

The Reference of U.S. Murder Grading System to China's Intentional Murder -- From the Perspective of Premeditated Contemplation

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Abstract

In American criminal law, the practice of taking premeditation as the classification standard of murder degree originates from the legislative reform of Pennsylvania in 1794, which divides premeditated intentional murder as the first-degree murder and the rest intentional killing as the second-degree murder. As only the first-degree murder can be sentenced to death, this reform succeeded to limit the number of capital punishments. However, there are also some problems in taking premeditation as the murder grading's standard. Firstly, the definition of premeditation is vague, causing difficulties in judicial application. Secondly, premeditation cannot accurately reflect the actor's culpability every time. If premeditation is the only factor in convicting and sentencing punishment, the result may be unfair. Therefore, some states in the United States abandoned the murder grading system based on premeditation, and instead applied the new paradigm of the Model Penal Code, which stipulated that only first-degree murder with aggravating circumstances can be sentenced to death. Although premeditation is regarded as the sentencing circumstance of intentional homicide in judicial interpretation, it is still vague in practice. The theoretical discussion and practical reform of premeditation in American murder law have certain reference significance for the conviction and sentencing of subjective factors of intentional homicide in China.

Keywords

Murder Degree; Premeditation; Model Penal Code; Aggravating Circumstances.

1. Introduction

1.1. Research Background

As the dividing line between first-degree murder and second-degree murder, premeditation played an extremely important role in most states' criminal law in the United States. However, the lack of clear legislative definition and judicial instructions of premeditation make it difficult for judges to distinguish premeditation and criminal intent in practice. The criticism comes as the result of rigid application of premeditation thought-provoking formula in some circumstances. This article starts with the origins and development of premeditation, as well as the connotation of premeditation and its legitimacy as the of murder grading standard. Through the deep exploration of premeditation and murder grading system in the United States, this article tries to provide some ideas for the improvement of intentional homicide in China.

1.2. Research Problem -- the Legislative Defects of Intentional Homicide in China

The Article 232 of Chinese Criminal Law stipulates that whoever intentionally kills a person shall be sentenced to death, life imprisonment or fixed-term imprisonment of more than 10 years, and that if the circumstances are relatively minor, he shall be sentenced to fixed-term

imprisonment of more than three years but less than 10 years. This Article originates from the 1979 Criminal Law, and is influenced by the legislative thinking of "it is better to be broad than to be unchangeable" at that time. The provisions on the crime of intentional homicide are very simple, which are only based on the short and vague description and three sentencing ranges, but with no answer on how to decide accurate penalties to various types of homicide. This leads to the following problems in practice. First, because of the simple and vague crime description, it is unclear on the judgment criteria of crime and non-crime, this crime and that crime, which is easy to cause controversy in law applying. Second, the range of statutory punishment is wide, but there are no specific rules of mitigating and aggravating circumstances. When dealing with complex criminal cases, the judges exercise large discretion, making it common to find different judgments in the same case.

In order to solve the defects related to the intentional homicide legislation, the Supreme People's Court of China issued the corresponding judicial interpretations at the beginning of 2010, such as <Implementing the Criminal Policy of Tempering Justice with Mercy in the Trial of Intentional Homicide, Injury and Criminal Organization Crimes Cases>, and <Related Opinions on the Implementation of the Criminal Policy of Tempering Justice with Mercy>, which stipulate different sentencing circumstances of intentional homicide and distinguish it into three categories according to the degree of actor's subjective malignancy. The first type of intentional homicide is about acts that seriously endanger the society and the masses and shall be severely punished by law. The second type is about cases that caused by the intensification of civil conflicts and can be given lenient punishment. The third type is about ordinary intentional homicide and the death penalty shall be strictly and carefully used. This division is based on the perspective of objective harmfulness. In response to the controversial women anti-murder cases caused by domestic violence, the Supreme People's Court of China, the Supreme People's Procuratorate of China, the Ministry of Public Security of China together with the Ministry of Justice of China issued <the Opinions on Dealing with Domestic Violence Crime Cases> in 2015, which recognized the legitimate defense rights of domestic violence victims themselves or others, and allowed them to deter the ongoing domestic violence, as long as they met the conditions specified in the Criminal Law. Should the behavior is satisfied with law, it can be recognized as legitimate defense and not bear criminal responsibility. If the defense act causes serious injury or death to the criminal actor, and obviously exceeds the necessary limitation, this could be considered as excessive defense, and the punishment shall be mitigated or exempted. This makes the distinction between different intentional homicide cases more detailed and the circumstances of sentencing more perfect.

