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# **The Lives of Juvenile Lifers:**

## **Findings from a National Survey**

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## THE LIVES OF JUVENILE LIFERS: FINDINGS FROM A NATIONAL SURVEY

*Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope. Maturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation. A young person who knows that he or she has no chance to leave prison before life's end has little incentive to become a responsible individual.*

Graham v. Florida, 2010

The United States stands alone worldwide in imposing sentences of life without parole on juveniles.<sup>1</sup> The U.S. achieved this unique position by slowly and steadily dismantling founding principles of the juvenile justice system. Today a record number of people are serving juvenile life without parole (JLWOP) sentences in the U.S. for crimes committed before their 18<sup>th</sup> birthday.

Sentences of life without parole are often erroneously believed to translate to a handful of years in prison followed by inevitable release. The reality is that a life without parole sentence means that the individual will die in prison.

This report provides a new perspective on the population of individuals serving life sentences without parole for crimes committed in their youth. It represents the findings of a comprehensive investigation into this population that includes a first-ever national survey of juvenile lifers. Through this effort we obtained in-depth information from these individuals about their life experiences prior to their conviction, as well as descriptions of their lives while incarcerated. The findings are sobering, and should become an element of policy discussion regarding this extreme punishment.

## KEY FINDINGS

Although it does not excuse their crimes, most people sent to prison for life as youth were failed by systems that are intended to protect children. Survey findings from 1,579 individuals around the country who are serving these sentences demonstrate high rates of socioeconomic disadvantage, extreme racial disparities in the imposition of these punishments, sentences frequently imposed without judicial discretion, and counterproductive corrections policies that thwart efforts at rehabilitation. Highlights of this report include the following:

### Socioeconomic Disadvantages, Education Failure, & Abuse

- Juvenile lifers experienced high levels of exposure to violence in their homes and communities
  - 79% of individuals reported witnessing violence in their homes;
  - More than half (54.1%) witnessed weekly violence in their neighborhoods.
- Juvenile lifers, particularly girls, suffered high rates of abuse
  - Nearly half (46.9%) experienced physical abuse, including 79.5% of girls;
  - 77.3% of girls reported histories of sexual abuse; overall, 20.5% of juvenile lifers report being victims of sexual abuse.
- Juvenile lifers generally experienced significant social and economic disadvantage in their homes and communities
  - A third (31.5%) of juvenile lifers were raised in public housing;
  - Eighteen percent (17.9%) of the respondents were not living with a close adult relative just before their incarceration; some reported being homeless, living with friends, or being housed in a detention facility, treatment center, or group home.

- Juvenile lifers faced significant educational challenges
  - Two in five respondents had been enrolled in special education classes;
  - Fewer than half (46.6%) of these individuals had been attending school at the time of their offense;
  - The vast majority (84.4%) of juvenile lifers had been suspended or expelled from school at some point in their academic career.

### **Extreme Racial Disparities in JLWOP Sentences**

- The racial dynamics of victims and offenders may play a key role in determining which offenders are sentenced to juvenile life without parole
  - The proportion of African Americans serving JLWOP sentences for the killing of a white person (43.4%) is nearly twice the rate at which African American juveniles are arrested for taking a white person's life (23.2%);
  - Conversely, white juvenile offenders with black victims are only about half as likely (3.6%) to receive a JLWOP sentence as their proportion of arrests for killing blacks (6.4%).

### **JLWOP Sentences Frequently Imposed Mandatorily**

- The majority of JLWOP sentences are imposed in states in which judges are obligated to sentence individuals without consideration of any factors relating to a juvenile's age or life circumstances
  - States such as Pennsylvania, which holds the nation's largest population of juvenile lifers, require that youth of any age charged with homicide be tried in adult court and, upon conviction, sentenced to life without the possibility of parole.

## Corrections Policies Curtail Efforts at Rehabilitation

- Most (61.9%) juvenile lifers are not engaged in programming in prison, but this is generally not due to lack of interest, but because of state or prison policies
  - Among the juvenile lifers who were not participating in programming, 32.7% had been prohibited because they will never be released from prison; an additional 28.9% were in prisons without sufficient programming or had completed all available programming.
- Many juvenile lifers are engaged in constructive change during their incarceration when they are permitted the opportunity to do so
  - Two-thirds have attained a high school diploma or GED;
  - Despite long distances from home and family, many juvenile lifers attempt to maintain close ties with loved ones through phone calls, letters, and visits;
  - As years in prison pass, lifers are charged with declining numbers of disciplinary actions.

