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Delivering Death: Capital Punishment, Botched Executions and the American Press¹

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Introduction

Since the 19th Century, executions have been transformed from public events to 'behind-the-scenes' bureaucratic procedures, increasingly hidden from the public gaze. Today, for the vast majority of American citizens, capital punishment is rendered visible *only* through its representation in various forms of media. Media representations, then, are closely interconnected with how the death penalty is 'made to mean' throughout the United States, and the rest of the world. This chapter explores the construction of juridical killing in the American press by considering the representation of three botched executions (executions in which the apparatus of death, in this case the electric chair, malfunctions) which took place in Florida during the 1990s. Botched executions are of particular interest for at least two obvious reasons. First, they represent a direct challenge to the state's desired presentation of capital punishment as quick, clean and painless. Second, by making the violence inherent in state killing clearly visible, and raising questions about the suffering of the condemned, they would appear to present abolitionists

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with an important opportunity to mobilise support against the continued use of the death penalty. Yet this is not necessarily the case. How the press across retentionist and abolitionist US states construct botched executions offers useful insights into the contemporary meaning of capital punishment in American mainstream media and local culture. More particularly, analysis of press coverage demonstrates how, following these executions, attempts by anti-death penalty commentators to challenge the cultural hegemony of state killing in the media may achieve quite different ends, ultimately serving to reinforce it.

Crime as News

Most crime news stories, largely irrespective of market or medium, bear certain key elements in common (for useful reviews see Reiner, 2002; Jewkes, 2004; Greer, 2005). They focus disproportionately on the most serious and violent crimes, and generally seek to establish narrative closure, culminating in a re-affirmation of moral and social order. One of the most important journalistic devices through which crime stories derive their potency is the establishment of oppositional binaries – good and evil, innocent and guilty, pure and depraved, and, frequently, black and white (Chibnall, 1977; Hall et al., 1978; Schlesinger and Tumber, 1994). The resonance of these binaries has been amplified with the emergence of the ‘victim culture’ in recent decades (Maguire and Pointing, 1988; Garland, 2001). Whereas the position of victims in news stories used to be at best shadowy, they now provide the central

focus around which crime narratives are increasingly structured. The plight of the victim is often portrayed in sympathetic, emotive terms which encourage empathy and identification from the news consumer (Reiner et al. 2000; Greer, 2004). One consequence of this growing victim-centricity has been a shift toward stories which promote vengeance and retribution against the offender – in the name of the victim, whose suffering must be acknowledged, validated and avenged – over restitution and rehabilitation.

The most dramatic and compelling crime stories, then, are frequently those that feature the straightforward and uncontested binary of ‘idealised victim’ and ‘absolute other’ (Greer and Jewkes, 2005). This requires stories to be individualised. Aetiology tends to be addressed in terms of free will and rational choice – reflecting classical conceptions of the hedonistic, calculating transgressor – and there is seldom any consideration of the wider socio-economic and cultural conditions which may have contributed to precipitating the criminal event: responsibility and blame can be attributed more easily and dramatically to individuals than structures. By highlighting deviance and attributing blame, crime narratives often function as ‘moral fables’ (Sparks, 1992). They promote social cohesion throughout respectable society by marginalising and demonising those ‘not like us’. They invite consumers to engage collectively in the affirmation of virtuous identities through pointing to and denouncing the criminal ‘other’.

Executions as News

Executions carried out by the state, in this case in the US, embody many of the key determinants of newsworthiness. They represent the most forceful expression of sovereign power (state killing) and the ultimate form of closure (the death of the convicted offender), in response to the most violent of crimes (nearly always murder), by individuals legally judged to be unfit for membership of the human community (supposedly the most unequivocal examples of 'absolute other'). Furthermore, while the binaries established in most crime news stories serve to distinguish between those who are good and those who are evil, those who are guilty and those who are innocent, execution narratives make an additional crucial distinction – between those who deserve to live and those who deserve to die.

