

CRIME AND PUNISHMENT



MARTIN AVILLEZ

by Larry Barrows

The random murder of young Doreen Raterman on a Gearhart beach was an unspeakably heinous crime against a person, a teenaged girl just out for a bicycle ride. It was a crime against a family, grieving and wounding them deeply and forever. It was also a crime against the community, striking at most of our hearts in a deep-felt and personal way. It was a crime against the state and its law, and against the nation and its rule of law. It was even assuredly a crime against the world and the universe — the moral universe, or God's order if you will. Words cannot describe the offense, but we feel it in common.

The crime affected the people of this community in a number of ways. We were shocked by the deed itself. Our hearts wept for the young victim. We felt anguished by the inconsolable anguish of the family. We felt threatened and fearful as our sense of safety, particularly for the children, vanished. We were outraged that someone did such a thing. Then the perpetrator was found, to the great credit of our law enforcement agencies, by whom we are well served. Some of the anger spilled out in cries for vengeance, adding another kind of ugliness to a situation unlovely enough already. Finally, the community's sense of irresolution due to the outcome of the judicial process in this case added another level of anger and frustration to the load we already carried.

We need to address this irresolution in a straightforward way because it interferes with the proper healing of our common wound. We need to heal. Healing is not forgetting. It is the clean closing of a wound to prevent further damage. There will always be a scar.

I believe the irresolution is largely due to our own confusion. Not enough of us think clearly. Not enough of us search reflectively through our feelings to sift out an appropriate response to the complexity of our experience. Our group life determines the pattern of most of our experience, and the combined sum of how each of us thinks gives the pattern to our group life. Muddled thinking has led to an unsatisfactory outcome in this case, and indeed has even contributed to our chances of experiencing such events in the first place.

A crime was committed and the perpetrator, Anthony Mullins, was apprehended. For what he did he must be held fully responsible and be subjected to the full penalty of the law.

That much seems clear. However, there is disagreement about what the penalty of the law should be, and there is discontent with what the penalty of the law actually turned out to be in this case. The two issues are related.

When Mullins was caught some in the community cried for vengeance and retribution. I think that the majority felt that upon conviction he should get the death penalty. I am against the feeling that calls for the death penalty and I am against the death penalty in general — therefore in this particular case — for a number of reasons. First of all, retribution does not and cannot satisfy justice. Brutality is unjust. Brutality begets brutality. Justice must respond to a brutal act by holding the doer accountable and by stopping the cycle of brutality. The death penalty is simple retribution, and as such does not step above brutality and end the cycle. Rather, it is an attempt to have the last brutal word. Therefore the death penalty legitimizes the I-hurt-so-I'll-hurt-you response as a valid behavior pattern. The same urges are present in the executioner and the killer. It makes no difference if it is a group or an individual that indulges in such behavior, nor does the reason why make any difference.



I am also against the death penalty because of the inherent fallibility of our justice system. As good as it is, and I would exchange it for no other, juries make mistakes. About one out of every ten jury decisions is wrong. That is the average. As long as we live under the rule of law, and I pray that it will always be so, the justice system must spend as much or more time making sure that injustice is not done as it does making sure that justice is done. A justice system that is careless about its own justness is a mockery, and the society that tolerates it is doomed. Therefore, in the case of the death penalty, a great deal of effort, time and money must be spent to ensure that the jury decision and the sentence is not in error, since the enactment of the sentence is final and cannot later be corrected if necessary. In fact, it costs much more to execute people than it does to keep them in prison for the rest of their lives. My information indicated that it costs three times as much to execute, but I am lately corrected by our state senator. It is closer to seven times as much. And rightly so. In an article about a year ago in The Oregonian, Bruce Babbitt, former governor of Arizona and a presidential candidate last year, wrote that he commuted to life imprisonment the death sentences of about seventeen prisoners then on death row when he became governor. Subsequently about seven of the seventeen were found to have not committed the crimes for which they were convicted and were pardoned. Don't hold me to the exact numbers; they are close, but from memory. You could look it up. This example serves as a warning to us, as does the whole history of the death penalty. To get at the ideal of retribution for the true perpetrators of unspeakable crimes we must go through innocent lives. No way around it. Whoever is willing to do that is certainly no better than a random murderer.

I am in favor of a sentence of life imprisonment without the possibility of parole for heinous crimes. The judge did not have that option available to him in sentencing Mullins. That is not the judge's problem, nor is it the problem of the justice system. It is our problem. The judges and the courts follow the law. The law is the responsibility of the legislature or is the result of our initiative process. In any case, the law mirrors our collective idea of what it should be.

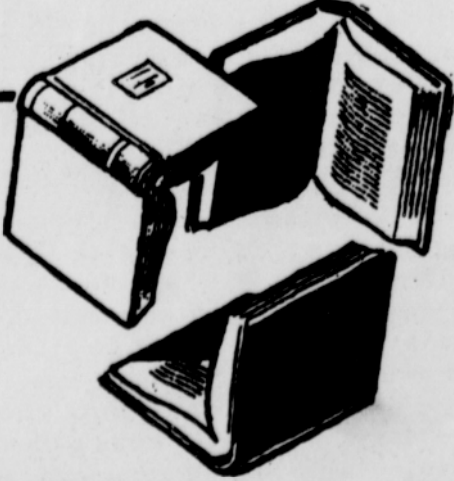
If the law is not adequate it must be adjusted. The penalty for Anthony Mullins' crime was not adequate. The people have called for adjustments of the law for similar cases in the past, but in our unrestrained emotional responses, and in our lack of clear thinking, and therefore in our propensity to latch on to simple demagogic solutions, we have succumbed to the temptation of making a big deal out of the death penalty, thinking that it will satisfy justice, salve our wounds and be the right answer for the wrong that was done. We did not account for the resources it takes to finalize an execution, or for how necessarily narrow and rigorous are the legal circumstances under which the death penalty can be applied. We set ourselves up for the frustration we feel about the Mullins sentence.

Just as we voted for a very expensive system of retribution without counting the cost, I suppose if we would count the cost and have the opportunity to vote for a less expensive and more useful system of accountability, we would probably still refuse to pay the bill. That's us. I would say the people are greatly confused about justice itself as well as about how to apply it effectively, especially in the matter of heinous crimes.

We need a great deal more clear thinking among us about what justice is in itself. In

R
CANNON
BEACH
PHARMACY
downtown 436-2261

THE
COLUMBIAN
CAFE
&
FRESCA
DEL
1114 MARINE
ASTORIA


CANNON BEACH BOOK COMPANY
132 North Hemlock, Cannon Beach 436-1301