



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

SJC ruling only half the battle

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Three cheers for the Massachusetts Supreme Judicial Court (SJC) in striking down all sentences of life without parole eligibility for juveniles. In its place, for the more than 60 lifers impacted by the ruling, the next most substantial penalty -- life with parole eligibility after serving 15 years -- will apply. Some of these prisoners, those who already have been incarcerated for longer than that minimum, will, after formal resentencing, start preparing their case for presentation to the Parole Board.

The SJC followed the lead of the U.S. Supreme Court. Over a series of decisions related to juvenile sentencing, including *Miller v. Alabama*, the highest court in the land has repeatedly maintained that kids are different -- different in brain development and how they assess consequences, different in their susceptibility to negative peer influences to do the wrong thing, and, most critically, different in their ability to change and mature over time.

The Supreme Court majority stated that juveniles should not be held to the same standard of culpability as adults, no matter how heinous the crime. Unfortunately, the Court failed to outlaw juvenile life without parole entirely, only *mandatory* life without parole, as being totally devoid of any discretion or flexibility. With today's ruling, the SJC has now taken that final step, at least for Massachusetts.

In its decision, the SJC correctly pointed out that parole eligibility does not guarantee release on parole. It is now up to the Massachusetts Parole Board to decide which of the dozens impacted by today's ruling are indeed ready for conditional (and supervised) release, and when. Therefore, today's victory for juvenile justice is only half the battle. It is equally critical that the Parole Board recognize the differences between juvenile and adult murderers and be prepared to make the difficult and usually unpopular move to award parole release when justified.

Many of the parole hearings resulting from today's ruling will involve the family members of murder victims, some of whom will have felt blind-sided and victimized by the change in law. After all, they had been assured that the person who murdered their loved one would never see freedom again. They may insist that juvenile murderers do not deserve a second chance, no matter how rehabilitated, because there are no second chances for the victims. Of course, that sad truth holds for all forms of homicide below first-degree murder where perpetrators are parole eligible.

I wish the members of the Massachusetts Parole Board the wisdom and courage in handling these difficult and weighty decisions. Particularly in this post-Cinelli era, it is too easy just to take the safe route and continually deny parole, even when a compelling case has been made for release-readiness. Without the Board's willingness to give juveniles a second chance, today's gift of parole eligibility will turn out to be an empty gesture.