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MITCHELL KEITER**

Why Should Murderers Get Parole?

■ Three-quarters of convicted killers in California are released, sometimes after just 13 years.

In 1971, Jose Morales murdered his girlfriend in Los Angeles. After trial and conviction, a court sentenced him to life imprisonment. Three months after his release in 1980, he murdered his new wife. Last month, the U.S. Supreme Court ruled that Morales was not entitled to a new parole hearing every year, only every third year. The real question is why people like Morales are eligible for parole at all.

Most people know that the Los Angeles County District Attorney had to choose between seeking the death penalty or life imprisonment without parole in prosecuting O.J. Simpson. Few people know that had there been only one victim, California sentencing rules would have prevented prosecutors from seeking either sentence. This limitation is wrong; California should adopt the federal rule that any murder may be punished by permanent incarceration.

A 1993 Justice Department survey revealed that 59% of people polled considered death the proper punishment for murder; 29% preferred life without parole. Another 10% replied that punishment should depend on circumstances, while only 1% favored neither death nor life without parole.

So how does California punish its murderers? In 1994, courts sentenced 2.5% of the 911 defendants convicted of murder to death, 20.7% to life without parole and 76.7% to life imprisonment with the possibility of parole. These "life" prisoners might receive parole after serving only 12 years and nine months.

This represents a substantial improvement from the late 1970s, when convicted murderers were released (not just paroled) from prison after serving as little as three years and four months, assuming "good behavior" while in prison. James Q. Wilson, a UCLA professor and expert on criminal policy, has observed how human life is devalued where it may be taken at so little cost.

The discrepancy between public opinion and reality exists because California law bars the imposition of either the death penalty or life without parole unless the prosecution proves beyond a reasonable doubt that the murder involved a "special circumstance." These include multiple victims; murder of a judge, witness or prosecutor; murder for financial gain; murder by means of a bomb; murder through torture; and murder during certain felonies. "Ordinary" murders, even when intentional and

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premeditated, cannot be punished by life without parole.

The special circumstances provisions exist to comply with Supreme Court guidelines limiting capital punishment to the most heinous murders. This is the same reason California law in 1856 divided the crime of murder into degrees. The procedural difficulty of capital cases is another practical reason for the special circumstances rules.

But there is no reason, constitutional or practical, for restricting the imposition of life without parole. This penalty would be perceived as more fair and less subject to improper factors such as race if the punishment were applicable in all murder cases. Life without parole is proper punishment for the 97.5% of murderers who are not sentenced to death.

Instead, deliberate murderers whose crimes lack special circumstances are "entitled" to parole eligibility. When a killer is arrested, tried and convicted—and then restored to liberty barely a decade after the murder—it represents a failure of our justice system. Releasing a convicted murderer awards him the future he denied his victim. It reflects a societal consensus that the murderer deserves better treatment than the victim.

The parole process further exacts an unnecessary toll on victims' families. Absent error, a criminal conviction should be a final decision that provides closure to the families. Instead, these loved ones must fight every year (or every third year) to prevent the monsters who destroyed their families from returning to their communities. The survivors deserve better.

Parole for murderers hurts more than victims' families. Everyone suffers. Forty percent of the convicted murderers and attempted murderers who received parole in 1992 were back in custody within two years. Others undoubtedly commit crimes but avoid detection. This is obscene. One victim is more than enough.

California must close this revolving door. Citizens deserve streets, parks and neighborhoods safe from the dangers posed by convicted murderers. The Legislature should follow the federal model and abolish parole for murderers. Punishment must fit their crimes. Murder is not a temporary offense; the loss is permanent. The punishment must be no less.

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