It is curious, then, that most executions fail to attract much attention in the news media, and many pass virtually unnoticed outside the states in which they are carried out. At the prosecution and sentencing stages of capital trials, race appears to be a central determining factor. Cases featuring black offenders and white victims – the binary of black and white – generally attract higher levels of media attention than those involving black victims, mirroring wider racial tensions throughout American society (Sarat, 2002). And the sheer escalation in the number of executions throughout the 1990s (which rocketed from 23 in 1990 to 98 in 1999) may simply make it harder for journalists to keep up. But the apparent lack of media interest in the vast majority of executions indicates just how 'normal' the practice of capital punishment in the US has become. Clearly, only certain examples of state

killing fulfil the criteria required to come within the horizons of newsworthiness, and attract media attention on a national scale.

Media interest in executions may be determined primarily by the nature of the crime(s) for which the death sentence was originally passed. More dramatic crimes – involving serial and mass murderers and spree killers – will naturally attract more media attention at the time of their commission, and throughout the investigation, trial and sentencing stages of the penal response than bungling, panic-stricken murderers of store attendants during a robbery-gone-wrong (see Caputi, 1987; Jenkins, 1994).¹ Phenomenal in terms of their media presence, those rare cases involving the multiple murders of unsuspecting innocents by unrepentant offenders exemplify the binaries of good and evil, human and inhuman, ‘idealised victim’ and ‘absolute other’. In both the scale of violence and the incontestability of guilt, they also support the most compelling emotional-moral arguments in favour of capital punishment. If people like Timothy McVeigh and John Gacy do not deserve to die, who does? (see Sarat, 2002: Chapter 1). In important ways, then, the high profile coverage of executions in the American press is oriented toward reporting those cases that tend – whether intentionally or otherwise – to support the institution of state killing, rather than challenge it.

Sometimes, however, it is not the nature of the crime or the criminal, but the nature of the execution itself that provides the main focus for media attention. When the technologies of execution malfunction, the physical effects on the body of the condemned can be horrific, presenting a visual

spectacle too sensational and dramatic for the media to ignore. Botched executions raise serious questions regarding the pain and suffering of the condemned on the path to death. They carry the potential to shift attention away from the lethal violence for which the offender was sentenced and on to the lethal violence the state uses to sanction its 'worst' offenders. While press representations of the straightforward and smooth-running execution of America's most prolific murderers tends to legitimate the practice of capital punishment, stories of botched executions – by exposing state inefficiency and incompetence, and potentially generating sympathy for the condemned – might be expected to have the opposite effect.

The Civilised Killing of the Savage

Capital punishment in America is intended only for the most serious offenders who have committed the most heinous crimes, though the extent to which this legal mandate is upheld in practice remains a major source of global concern (Bedau, 1997; Hood, 2002; Zimring, 2003). In the courtroom prosecutors merge verbal and visual grammars of violence, depravity and senselessness – through detailed descriptions and dramatic reconstructions, crime scene photographs and victim impact statements – to depict capital defendants as monsters unfit to live. Lynch (2005) has noted the paradox in a legal process where those facing the death penalty are characterised as rational, calculating, and free-willed, yet also as 'alien' and 'other'. This image of the rational, calculating 'other' is not only echoed in media narratives, it

has become one of the mainstays of late modern crime reportage. Yet despite the construction of the condemned in legal and mediatized discourses as inhuman monsters, the state seeks to deliver death in a humane way. Sarat (2002) queries why the state, which actively and openly uses the death penalty as a means of deterring offenders and of satisfying victims' demands for justice, goes to so much trouble to minimise the suffering inflicted on the condemned? Garland (2002: 466) takes up this question:

The answer would seem to be that the modern state seeks to disguise the violence that it uses to sanction the violence of others. It seeks to escape the contradiction of taking life in order to condemn the taking of life. The killing state *kills*, of course, but it strives to legitimate these killings by representing them as something other than they are – for example, as painless, sterile medical procedures. In the modern welfare state, executions can no longer be public displays of awe-inspiring force and sovereign power like those of the *ancient regimes* of early-modern Europe... Instead, executions have become behind-the-scenes, bureaucratic procedures in which the offender's life is terminated with a minimum of pain and physical suffering.

