

FORGIVENESS AND THE PAROLE BOARD

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Introduction

Asking for forgiveness at a parole hearing goes far beyond perfunctory declarations that offenders take responsibility for their actions and are genuinely sorry for what they have done. Simply professing to take responsibility and being sorry for inflicting pain and suffering onto others is a far cry from seeking forgiveness, should offenders desire to be forgiven. Offenders, of course, may neither desire forgiveness nor believe forgiveness is either necessary or needed. Taking responsibility and expressing sorrow may be enough. That conclusion may be rational and sufficient assuming those offenders are not merely interested in avoiding the arduous path of introspection necessary for forgiveness. Seeking forgiveness, however, from a victim, and/or seeking self-forgiveness may lead offenders to self-growth and a better self-understanding, critical indications of persons who are ready for a return to society to live as law abiding citizens and not pose a threat to the welfare of society. Offenders may well admit their wrongdoings and effect the changes necessary to convince a parole board they are no longer a risk to commit crimes without seeking forgiveness.^b Nevertheless, forgiveness offers benefits both to victims and to offenders, whether or not offenders are ever seeking parole.

When crimes have been committed, offenders have engaged in singularly personal, selfish and relational acts which have denied an important societal value, namely a victim's moral worth.¹ That applies particularly to the taking of a life. Criminal acts disrupt the lives and

^a The Norfolk Lifers Group is comprised primarily of prisoners serving life and/or long-term sentences at MCI-Norfolk. This essay, however, is offered for use by any prisoner in any Massachusetts prison who might find the contents helpful in dealing with the issue of forgiveness, whether preparing for a parole or not.

^b There is the situation of innocent prisoners who seek parole. The disturbing reality is that unless a prisoner accepts responsibility for the crime, there is little or no chance for a parole. Thus, those prisoners are on the horns of a dilemma – to admit to a crime they did not commit in hopes of a chance to go home or to continue to maintain their innocence and take the consequences. Those facing this most difficult choice need to consult the article by Daniel Medwed referenced in this essay as well as: *Quegan v. Mass. Parole Bd.*, 673 N.E.2nd 42 (1996) in which the Massachusetts Supreme Judicial Court ruled that there is no state constitutional violation for a parole board to factor that a prisoner refused to acknowledge his guilt into its decision to deny a parole.

relationships among offenders and victims as well as with and among the community as a whole. Victims feel violated. Communities feel wronged and fear that offenders will persist in acting as if societal norms do not apply to them and will continue to victimize others. In effect, by committing criminal acts, offenders demonstrate that victims and communities deserve no respect and are to be used by offenders simply as means to achieve desired ends.² Violating a victim's person and a community's sense of security, well-being, and wholeness is to say: "I matter more than you and I can use you, like a mere object or thing, for my own purposes."³

When offenders have committed criminal acts and have been imprisoned, they are placed outside the community. Appearing then before a parole board is, in effect, seeking mercy, redemption, and permission to rejoin society as a productive member. It is important to remember that a parole is an expression of mercy, not a negation or repudiation of either the wrongful acts or the ensuing punishment. To receive that mercy in the form of a parole, offenders, among other things, must understand the pain caused by their actions and the damage they have done. In other words, offenders seeking paroles need to convince a parole board that they have attained a level of self-knowledge such that they can see themselves through the eyes of the victims and the community and understand that they share humanity with their victim(s). Offenders must take responsibility for their actions and demonstrate they can be trusted never to violate societal norms again.⁴ Inherent in the parole process is society's belief in offenders' "capacity for remorse, choice, and moral transformation."⁵ Offenders bear the responsibility to prove through words and deeds that they are indeed worthy to rejoin society as productive citizens.