## A BETRAYAL OF AMERICAN JUVENILE JUSTICE SYSTEM PRINCIPLES

*Moreover, his sentence in my judgment, violates the 8<sup>th</sup> Amendment to the U.S. Constitution...He was barely 15 when he committed the crime; he is emotionally and psychologically immature; he is learning disabled and functioned for several years below his peers; he has strong family support; he had never before been in any kind of legal trouble; and the evidence in support of his motion [to be transferred to the juvenile court] was overwhelming and essentially un rebutted...Sentencing him to life without parole is quite simply hideous and a travesty of justice.*

Dissenting Opinion of Judge Chapel,  
Cipriano, v. Oklahoma, F-2000-890, 2001

The United States made a thoughtful and deliberate choice in 1899 to accommodate developmental differences between adolescents and adults with the establishment of juvenile courts. The reforms of that era created a separate system of justice for juveniles that recognized differences in culpability and maturity. Jane Addams, one of the original visionaries of the juvenile justice system, noted that the goal of the system should be “...a determination to understand the growing child and a sincere effort to find ways for securing his orderly development in normal society.”<sup>2</sup>

Over the course of the following years, most states enacted provisions for transferring some youth out of juvenile courts and trying them in adult courts under limited circumstances. In the last two decades, the circumstances under which transfer occurs have expanded greatly. Part of the reason for the rise in sentencing youth to life in prison was the upswing in crime in the late 1980s and early 1990s, fueled in large part by the emerging crack cocaine drug markets and easy access to illegal guns.<sup>3</sup> By 1993, the rate of homicides committed by juveniles had tripled from a decade earlier.<sup>4</sup> Policymakers, the media, and the public listened to dire warnings from some that, “...on the horizon...are tens of thousands of severely morally impoverished juvenile superpredators.”<sup>5</sup> These so-called “superpredators” never

arrived; moreover, the juvenile homicide rate was already declining when this statement was made, and homicide rates among juveniles have dropped steadily since 1993. The homicide arrest rate for 10-17-year-olds in 2008 of 3.8 per 100,000 represents a 74% decline from the peak arrest rate for juvenile-involved homicides in 1993, 14.4 per 100,000.<sup>6</sup>

Nonetheless, driven by media reports of celebrated cases and public fears, catch phrases such as “adult crime, adult time” were popularized. Policymakers responded with a frenzy of tough laws that disregarded developmental differences between youth and adults, and instead focused exclusively on the crime. State legislatures chipped away at the founding principles of the juvenile justice system by passing laws that eased the way for young people to be transferred to and tried in adult courts, thus circumventing the very courts that the U.S. had created to protect young people. By the mid-1990s, every state had passed laws that either allowed or mandated that teenagers be tried as adults under certain circumstances. As a result, there was a steep rise in the number of teens who were sentenced to life without the possibility of parole during the mid-1990s.

In their zeal to pass these laws, lawmakers failed to consider the full spectrum of adult sentences to which they were subjecting juveniles, the inappropriateness of these sentences given the developmental immaturity of juveniles, and the consequences of mandatory imposition of these sentences in many cases.



## JUVENILE LIFERS: A PORTRAIT OF DISADVANTAGE

Juveniles serving life sentences have had their lives defined by a serious crime committed in their youth, but it is not a complete picture of who they are. Our intention with the present research study was to broaden our understanding of the features in their childhood that might explain, though not justify, their subsequent criminal behavior. In addition, we aimed to fill the gap in knowledge about the experiences of teenagers who are processed in the adult system for these lengthy sentences. Finally, we wished to identify the present circumstances of those serving life sentences without parole for crimes committed in their teenage years.