Paradoxically, through the very act of killing the state seeks to demonstrate its higher moral standing. The death penalty is mobilised as a means of affirming the state's humanity, even mercy, expressed through the delivery of death using less painful, less barbaric, more civilised means than those used by the condemned in committing his/her capital crime(s). Both the punisher and the punished use lethal violence, but where the condemned inflicts physical pain and suffering, the state strives to administer a death which is sterile and painless. Where the condemned disregards victims and their loved ones, the

state places them, both symbolically and literally, at the heart of the criminal justice response. Where capital murders so often represent an enraged loss of control, the state aims always to be impartial, dispassionate and measured. This is what separates the state, which kills lawfully and 'in the name of the people', from the murderers it puts to death. If death can be delivered in a quick, clean and painless manner, it can be rendered humane and, therefore, civilised. The delivery of a painless death thus establishes a further crucial binary, between 'the civilised and the savage' (Sarat, 2002: 82).

Since executions are made visible to the vast majority only through their media representation, the positioning of the audience in news stories is vital. Foucault (1977) describes how, in early-modern Europe, people attending public executions were compelled not only through fear, but also through complicity. By seeing the spectacle with their own eyes, they became 'voyeur accomplices' (Thompson, 2000), guarantors of the punishment who, to an extent, took part in it. Then, as now, for its legitimacy to prevail, the consciousness of those who regard state killing must be aligned with the consciousness of the authority that sanctions and administers it, not with those condemned to die. One of the reasons that public executions died out was the fear of the crowd, horrified by the torture being inflicted, mobilising behind the condemned. Contemporary news media may render executions visible on a far greater scale than anything imaginable two centuries ago. At the same time, however, the violence inherent in state killing is increasingly disguised and hidden from public view. Precisely because the act of killing is

presented as sanitised and bureaucratic, if the state's use of lethal violence is shown to be anything else – if death is not delivered quickly and cleanly, if the condemned, no-matter how heinous his/her crime, is seen to suffer physically – then the crucial gap between lawful and unlawful killing, between civilised and savage, between 'virtuous identity' and 'absolute other', closes in.

Botched executions are the most vivid manifestation of the state's failure to deliver death in this idealised way. Their representation presents the opportunity for a more penetrating, challenging and involved way of 'seeing' – a way of 'witnessing' (Girling, 2004), of *seeing through* the state's preferred reading of juridical killing as efficient, painless and sterile. In such cases, the consciousness of those regarding capital punishment may not be aligned so readily with the state, whose exhibition of fallibility and incompetence – should it be communicated to a mass audience – is surely more likely to create 'doubters than converts' (Zimring, 2003: 196). Media representations of botched executions thus constitute sites on which the conceptual foundations and perceived legitimacy of capital punishment may, in theory, be fiercely contested and forcefully undermined.

When State Killing Goes Wrong

Throughout the 1990s, the state of Florida executed 23 death row inmates by electrocution (www.deathpenaltyinfo.org). Three of these were botched,

giving Florida the one of the worst records in the US for botched executions that decade.

Jesse Tafero was sentenced to death in 1976 for the murder of two police officers. He was executed 4th May 1990. When the first surge of current was applied, flames arced from beneath the leather death hood, inflicting third degree burns to Tafero's face and head. Though the burning filled the execution chamber with smoke, witnesses observed that even after a second surge of current the condemned's head and chest continued to move. Over a four-minute period, the current was applied a total of three times, with each surge producing more flames and smoke. It was not until seven minutes after the execution had begun that Jesse Tafero was pronounced dead.

The 25th March 1997 execution of Pedro Medina, condemned to die for the murder of a neighbour in 1982, was striking in its similarity to Jesse Tafero's. The first application of current caused flames to erupt from the headpiece, filling the execution chamber with smoke and, according to some witnesses, the stench of burning flesh. One witness recalled that it was like 'watching someone being burnt alive' (*Daily News of Los Angeles*, 26th March, 1997). Again, three surges of current were needed before death was finally pronounced.

On 8th July 1999 Allen Lee Davis was executed for the 1982 murders of a pregnant woman and her two young daughters. During the execution, those present watched as blood seeped from Davis' facial area and dripped onto his torso, where it created a stain that continued to spread across his white shirt.