Although the judicial interpretation came up with some solutions to the intentional homicide defects and refined several situations and sentencing guidelines, there are still lack of specific legislation on these areas. The specific provisions of conviction or sentencing are scattered in various judicial interpretation and guidance documents, which is easy to cause confusion in judicial practice. Throughout the homicide legislation of other countries in the world, very few countries define homicide as only one simple crime, and most of them classify homicide in different situations, charges, counts and statutory penalties. In contrast, China's current criminal law on intentional homicide still remains some problems such as over-generalization of the charges, simple sentencing circumstances, little distinction between each other, too large a statutory penalty range, and lack of specific sentencing rules guidance and so on.

2. The U.S. Murder Grading System

The legislative provisions of murder in the United States were influenced by the early England common law. According to the provisions at that time, whoever committed murder shall be sentenced death, and the word "murder" meant secret homicide at the very beginning,

indicating that the actor had thought and planned to kill in order to complete the killing and escape punishment. This kind of pre-thinking and planning made it more difficult for the victim to prevent danger and protect himself. Therefore, the early common law imposed a severe death penalty on such crimes to deter the potential unlawful act, and with no distinction on different act but simply imposed death penalty on all. Later in 1794, Pennsylvania legislature passed an order to reduce the scope of death penalty, which divided murder into first-degree murder and second-degree murder. Only the first-degree murder can be sentenced to death. "Premeditation" has become the key to distinguish first-degree murder from second-degree murder. This grading model is followed by most states from Maine to California.

2.1. The Content of U.S. Murder Grading System

By the middle of the 20th century, premeditation appeared as the grading standard in murder degree and gradually took the dominated position. At that time, more than three quarters of the U.S. states took it as the dividing line between first-degree murder and second-degree murder. In the following decades, the murder grading system dominated by premeditation has been gradually improved or abandoned, which may be affected by the Model Criminal Code drafted by the American Law Society. The Code does not classify the degree of murder, but directly stipulates the circumstances of murder that can be sentenced to death and cannot. However, the District of Columbia, Federal Government and 26 U.S. states still have adopted some form of premeditated thinking formula to distinguish first-degree murder from second-degree murder. Among them, only 17 states sentenced the death penalty for first-degree murder. Therefore, in these states criminal law, if the actor committed premeditated murder, he may face the death penalty and the other types murder criminals may not have to lose their life. For example, in Arizona, first-degree murder can be sentenced to death, while second-degree murder can be sentenced to up to 16 years' imprisonment. Even in those states where there is no death penalty, premeditation also affects the severity of punishment. New Mexico law stipulates that first-degree murder can be sentenced to more than 30 years' imprisonment, while second-degree murder can be sentenced to less than 9 years' imprisonment.

The distinction between first-degree murder and second-degree murder is based on premeditation. First-degree murder usually includes: (1) premeditated first-degree murder. Premeditation requires the intention to kill and the pre-reflection before killing; (2) Specific types of felony murder. If the death appeared during the commitment of specific felonies, such as rape, robbery, kidnapping, arson and burglary, then the actor constitutes first degree murder. (3) Intentional murder committed in a specific way. This is a common and traditional first-degree murder, which usually includes killing acted by ambush, poisoning and torture. As for second-degree murder, it usually indicates other types of murder besides first degree murder, including: (1) murder without premeditation and contemplation; (2) murder with intent to cause serious injury but caused death; (3) extremely reckless murder; (4) felony murder other than constituted the first-degree felony murder.

2.2. The Connotation of Premeditation

In those states that take premeditation as the standard of murder degree, most states interpret premeditation as intentional, deliberate and premeditated murder.

