledge one's guilt (Silvernail, 1901: 157). Because of Czolgosz's "mutism," the court, as noted above, changed his original plea of "guilty" to "not guilty," which meant that some defense of his actions was required. But Czolgosz did not take the stand, a judgment made for unknown reasons by his attorneys.

By the first quarter of the twentieth century, states either had protections against not taking the stand in one's own defense or had liberalized the notion that silence equals guilt. Still, the view persisted in American courts until well into the 1960s that a defendant's silence could be taken to be a cover up for an unlawful deed. Until *Griffin v. California* (1965) and *Miranda v. Arizona* (1966), the former prohibiting prosecutorial comment on the defendant's refusal to testify, and the latter establishing that inculpatory or exculpatory statements made are admissible only if the accused has been read his or her rights and that there is a right to remain silent during interrogation,

the law allowed jurors to interpret the failure to take the stand in one's own defense as a sign of guilt. As Justice Stanley Reed wrote, in the "search for truth," "we see no reason why comment should not be made upon ... silence" (Adams v. California, 1947: 56). Indeed, it bears emphasis that jurors' inferences of guilt were not limited to the defendant's absence from the stand; it was the absence of a confession that mattered – the defendant's "failure to explain or deny by his testimony any evidence or facts in the case against him" allowed inferences of guilt (California v. Bodkin, 1961).

Because it occurred more than sixty years before *Miranda*, Czolgosz's silence cannot easily be understood within the confines and contexts of the legal reasoning about silence and guilt that we have today. Yet *Miranda* is important in understanding silence because it disaggregated two key problems facing the accused and criminal defendants going back hundreds of years: first, *Miranda* removed from a jury's consideration any implication of guilt because a defendant refused to take the stand in his own defense. Until *Miranda*, silence covered conspiracy, concepts that, by 1886, had become

the general characteristics of anarchists (Schaack, 1889: chaps. 1-2). More important is the recognition that the late twentieth century's criminal as silent loner is not an invention of the Warren Court, but has always been there, a revelation of the interpretive assumptions the law has allowed (Schmid, 2006).

Second, *Miranda* reversed the traditional interpretation of silence, giving it a positive content. In Justice William Douglas's opinion, the *Griffin* decision "solemnizes the silence of the accused" (Griffin, 1965: 614). The law protects the defendant's silence and no jury can make a negative inference of the defendant's silence. Because in the past, confessions were too often the result of the "third degree," the Supreme Court viewed the right to remain silent as a way to elevate the "esteem in which the administration of justice is held by the public" (Griffin, 1965: 448) By creating an individual right to remain silent that imposes silence on governmental officials and jurors, and embedding the silence of the accused within the social prejudices of the post-war judicial apparatus, *Miranda* and *Griffin* removed the implication of guilt that was "posited as a fact" by police interrogators and state prosecutors (Griffin, 1965: 450). It

invested the accused with a right to remain silent in the face of his apparent guilt.

In an age that did not tolerate the silence of a criminal, that demanded he speak, who, in the absence of him speaking, was qualified to speak for Czolgosz, to explain his action? (Buffalo's District Attorney played a large role here.) Once silence has been removed from a purely legal meaning, can the social and medical sciences structure the meaning of an assassination? Can an assassination inform the history of criminological theory? In the second half of this paper, I want to examine the construction of the McKinley assassination by looking less at Czolgosz himself and more at how the social and medical sciences at the turn of the century derived meaning out of Czolgosz's silences, his words, and his body. In particular, I want to understand how the social and medical sciences created a discourse – a set of rules and practices, an articulation of the expectations, representations, and background of danger – out of the assassination that had important implications for criminal justice in the twentieth century.

THE BODY SPEAKS

To understand silence not as a negation of something but as something that produces “power/knowledge” within the human sciences, I want to turn to the discourse of the body that was gaining force at the time of the assassination. The emphasis here will be less on an abstract theory of silence than on an analysis of silence as power, that is, “toward a determination of the instruments that will make possible” the analysis of power that shaped the assassination (Foucault, 1990: 82). Silence, in other words, unmoored from a strictly legal analysis, is now caught in a trap. Though speech liberates the defendant from torture, it traps him within a medical-juridical discourse, whereby his silence, his speech, and his physiognomy push him further into guilt. This is precisely what happened to Czolgosz. The movement from torture, as described by Blackstone, to the examination of the body to establish guilt is merely tactical. By saying he and only he killed McKinley, for example, Czolgosz further justified the state’s claim that Czolgosz was rational and sane at the time of the assassination. By speaking, he readied himself for death. But his silence did the same. By the last quarter of the nineteenth century, within the natural sciences,

there was the idea that a reliance on codes, statutes, and laws to define crime was no longer necessary to determine guilt. A new penal system was in operation that focused more explicitly on the bodies of criminals to assess the possibility of danger (Knox, 1998).

