



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

MURDER AND MAYHEM , PROBATION AND PAROLE

Where were you when John Lennon was murdered?

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Thirty years ago today, former Beatle John Lennon was shot to death outside of his home on the Upper West Side of New York City, the news of which shocked fans and non-fans alike around the globe. Oddly enough, many of us in Boston heard about the tragedy from sports announcer Howard Cosell during a Monday Night Football telecast, just as Patriot's placekicker, John Smith, prepared to attempt a game winning field goal with just three seconds left on the clock. I vividly recall where I was watching, nervously awaiting the kick, when suddenly Cosell dismissed the critical moment of the game as irrelevant in the face of stunning reality.

While we Pats fans are still enjoying the afterglow from this week's victory on Monday Night Football, it useful, at least from a criminal justice policy perspective, to consider what has come of Lennon's killer, Mark David Chapman, as well as how the justice system should deal with cases like his, be they infamous or not.

During his trial, Chapman insisted on pleading guilty, despite his attorney's advice to claim legal insanity. Chapman, based on his own admission, had assembled a possible hit list of celebrities, which included *Tonight Show* host Johnny Carson and actress Elizabeth Taylor. But John Lennon was at the top of the Chapman's list because of his relative accessibility.

Consistent with New York State law, Chapman was given a life sentence, but with the possibility of parole after 20 years. Although the prospect of parole for the Beatle-killer may have offended countless observers at the time, there is, of course, a huge difference between eligibility for parole and release on parole. Three decades after the murder, Chapman remains locked up at Attica Prison, having been denied parole on no less than six occasions.

It is not just the high profile nature of the case or the fact that Yoko Ono and many others have voiced opposition that continues to frustrate Chapman's bids for conditional freedom. Typically, parole boards are not easily convinced.

In Massachusetts, despite our undeserved reputation of being soft on crime, parole release for lifers (those convicted of second degree murder as well as some first degree murderers whose convictions are commuted to second-degree) is anything but automatic. In fact, less than a quarter are successful on their first attempt, and many are denied time and time again.

Most of the time, denial is for good reason based on the prisoner's attitude, lack of remorse or institutional disciplinary record. Occasionally, the intense media focus on a high profile case causes the parole board to be especially reluctant to recommend release.

Undoubtedly, there are some homicides so heinous that parole should never be an option, regardless of the perpetrator's contrition or rehabilitation. Mass murderers and serial killers, for example, should permanently forfeit their freedom, no matter how changed their behavior or the extent of support on their behalf. In most other cases, however, parole should be an option, although an option exercised with careful deliberation.

Locked away in Massachusetts prisons are many inmates convicted of murder decades ago who can indeed be released with no threat to the community. Keeping them behind bars does little more than take up scarce prison space and incur significant health care costs as they grow older. Of course, there is never an iron clad guarantee that a paroled killer will never kill again. It does happen, but with extreme rarity.

Mark David Chapman will again appear before the New York parole board in 2012 to appeal for supervised release into the community. Once again the parole board will likely be flooded with letters of opposition. One can only hope that Chapman's continued incarceration is indeed justified based on his character and state of mind, not on the special nature of his victim. On the other hand, Chapman did select Lennon because of his fame, and will continue to suffer the consequences, not just of his crime, but also of his decision to target celebrity.