Generally speaking, "intentional" refers to a special intention to kill, and there is usually no problem in understanding. "Deliberate" refers to the reflection on the killing plan, considering and calculating each aspect of the killing choice. Deliberation and premeditation take some time. Therefore, a person cannot be deliberated and premeditated unless he has premeditation, that is, premeditation may not meet the requirements of deliberation. A person who kills another one in extreme anger may be judged as unpremeditated murder; Similarly, an intoxicated person cannot be considered and constitute first-degree murder for lack of premeditation. And "premeditated" means thinking in advance. There is disagreement in law on how long the killer

planned and thought before murdering could constitute premeditation. An extreme case about the time required for premeditation is that enough for the actor to come up with the plan, tool or method of killing. Therefore, it can be concluded that thinking in a very short time also could constitute premeditation, which would equate almost all intentional killing with premeditated murder. To ensure the independence of premeditation and deliberation, some U.S. courts have proposed that the required time should be enough for premeditation, not only with the intention of killing, but also to think back and forth in the mind at least once. This shows that the killing cannot be in a hurry.

A few courts interpret these three words as a whole. Some courts regard "premeditation" as a separate element, but ignore the status and role of "deliberation". Most courts require that besides the killing intent, premeditation and deliberation before killing are also necessary, that is, prior plan and consideration on whether to commit murder are needed. In fact, the consideration on how to commit a crime implies that the defendant thought about whether to commit the crime. From the perspective of legal interpretation, the courts usually pay attention to "premeditation" and look for evidence to prove that the actor intended to kill and such intent could be established. The problem is how long this kind of intention needs to be established before killing. Some courts believe that intention and premeditation can appear immediately before the execution of the killing, but other courts require a certain time interval.

In *Commonwealth v. Carroll*, the Supreme Court of Pennsylvania pointed out that if the killing was actually intentional, deliberate and premeditated, the length of time interval between the killing intent and the killing act was irrelevant, that is, the actor could premeditate within a very short time, such as an instant. However, premeditation cannot be equated with homicide intent, because premeditation requires coolness and calm reflection. Therefore, premeditation requires the defendant still decide to implement the homicide plan after reconsidering the homicide intention. The premeditated formula established in *Carroll* has been adopted by many subsequent cases.

Later, the Supreme Court of California further discussed the evidence standard of premeditation and deliberation in *People v. Anderson*. If the procurator could prove the evidence (1), or (2) and (1), or (2)+(3) existing, then first-degree murder could be accused and established: (1) The facts about how and what the defendant behaved before the actual murder, which indicates that the defendant engaged in activities directed to murder, and could be interpreted as intentional murder, that is, "planning" behavior; (2) The facts about the previous relationship and/or behavior with the victim, from which the jury can reasonably deduce the "motive" of killing; (3) The facts about the nature of murder, from which the jury can find that the way of killing is so special and harsh that the defendant must have deliberately killed the victim in a specific way after premeditation. Many other states have also followed the evidence standard established by *Anderson*. For example, several judgments in New Mexico look for evidence of motive, plan, method of killing, and sufficient time for careful consideration and weighing to satisfy premeditation formula.

3. The Reflection and Reform of U.S. Murder Grading System on Premeditation

Although the court has been trying to clarify the meaning of premeditation, there have been some problems in the application of premeditation as the classification standard of murder degree, which triggered the discussion of the appropriateness of this standard in the United States criminal law academia.

3.1. Appropriateness of Premeditation as the Murder Grading Standard

In order to correctly evaluate whether premeditation can be used as the standard of murder grading, two problems must be solved: First, whether it is possible to distinguish premeditated murder from other intentional murder; Second, if so, whether it is accurate to reflect the defendant's culpability.

3.1.1. Precise Definition of Premeditation Exiting or Not

Justice Benjamin Cardozo used to mention that, the meaning of premeditation and meditation is so obscure that it is impossible to expect the jury to correctly understand and apply it, and that in the application of premeditation formula, it is also difficult to precisely define it and adhere to the same definition in different cases. One reason is that U.S. courts often refer to the same concept with willfulness, premeditation and deliberation. Some critics believe that these terms should not be mixed. But even if these terms can be used interchangeably, it is difficult for the courts to accurately define intentional, premeditated and deliberate murder.

For example, the Supreme Court of Virginia clearly said in *King v. Commonwealth* that premeditation is not equal to killing intent, and premeditated first-degree murder means that the defendant made a murder plan before committing the crime, that is, the defendant have time to think before killing and the result of thinking is to kill. In *McDaniel v. Commonwealth*, a case judged more than half a century later, the Virginia Supreme Court reiterated this view that premeditation requires time to think, while killing intent can occur at the same time with the killing act. However, in later *Mosby v. Commonwealth*, the Virginia Supreme Court changed its view and held that it is the killing intent, rather than the time interval between the killing intent and act, that determined whether the actor committed the first-degree murder. In 1977, the Virginia Supreme Court changed its view again in *Baker v. Commonwealth*, believing that the intent to kill was not enough to constitute premeditation. Since then, the Virginia Supreme Court has been swaying between these two views.

