



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

PROBATION AND PAROLE

Parole failure in perspective

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Two thousand and ten has been a rough year for the Massachusetts criminal justice system. First, the state's probation department, once considered a model for the nation, was exposed and disgraced by a Globe Spotlight Team investigation that uncovered appalling examples of favoritism, nepotism, and abuse of power. The second shoe then dropped last Sunday when Woburn police officer John "Jack" Maguire was gunned down allegedly by Dominic Cinelli, an ex-con who had been paroled two years ago despite his multiple life sentences for an array of violent crimes.

These two blemishes on the justice system are quite different, however. Problems in the probation department were apparently systematic and long-standing, while recent criticism of parole decision-making surrounds one particular case. More important is the distinction in terms of what steps should be considered as a consequence of these scandals. The probation department clearly needed to be reformed in major ways, all the way up to top leadership; nothing about the latest controversy over one prisoner's release should serve as an indictment of the entire practice of parole granting.

It would be a shame if a necessary and generally successful process is radically altered based on one failure, no matter how tragic the outcome. All too often, we over-respond to exceptional situations, and eliminate policies and programs that, for the most part, have value and serve us well. Decades ago, the state's furlough system for lifers preparing for conditional release was scrapped when inmate Willie Horton embarrassed the state and then Governor Dukakis, the Democratic nominee for President of the United States. Hopefully, our response to the alleged re-offending by Dominic Cinelli will be sensible, resisting political pressure to discard the baby with the bath water.

There is nothing wrong, of course, with reviewing the case file from Cinelli's parole hearing as it may reveal areas in which greater scrutiny is required. However, such an assessment should consider certain facts that would have supported a recommendation in favor of parole.

Cinelli was incarcerated for over 30 years prior to his release on parole. This would hardly be considered a mere slap on the wrist for his crimes. Although he did have a long record of serious violence, none of his prior offenses reached the level of homicide.

The parole board no doubt was aware of the many disciplinary issues early on in Cinelli's incarceration. However, they appeared to be well in his past. In fact, it is fairly common for offenders -- particularly

those who, like Cinelli, are over 50 years old -- to age out of their violent ways while locked away for decades.

Unquestionably, the shooting death of Officer Maguire stands as a senseless tragedy. However, whatever hand that parolee Cinelli may have had in it was not foreseeable by the members of the parole board who judged his character and risk some two years ago. They did not have the benefit of the kind of 20/20 hindsight that critics are enjoying today.

The criminal justice system functions best when discretion, used wisely, is permitted to exist. Cops, prosecutors, judges, juries and parole boards all make judgment calls while carrying out their responsibilities. In any discretionary process, mistakes are inevitable. The most we can expect is for decisions to work out well the vast majority of the time.

The Massachusetts parole system is not broken and carries important functions. It provides offenders with a powerful incentive to participate in programs and maintain good behavior while incarcerated. More important, it serves to individualize justice. Sure, punishments should fit the crime, but they should also fit the criminal. All we can demand is that the members of the parole board carry out their weighty responsibility to the best of their abilities. And, at least on the surface, nothing here suggests otherwise.