Phrenology, the idea that the "brain is the organ of the mind" (Noble, 1846: 4) began to take hold of the biological sciences early in the nineteenth century. Phrenology sought to individualize the study of deviance and to locate the source of aberrant behavior. To be sure, as phrenology made increasingly larger claims about the brain, that there was a connection between the structure of the head and "the mind," it turned the study of the head's shape into a metaphysics for power, and essentialized the conditions of deviance (Brandenburg, 1901). For this reason, phrenology was never fully accepted by the medical profession, whose methods remained more empirical. But phrenology remained popular among amateur criminologists and popular novelists throughout the nineteenth century, if only because of the connection, further advanced by the development of photography, fingerprinting, and Bertillonage later in the

century that the body and the mind could be broken into pieces and reconstituted into a whole that speaks of itself in no uncertain terms. With the rise of a technology to establish, quantify, and normalize deviance, the idea that the body could “speak” was linked to the forensic desires of those criminologists who were trained in the medical sciences, such as Cesare Lombroso and Alphonse Bertillon, the inventor of anthropometry. Anthropometry is the measurement of body parts for the purpose of understanding human variation. But more than mere measurement, Bertillon “challenged his students to truly see” the effects of differences among men (Matsuda, 1996: 136). Both Charles Guiteau, President James Garfield’s assassin, and Czolgosz, were phrenologized. Czolgosz was also subject to Bertillonage (Czolgosz Bertillon Card, 1901). But for all of its faulty assumptions and methodology, phrenology began the process for the study of crime that did not need to rely on the untidy methodologies of the juridical apparatus: confessions, witnesses, and crime scenes.

This was done, Foucault suggests, to disperse the responsibility of punishment within a variety of sectors, so that

the study of crime is not the sole province of the law, but becomes part of the “silence of regulation” (Foucault, 2006, 21) that emanated from the natural sciences and the art of technology. A “whole new system of truth” emerges out of the technology of the times (Foucault, 1979: 23). By 1886, the photograph of a criminal’s face could speak of his crimes (Byrnes, 2000 [1886]). Fingerprinting, also fully in operation by the middle 1880s, could establish a criminal’s whereabouts as much as determine his innate guilt (Cole, 2001). Confessions were no longer the only method used to establish guilt; courtrooms were becoming superfluous.

The *Phrenological Journal and Phrenological Magazine* described Czolgosz thus:

Taking him altogether, he has the signs of strength and weakness, but these are unfortunately blended in such a way that they do not give him the right use of his qualities as a normal American citizen. That he was the instrument of others is our firm conviction, as he has not the strength of mind or clearness of intellect nor the organizing ability of a number of other anarchists whose portraits we have

examined; namely, Lana, Malatissa, Emma Goldman, and Louise Michel (Phrenological Journal, 1901: 133-36).

Czolgosz's body existed to betray him. To prevent a suicide attempt, Czolgosz was denied access to sharp objects. In due course, he grew a beard, which gave him an unkempt appearance (New York Times, Sept. 18, 1901). The *Buffalo Commercial* reported that Czolgosz looked "ten years older" than at the time of his arrest. The beard covered his entire face. "It begins high up on his cheeks and runs low on his neck. It is a brown beard and rather dark" (Sept. 15, 1901). Czolgosz, whose face had previously been described as making a "decidedly pleasing impression" (Chicago Daily Tribune, Sept. 9, 1901: 2), now appeared threatening to strangers. The beard revealed his inner anarchist.

Murat Halstead, McKinley's hagiographer, described Czolgosz's arms, post-mortem, as that of a "man of leisure, smooth, round and fair."

His hands were not in any way notable. He had high insteps, neat ankles and long toes. The muscles of the legs

were better developed than those of the arms, indicating he was swift of foot. He was not noticeably spare in body; his chest was round and symmetrical – not lean, but the ribs were quite distinct....Nothing in his face or his person gave indication of heavy feeding or drinking, or of evil indulgence. There were none of the inevitable traces of confirmed dissipation (Halstead, 1902: 470).

