

Posted 1/22/08

SOMETIMES YOU HAVE TO THROW AWAY THE KEY

Violence by the young is still violence

“...it is perverse to condemn a minor to prison for life [without the possibility of parole] for committing a crime that he or she might find unthinkable on reaching adulthood.”

By Julius (Jay) Wachtel. So said the *Los Angeles Times* in an editorial calling on the California Legislature to exempt 16 and 17-year olds from being sentenced to mandatory life without parole should they be convicted of murder with **special circumstances** (e.g., killing witnesses and law enforcement officers, murders for financial gain or during the commission of a violent felony, using an explosive, being especially cruel, lying in wait, in furtherance of gang activity, etc.)

There are two threads to the Times' argument. First, the comparative. Sentencing kids to life without parole isn't done in any other country, so it's by definition outrageous. Secondly, the empirical. According to science the brain region that controls impulsive behavior isn't fully developed until one's early twenties, so throwing away the keys needlessly “discards” correctible lives.

And it's not just the *Times*. Two days later the *Miami Herald* reported on Florida's practice of remanding kids who kill to adult court, where they face possible life sentences. Among those currently at risk are a 12-year old who beat his infant cousin to death with a baseball bat, and a 14-year old who stabbed his best friend. According to a criminologist, prosecutors are catering to a public that demands they “deep-six” children who kill: “...no matter how much they can be rehabilitated -- people want 10 or 15 years out of the kid's life, maybe more.”

Why is that? Perhaps the answer lies in what the *Herald's* article *didn't* say. In 1999 **Lionel Tate**, a 12-year old Florida boy, viciously stomped a 6-year old girl to death. After his police officer mother refused a plea bargain Lionel was convicted of murder and received life without parole. Although the judge described the killing as incredibly brutal, the sentence drew widespread condemnation and Lionel was eventually placed on probation. Well, he apparently didn't learn his lesson. Lionel's problems with the law continued, and in 2006 the now nineteen-year old got ten years for the armed robbery of a pizza deliveryman.

What's the difference between armed robbery and murder? Five pounds of trigger pull, maybe less with a semi-auto.

Most Americans favor putting murderers to death -- nearly seven out of ten according to the latest [Gallup poll](#). Half, though, would settle for life “*absolutely without*” parole, a wording made necessary due to skepticism that “without” really means that. In any event, prison is now the only option for younger offenders, as in 2005 the Supreme Court (*Roper v. Simmons*, no. 03-633), barred the execution of those under 18. Interestingly, the Court’s reasons -- that evolving standards make executing young people a cruel and unusual practice, and particularly so given their immaturity -- were the same as the *Times*’ more recent objections for imposing life sentences.

Watch your step! The slope’s getting slick!

This writer is personally against the death penalty. So he is naturally concerned when well-intentioned folks like the *Times*’ editors threaten the only alternative that the American public seems willing to accept: life without parole. Europeans may feel differently, but given the easy availability of guns and our absurdly high levels of violence it is perfectly reasonable to demand the certainty and reassurance that only permanent incapacitation can provide. There really is no other satisfactory solution. Consider the dilemma faced by Presidential contender [Mike Huckabee](#), who finagled the 1999 parole of a violent rapist only to have the man rape and murder at least one and possibly two women a few months later.

But young people are by definition immature. Should they really get no “second chance”? On January 17 two youths, one 17, the other 19, [were arrested](#) in the shooting deaths of a 16-year old Southland resident and her 18-year old boyfriend. Police think that the killings were done strictly for thrill as there was no evidence of a robbery and one suspect had blogged about the joys of “killing at random”. Although the *Times*’ proposed guidelines would not help these two, as both are just over the magical threshold of 18, one can assume that neither boy’s conscience was completely formed. If they’re not to be executed, when should they be released?

Murder is not a phenomenon of the very young. [In 2006](#) more than three in four persons arrested for murder were over 22, with about half older than 24. Apparently fully developed brains are not enough to keep people from killing each other. Fortunately, the rates decline markedly by the time that men (that’s the gender to worry about) are in their forties, so fifty seems like a good bet for release.

OK, we’re on board. Release all violent offenders when they’re fifty, and send me the clippings of those who kill again. That should make for some interesting posts.