The condemned tried to cry out, but his screams were muffled beneath the thick leather straps bound tightly across his face. By the pronouncement of death, 11 minutes after the execution had begun, the bloodstain on Davis' shirt was the size of a dinner plate. ²

In each case, the visual manifestation of pain and suffering depicted the literal inscription of sovereign power on the body of the condemned. The scenes recalled the prolonged and tortuous sanctions of a bygone age, and echoed an era in state punishment that was believed to belong firmly in the past. The gruesome nature of the spectacles, and the controversy of Florida's preferred method of execution malfunctioning to such an extent and with such horrific consequences, ensured that the Tafero, Medina and Davis stories were reported nationwide. These executions presented a clear opportunity for death penalty opponents to challenge the legitimacy of capital punishment in the US, not through scarcely-visited websites or specialist 'alternative' media, but through mainstream outlets with audiences that are, by comparison, massive and highly diverse.

The Savage Killing as Civilised

In light of the gruesome nature of Tafero's execution, it seems remarkable that most newspaper headlines failed entirely to mention that it had been botched. Instead, they stressed the reasons why Tafero had been condemned to die in the first place, with some alluding disapprovingly to the fact that he had spent more than a decade on death row – Convicted Cop-Killer Executed

(*United Press International*, 4th May, 1990); Killer of Two Police Officers Executed in Florida (*New York Times*, 5th May, 1990); Tafero Executed for Killing Two Officers 12 Years Ago (*Associated Press*, 4th May, 1990). Of course, the nature of Tafero's death was too sensational not to be described in the main body of stories. But even when descriptions were detailed, any sympathy the reader might feel for the condemned was pre-emptively challenged in stark headlines that reinforced the binaries of good and evil, innocent and guilty, foregrounding images of Tafero's murderous criminality and consolidating his status as 'absolute other'. Further reminders came as the narratives unfolded, lest it be forgotten that 'Tafero coldly took the lives of two officers 12 years ago' (*The Associated Press*, 4th May, 1990). That there were serious questions regarding Tafero's guilt was scarcely mentioned.

News reports tended also to downplay any notion that Tafero had experienced physical pain when he caught fire. Some stories noted that witnesses had observed Tafero's chest heaving and head bobbing after two surges of electric current had been administered. But such observations were invariably printed alongside official statements by prison representatives, insisting unequivocally that Tafero had not suffered. The prison spokesman was widely quoted reiterating the physician's view: 'Tafero was dead within seconds of the first jolt... there was no indication he felt pain' (*The Associated Press*, 4th May, 1990). In other reports the prison physician was quoted directly, confirming his belief that Tafero 'was unconscious the minute the current hit him' (*The Associated Press*, 4th May, 1990).

Thus, while there was considerable scope to develop a dramatic and critical account of the state's failure to deliver death cleanly and quickly, the vast majority of reportage downplayed the botch, or glossed over it altogether. The *New York Times* (5th May, 1990) was the most economical in this respect. Beneath the headline 'Killer of Two Police Officers Executed in Florida', it simply stated 'Because of a malfunction it was necessary to administer three jolts of electricity to carry out the execution'. Rallying cries and abolitionist calls from anti-death penalty organisations – either because these calls had failed to make final copy, or because they hadn't been advanced in the first place² – were noticeable by their absence. What little attention the efforts of anti-death penalty activists received was couched in dismissive terms. Descriptions of the candlelight vigil held in silent protest against Tafero's execution diminished the event by stressing that 'fewer than a dozen death penalty opponents' took part (*The Associated Press*, 4th May, 1990).

Of all the sources quoted, condemnation came from Tafero's defence attorney alone. 'Death warrants in this state tend to come out of the governor's office like junk mail', he protested, 'If they cannot execute correctly, they can't execute at all' (*United Press International*, 4th May, 1990). Creating a marginal space of resistance, the lawyer appealed to the Governor to 'suspend all executions' (*ibid.*). But the most thoughtful reflection on the

² This chapter presents a straightforward discourse analysis of the press representation of botched executions. Whilst making the most of available resources at the time of writing, there is a strong case for the development of a more ethnographic approach to this type of research which involves – at the least – interviews with journalists, sources and others involved in the news production process.