At the same time that Halstead saw Czolgosz's body as weak and thin, his body evoked images of classical form. Halstead found Czolgosz's dead body to resemble "a recumbent marble statue," like that of a "young Greek athlete – a runner of races at Grecian games" (ibid: 470). There was a beauty and an innocence to Czolgosz, but Halstead knew that the analogy between ancient and modern bodies was false, and he was not fooled by Czolgosz's Attic-looking corpse. In cleaning up Czolgosz following his electrocution, the medical team had restored Czolgosz's body to the way it was before he became a murderer. The restoration, however, was a failure; the ornamentation was too obvious. Even in death, Czolgosz could not hide his true self. Halstead saw in Czolgosz's face, beneath

the reconstruction, all that was missing from his first impression: a lack of thoughtfulness, an unnaturalness and an unpleasantness. In death, he betrayed his sinister side. "There was a plain trace of the expression of vanity, shadowy evidence that his grand passion was egotism" (ibid: 470).

Following the guilty verdict, Czolgosz was asked to stand for sentencing and to answer a few questions. His replies were short; his longest sentence during the inquiry was: "No sir, don't drink too much" (Briggs, 1983 [1921]: 279). Czolgosz stated that he was twenty-eight years old, was born in Detroit, that he last lived in Buffalo, was single, briefly attended both common schools and a Catholic school, that his father was living but his mother was not, and that he had never been convicted of a crime. At that point, the questions became more complex. The clerk of the court asked: "Have you any legal cause to show why sentence of the Court should not now be pronounced against you?" Czolgosz replied: "I would rather have this gentleman speak, over here," referring to the District Attorney, Thomas Penney. When Czolgosz finally spoke, he said: "I would like to say this much; that the crime was committed by no one else but

me; no one told me to do it and I never told anybody to do it.” Czolgosz made no defense of his crime, nor did he call others to join the revolution he apparently was so heavily invested in (Trial of Leon F. Czolgosz, 1901: 131-136).

The problem with a criminal’s silence is that it suggests that there can be deeds without meaning; that one can transgress without justification; that a motiveless crime can remain unexplained. Yet meaning must be extracted from the criminal, else the trial and judgment be seen as motivated by revenge and not justice. At autopsy, Czolgosz’s body revealed no markings of degeneration. His skull was “symmetrical, his ears do not protrude, nor are they of abnormal size, and his palate not highly arched. Psychically he has not a history of cruelty, or of perverted tastes and habits.” But, because he was an assassin, and the assassination made no logical sense, he was “the product of Anarchy, sane and responsible” (MacDonald, 1902b: 381).

It is the McKinley assassination, then, that began the process of unearthing silence and locating it within power’s grasp. But rather than revealing the state’s new power over the

individual as an institutional force, medical and legal experts, speaking in the formalized language of motives and the importance of confession contained its meaning within the boundaries of crime, punishment, responsibility and sanity.

THE CONFESSIONS

Though the assassination occurred at the beginning of the twentieth century, we are not far from Foucault's medieval madman, whose words "were either totally ignored or else were taken as words of truth" (Foucault, 1972: 217). When Czolgosz said he killed McKinley because he was "the enemy of the working people," this was taken as the truth of Czolgosz's intentions. But when he quit work at the age of twenty-four complaining of ill health, or ate alone though his family was home, or read the newspaper away from others in a crowded tavern, or slept under a tree during the day rather than work, or used aliases, or lied about his religion, or was curt with his stepmother, he was not understood to be mentally or physically ill but thinking about strikes, revolution, and assassinations, or simply thought of as willfully strange, weak, and a coward. When he asked questions of anarchists about their aims and their

secret clubs, he was assumed to be a spy. When he remained silent in court, he was taken to be a conspirator. When he said he acted alone, there was disbelief.

