



# Crime & Punishment

James Alan Fox on criminal behavior and the justice system

## [The right time to do the right thing for juvenile murderers](#)

Posted by James Alan Fox, Crime and Punishment January 27, 2013 12:00 PM

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It often comes as a surprise to many folks to learn that Massachusetts, despite its unearned reputation for being soft on crime, is one of the harshest states in the nation when it comes to punishing juvenile murderers. Unlike most states, which allow some flexibility in how to prosecute kids who kill or how long to incarcerate them if convicted, Massachusetts has for the past two decades had only one approach for those as young as 14 charged with first degree murder: prosecution as an adult and a life sentence without parole, if convicted. Efforts in recent years to reform the juvenile murder statute have failed as many of our lawmakers worry about the political fallout from moderating punishments.

At this point, now that the U.S. Supreme Court has determined mandatory life without parole eligibility for juveniles to be unconstitutional, Massachusetts is one of many states that have no choice but to re-examine sentencing policies. The only question will be whether we comply with the Supreme Court mandate minimally by replacing life without parole by extremely long prison terms or we adopt a more enlightened, sensible and flexible approach that reflects the spirit of the Court decision.

The message from the Court was clear: Kids are different from adults, and should not be held to the same standard of criminal responsibility, no matter how heinous the crime. This does not mean that juveniles should not suffer the consequences of their actions; only that the consequences should be measured according to their limited capacity for making sound decisions, their susceptibility to external influences and especially their malleability. Unlike many hardened adult criminals who are quite set in their ways, juveniles can mature out of their impulsive and imprudent patterns of behavior. It is this possibility for change that prescribes giving juvenile offenders the possibility for a second chance, that is, of course, only if they earn it.

In today's criminal justice climate, it requires bold and progressive leadership to resist the throw away the key mentality in response to murder. The key to freedom should rarely, if ever, be discarded when it comes to juveniles. This is especially true for first offenders and juveniles caught up in acts of mayhem by their peers.

The most sensible approach would be to make all juvenile offenders eligible for parole. Eligibility for release is far from a guarantee. Any changes in punishment should be judged by a parole board or other resentencing authority after the perpetrator has served many long years behind bars, rather than being anticipated by a judge or jury at trial when emotions are high and political pressure is intense. Punishments should fit the criminal, not just the crime.