Why Seek Forgiveness

Seeking forgiveness allows offenders to cease hiding behind self-serving denials and distortions of what actually occurred during their criminal acts. As long as those denials and distortions remain, offenders are likely to refuse to admit the need to change their behavior or to seek treatment without which they will continue to be risks to society.⁶ It is through seeking forgiveness that offenders may be able to "reframe[e] the perspective of [themselves]" in the eyes of the victims, a parole board, and themselves.⁷ While the past cannot be changed nor forgotten by those who have been victimized, offenders seeking forgiveness at a parole hearing,

through sincere and heartfelt apologies, may aid victims in the healing process by helping them understand why the crime(s) happened to them and thereby to regain a sense of self-esteem.⁸

What is required for offenders to be forgiven by a victim, the victim's family^c, society as a whole, and themselves is to demonstrate a sincere understanding that all persons have the elemental right not to be victimized, not to be treated as an object devoid of human qualities, i.e., not to be treated as if they are of no account⁹, for this is exactly what occurs during the commission of a criminal act against a person or against a person's property. Thus, to seek forgiveness is to seek to restore mutual respect between two parties and to affirm that the victim has been treated wrongly.¹⁰ The extant Restorative Justice movement seeks in part, to *restore* a victim to the condition the victim had experienced before the criminal act. In crimes of theft, one possibility is to replace the item(s) stolen or repay the value thereof. This may make the victim financially whole. But, a victim's peace was also violated and that will not be restored by merely replacing what had been taken. In cases of a loss of life, of course, replacement is not an option, even where financial reparations may be appropriate for other aspects of the crime.

For some offenders, forgiveness has a profound religious connotation, i.e., forgiveness is dispensed by a divine being either through individual relationships or through the intercession of a minister or priest or other similar agent. Religious forgiveness, however, is beyond the scope of this essay which neither addresses nor discounts such forgiveness. Rather, this essay is concerned with the relationship of offenders to victims and/or victims' family members. If offenders who view forgiveness through a religious perspective seek a parole, they need to demonstrate credibly both that they no longer pose a threat to either victims and family members, or to society, and are deserving of forgiveness, as well as mercy in the form of a parole.¹¹ In effect, all offenders must affirm that they have changed identities from those who originally committed the offense(s).¹²

To be judged as an acceptable risk to return to society, offenders must demonstrate, in both words and deeds, that they are no longer, and will not in the future, be risks to inflict injury on others. This demands that offenders understand the damage they have inflicted from the

^c In the majority of second degree life parole hearings, the victim is deceased. However, the victim's family members also have been affected; they are victims as well. Therefore, in the remainder of this essay, references to victim or victims include victim family members, while not eliminating discussion of the role of such "secondary victims" where appropriate.

victims' perspective, i.e., be sensitized to the sufferings of others.¹³ Offenders must recognize and accept that secondary victims, such as family members, also have valid *feelings of betrayal, resentment, anger, hatred, and revenge*.¹⁴ And, that (t)o *suffer hurt, to be the victim of some conscious malice or violation by another person, can have a profound impact on the person's sense of self-worth and psychological wellbeing*.¹⁵ Victims, family members, and communities as a whole have been violated when a crime has been committed. Their individual and collective senses of peace and security, in addition to life and property, were endangered, if not shattered, by criminal acts which had broken the very norms victims, their families, and other community members had thought should have protected them and made them feel safe. Offenders must, therefore, repudiate those deeds which visited pain and suffering on another human being and, as a result, comprehend that respect is due to all who have been injured.¹⁶

Rebecca Weiker, whose sister was murdered, states: "I will never 'get over' her death nor do I expect to shed the feeling of loss and deep sadness that comes from not having her in the world... She was my big sister and I looked up to her."¹⁷ Offenders seeking paroles must be able to convince a skeptical parole board that they not only accept responsibility for their actions, but are also sincerely remorseful. Daniel Medwed, author of an article on forgiveness and parole boards believes that the ability to do so "...show[s] maturity and humanity [and] an appreciation for [their]own frailties paired with empathy for the suffering of others."¹⁸ In addition, the parole board as a quasi-representative of society, is justifiably concerned with paroling only those who have "...cultivated the maturity and self-awareness so often required to combat the temptations that will certainly challenge them on the streets."¹⁹