case came in an editorial in the *St Petersburg Times* (8th May, 1990), headlined 'There is No Clean Way to Kill'. It read, 'The United States, lacking the collective will and national leadership to fight crime in more effective ways, keeps company with South Africa and the Soviet Union as the only developed nations that routinely look to executions for deterrence and catharsis'. This article stood amidst a remarkably consistent body of reportage which defended the humanity of state killing by downplaying the botch and the pain and suffering it may have caused, while stressing the inhumanity of the condemned by focusing on the crimes for which he had been sentenced. Press coverage not only supported the continued use of the death penalty, it also advocated the continued use of the electric chair. The clear message imparted in the majority of news stories was that the situation may have been ugly, but the condemned would not be missed and, in the end, justice, however unsightly, had been served.

While headlines after the Tafero execution focused on the nature of his crimes, those following the execution of Pedro Medina seven years later were explicit in foregrounding the gruesome nature of his death: *Condemned Man Catches Fire in Electric Chair* (*Daily News*, New York ³); *Flames Erupt at Man's Execution in Florida* (*The Daily News of Los Angeles*); *Electrocution Triggers Fire - Prisoner's Mask Burns* (*Chicago Sun-Times*); *Gruesome Execution in Florida* (*The Atlanta Journal-Constitution*). Some hard-line conservatives expressed approval, suggesting that the spectacle may serve well to deter others. Florida's Attorney General warned, 'People who wish to

commit murder, they better not do it in the state of Florida because we may have a problem with our electric chair' (*Daily News of Los Angeles*). And one state Republican reasoned, 'It all comes out the same way. I just don't have a problem with it any way it goes' (*Ledger*, Lakeland Florida). The majority of commentators, however, were appalled, and while Tafero's execution had attracted remarkably little criticism beyond the condemned's defence attorney, this time both pro- and anti-death penalty supporters were vociferous in their calls for an end to the electric chair.

Medina's counsel recalled 'it was brutal, terrible, it was a burning alive, literally' (*The Commercial Appeal*, Memphis; *Chicago Sun-Times*). Beneath the headline *Get Rid of the Chair, Foes Urge*, the American Civil Liberties Union of Florida insisted that 'It's time to retire "Old Sparky". It's time for Florida to shut this machinery of death down' (*Miami Herald*). And a number of newspapers debated the possibility of switching to lethal injection as the default method of execution in Florida. For Sarat (2002), however, these criticisms and calls to retire the electric chair fell short of challenging the legitimacy of capital punishment on anything more than a technical level. Most press reports, he argues, 'treated the Medina story as a mere technological glitch rather than an occasion to rethink the practice of state killing' (Sarat, 2002: 62). The Fort-Lauderdale *Sun-Sentinel* claimed that Florida 'is justified in imposing the death penalty... but it has no justification for retaining a method... that is so gruesome and violent and sometimes flawed'. Furthermore, as with the Tafero execution, prison officials sought to

downplay any suggestion that Medina experienced physical pain. The medical examiner stated that, despite the flames and the smoke, he saw no evidence that Medina suffered, nor found any burns on his head (*Chicago Sun-Times*). She even went so far as to say, 'In my opinion, he died a very quick, humane death' (*Daily News*, New York).

On closer inspection, however, the press construction of the Medina execution was less one-sided than Sarat suggests. Many news stories expressed deeper concerns about the validity, not just of the electric chair, but of the wider institution of capital punishment, and there were impassioned and widely reported calls for its outright abolition. Some of these calls emanated from powerful sources. Condemnation came from as far afield as the Vatican, which was resolute in its demand for an end to all executions in the US. It was widely reported that the Pope had personally entered a plea for executive clemency (*Chicago Sun-Times*; *Associated Press*; *San Jose Mercury News*). 'That this incredible, tragic event might cause justice officials to reflect and abolish capital punishment', one Vatican representative exhorted, 'is the least one can hope for' (*Associated Press*). Abolitionist arguments came from journalists too. The *St Petersburg Times* insisted, 'The horrific scene in the death chamber Tuesday should outrage even supporters of the death penalty and force all Floridians to reassess whether their state should continue to kill people'. Further challenging the legitimacy of state killing, many stories disclosed that Medina had maintained his innocence until the end, that much of the evidence in the case was circumstantial, and that there were questions

regarding his sanity (*Palm Beach Post*; *St Paul Pioneer Press*, Minnesota; *San Antonio Express*; *Washington Post*). The *Gainesville Sun* revealed that, 'Medina was executed despite a life-long history of mental illness, and the Florida Supreme Court split 4-3 on whether to grant an evidentiary hearing because of serious questions about his guilt'. The condemned man's last words, 'I am still innocent', featured prominently (*Miami Herald*; *New York Times*; *San Jose Mercury News*).