The need for a confession was obvious. It satisfied the authorities that they had the right killer; it proved his sanity and established his responsibility. But Czolgosz's "confessions" proved elusive. They were edited and altered to suit the needs of what Czolgosz was thought to represent. The *New York Times*, for instance, published lengthy excerpts from what seems to be the official confession (New York Times, Sept. 8, 1901). But the *Times* made no attempt to sort out the contradictions of the assassin's story. The *Times's* version begins with two obvious inaccuracies. One has Czolgosz saying his parents were "Russian Poles," and the other has them arriving in the United States in 1859 (his parents were Polish and they arrived between 1871-73). Moreover, in that confession, Czolgosz was made to sound as if he was part of a conspiracy, noting anarchist friends as far west as Chicago. But Czolgosz had no anarchist friends in any part of the country. Nowhere, except for in the *Times* article, had Czolgosz said he was "bitter." Yet, according to the *Times*,

Czolgosz said, "I became more or less bitter. Yes, I know I was bitter. I never had much luck at anything, and this preyed upon me. It made me morose and envious, but what started the craze to kill was a lecture I heard some little time ago by Emma Goldman. She was in Cleveland [in May, 1901], and I and other Anarchists went to hear her. She set me on fire" (New York Times, Sept. 8, 1901). Apart from the problems this confession created for Goldman, "morose and envious" seem beyond Czolgosz's usual vocabulary, and it is worth questioning how much of this confession was put together, either by journalists or by government officials, as happened with the confessions Czolgosz gave at police headquarters.

This is the meaning of the trial against Leon Czolgosz. Though it lasted only two days, eight hours total, it assembled these disparate discourses without uniting them, subjecting Czolgosz to multiple narratives that reached his guilt by association, and not by what he said.

Czolgosz's fullest confession, given over three days while in custody immediately following the assassination, has been written about but never revealed, until now. According to the

Buffalo Evening News, "Czolgosz's confession made to the District Attorney is held sacredly as an official secret, and no other connected statement of any kind has been made" by Czolgosz (Sept. 9, 1901a). In November 1907, the police headquarters in Buffalo, where the original confession had been housed, burned down, along with the confession (*New York Times*, Nov. 2, 1901).

Despite the hermetically sealed incarceration of Czolgosz (*Buffalo Evening News*, Sept. 14, 1901), the press got word of a confession. The *New York Times* published excerpts from the confession two days after the assassination and other newspapers followed the *Times's* lead. Various parts of the confession were then leaked to the press and subsequently conflated as one confession with an assortment of contradictions, creating an assassin who was simultaneously committed to revolutionary anarchism and sorry about his deed. Just three days after the assassination, the *Buffalo Evening News* was forced to admit that "all alleged statements and confessions from the President's would-be assassin are manufactured ones ... woven in with a few direct quotations from the prisoner which

have been picked up by police and government officials who have talked informally with him" (Sept. 9, 1901b). Yet the existence of multiple confessions (however distorted) allowed the press to turn Czolgosz into a many-headed hydra of danger.

Recently, I (with the help of Craig Gable on the Senate Documents confession) discovered three previously unknown confessions, one taken on September 8 (discovered in the National Archives), and two taken on September 6, his first day of captivity (from Senate Documents). I will call the first confession from September 6th the O'Laughlin confession, after the officer named in the confession. The second confession on the 6th, I will call Penney confession, after the District Attorney who led the interrogation. I will call the third confession the Archives confession, which is where I discovered it, part of a microfilm series on FBI surveillance of anarchists at the National Archives and Records Administration. In the Archives confession, there are no names attached, no signatures at the bottom, but some handwriting appears in the margins.

The O'Laughlin confession is a bizarre mixture of first- and third-person narrative. It begins: "Fred Nieman [a Czolgosz

alias] says he has been in Buffalo a week to-morrow, September 7, 1901." The next sentence reads: "I came from Cleveland, Ohio" (Investigative Activities, 1919: 62). There are also instances where either Czolgosz is rambling or the transcriber put in what he or she wanted to ("Never was in Buffalo before this year," one sentence reads. And the next reads: "I was in Buffalo about a year ago.") Most of the confession restates what is already known of Czolgosz's whereabouts from newspaper accounts, his strained relationship with his stepmother, and his misunderstanding of Emma Goldman's theory of violence and anarchism. There is not much that is new, except for yet another reason for killing McKinley: "I wanted to do it." The two-page confession ends with the remark that the rest of the statement is missing (ibid: 64).

The Penney confession is also a mixture of new and old information. This confession, however, unlike others, is in the style of a Q & A. Overall, this is a reproduction of the first day's interrogation and it clearly says things differently than the way the press reported. Czolgosz's answers were short, confused, and often scripted for him by the people present. Though they

allowed him to write his own statement, he refused. He did, however, agree to what the reporter wrote down.