New Mexico adopted the meaning of premeditation contrary to the legislation in the process of law application. According to the 1975 Criminal Law, premeditated and deliberate murder requires the actor to consider and weigh the consequences of murder. However, almost all intentional murders are identified as first-degree murder in practice, unless the defendant can prove that he is drunk or suffering from mental illness or mental defects. This is mainly due to the lack of effective guidance on premeditation, which allows the jury to determine the meaning of premeditation and deliberation, and ultimately leads to the separation of the meaning of premeditation between the judicial practice and the criminal law.

In short, some U.S. courts believe that premeditation is equal to the intention to kill, while another courts believe that premeditation requires reflection or consideration before the killing. For the latter, some of these courts require that reflection take a certain time, while others believe that even a few seconds of thinking can constitute premeditation. Therefore, courts cannot guarantee that the premeditation formula can be applied in a certain and stable sense in fact.

3.1.2. Accurately Reflect the defendant's Culpability or Not

As for the rationality of premeditation as the classification standard of murder degree, some scholars pointed out that in some cases, premeditated killers are more culpable than impulsive killers. For example, the most reprehensible acts of murder can be carried out in a deliberate and premeditated manner. In *State v. Forrest*, the defendant's father was terminally ill and had very little cure possibility. The defendant decided to kill his father because he could not bear the pain that his father suffered. In the appeal procedure, the North Carolina Supreme Court held that the defendant constituted a first-degree murder because the defendant fired four shots at his father and before each shot, he had to stand up his gun and pull the trigger again, which was enough to show that the defendant had enough time to think and meet the

premeditated conditions. In this regard, the few opinion believed that the legislation of the crime of homicide should not be so rough that it was impossible to distinguish killings out of love from malice. Similarly, in *Boyle v. State*, the court refused to create an exception to euthanasia, believing that there was no legitimate defense to justify murder out of love, so if the actor intentionally caused the death of another person, he would be accused of murder.

In addition, some of the most serious murders are completely unplanned and have not been reconsidered. For example, in *Midget v. State*, the defendant was a six-foot, 300-pound man. He killed his 8-year-old and 40-pound son. The evidence showed that the defendant beat the victim many times and eventually led to his death. In the appeal, the Arkansas Supreme Court held that the defendant only constituted second-degree murder, because the defendant just intended to beat rather than to kill his son. Even if he actually intended to kill his son, as the killing intention is formed in the process of drunkenness, the defendant would not be accused of first-degree murder for lack of the ability to premeditate. The application of premeditation formula established in both *Carroll* and in *Anderson* would come to the same conclusion that the defendant in this case had no premeditation.

It can be seen that taking premeditation as the classification standard of murder degree may lead to unfair punishment that some defendants who should not be severely punished can suffer severe punishment, and those defendants who should have been seriously punished can evade severe punishment. Such a situation is not what the legislators are happy to see. Therefore, premeditation is not the best standard to distinguish first-degree murder from second-degree murder.

3.2. The New Grading Paradigm of Model Penal Code

In the background of the above problems in murder grading system based on premeditation, the U.S. criminal law academia actively explored new solutions. In the middle and later period of the 21st century, the drafters of Model Penal Code abandoned malice as the distinction between murder and manslaughter, and divided homicide into murder, manslaughter and negligent homicide according to the mens rea of the actor, which includes intentional, knowingly, reckless and negligent mentality. On this basis, murder was no longer graded into different degrees. The seriousness of punishment was decided based on Article 210.6 of Model Penal Code, such as whether there were extreme cruelty or victim's consent to determine whether the death penalty or a mitigated punishment should be imposed. According to Article 210.6, the death penalty can be applied only when there was at least one aggravating circumstance and no mitigating circumstance.

The greatest influence of Model Penal Code on murder grading lies in its contribution to the decision of death penalty. Almost all the states and federal governments that retain the death penalty have adopted the basic structure of the death penalty discretion in Model Penal Code to some extent. First, the death penalty trial is divided into the guilty and innocent stage and the subsequent sentencing stage. Then the death penalty is allowed only when at least one aggravating circumstance occurs according to the criminal facts and eight legal aggravating circumstances. Finally, for charges that sentenced to death, we should also consider whether there are eight mitigating circumstances. Only after weighing the combined effects of aggravating and mitigating circumstances can we make a death penalty decision.