Most notable, though, were the widely cited views of the murder victim's daughter. Lindi James openly opposed the execution and maintained that she 'had never believed that Medina had committed the murder', insisting that her mother would not have wanted him put to death (*Palm Beach Post*; *USA Today*; *Associated Press*). In a 'victim culture' where the views and interests of the aggrieved are made paramount, and increasingly provide the focus for criminal justice policy and crime news stories, the dissemination of such responses clearly matters. Certainly, press coverage of the Medina execution can be read as much more critical than Sarat's (2002) analysis indicates. The condemned's status as rational, calculating 'absolute other' was problematised and the normally clear cut distinctions between good and evil, innocent and guilty, were blurred by those who placed the state at the scene of a public burning. Though the botch was dismissed by some, it provided a platform from which anti-death penalty commentators – with the support of the Catholic Church, the victim's family and certain newspapers – could launch a vocal attack on the death penalty in America.

Like the headlines describing Medina's death, those appearing in the wake of Allen Lee Davis' execution focused on its gruesome nature: Execution of 344-Pound Inmate Turns Bloody (*Charleston Gazette*); An Execution Causes Bleeding (*New York Times*); Execution Turns Bloody (*Sarasota Herald-Tribune*, Florida). Aside from the obvious contrast between burning and bleeding, there was another key aspect of Davis' execution that set it apart from Tafero and Medina: there was no question over his guilt. Rather than using his last words to maintain innocence, 'Tiny' Davis remained silent in the execution chamber. In the absence of last words, a suggestion of Davis' final thoughts came from the victims' family. This time, the family's message positioned the reader firmly with the victim. Making eye contact as the leather hood was placed over Davis' head, the surviving husband and father recalled, 'He didn't show an ounce of remorse. He knew who I was and he didn't care. Not a bit' (*ibid.*).

Condemnation came almost exclusively from anti-death penalty groups. The American Civil Liberties Union repeated the plea it had made following Medina's death, and called for all Florida executions to be suspended 'until the state can ensure that they can be conducted humanely' (*Charleston Gazette*, West Virginia, and *Associated Press Online*; see also *New York Times*, 8th July, 1999). The National Coalition to Abolish the Death Penalty claimed that 'No civilized society should be using this apparatus, and I hope what happened today moves Florida toward a speedy end to the electric chair', (*USA Today*, July 9th 1999). It was widely reported that Davis'

ordeal had constituted sufficient grounds for Florida's Supreme Court to delay the execution of the next inmate in line for the electric chair (*Miami Herald; Florida Times-Union*). But only one organisation, Amnesty International USA, called for an outright ban on capital punishment, insisting that Davis' bloody execution demonstrated that Florida 'cannot remove the cruelty inherent in state killing' (*St Louis Post-Dispatch*, Missouri, July 9th, 1999).

Thus, while most expressed horror at the barbarity of the spectacle, and many called for a suspension of all further executions by electric chair, the vast majority of responses were reported in a manner which criticised the technological administration of state killing, but remained silent about its wider practice. Sarat's (2002) observations regarding the limits of mediatized protest following the Medina execution can be applied with much greater accuracy here. Even the *St Petersburg Times*, which had been so damning of capital punishment after Medina, was muted by comparison: 'The image of condemned killer Allen Lee Davis bleeding from behind his death hood in the electric chair Thursday is renewing a wrenching political debate: Should Florida retire the chair and switch to lethal injection?' (9th January 1999).

