CRIMINAL LAW IN THE NEWS

On June 17, 2015, Dylann Storm Roof, age twenty-one, a slight young Caucasian man with a bowl haircut, entered Emanuel African Methodist Episcopal (AME) Church in Charleston, South Carolina, during Bible Study and asked for and took a seat next to Pastor Clementa C. Pinckney. An hour after arriving, Roof suddenly stood and pulled out a pistol and in response to an effort to calm him down announced that "[y]ou [African Americans] are raping our women and taking over the country. And you have to go." When Tywanza Sanders, twenty-six, told Roof to shoot him rather than Susie Jackson, his eighty-seven-year-old aunt, Roof replied, "[i]t doesn't matter [because] I'm going to shoot all of you." Roof told one woman that he would allow her to live "so she can tell the story of what happened." All of the African American victims were shot multiple times by Roof, whose image was captured by a number of security cameras.

Nine people—three men and six women age twenty-nine to eighty-seven—were killed by Roof, including pastor, state senator, and civil rights leader Pinckney, age forty-one. Pinckney was a highly respected voice for justice and a conciliatory figure in South Carolina. The other deceased individuals included a library manager, a former county administrator, a speech therapist who also worked for the church, and two ministers.

Emanuel AME Church, known as "Mother Emanuel," is the oldest African American congregation south of Baltimore, Maryland. The members of the congregation convened in secret in the years prior to the Civil War when African American churches were prohibited, and the church contains a shrine to one of its founders, Denmark Vesey, who helped to organize a slave revolt in 1822. Vesey, along with thirty-five other African American slaves, was executed when the plans for a slave revolt were uncovered and 313 suspected conspirators were arrested. The church was burned down by a white mob in retribution and subsequently was rebuilt in 1891. In the 1960s, "Mother Emanuel" was a center of civil rights activity, and the Reverend Dr. Martin Luther King Jr. spoke at the church in 1962. Observers were struck by the fact that at Roof's arraignment family members of the victims, while wanting to see Roof punished, expressed forgiveness and prayed for Roof's soul.

Roof, who had not finished high school, purchased a 45-caliber handgun with money given to him by his parents. According to friends, in the days leading to the killings, he seemed obsessed with defending the white race against what he viewed as the rising power of African Americans and advocated segregation between African Americans and whites. Roof's friends reportedly did not take him seriously when he talked about starting a race war by undertaking the mass killing of African Americans. He had been arrested five months earlier for unlawful possession of a prescription drug and was arrested two weeks later for misdemeanor trespass at a shopping mall from which he earlier had been banned. At the time of Roof's arrest, the police seized assault rifle parts and six 40-round magazines in his trunk.

South Carolina indicted Roof for nine counts of murder. The federal government later announced that it would charge Roof with a hate crime. South Carolina is one of five states that does not enhance penalties for bias-motivated offenses. U.S. Department of Justice officials pointed out that Roof had knowingly entered a renowned African American church and had selected African American victims. Nationally, roughly half of hate crimes are based on race, 20 percent are motivated by religion, 18 percent are directed against individuals because of their sexual orientation, and the remainder are based on ethnicity or because of an individual's disability. Some commentators called for Roof to be charged with terrorism and pointed out that similar acts when carried out by Muslims are labeled as terrorism although are considered ordinary crimes when directed against African Americans and Muslim Americans.

In the aftermath of the attack, South Carolina governor Nikki R. Haley called on the state legislature to remove the Confederate flag from the grounds of the state capitol. The flag originally was flown over the state house in 1962 as a symbol of resistance to the civil rights movement. Supporters of the flag objected to the legislature's removal of the flag and insisted that it is a symbolic acknowledgment of the heritage of their ancestors who fought in the Civil War. Would you prosecute Roof for a hate crime? Can crimes like those committed by Roof be deterred?