

July 3, 2011

Joshua Wall
Chairman - Parole Board
12 Mercer Road
Natick, MA 01760

RE: June 11, 2011 Boston Sunday Globe Article

Dear Chairman Wall,

In a June 11, 2011 Boston Sunday Globe article re: paroled lifers, you are referenced as saying: "From now on, it will not be good enough for a lifer to maintain a good prison record. In addition, the board will consider whether an inmate has been punished sufficiently." That is a very disturbing assertion. What is the basis for the Parole Board members assuming that any of you have the prescience to be able to discern when someone has been "punished sufficiently"? As I understand the role of the Parole Board, it is to determine if a person seeking parole will or will not violate the law and would the welfare of society be diminished by the granting of a parole (M.G.L. c.127, sec. 130). Nowhere does the law state that the Parole Board is to assume the role of judge and/or jury to retry a case or to determine the appropriateness of punishment.

The constitutionally mandated separation of powers concept under which both our state and federal governments are supposed to function assign the responsibility to determine punishment to the judicial branch. The Parole Board, however, resides in the executive branch and, therefore, punishment is not one of the areas for your consideration. You, of all Parole Board members, should know that punishment is determined at time of sentencing. As an assistant district attorney, you undoubtedly participated in plea agreements to second degree murder convictions. I suspect that you may even have dangled the "parole at fifteen years" incentive in order to induce guilty pleas, thus avoiding the work of a trial and the possibility you might lose if the case went to a jury. To now contend that you and the rest of the Parole Board have the right to affect punishment is disingenuous at best, if not downright dishonest. Will you recluse yourself on those second degree lifers whom you prosecuted and agreed to plea bargains when they come up for parole? Fairness, if that is an issue you consider relevant, would seem to dictate that you should.

The aforementioned Boston Sunday Globe stated that from 2006 through December 2010, 30 of 201 (14.9%) lifers were returned to prison after being accused of a new crime and 39 (19.4%) were sent back due to technical violations. I am wondering why the Parole Board did not cite your study of 161 lifers released from 2000 through 2006, conducted at the behest of the Criminal Justice Policy Coalition? Of those 161 lifers, only 6 (3.7%) were returned for new convictions (2 for trafficking, 1 each for drug possession, assault

& battery, possession of a firearm, and breaking & entering), 16 (9.9%) were returned for new arrests but no convictions (6 for assault & battery, 2 for driving under the influence, 3 for drug possession, and 1 each for gun possession, breaking & entering, simple assault, armed robbery, and trafficking), and 23 (14.3%) were returned for technical violations: 7 for not following rules, 3 for use of alcohol, 11 for use of or possession of drugs, and 2 for domestic disturbances. It would be wonderful if all parolees, lifers included, were successful on parole. The reality, for a host of reasons, is that some do "fail." But, your lumping all "failures," i.e., new convictions, new arrests, and technical violations, together as if they are of equal severity is not only wrongheaded, but it distorts the truth. In addition, it is expensive. The cost, according to the Pew Center On The States (One in 31, March 2009), of returning one parolee to prison for one year in Massachusetts is \$44,900. Thus, taxpayers had to pay over \$1,700,000 per year for the 39 lifers returned from parole due to technical violations as cited in the Boston Sunday Globe article.

The waste of financial resources will only get worse based on your reported ill-conceived philosophy that "minor criminal offenses or technical violations of parole ... can be precursors to more, serious crime." The operative word is "can." Based on the reasons for prior failures as delineated earlier, how do you seriously justify the spending of precious taxpayer funds to support your unsubstantiated belief that a failure to follow a rule is reason to return a person to prison?

The impact of incarcerating a person beyond the earliest release date was the subject of a study of 76,721 prisoners released in Michigan from 1986 to 1999 [Denying parole at first eligibility: How much public safety does it actually buy? by CAPPS (Citizens Alliance on Prisons & Public Spending) - August 2009 (www.capps-mi.org)]. The overall finding was that there was no increase in public safety by delaying release, and, in fact, delaying release resulted in an increased recidivism rate. One other interesting comparison is between a former parole board of professionals and a replacement one filled with political appointees - a situation not unlike Massachusetts. I would urge you and your fellow Parole Board members to read the Michigan study carefully.

Sincerely,



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