The Demise of Ol' Sparky and Florida's Switch to Lethal Injection

In the wake of the botched executions of Jesse Tafero, Pedro Medina and Allen Lee Davis, pressure mounted on the state of Florida to reconsider its use of the electric chair. The legislature remained committed. A temporary suspension was put in place following Tafero, and executions were stayed

during legal challenges following Medina and Davis, but in 1999 – having considered all three botches, with particular attention to Davis – Florida’s Supreme Court came to the 4-3 majority ruling that execution by electric chair is painless and, therefore, not unconstitutional (*Provenzano vs. Moore*, 95, 973). In an unprecedented move, one of the dissenting justices appended to his opinion post-execution colour photographs of Davis, depicting his contorted face and bloodstained body immediately after death and before he had been removed from the electric chair. These photographs were made available via the website of the Supreme Court of Florida and, at the time of writing (March 2005), could be accessed and viewed online via a host of anti-death penalty websites.

Then, in January 2000, faced with an impending United States Supreme Court hearing on the constitutionality of the electric chair, Florida’s legislature voted overwhelmingly to switch to lethal injection as the default method of execution in that state (Hood, 2002). By adopting lethal injection, the legislature ensured the continued retention of capital punishment in the state of Florida, even in the event that the Supreme Court might rule the electric chair a violation of the Eight Amendment, which prohibits ‘cruel and unusual’ punishment. Since the switch meant that electrocution was no longer Florida’s sole method of delivering death, the challenge to its constitutionality, by death row inmate Anthony Bryan, was dismissed by the US Supreme Court as moot and the case was never heard. In the five years since the Florida vote, all but one of the remaining states that offered the

electric chair as their sole method of execution have adopted lethal injection, leaving Nebraska with the dubious distinction of being the only US state that currently requires electrocution (Death Penalty Information Centre). The electric chair is still available in the state of Florida. But only on written request from the condemned (Hood, 2002).

Many abolitionists would regard the widespread adoption of lethal injection, in Florida and elsewhere, as a significant step forward. Lethal injection is by no means problem free, and has accounted for 23 of the 36 bungled executions since 1976, most often due to difficulties in finding a suitable vein for insertion of the IV needles (Death Penalty Information Centre). Recent research has questioned the effectiveness of the anaesthetic intended to sedate the condemned before lethal chemicals stop their lungs and heart from functioning, raising the possibility that some of those facing death may be 'fully aware during their executions' (Koniaris, 2005, cited in *Sydney Morning Herald*, 15th April 2005). Many maintain, however, that this method of execution is a preferable alternative to the electric chair (Hillman, 1993). And nationwide press coverage of the three Florida botches, which in the cases of Medina and Allen presented forceful and cohesive condemnations of electrocution, may well have played its part. In terms of promoting a more reflexive *public* debate on the legitimacy and continued use of capital punishment in the US, however, the role of press representations bears further consideration.

Only in the Medina case was the death penalty represented as more than merely an issue of technological proficiency. Condemnation of the death penalty, in all its forms, and calls for its outright abolition were widespread and emanated from influential sources. In stark contrast, representations of the botched executions of Tafero and Davis – ironically through exposing the state’s failure to deliver a clean, quick and painless death – may actually have reinforced the legitimacy of capital punishment. The prevailing message following these cases was that, while botched executions are unacceptable and to be avoided, there is nothing wrong with state killing provided the chosen method works on the day. It was the administration of the system rather than the system itself that came under fire, and the answer, accordingly, was cast as one of improving and tightening-up on the specific technologies of killing, rather than engaging more critically with the wider concept. Just as major corporations routinely deflect questions of institutional integrity by publicly censuring and making examples of individuals – racist cops, embezzling accountants, incompetent managers (Slapper and Tombs, 1999; Reiner, 2000; Tombs and Whyte, 2003) – or employing various techniques of neutralization (Cohen, 1993), questions regarding the institutional integrity of capital punishment were deflected by replacing one method of execution with another. Given the continued overwhelming support for capital punishment in the state of Florida, and across much of America, it might even be conjectured that the death penalty re-emerged in its new guise of lethal injection stronger than ever: more constitutional, more

humane, and, in stark contrast to the scarred bodies of Tafero, Medina and Davis, relatively untarnished.