To learn more about this population of serious offenders, The Sentencing Project engaged in an unprecedented national data collection effort beginning in late 2010 in which we surveyed individuals serving JLWOP sentences. We received surveys from all states\* that currently house juvenile lifers as well as the federal government.<sup>7</sup> Our nationwide survey data collection effort lasted from October 2010 through August 2011 and yielded a response rate of 68.4%, or 1,579 individuals. As presented below, respondents have been in prison an average of 15 years; 359 have been in prison at least 21 years. One prisoner, now 67 years old, has already served 49 years in prison.

**Table 1. Years in Prison**

	<u>Number</u>	<u>Percent</u>
Less than 5 Years	169	10.7
5-10 Years	266	16.8
11-15 Years	462	29.3
16-20 Years	323	20.5
21-25 Years	155	9.8
More than 25 Years	204	12.9
<b>Total</b>	<b>1,579</b>	<b>100.0</b>

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\* Except Louisiana.

**Table 2. Description of Survey Respondents**

	<u>Number</u>	<u>Percent</u>
<b><u>Gender</u></b>		
Male	1,534	97.2
Female	45	2.8
<b>Total</b>	<b>1,579</b>	<b>100.0</b>
<b><u>Race</u></b>		
White	387	24.9
Black	940	60.0
Asian	38	2.4
American Indian	19	1.2
Other	139	9.0
Two or More Races	29	1.9
<b>Total</b>	<b>1,552</b>	<b>100.0</b>
<b><u>Ethnicity</u></b>		
Latino	203	14.3
Non-Latino	1,217	85.7
<b>Total</b>	<b>1,420</b>	<b>100.0</b>

From the survey results we learned that the individuals serving these sentences had many strikes against them before they engaged in the criminal activities that resulted in life in prison. Survey respondents reported childhoods that were marked by frequent exposure to domestic and community-level violence, problems in school, engagement with delinquent peers, and familial incarceration. Because their cases were waived to adult court, these factors—which arguably could mitigate their culpability in the serious crimes for which they were charged—were frequently inadmissible in court proceedings. Nevertheless, they are significant factors which shaped their worldview from a very young age and help explain the actions of this population of young serious offenders. Despite these unfortunate beginnings, the results demonstrate that respondents have often spent their years in prison attempting to improve their lives through education, engagement in programming, and maintaining close ties with relatives and loved ones.

## Home Environment

*I never had a father and because there was no man in my house, I looked to the gang in the streets for love and support. I started using [marijuana] when I was 15 years old, and to support it I stole and sold drugs. I stopped going to school because I was not learning or getting special help with my learning disability...My mother also had a drug problem and was not around that much.*

Juvenile Lifer, California

One's home life in childhood shapes perceptions of the world and provides instruction on right and wrong. Children model what they see in their immediate environment and when they experience trauma it has lasting effects on their perceptions and actions.

In our survey, we asked offenders to tell us about their upbringing. We learned that our respondents experienced highly elevated levels of poverty, abuse, exposure to community violence, and familial incarceration, and were frequently raised in homes with few adult guardians.

Just before their incarceration, roughly one in three respondents was living in public housing, a measure of poverty. In some states it was substantially higher. For example, in Alabama 43.6% of respondents were living in public housing, as were 39.7% of respondents in North Carolina. Nearly all who were living in public housing were youth of color (93.6%).

While the majority of respondents (82.1%) were living with at least one close adult relative in the home (e.g., parents, grandparents, aunts/uncles) just before their incarceration, 17.9% of the respondents were not living with a close adult relative; instead, they reported being homeless, living with friends, living with friends of their family, or being housed in a detention facility, or group home. Of those living with a close adult relative, for more than half of them (59.7%), it was a single-parent home;

fewer than one in four lived with both parents. Just over 15% were being raised by a grandparent. Thirty-five (2.2%) juvenile lifers were living in foster care.

