



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

PROBATION AND PAROLE

Who's really to blame for parole failure?

Posted by James Alan Fox, Crime and Punishment January 6, 2011 12:45 PM

Honestly, I am growing frustrated by hearing politician after posturing politician question how it is possible that a prisoner serving a life sentence can be paroled. The answer is simple: that is the law, one that many of these politicians helped to craft.

In this state, first degree murder carries an automatic and genuine life sentence without the possibility of parole for offenders as young as 14. Others receiving life sentences, including second degree murderers and certain repeat felons, are indeed eligible for parole consideration after a prescribed period of years (15 years for second degree murderers). Most do not get released on their first parole bid, and many remain incarcerated through several failed parole hearings.

It appears that many observers misunderstand the meaning of life sentences. Perhaps they wouldn't be so confused and dismayed if parole-eligible life sentences were repackaged as, for example, "15 years to life." In many situations, trial judges have no discretion in sentencing defendants, and it then becomes the job of the parole board to tailor punishments at the back end.

We are all saddened, of course, by the tragic outcome of Dominic Cinelli's release. However, those who are demanding the immediate resignations of the Parole Board members should perhaps focus more on whether these public servants were doing their appointed and difficult task to the best of their ability and in an impartial manner, than on the outcome of one case. Before concluding that the Parole Board must go -- be it the process itself or just the six members who unanimously endorsed Cinelli's release, we should examine the entirety of their decisions. The performance of the Parole Board should be assessed on more than this one case, however awful the consequences were.

In addition, we should be careful in second-guessing a parole decision without having heard all the testimony and read the entire case file. The fact that the vote on Cinelli's parole petition was unanimous would suggest that the board members may have had more information at hand than we do from various media reports and a video clip.

Undeniably, it is important to have a full review of the Cinelli parole decision, and resolve whatever problems are identified (such as the lack of outreach to the DA's Office). However, unless there emerges a pattern of poor decision-making by the Parole Board, we should avoid hastily altering a process that has significant value or demanding wholesale resignations from individuals who were doing their best.

Officer John Maguire's killer is no longer around to face public scorn, causing collective anger to be diverted to other targets. However, the villain in this tragedy is Dominic Cinelli, not the individuals who released him.

I can share a portion of an e-mail (redacted of identifying details but otherwise unedited) that I received from a former prisoner who was paroled a few years ago. Like many others who walk in his shoes, this man has made the most of his parole opportunity:

I am writing you in regards to your recent article on Dominic Cinelli. I was incarcerated with Dominic in Norfolk State Prison, where I was serving a sentence for bank robberies. I was shocked when I read about the tragic events that took place at Kohl's the night after Christmas. Anytime a crime results in a loss of life and especially a police officer, the emotional response is overwhelming. The media thrives on these sort of tragedies and they play on the fears and emotions of the public.

I really enjoyed and appreciated your article and you made points which haven't been made by the major news sources of the city. Most papers and news outlets are calling for heads to roll. The Parole Board does their best to make decisions based on your progress during your incarceration. I believe its about 95% of all prisoners will be released at some point, whether on parole, probation, or no supervision. You can't judge all parolees based on the unfortunate circumstances revolving around Dominic Cinelli. I believe that people deserve a second chance and that people have redeemable qualities.

I was released on parole in 20xx and completed my sentence in 20xx. The Parole board granted me a parole based on my positive institutional record. I was given an opportunity to re-enter society under the supervision of a parole officer. I am also still under the supervision of the Massachusetts Probation Department. I currently work full-time in the xxxxx and I am in the process of completing my bachelor's degree in Sociology at xxxxx. There are many people like myself who are released from custody and do their best to change their lives. However, the court system is a vicious cycle and the recidivism rate remains high. There are a lack of services available to ex-offenders and obtaining employment and housing can be a real challenge for ex-offenders.

Without question, there are many prisoners who pose too high a risk to warrant release, despite their parole eligibility. Others, like my e-mailer, can safely be paroled with appropriate supervision, after their debt to society has been paid. In addition to offering prisoners a powerful incentive for program participation and personal change, the parole system allows inmates to transition back to free society with the assistance of re-entry services and oversight.

Moving toward a three-strikes approach, as several other states have done, is not the answer. We should base punishments on the nature of crimes, not the number. Indeed, there are many second-time offenders who are more dangerous than other third-time felons. And should the strike zone be too wide, as in California's three-strikes law, the financial impact of warehousing countless repeaters for more years than necessary could bankrupt the state or force deep cuts in other areas of the state budget.

We should continue to entrust the Parole Board -- not a simple tally of strikes -- to determine which prisoners pose little risk and should be released with supervision and support, and which should remain incarcerated as long as possible for the sake of public safety. Distinguishing between the two is hardly easy. In this process, there can be no guarantees. All we can ask is for the Parole Board to use their best judgment in carrying out this task.