It is important to note that forgiveness may not be forthcoming from a victim. It cannot be forgotten that a victim has a right to hold resentment against an offender, part of which resentment is based on the *wish to be recognized and respected as one who ought not to have been thus treated* [by the offender].²⁰ That resentment may never go away because implicit in a victim's resentment is the understandable indignation that the victim and the victim's family have been treated wrongly. And, given the prohibition by the Department of Correction^d of

^dThe Massachusetts Department of Correction does have a Victim/Offender Reconciliation Program within its Victims Services Unit. But, participation in this program can only be initiated by a victim or member of a victim's family in cases where a life has been taken. It must be remembered, particularly given the Department of Correction's disinclination to allow offenders to contact victims or victim family members, an apology offered at a

contact between offenders and victims or their families, most offenders may never have the opportunity to come face-to-face with their victims for reconciliation. That, however, should not deter offenders from exploring forgiveness for their own sakes to effect personal and lasting change. Those seeking paroles, especially if offenders are serving life sentences, must make evident that they do not shirk from the responsibility for the pain and suffering they have caused and that they will never again visit upon another person the hurt, resentment, and sense of betrayal the offenders had wrought upon the victims of their crimes.

Everyone, including offenders, has experienced resentment due to being trampled upon unfairly without regard or respect for one's rights. That an offender may have been a victim, regardless of the reasons or circumstances, is never an excuse for inflicting harm upon others. While offenders seeking parole may have suffered much pain and been victimized in their own life, they cannot denigrate the suffering and pain felt by the victim by claiming they have similarly suffered. Offenders need to enter into the pain of their victims,²¹ not try to excuse their behavior by portraying themselves as victims as well. Offenders who claim they fully understand what the victims feel because they have also suffered only trivialize the suffering of victims. No offenders, particularly lifers, can *minimize the evil* they have done, or *evade moral responsibility* for it.²² The overriding issue is not what offenders have suffered, but what the victims have and, most probably, continue to endure.

Who Can Forgive

Seeking forgiveness from a parole board is misguided. Parole board members cannot forgive because they have not been harmed. While a parole board may be viewed as representing society, it is neither a stand-in nor surrogate for victims. Only victims have the right and the choice to forgive for they are the ones who have undergone pain and suffering at the hands of offenders seeking parole.²³ While neither a parole board nor society as a whole can forgive offenders, society is also due an apology for the disruptions resulting from criminal acts. That apology can be directed to a parole board as the representative of society. Extending a

parole hearing most probably will be the first time many victims and family members may have heard from offenders. Thus, there could well be natural suspicions about the motives for apologizing, i.e. the desire for a parole rather than a sincere and respectful attempt to apologize.

sincere apology to society through a parole board is distinctly different from seeking forgiveness; the latter entails far more than words spoken or written.

Yet, a parole board does have the right to demand that those seeking paroles be able to demonstrate that they understand the wrongfulness of their acts and the impact those acts had on the victim, on the victim's family, and on society as a whole. Offenders who do not comprehend that wrongfulness and resultant damage, simply cannot be trusted not to repeat those wrongful acts. Such offenders are not ready for a parole regardless of what programs they have completed or growth/change they claim to have achieved. Make no mistake, to grant paroles is to risk that offenders may repeat the behavior which brought them to prison or commit different crimes. Parole board members must, therefore, be convinced that such a risk is sufficiently minimal and so can be taken with commensurate confidence, given their obligation to protect society from future crimes committed by those they parole.

Working Towards Forgiveness

To be approved for parole, offenders need to demonstrate that they have changed, are worthy of trust, respect the rights of victims, affirm that victims are persons of worth and value,²⁴ and be able to provide reasons why a parole board should risk granting a parole. Active participation in group activities, both secular and religious, which require offenders to address their own issues should be embraced if offenders truly desire to change, and understand that society has the right to demand such change. Active participation means being open to the process of transformation by truthfully examining one's inner being, e.g., the fears, the pain, the anger, that lie beneath the surface self one displays on a day-to-day basis. Once those forces are recognized and understood, offenders need also work to change so that which motivated criminal acts in the past will not do so in the future. Merely being checked off on a roster, drinking a cup of coffee, paying no attention to what is happening, offering nothing of oneself is not only a waste of time, but deprives someone else of a space which could be used productively.