## Exposure to Violence

*I was adopted by my grandparents at the age of two. My real parents both died due to drug related deaths. This is the first and only time I've been in trouble with the law; it was a big mistake that I dread every day of my life. I was 17 years old and hanging around the wrong crowd.*

Juvenile Lifer, Michigan

Many of the juvenile lifers who eventually committed acts of violence were themselves first the victims of violence. High levels of physical and sexual abuse were reported by the prisoners serving life sentences. Most (79%) witnessed violence in the homes, and nearly half (46.9%) experienced physical abuse. Overall, one in five lifers was sexually abused. Girls were particularly subject to sexual abuse; in this sample, 77.3% of girls reported being sexually abused. Violence is a learned behavior, and when it is demonstrated by adults in a home environment as a tool to resolve problems, children internalize this and, without intervention, are prone to repeat it.<sup>8</sup>

**Table 3. Childhood Violence Exposure Reported among Juvenile Lifers**

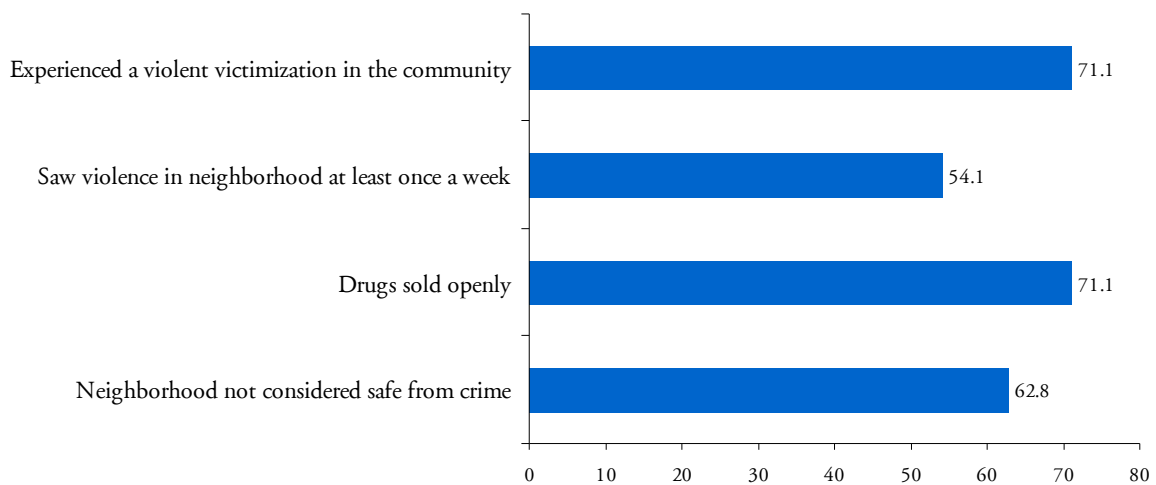
	<u>Number</u>	<u>Percent "Yes"</u>
Physical Abuse	730	46.9
Among Girls	35	79.5
Sexual Abuse	316	20.5
Among Girls	34	77.3
Witnessed Violence at Home	1,239	79.0
Among Girls	37	84.1

In 2008, the U.S Department of Justice partnered with the Centers for Disease Control and Prevention to conduct the first-ever nationwide representative survey of more than 4,500 children under 18 to better understand the frequency and role of

violence in their lives.<sup>9</sup> Survey results revealed that children in the general population are exposed to unacceptable levels of violence in their homes, schools, and communities, too, but these levels are far lower for than for juvenile lifers. For example, it is estimated that one in 16 young people in the general public experiences sexual abuse<sup>10</sup>; but among the JLWOP respondents, one in five reported sexual abuse. In addition, survey respondents were over six times more likely to report having witnessed family violence in their home than youth in the general public.<sup>11</sup> Substantial proportions of respondents were exposed to violence in their communities of origin as well. The world they saw both inside and outside their homes was frequently marked by violence and many of the respondents not only observed violence but were personally victimized through community violence, too.

Five out of eight (62.8%) youth perceived their neighborhood to be unsafe, and more than two-thirds saw drugs sold openly where they lived. More than half (54.1%) of the juvenile lifers witnessed acts of violence on at least a weekly basis.

**Figure 1. Exposure to Community Violence**



N's range from 1,463 to 1,568.

## Family Members in Prison

One of the many consequences of the unprecedented prison growth over the past 30 years is the breakup of family units, especially among African American families. In 2007, 1.7 million children had a parent in prison; over 70% of them were children of color.<sup>12</sup> Mass incarceration has had a profound impact on communities of color, especially African American communities. African American children are more than six times as likely as white children to have had a parent imprisoned.<sup>13</sup>

This study allowed us to find out how many people sentenced to life as youth had had a close family member in prison either currently or at some point in their life. More than a quarter of juvenile lifers have had a parent in prison and 59.1% of juvenile lifers have had a close relative in prison.