There are two new facts in this interview. One is that Czolgosz says that he went to Buffalo "To strike something to do," which was taken to mean he was looking for work (ibid: 65). Not only until this point, but ever since, no one has attributed Czolgosz's move to Buffalo as a search for employment. It has always been associated with an intent to kill. Another new fact is that, unlike the confession taken by O'Laughlin, in this interview, Czolgosz never clearly stated when he got the idea to kill McKinley. At times (seemingly under pressure from the D.A.), he said that he thought to kill McKinley three to four days ago; sometimes he says two to three days ago; and once he said that he had no intent to kill the president when he arrived in Buffalo (ibid: 67). There is no attempt to clear up these discrepancies. Penney, however, got Czolgosz to admit that he thought to kill McKinley when he bought a revolver, which was at least three days before killing McKinley, and proof that the assassination was the product of a sane and rational criminal mind (New York v. Schmidt, 1901).

There are two points of interest in this interview, linked by one important aim: Penney needed to get Czolgosz to draw a clear line between insanity and willful criminality, between acting on irrational desires and acting illicitly. Penney achieved this without much effort. The first point of interest is how easily the interrogators got Czolgosz to admit that his intention to kill the president was not a spur of the moment idea, and the other was how they led Czolgosz to admit that he killed McKinley to sacrifice himself to a cause he believed in, despite the fact that in this interview Czolgosz revealed that he knew little of anarchism and that he only became an anarchist no longer than a year before he killed McKinley (Investigative Activities, 1919: 67). The key words they got from Czolgosz are "sacrifice" and "courage." "You were willing to sacrifice yourself to benefit the country?" "Yes, sir." And: "Few men would have the courage to do anything of that kind?" "Yes, sir" (ibid: 69). Czolgosz was now a revolutionary.

Having established Czolgosz's rationality and dedication to a cause, all Penney needed to do to close the interview was to get Czolgosz to admit he knew what he was doing. Czolgosz did

not like the statement "I was willing to take the chance of being electrocuted or hung," so he asked that it be changed. Penney then said: "It is not a question whether it is what you want; it is a question whether it was right." Czolgosz: "I knew --." Penney: "You knew if you killed a man you would be hung or electrocuted..." Czolgosz: "I know the law does that" (ibid: 72). This is an acknowledgment only that Czolgosz understood the functioning of the law. Penney took it to mean that Czolgosz knew the difference between right and wrong, a critical test that establishes a defendant's sanity and capacity to stand trial. Clearly, Penney was not interested in fine-tuning Czolgosz's confession according to the *McNaughtan* rules (*New York v. Ferraro*, 1900). He wanted Czolgosz, however broadly, to acknowledge that he understood the consequences of his action.

There is no introduction or commentary attached to the Archives confession. The confession is typed, though there are handwritten notes all over the one-page document. At the top of the page, beneath the ominous words: "I am not alone; I did my duty," the document states: "Confession of Leon Czolgosz." The confession was not signed by Czolgosz or by any Buffalo official,

though hand-written names (either prison officials or the stenographer) appear in both the left- and right-hand corners. A hand-written "Sunday Sept. 8 1901" appears in the right-hand corner.

The first words of the confession are: "I am not alone; I did my duty." Czolgosz next admits to being an anarchist and to having been inspired by Emma Goldman, who – Czolgosz incorrectly says – he met in New York (all other connections between Czolgosz and Goldman place their meeting in Cleveland, including from Goldman herself; Goldman 1977: 289-90, 296), that any man who "accepts the presidency is a foe to the common people." "I did my duty," Czolgosz repeats. "I am sorry that Mr. M'Kinley has suffered. I intended to kill him and I regret that I did not succeed." Czolgosz also suggested that he was part of a conspiracy, or at least, part of a giant movement of the disgruntled. "I am not alone in this work. I am only one of the great body of anarchists bound together under solemn oath to accomplish a work and to bring about the results that surely must come."

Finally, Czolgosz stated that he was not sorry for what he had done. "Why should I be? I have been simply an agent in the accomplishment of a work, which, I hope, will succeed." He acknowledged that the government will punish him and that "the great majority" cannot appreciate his deed. "I shall be denounced, and I will be punished," Czolgosz declared, strangely using perfect syntax, "but I will take my punishment, no matter in what form it may come, like a man" (Investigative Reports, 1908-1922).