Apologizing

When offenders seeking parole compile their parole packages and prepare for parole hearings, the issue of an apology must be confronted. An apology is an expression of regret at having caused a particular injury to a particular victim as well as a comparable expression of regret to the larger community.²⁵ The importance of written and oral apologies cannot be overstated. Beyond their impact at parole hearings, apologies can begin the process of restoring a moral balance, i.e., apologies offer offenders a way to express repentance and victims an opportunity to begin the process of forgiveness.²⁶ For those reasons, apologies need to be directed to the victims and perhaps also to the immediate community, not to a parole board.^e Failing to address an apology to both the victim and the community demonstrates an inability or refusal to understand who has been hurt, and as a result, who has the right to be offered a sincere apology.

There are certain aspects about an apology, beyond to whom it needs to be directed, which a person seeking a parole needs to consider. An apology cannot be used as a bargaining chip.²⁷ In other words, an apology should not be viewed as an obligatory statement which merely fulfills a presumed requirement for a parole. An apology must be in one's own words, real, and from the heart. An apology should not be for any purpose other than to recognize the wrongfulness of one's act(s), acknowledge the pain and suffering one has caused, and the commitment to never repeat that, or any other, wrongful act(s). An apology should include taking responsibility for the action(s) which caused pain and suffering, disavowing that action(s), and that change has taken place within the offender so that the offense, or any other, will not be repeated.²⁸

Avoid considering phrases such as: "no words can describe the pain and suffering I have caused" as sufficient expressions by themselves. Words do exist which describe that pain and suffering and these words must be found. Claiming that no words can describe suffering one

^e During a parole hearing where the public may be present, offenders should not look directly at the victim's family members, for that could be deemed an act of intimidation. Rather, apologies should be directed through a parole board to the victim's family members. Directing apologies through a parole board to the victim's family and the community as a whole is distinct from addressing apologies to a parole board as if that parole board had been victimized.

has caused equates to evading taking responsibility. Offenders who cannot describe the pain and suffering they have created are not ready for a parole because the risk is too great that the previous behavior will be repeated. While it may be difficult to find one's own words to describe adequately the pain and suffering one has caused, the attempt nevertheless needs to be made. Thus, offenders seeking paroles must struggle to find some language which begins to communicate their sense of the damage they have caused. Offenders need to keep in mind that victims of crimes can suffer long-term negative effects including greater mental illness and substance abuse than the general population, as well as Post Traumatic Stress Disorder like systems such as fear, withdrawal, and difficulties in professional, social, and intimate relationships.²⁹

It is important to note for those who may not be skilled with words that words often are not as important as the emotion, assuming it is real, behind the words. No one should attempt to "fake" emotion, however, because such a ploy is easily and quickly detected. An appearance of faking emotion will surely negate any positive effect the words of an apology may have. Even as potential parolees grapple with saying what they actually feel, the truth and sincerity of that struggle may better communicate the emotional trauma potential parolees are undergoing. It is not just what is said that counts, but how it is said as well.

An apology should encompass the entire event that happened, not only just the parts offenders may believe are their individual contributions. Offenders may not have personally injured a victim, for instance, but merely aided another party. Still, it is not sufficient that offenders apologize for not intervening or that they only assisted the principal offender. All offenders need to take responsibility for the entire act(s) and the totality of the pain and suffering inflicted upon the victim(s).

Whatever the offenders' actions may have been, offenders should not try to evade responsibility by simply claiming they had made mistakes. That is merely attempting to shun responsibility and to minimize guilt. While offenders surely made mistakes, chalking up the pain and suffering visited upon a victim simply to one or more mistakes is a "non-apology apology",³⁰ and is an insult to both the victim, a parole board, and everyone associated with the victim and the community-at-large.

