

Study finds parole 'a roll of the dice' for those convicted as teens

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A review of parole-hearing transcripts since California's juvenile justice reform law took effect in 2014 found that black people in prison who were convicted as teenagers, especially those without private attorneys,

had a low likelihood of gaining parole.

Kristen Bell, a professor at the University of Oregon School of Law, reviewed 465 parole hearings that fell under the law, and found that 62 percent of people were denied parole. As of 2017, zero of those who were released have returned to prison.

For an average parole candidate, Bell found that the odds of being granted parole were 2.7 times less if the person was black as compared to nonblack. The odds of getting parole were 3.4 times higher if a person was able to hire a private attorney.

"Essentially, a parole candidate has to pay to play and then faces the roll of the dice," said Bell, who began the research before joining the UO in 2018. "And the dice are weighted against black parole candidates and those who lack private attorneys."

The law, known as Senate Bill 260, was designed so those who committed crimes as youths would be released after a parole hearing if they had demonstrated rehabilitation as adults. The law applies to thousands of people, many of whom were transferred to adult courts as children and were given mandatory life sentences without any consideration of their age.

The central question of her study, Bell said, was whether people who demonstrated similar amounts of rehabilitation had similar odds of being granted parole. "In one respect, parole decisions were consistent with a measure of rehabilitation: People who did no rehabilitation programs and had recent disciplinary infractions were denied," Bell said. "But among parole candidates who had engaged in rehabilitation programs and did not have recent misconduct, decisions were inconsistent. The odds of being granted parole were significantly influenced by factors like race, having a private attorney and opposition by the victim's family

members."

"This study reveals that black and [poor people](#), who were already more likely to get life sentences as children, will also be considered too dangerous to release 20 years later because they're still black and poor," said Keith Wattley, executive director of the nonprofit UnCommon Law in Oakland.

The findings appeared in the summer issue of the Harvard Civil Rights-Civil Liberties Law Review.

Black candidates seeking parole were also significantly more likely to receive higher risk scores from state-appointed forensic psychologists who assess individuals before parole hearings.

The study relied on racial and ethnic data kept by the California Department of Corrections and Rehabilitation. Black people make up about 6 percent of California's total population but about 30 percent of its prison population.

Another disturbing finding, Bell said, was how much variability there is in the amount of time people serve in prison for the same crimes.

"I expected that people convicted of the same crimes would serve somewhat different amounts of time in prison before being released," she said. "I thought the difference would be measured in months or years. But it was measured in decades."

One man who was convicted of first-degree murder while an adolescent, for example, served 19 years in prison before being released. Another person convicted of the same crime while an adolescent served 43 years. And, in contrast, a person who was convicted of a nonhomicide offense as a teenager served 35 years.

"In this sense, the parole board has more control over the actual time a person spends in prison than the sentencing judge or jury," Bell said. "A criticism that led to the abolition of many parole systems in the 1970s and 1980s appears to be just as true now as it was then: The tail is wagging the dog."

The study should not be seen as a reason to abolish California's parole system, Bell said. On the contrary, she noted, a report on juvenile parole by the American Civil Liberties Union found that California has some of the more progressive laws for parole decisions in the country.

However, she said the study shows a gap between the theoretical promise of those laws and their implementation in practice. There is a need, she said, for increased public accountability, increased judicial oversight and more objective criteria for decisions.

Bell worked on the implementation of the reform law while she was a Soros Justice Fellow at the University of Southern California. She began her review of how it is working under a Senior Liman Fellowship at the Yale Law School. She is continuing the research at the UO.

More information: Kristen Bell. A Stone of Hope: Legal and Empirical Analysis of Juvenile Lifer Parole Decisions, *SSRN Electronic Journal* (2018). [DOI: 10.2139/ssrn.3228681](https://doi.org/10.2139/ssrn.3228681)

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