



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

Death penalty kills the budget

Posted by James Alan Fox, Crime and Punishment May 17, 2010

Among the 869 sundry amendments to the Massachusetts House budget bill is a proposal, sponsored by Rep. James Miceli, to reinstate capital punishment in the Commonwealth. “A capital idea!,” you say? “A real savings for the beleaguered Massachusetts taxpayers!,” you hope? Well, I wouldn’t bank on it.

A 32-year veteran of the Massachusetts House of Representatives, the Wilmington democrat is a rock-solid law and order guy, and proud of it. For years he has yearned to see the death penalty restored in Massachusetts, a state that has not executed anyone since 1947 when two men were electrocuted at Charlestown State Prison. Feeling thwarted by House leadership in getting a full hearing for a capital punishment bill, Miceli chose the unconventional route of a budget bill add-on. Ironically, if the proposal were to become law, the state budget would be severely strained.

Micelli’s amendment resurrects former Governor Mitt Romney’s capital punishment bill from 2005. Romney’s proposal attempted to eliminate the chance of error by constructing a foolproof system informed by science, such as DNA and other high-tech approaches, to achieve a “no-doubt” standard. The layers of safeguards, including a tandem of top-notch defense attorneys, wide latitude in hiring experts, appeals and post-conviction review by panels of specialists, would have made the state’s capital punishment machinery the most expensive in the nation. When Romney called his proposal a “gold standard,” he wasn’t kidding, at least about the gold part.

Notwithstanding my reluctance to judge justice purely in terms of dollars and cents, there is one absolute truth about capital punishment: it costs a state millions to establish and manage the process. When a prosecutor decides to seek the death penalty, the government incurs tremendous expense, not so much related to the execution itself, but associated with the trial and appellate review. Capital murder cases tend to involve more legal motions, more expert witnesses, and longer trials, including a separate penalty phase for the jury to decide between life imprisonment

and the death penalty. And if the sentence is to be death, the per inmate cost of incarceration on death row is substantially greater than that for the general prison population.

Study after study have confirmed the high price tag for capital punishment. For example, an analysis of capital trial costs in Maryland, published by the Urban Institute, estimated the average expense of a successful death penalty prosecution to be about \$3 million, triple the lifetime cost of a capital-eligible case in which prosecutors does not seek death. A recent estimate in Florida of the aggregate cost of administering the state's capital punishment process was projected at \$51 million annually.

Precisely because of the cost factor, a number of states around he country--including New Jersey, New Mexico and New Hampshire--either have abolished or have considered abolishing the use of capital punishment. Why, then, especially in this challenging economic climate, should we in Massachusetts move in the opposite direction?

Gov. Romney didn't get very far in his effort to reintroduce capital punishment in Massachusetts, nor did Miseli in his most recent attempt. The Miceli-sponsored add-on was quickly and strategically eclipsed by an overriding amendment to send the capital punishment proposal for further study, which is typically the death sentence for unwanted legislation.