When one or both parents are removed from the home due to incarceration, this leaves the children to be raised with another relative, a child welfare agency or even on the streets. Parental incarceration is often associated with emotional and behavioral problems among their children, including elevated aggression, violence, defiance, cognitive and developmental delays, and extreme antisocial behavior.<sup>14</sup> Children of incarcerated parents are also more likely to drop out of school, become delinquent, and subsequently become confined in institutions themselves.<sup>15</sup>

Incarceration of one's father has been documented to demonstrate a particularly strong influence.<sup>16</sup> Children with an incarcerated father express significantly more aggression than other children, an effect that can be detected as early as 5 years of age.<sup>17</sup> In addition, the negative effects of an absent father are even stronger when the father is incarcerated than when he is absent for any other reason.<sup>18</sup>

## School Attendance and Childhood Friendships

*The reasons surrounding what I am incarcerated for do not stem from an animalistic mentality of 'kill or be killed.' My foolish behavior arose from an adolescent tendency [toward] 'wanting to fit in'...*

Juvenile Lifer, Michigan

School failure and friendships with negative peers have been shown to influence delinquency.<sup>19</sup> Fewer than half (46.6%) of the survey respondents were attending school at the time of the crime, and nearly all (84.4%) had been suspended or expelled at some point in their academic career. The school experiences in this group were challenging even when they did not include a suspension or expulsion. In the words of an inmate's mother, her son was "...thrown around like a dirty rag" by the school system for years.<sup>20</sup> Two in five respondents had been enrolled in special education classes.

In addition to attendance at school, youth have a better chance of staying out of trouble if they associate with positive, law-abiding youth. We asked the respondents to tell us about their friendships, and most responded that some (43.1%) or most (40.4%) friends had been in trouble with the law.

In addition to showing signs of trouble in school and within the family, 60.5% of juvenile lifers reported having a juvenile record. Despite these early signs of trouble, 89.5% had never had an adult conviction until the one that resulted in the life sentence, which challenges the notion that these youth were especially deprived or incapable of reform.

## DYNAMICS OF THE CRIME

### Racial Dynamics of Victims and Offenders

Our survey captured race and ethnicity data on most of the 1,844 homicide victims as well and this is reported below. Of the victims, nearly half were white, one third were black and 9.2% were Latino.

**Table 4. Race/Ethnicity of Victims**

	<u>Number</u>	<u>Percent</u>
White	866	47.0
Black	633	34.3
Latino	169	9.2
Other	116	6.3
Unknown/Didn't Report	60	3.3
<b>Total</b>	<b>1,844</b>	<b>100.0</b>

Multiple studies on the death penalty have shown that race is a prominent factor in the imposition of this sentence. Specifically, the race of the victim has been found to correlate strongly with seeking and receiving death sentences. A study of 2,000 murder cases in Georgia in the 1970s found that defendants were more than four times as likely to receive the death penalty if the victim was white than if the victim was a person of color, and that black defendants had the greatest likelihood of receiving the death penalty.<sup>21</sup> Another study of Maryland's death row population identified that in December of 2002, all 13 men on death row had been sentenced to death for killing white victims and in 8 of the cases, the offender was African American.<sup>22</sup> Because of the longstanding findings on the death penalty, we sought to determine whether similar racial dynamics pertained in JLWOP sentences as well.



To make initial comparisons between JLWOP sentences and homicides qualifying for JLWOP, we analyzed juvenile homicide arrest information in JLWOP-eligible states from the FBI's Uniform Crime Report's *Supplemental Homicide Reports* dataset for the years 1976 through 2007, the years during which most of our respondents were convicted of their offenses.<sup>23</sup> We find that the proportion of African Americans serving JLWOP sentences for the killing of a white person (43.4%) is nearly twice the rate at which African American juveniles overall have taken a white person's life (23.2%). What is more, we find that the odds of a JLWOP sentence for a white offender who killed a black victim are only about half as likely (3.6%) as the proportion of white juveniles arrested for killing blacks (6.4%).

