



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

COURTS AND SENTENCING

Good sense has struck out

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In a private ceremony closed to the public, closed to the press, but open by invitation to victim-activist Les Gosule, Gov. Deval Patrick signed the sentencing reform bill, which includes the hotly debated three-strikes provision. It was a great day for Mr. Gosule who saw the fruition of his 13-year-long struggle in memory of his daughter Melissa, an opportune day for some legislatures who are eager to remind their constituents as the November election day approaches of just how tough-on-crime they stand, but a sad day for the Commonwealth which was once seen as a model for criminal justice policy.

The question is not whether dangerous criminals should be kept off the streets of our cities and towns, but who and by what authority punishments should be determined. Sentencing decisions are best made by criminal justice professionals -- judges and parole boards -- on a case-by-case basis with the aid of detailed information about the crime and the offender. They should not be made emotionally and hypothetically by legislators debating about which and how many crimes should eliminate parole eligibility. And they certainly should not be through public second-guessing of certain isolated and high-profile cases informed only by limited information contained in news accounts.

My disappointment over the three-strikes law is that the Governor's very reasonable, sensible and wise attempt to keep discretion in the hands of trial judges at the front end and the parole board at the back end was so overwhelmingly dismissed within the legislature. The level of misunderstanding among the public at-large is troubling, but not as much as the legislature's unwillingness to resist public pressure and do what is right for the Commonwealth.

The larger story underlying the crafting and passage of the sentencing reform bill is about how Massachusetts continues moving away from being a national leader in sound criminal justice policy and moving toward the punitive extreme. It seems that we are so afraid of being seen as liberal that we go overboard to demonstrate otherwise. Meanwhile, other states do the right thing without fear of such labels. Bad things come in threes, they say. Here in Massachusetts, three-strikes is fundamentally about the three-R's: not reform, rehabilitation, and redemption, but retribution, revenge, and retaliation. For come November, they deliver the fourth R: re-election.