Conclusions

Like crime narratives more generally, execution narratives are structured and inflected in various ways that encourage 'seeing' through the eyes of the state and, in the midst of a proliferating and frequently punitive 'victim culture', through the eyes of victims or their loved ones. More particularly, they are routinely subject to various influences, not always pulling in the same direction, but often mutually reinforcing nonetheless, which serve at once to minimise the humanity of the individual facing death – the 'absolute other' – while maximising the humanity of the institutions and processes that deliver it. Even when faced with the horrific spectacle of prisoners bleeding profusely or catching fire, coverage of two of the three botched executions considered here positioned the news reader in a way that constrained a deeper 'witnessing' of the violence involved in state killing, and did much to ensure that the integrity of the institution, if not the method, remained intact.

The altogether more critical tone adopted in the reporting of Medina's execution cautions against seeking to make sense of crime news production by locating it within overly-deterministic (modernist) theoretical frameworks (Brown, 2003; Greer, 2003). Manufacturing news is not simple and straightforward, but complex and frequently unpredictable. Its impact is even more so. There is, for example, no necessary or straightforward connection

between a state's retention or abolition of the death penalty and the press within that state's commentary on botched executions. The Medina case illustrates how press representations across abolitionist and retentionist jurisdictions created a mediatized space in which discussion shifted beyond the merely technological and engaged a more substantive conversation about the wider constitutionality of state killing. The importance of such examples of resistance to the normalisation of capital punishment, particularly when considered alongside the highly organised and relatively high profile abolitionist movement in America and globally, should not be overlooked. But nor can their role in shaping public perceptions about the death penalty be taken for granted.

Critical scholars for decades have argued that the presence of oppositional discourses in mainstream news media, while giving the impression of open and democratic debate, actually helps maintain the dominant conceptual categories that in the end subvert counter-definitions to marginal status (Marcuse, 1964; Hall et al., 1978; Herman and Chomsky, 1994). Reflecting the late modern proliferation in communication technologies, more recent accounts endorse a less monolithic, conspiratorial understanding of media production, suggesting that in a 'multimediated world' a broader range of outlets does enable a wider diversity of views and interests to find resonance (McRobbie and Thornton, 1995). But for all its sophistication, this approach can overstate the diversity of representation that actually occurs. Speciality magazines and Internet chat circles permit

diversity, of course, but '*the main thrust* of representation hinges around the major media chains' (Young, 2005: 104, emphasis added; Leblanc, 1999). In the mainstream American press, as this chapter has illustrated, reportage may both reinforce and challenge the normalisation of capital punishment. But while the legitimacy of state killing may come under serious and sustained criticism from time to time, the overall, cumulative message can still be one of political support and cultural reinforcement.

Moreover, as in the cases of Tafero and Davis, representations often fall short of promoting a critical dialogue which problematises the legitimacy of the death penalty. Rather, they amount to a struggle over the proper norms within which executions may legitimately take place. Calls from anti-death penalty organisations and other commentators that criticise the technology rather than the wider practice of state killing implicitly validate restructuring and improvement over outright abolition. At best, these calls can challenge the administrative *status quo* and force the state to reconsider the methods it uses to deliver death. At worst, they may serve ultimately to reinforce the cultural hegemony of capital punishment in the US and, with a cruel irony, to buttress the legitimacy of the very institution they seek to condemn.

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¹ Executions involving America's most prolific killers make for high profile coverage because serial and mass murderers are newsworthy in and of themselves, at times achieving a kind of celebrity status. They form part of a much wider mediatized phenomenon which may peak and trough over years, periodically capturing and recapturing the popular imagination from arrest and trial, through sentencing and incarceration, to execution and beyond. These executions offer closure and the restoration of some kind of moral order, not only to the victim's loved ones, but also to the wider audiences who may avidly have followed the case in the media throughout. The media construction of executions involving America's most prolific and infamous killers forms part of research which is currently ongoing.

² In the Tafero and Medina executions, the problem was traced to the sponge placed against the condemned man's head, and used to conduct electricity. In the case of Davis, some suggested initially that the electrocution had caused bleeding from the mouth, throat and chest. The autopsy revealed that, probably due to the combined effect of tight leather straps and medication thinning the blood (the medication was unrelated to the execution), the condemned suffered a nose bleed.

³ All press quotes on the Medina execution are taken from articles appearing on 26th March, 1997.