



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

Abolish juvenile life without parole

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There was little that attorney Jonathan Shapiro could say at the sentencing hearing for his client, John Odgren, except to challenge the wisdom and constitutionality of the mandated penalty of life without parole eligibility. Of course, the chance that the trial judge would depart from the prescribed sanction was virtually zero.

Constitutionality is a matter for the appellate courts to consider--especially the U.S. Supreme Court, which coincidentally will soon rule specifically on the legality of juvenile life without parole (JLWOP) in *Sullivan v. Florida* and *Graham v. Florida*. The wisdom of sentencing all first degree murderers--even those as young as 14 regardless of their criminal history or lack thereof--is, however, an issue for the state legislature.

Above all, the justice of juvenile life without parole extends well beyond the Odgren case. It concerns the dozens of prisoners in Massachusetts correctional facilities who were convicted of murders committed during their teens, as well as the fate others yet unnamed defendants who will confront the rigidity of the Massachusetts murder statute

This is not a call for returning to the not-so-older days, prior to the 1990s, when juvenile offenders were routinely freed shortly after reaching their majority (except if transferred to criminal court for prosecution). This is a proposal to return to the early 1990s days when juvenile murderers were punished appropriately (20 years for first degree murder and 15 years for second), but were not considered equally culpable as adults.

We now know much more about the emotional and neurological development of adolescents. And the research absolutely challenges the judgment of current Massachusetts law. The portion of the brain that controls our ability to think through consequences doesn't fully develop until adulthood. Teenagers may look like adults, talk like adults, even kill like adults; but they

typically think and reason like children. Although they understand that killing is wrong, juveniles do not quite grasp the enormity of the impact on themselves or others.

It is time, especially now that murder rates are low, for our lawmakers to rethink the overly rigid murder statute passed back in 1996 amidst a climate of fear and hysteria about young “superpredators.” Other states--even less-than-liberal Texas--have abolished juvenile life without parole. The Commonwealth of Massachusetts is behind the times, and needs to move into the 21st century when it comes to punishing juvenile murderers.