To apologize and repent for wrongdoings is to make amends. It is also to commit visibly and morally to the norms that govern group affiliation and determine group membership.

Genuine apologies and expressions of remorse, in other words, dissociate offenders from their wrongful pasts and make a plea for reconciliation.³¹

Lastly, offenders seeking parole should not state they have no right to be forgiven. That is not an offender's decision to make. That right belongs only to the victims. No offender can take that right away. Trying to do so only appears to be an attempt to exercise the same level of control over the victim which was inherent in the wrongful act itself.

Conclusion

The full breadth and depth of forgiveness are beyond the scope of this essay. Myriad issues remain, including retaliation, resentment, anger, forswearing of revenge and hostility, altering the narrative of what had occurred and the concomitant fear of further betrayals, self-forgiveness, and trust. A plethora of sources exists for anyone who would like to delve further into a study of forgiveness. In addition to those cited in this essay, there is *Houses of Healing: A Prisoner's Guide to Inner Peace and Freedom* by Robin Casarjian, found in MCI libraries. Prisoners can also seek assistance from programs such as: Alternatives to Violence, Emotional Awareness, Restorative Justice, and Jericho Circle.

END NOTES

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2. Id at 109.
3. Jeffrie G. Murphy. *Well Excuse Me! – Remorse, Apology and Criminal Sentencing*. A lecture delivered on November 4, 2005 at the Arizona State Law Journal Symposium on Criminal Punishment and Sentencing. at 11.
4. Charles Griswold. *Forgiveness – A Philosophical Exploration*. Cambridge University Press. New York, NY 2007. at 5.
5. Id at 93.
6. Bibas, supra at 126.
7. Griswold, supra at 184.
8. Bibas, supra at 138.
9. Griswold, supra at 28.
10. Id at 49.
11. Daniel S. Medwed. *The Innocent Prisoner's Dilemma: Consequences of Failing to Admit Guilt at Parole Hearings*. 93 Iowa Law Review 491, 493 (2008).

12. Christopher D. Marshall, *Beyond Retribution – A New Testament Vision for Justice, Crime, and Punishment*. Wm. B. Eerdmann Publishing Co., Grand Rapids, MI (2001), at 277.
13. *Id* at 274.
14. *Id* at 265.
15. *Id* at 266.
16. Griswold, *supra* at 49-51.
17. Rebecca Weiker: *On the Need to Pass Crucial Juvenile Justice Reform in California*. August 15, 2011. Despite the loss of her sister to murder, Rebecca Weiker actively supports the passage of Senate Bill 9 in California which would give a parole opportunity to those convicted of crimes committed when they were juveniles. According to Ms. Weiker, “*I believe it dishonors my sister’s memory every time a young person is sentenced to die in prison.*” www.jjje.org/rebecca-weiker-on-need-pass-crucial-juvenile-justice-reform-california/2. Accessed 1/30/12.
18. Medwed, *supra* at 543-544.
19. *Id* at 538.
20. Griswold, *supra* at 120
21. Marshall, *supra* at 278.
22. *Id* at 271.
23. *Id* at 264; Griswold, *supra* at 33.
24. Marshall, *supra* at 279.
25. Griswold, *supra* at 149.
26. Medwed, *supra* at 537, n.231.
27. Griswold, *supra* at 175.
28. *Id* at 56.
29. Jeremy Travis. “Summoning the Superheroes- Harnessing science and Passion to Create a More Effective and Humane Response to Crime.” *To build a Better Criminal Justice System: 25 Experts Envision the next 25 Years of Reform*. The Sentencing Project. Marc Mauer, Kate Epstein, Editors. Washington, D.C. (2012) at 6.
30. Tom Jacobs. “Atone Deaf”, *Miller – McCune*. Jan./ Feb. 2012 at 68. Also at www.psmag.com/culture/were-sorry-not-all-apologies-are-apologies-38935/, accessed July 23, 2012.
31. Bibas, *supra* at 113.