



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

FYI: Can't execute juvenile killers

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Enough said about the verdict in the John Odgren murder trial. I'm moving on to other issues of crime and punishment, and I've got a slew of ideas floating around my brain to share and debate.

But before I close the blog on John Odgren, I must put to rest one matter that was raised time and time again by many folks who offered their opinion that Mr. Odgren should be executed and the hope that Massachusetts would reinstate capital punishment for cases just like this. Like it or not, the state simply cannot execute juvenile murderers like John Odgren or any other offender under 18, no matter how mature the defendant, how depraved his character, or how heinous his crime. In fact, no state can.

In *Roper v. Simmons* (2005), the U.S. Supreme Court ruled that the death penalty for 16- and 17-year-old murderers violates the Eighth Amendment protection against cruel and unusual punishment. Previously, the Court had eliminated capital punishment for offenders under age 16. Moreover, these decisions appear to be definitive; no amount of tinkering with the death penalty process would resolve the basic issue grounded in the fact that juveniles are different from adults, emotionally and neurologically.

Frankly, the elimination of capital punishment for juvenile offenders was long overdue, and should not have required neurological data to support such a move. The United States had had the dubious distinction of being the leading executioner of young offenders, with more of such cases than all other nations combined. From 1990 through 2004 (prior to the *Roper* decision), 19 prisoners were put to death nationwide for crimes committed before the age of 18. By comparison, according to [data from Amnesty International](#), only 17 criminals were executed elsewhere worldwide for juvenile offenses over this same time frame. Our closest competitor was Iran with 10 (although since 2004, Iran has executed 36 additional juvenile offenders).

I respect the opinions of those who would have capital punishment reinstated in Massachusetts, even though I see the arguments in support of the death penalty to be flawed. We will likely have the opportunity to debate the issue because at least one of the candidates for Governor has indicated his desire for restoring the practice. But, let's be clear: executing juvenile offenders is simply off the table.