Although Model Penal Code has a great impact on the situation of death penalty in murder crimes, it still fails to shake the dominant position of premeditation as the traditional murder grading system, but changes the scope of application of the death penalty for first-degree murder to some extent. This restriction makes first-degree murder actually divided into murders that can be sentenced to death and those cannot, and takes into account the aggravating and mitigating circumstances of murder, constituting a new method of murder grading system.

Now, more than two thirds of the U.S. states have used this new Model Penal Code paradigm of murder grading, including 38 states, federal government and all jurisdictions that retain the death penalty. The grading system of several states clearly stipulates that the death penalty for intentional murder can only be imposed if certain aggravating conditions are met. Some non-death penalty states also define the most serious level of homicide according to the aggravating circumstances of the new paradigm. Some states implicitly incorporate this new paradigm into their grading system. For example, in those states that do not classify murder degrees, their legislation limits the death penalty to murder with aggravating circumstances according to the basic structure of the new model, so that murder could be divided into crimes that can be sentenced to death and crimes that cannot. More states choose to absorb the content of Model Penal Code on the basis of the traditional grading: they still divide intentional murder into first-degree and second-degree murder according to the premeditation formula, and then judge what kind of first-degree murder is punishable by death according to the aggravating circumstances. Therefore, they implicitly divide murder into three degrees in fact.

4. Enlightenment on China's Intentional Homicide

4.1. Feasibility of Reference: A Comparative Study of U.S. Murder and China's Intentional Homicide

From the similarities of the two charges, both murder and intentional homicide are crimes of illegally depriving others right to life, which could raise serious social problems and endanger social stability. Therefore, both U.S. criminal law and Chinese penal code impose the severest punishment, which can be up to the death penalty, on unlawful killing.

The two charges are slightly different in terms of criminal constitution. The U.S. murder crime requires a death result of unlawful killing, while China's intentional homicide allows attempted homicide, that is, the victim can be alive after the wrong doing by the defendant. In addition, they are also different in the subjective aspect of the actor. The U.S. murder requires the subjective existence of "malicious premeditation", while China's intentional homicide only requires the killing intent, and with no provision for malice. In the aspect of intention to kill, U.S. criminal law breaks through the traditional limitation of intention, and believes that the intent to cause seriously body injury to others but resulting in death can also constitute murder, while in China, this situation often constitutes the crime of intentional injury that resulted in death.

The biggest difference between the two countries lies in the types of homicide and the circumstances of sentencing. According to the actor's mental state, U.S. criminal law divides murder into two degrees, that is, first-degree murder and second-degree murder. The former usually includes premeditated murder, specific felony murder, murders committed in specific ways such as poisoning, ambush, assaulting the police in some states. The latter refers to murders other than these listed in first-degree murder. This classification system is designed to limit the application of death penalty. Only first-degree murder can be punished with the most severe penalty, that is, death penalty or life imprisonment, to separate the sentencing between first-degree and second-degree murder. Besides that, various defenses, such as passion, drunkenness, mental illness or inability, can also reduce the crime of murder to manslaughter, to make sure that appropriate punishment can be posed on different degrees of subjective accountability. This way of classifying and refining charges greatly facilitates the judicial practice. By contrast to the provisions of China's intentional homicide, the foregoing defense reasons can only affect the severity of the sentence, but cannot change the conviction.

4.2. Reference to China's Intentional Homicide

From the perspective of the content structure and historical development of the U.S. murder grading system, its advantages lie in the clear classification of different types of intentional murder, and appropriate punishment corresponding to the actor's subjective malignancy. The related murder law has been gradually improved by the judges in the continuous judicial practice, making the conviction and sentencing structure of murder clearer day by day. This kind of pragmatism in U.S. criminal law is exactly what our country lacks at present. The China's intentional homicide law originated from the 1979 criminal law, and has not been amended through legislation for nearly half a century. Only relying on judicial interpretation to improve it cannot keep up with the development of practice.