These confessions present Czolgosz as a dedicated revolutionary and courageous in the face of death. But this is not how all the members of the press portrayed him. The *Buffalo Express* was the first to publish the idea that Czolgosz was sorry for his crime. The paper printed a confession Czolgosz made while in transit between Buffalo and the Auburn prison in New York, and it contained an apology for killing McKinley (Sept. 27, 1901). The common perception is that Czolgosz was an unrepentant anarchist who had "done his duty" as an anarchist and was angry at McKinley for harming the working classes, although there are serious grounds for treating these attributions

with suspicion (Briggs 1983 [1921]: 337). According to the *Buffalo Express*, Czolgosz said, "It is an awful thing to feel you killed someone....I wish I was my same old person again....My mind was stirred up and I don't know what was in it or what influenced it." He then extended an apology: "I wish the people to know I am sorry for what I did. It was a mistake and it was wrong. If I had to do it over again I never would do it. But it is too late now to talk of that. I am sorry I killed the President" (Sept. 27, 1901).

No writer on the assassination, past or present, equates McKinley's assassination with a job seeking or remorseful Czolgosz, only a frustrated anarchist concerned with the broad outlines of domestic policy. The reason, I believe, is that neither job seeking nor remorse can be linked with the discourse of dangerousness that the press and the medical and legal professions had so heavily invested in. To be sure, a stray truth may escape in a newspaper article, but the confessions reveal their importance – certainly not in the sense of establishing Czolgosz's manner of thinking. Rather, they bring to light the "ritual that unfolds within a power relationship" (Foucault, 1990:

61); the power behind the truth that Czolgosz was a dangerous anarchist assassin.

CONCLUSION

We have, in the Czolgosz trial, the perfect encapsulation of the birth of the criminal subject through various techniques “for constituting individuals as correlative elements of power and knowledge” (Foucault, 1979: 194). In Czolgosz’s silence, his speech, and within his body, there is Czolgosz the European anarchist and revolutionary who can ignite the masses with his speeches. In the various confessions, there is Czolgosz the anarchist caught in the thrall of Emma Goldman’s speeches, and the one attracted to assassination by anarchist periodicals and the deeds of European anarchists. There is also the regretful and proud assassin. How to understand the contradictions?

By the end of the nineteenth century, the criminal was no longer an incidental facet of the legal system. He could be identified, measured, and assessed along a grid of dangerousness. Modern criminology names the subject. The criminal exists only to be betrayed.

A criminal in a state of liberty commits a crime. It is the duty of the police to draw up his descriptive signalment by means of all the observations which they can produce, that they may be able to recognize him amid the multitude of human beings and arrest him. As soon as a suspected person has been arrested, the anthropometrical signalment intervenes to establish his identity.... *Anthropometrical signalment makes it possible, and it is the only kind that does so, being given a subject to find his name.* It goes back into the past and provides against the future (Bertillon, 1896, 64; italics added).

By 1901, the knowledge of the criminal the state possessed was tied not to one method of examination, the McNaughtan test of right and wrong, created by the House of Lords in 1843, following the failed assassination attempt on the prime minister by Daniel McNaughtan, but to an assemblage of discourses, taken from the disciplines most concerned with the body and the mind of the criminal, as well as from the subject's affiliations, acquaintances, and associations, constituting not one narrative of criminality or of deviance, but several, contained within the

discourse of dangerousness that had broken free from the law's formalism. It was therefore irrelevant whether Czolgosz was actually ill or what he really said or if he remained silent. He was too embedded within this discourse for any medical discovery to change the meaning of events.

The McKinley assassination was a watershed event. There is key difference between Czolgosz and the assassins and criminals who preceded him, principally Guiteau. It is the difference between the criminology of the twentieth century that focused on the body and its discourse, and the jurisprudence of the nineteenth, that determined guilt by law, by formal rules. With Czolgosz, the criminal is now a derangement of nature with no symptoms other than the act itself. Anarchism, then, became a crime not in 1886, with the trial of the Haymarket rioters, who had fought back against police violence, but in 1901, when Czolgosz declared it was his duty to kill McKinley because of the state of affairs. From that point on, law and the social and medical sciences dedicated themselves to examining the "pathology of the monstrous" (Foucault, 1988: 131), having created for themselves not an independent realm of knowledge,

carved out of anatomy or biology, but a modality of power within
the larger discourse of the Gilded Age.

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