Op-Ed Piece by Dean Peter Keane

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RE: Op-Ed Piece by Dean Peter Keane

Peter G. Keane, dean of Golden Gate University School of Law and sometimes author of Examiner Op-Ed pieces, wrote this recently and thought you might be interested in publishing it in the Examiner.

If you have any questions, please call me at the number above or call Peter’s assistant Cynthia Childress at 442-6608.

Some day, history will judge the contemporary American criminal justice system with both amazement and revulsion for its primitive, harsh, and punitive responses to offenders. One of the most brutal features of that system is Proposition 21, which gives prosecutors the power to treat young kids, many of them not even through puberty, as adults by trying them in adult courts and punishing them with adult sentences. In last Sunday’s New York Times Magazine, there was a powerful article describing the plight of several children caught up in our country’s latest pathological quick fix for crime. To look at the faces of these children and to read about what they are subjected to is to realize what barbaric things we are doing to them.
Like much of the historic and contemporary American approach to crime, punitive measures like Three Strikes, drug sentences, the death penalty, and now Proposition 21 were voted into law by an electorate with a detached view of exactly who will suffer under those measures. Most voters, meaning middle class white people have the notion, perhaps unconsciously at times, that these laws will be used against "those people," but certainly not against them or their loved ones. "Those people," of course, means some sort of underclass: a group of people in a different economic, and usually racial, category different from our own. After all, we are the good people; it is those "others" who are the problem. It is easy to demonize the "other." Once demonized, they are less than human, and things can be done to them that will not cause us concern.

But if we, or those close to us, happen to get caught up in those horrible traps we have set for the "others," then that is another story. Hold on a minute. Something is wrong. None of this was meant for us.

I thought of this last week as I listened to a National Public Radio broadcast about eight boys in San Diego, most of them 14 years old. They are upper middle class kids, students at an award-winning high school. These boys carried out a contemptible reign of terror, beating up aged Mexican immigrants and shooting them with pellet guns. Several of the victims were severely injured. The prosecutor announced he was going to charge them as adults and try them in the adult courts under Proposition 21. There was an immediate widespread outcry of indignation from middle and upper class San Diegans, most of whom had been fervent backers of Proposition 21. But they now argued passionately, we didn't mean it for these kids. These are our kids!

It is very much like other phenomena we have seen, gun control for example. Until Columbine and the gun massacres at suburban white schools, there was not a lot of interest in gun control among middle class white voters. After all, shootings were what happened in ghettos and other "bad areas." Who cares. But when it is our kids and it is we who are in danger, everything changes and
events occur like the Million Mom March for gun control. The same thing happened with marijuana before the 60's and 70's. When it was seen only as an activity of the underclass, the attitude was lock them up and throw away the key. But when white middle class kids started getting busted with pot, then it was time to take another look at what we were doing.

If we could see our society with a focus on our shared common humanity, rather than through the we-us lens that divides us, then the issues of criminal violence and punishing children like adults are immediately identifiable as being repugnant. We recognize that what those kids did to those old people in San Diego was horrible and shameful. Yet no matter how much we resist admitting it, and no matter how great our urge is to demonize those boys, we also recognize that they are still just children. And when we treat children the same way we treat adult offenders, what we do is also horrible and shameful. That is true whether the child is one of "ours" or one of "theirs."