4.2.1. The Crime Constitution of Intentional Homicide

In view of the fact that the crime of intentional homicide in China is too simple, we can learn from the U.S. murder grading system and divide the conviction and sentencing of intentional homicide into three degrees, including ordinary intentional homicide, mitigated intentional homicide and aggravated intentional homicide. Specifically, it can be summarized as follows: intentional homicide shall be sentenced to fixed-term imprisonment of more than 10 years or life imprisonment; If the circumstances are relatively minor, he shall be sentenced to fixed-term imprisonment of not less than three years but no more than 10 years; If the circumstances are relatively serious, he shall be sentenced to death or life imprisonment. This classification method not only helps to limit the death penalty to extremely serious intentional homicide, but also can appropriately sentence the severity of punishment in accordance with specific situations, which is conducive to the implementation of the criminal policy of tempering justice with mercy.

4.2.2. The Sentencing Circumstances of Intentional Homicide

On the basis of the above classification, we should also consider the current chaotic of sentencing circumstances of intentional homicide. In this regard, we can combine the purposes of the documents such as <Related Opinions of the Supreme People's Procuratorate on Implementing the Criminal Policy of Tempering Justice with Mercy in Prosecutorial Work>, <Related Opinions of the Supreme People's Court on Implementing the Criminal Policy of Tempering Justice with Mercy>, and comprehensively consider the personal dangerousness and subjective malignancy of the actor, as well as the social impact. Then based on the different periods and regions of crime situation to analyze the specific situation and decide the severity of punishment according to law. The defendants with deep subjective malignancy should be severely punished, and those with less subjective malignancy can be considered to apply a lighter penalty. For intentional homicide caused by domestic violence and civil disputes, the victim's fault, social harm consequences and other factors should be considered.

Although the judicial interpretation also believes that the appropriate punishment should be imposed according to the subjective malignancy and personal danger of the actor, it fails to elaborate on the mitigating circumstances and aggravating circumstances. In this regard, some scholars believe that the mitigating circumstances of intentional homicide also include these situations: victim's fault, passion killing, the behavior with causation to the victim's suicide, killing caused by biological parents to their babies and other acts with less subjective malignancy and less social harm. Other scholars believe that the mitigating circumstances can be divided into two categories. The first one is that the victim has a major fault in passion killing. The second is that the actor's killing is out of good motives, morality and important social significance, such as killing relatives in righteousness. Therefore, the mitigating circumstances of intentional homicide should be based on the relatively light degree of the actor's subjective malignancy and the less dangerous social consequences. Specifically, these circumstances may

include passion homicide, birth parents' infanticide, entrusted homicide, consensual suicide and other situations with lighter subjective malignancy and less personal harm.

In the same way, the existing judicial interpretation clearly points out that the defendant whose criminal circumstances are particularly wrong, the criminal consequences are particularly serious and the personal risk is extremely high should be severely punished according to law. From this perspective, the aggravated cases of intentional homicide should include: (1) special identification of the actor: killing carried out by organized criminal groups or national staff taking advantage of their positions; (2) deep subjective malignancy: killing after premeditation and deliberation, for revenge, for the destruction of criminal evidence, for the sake of wealth, for framing others, and for the sake of adultery; (3) particularly serious consequences: caused the death of two or more people or killing twice or more; (4) extremely cruel killing method, such as slaughter.

5. Conclusion

As a natural criminal who seriously infringes on the people's right to life, intentional homicide has long been the object of severe punishment by national legislation. The crime of murder in the United States criminal law originated from the early English common law. According to the regulations at that time, all murders were punishable by death. Later, in order to limit the application of the death penalty, Pennsylvania took the lead in reforming the crime of murder in the form of legislation, dividing it into first-degree murder and second-degree murder according to whether there was premeditation, and stipulating that only first-degree murder can be sentenced to death. In the middle and late of the last century, with the further deepening of the reform of the death penalty, the applicable standard of the death penalty proposed by Model Penal Code was accepted by most U.S. states, and reflected in the application of the death penalty for murder under the traditional murder grading system. In fact, murder was divided into three types: first-degree murder that can and cannot be sentenced to death, and second-degree murder. The emergence of such aggravating circumstances is also accompanied by mitigating circumstances. Under the joint action of the two, it provides a detailed distinction between conviction and sentencing for the type of murder. Both China's intentional homicide and U.S. murder are aimed at intentional killing that illegally deprives others life. This classification model of murder in the United States provides a reference for China to improve the legislative defects of intentional homicide.

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