



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

CAPITAL PUNISHMENT

Dead woman walking free...not quite

Posted by James Alan Fox, Crime and Punishment June 25, 2013 10:00 AM

“An educated consumer is our best customer,” said the late Sy Syms in a catchy marketing slogan for his chain of discount clothing stores. News reporting, like selling clothes, also depends on the intelligence of readers as well as their willingness to dig deep beneath the headlines.

Newspaper headlines are designed to grab the reader’s attention, not necessarily to tell the story. In fact, headlines can sometimes misinform more than they inform, and not just by virtue of their brevity. Headlines are crafted by a different hand from the one that reported the news.

An AP wire piece printed as a National brief on Page 2 of The June 17 *Boston Globe* carried the headline, “Death row inmate to be freed today.” The story line would certainly have suggested that

the condemned inmate was about to step from the shadow of the death chamber into the bright light of freedom.

Unfortunately, this is the very type of scenario that stokes the public's fear and serves as a powerful argument for proponents of capital punishment. "If we don't kill him now," so goes the refrain, "he'll slip out the back when we're not looking." Or, "You just can't trust the criminal justice system to ensure justice for the victims." And finally, "we need capital punishment to prevent dangerous killers from being set free someday down the line."

There is, however, much more to this particular tale, with details that weren't clear from the news brief itself. The inmate, Paula Cooper, now age 43, had been sentenced to death in 1985 for her role in the murder of an elderly woman during the course of a break-in committed along with several of her friends. Cooper was 15-years-old at the time of the attack. She remained on Indiana's death row until 1988 when the U.S. Supreme Court ruled, in *Thompson v. Oklahoma*, that executing criminals for offenses committed before their 16th birthday is cruel and unusual, and therefore unconstitutional.

At that time, Ms. Cooper was resentenced to a prison term of 60 years and was transferred from death row to general population. During her incarceration, she made the most of the opportunities for rehabilitation and redemption, earning her GED and then a college degree through correspondence. After serving nearly three decades behind bars and with credit for good behavior, the State

of Indiana determined that she had paid a sufficient price for her crime and was no longer a threat to society.

Cooper's story is more the exception than the rule. Brutal murderers who are spared the death penalty are typically sentenced to life without parole eligibility. Unabomber Theodore Kaczynski, for example, agreed to plead guilty to murder charges that would carry life without the possibility of parole, so long as the government was willing to forgo the death penalty. He will someday die in prison, just as the LA Night Stalker Richard Ramirez did earlier this month. Ramirez had actually been sentenced to death following a trial that took over a year and cost the taxpayers millions. He died at the age of 53, long before the stat could inflict its ultimate punishment.

If the primary purpose of punishment is to protect society, then life without parole does the trick. Unfortunately, with capital punishment as an option, prosecutors, as elected officials, often feel it necessary to seek a death sentence, even if there is no real added value to pursuing it. In Colorado, for example, alleged mass murderer James Holmes was willing to plead guilty if the death penalty were taken off the table. Given the high profile crime, the prosecution decided that it was in his best political interest, if not the public's best interest, to proceed with what promises to be a long and very expensive trial. And if Holmes is condemned to death, that penalty make take years to administer. Colorado already has several inmates on death row for more than a decade.

To be sure, Paula Cooper is no James Holmes, Richard Ramirez, or Theodore Kaczinski. That it makes good sense to give her a second chance after a vicious crime committed during her youth does not mean that all murderers deserve such an opportunity. Some crimes are so heinous and without mitigation that justice requires no option for freedom. But that is not the case with the vast majority of convicted murderers.

As far as the poorly worded headline is concerned, the *Globe* was hardly alone in misinterpreting the situation. The *Daily Oklahoman*, for example, led with “Now 43, woman on death row since she was 16 to be released.” And so the “caveat emptor” for consumers of news is: Don’t believe everything you see in a headline; Be sure to read the smaller print below it.