While we do not have detailed information on all the variables that may contribute to a JLWOP sentence, the scale of the race differential over this three-decade period is quite remarkable, and parallels the range of consistent findings on imposition of the death penalty. African American youth with a white victim are far more likely to be sentenced to life without parole than their proportion of such crimes would suggest.<sup>24</sup> It is possible that factors such as prior record or the nature of the relationship between victim and assailant could account for this large-scale disparity, but unless such factors can fully explain these dynamics we should be quite concerned about a policy that appears to perpetuate longstanding racial disparities in the justice system.

**Table 5. Race of Homicide Victims and Offenders***White Homicide Victims*

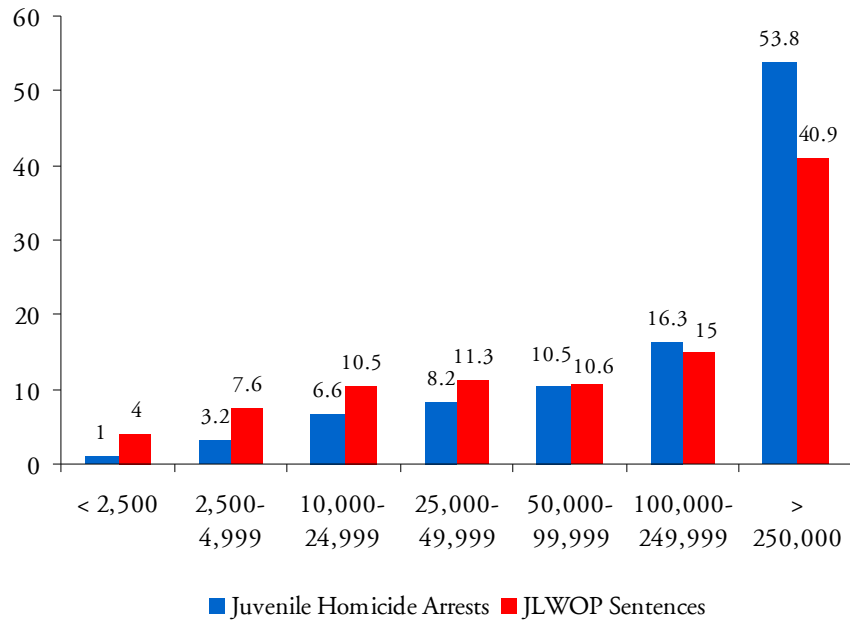
	<b><u>Total</u></b>	<b><u>JLWOP Sentences</u></b>
Black Offenders	23.2% (6,488)	43.4% (319)
White Offenders	76.8% (21,510)	56.6% (416)

*Black Homicide Victims*

	<b><u>Total</u></b>	<b><u>JLWOP Sentences</u></b>
Black Offenders	93.6% (24,118)	96.4% (567)
White Offenders	6.4% (1,651)	3.6% (21)

**Location of the Offense**

More than half of the juvenile arrests for homicides between 1976 and 2007 occurred in large urban areas with residential populations of 250,000 or more.<sup>25</sup> The populations of the jurisdictions where a JLWOP sentence resulted have a different distribution, however, with a larger percentage of sentences originating from homicides that occurred in smaller cities and rural areas. This difference suggests that the likelihood of receiving a life without parole sentence is greater in smaller jurisdictions than in large urban areas where homicides are more frequent. Whereas only 1% of juvenile homicide arrests occurred in jurisdictions with fewer than 2,500 residents, 4% of the JLWOP sentences originated there. And, while 53.8% of the juvenile homicide arrests occurred in cities with a population of 250,000 residents or more, these areas only accounted for 41% of the JLWOP sentences.

**Figure 2. Homicide Arrest Location Compared to JLWOP Sentences**

It is possible that these differences originate from variations in prosecutorial charging. It is also likely that there is greater media attention on violent crimes committed by juveniles when they occur in smaller cities because they are relatively rare. Further study of these discrepancies between location of JLWOP sentences and juvenile homicides would clarify how these differences came to be.

## Courtroom Experience

*How is it, you can be put in an extremely difficult situation, which you have no experience in and be expected to make adult decisions, when you really don't understand consequences? [And] then be considered an adult when you have never taken care of yourself or had adult responsibilities?*

Juvenile Lifer, Illinois

Most (79%) juvenile lifers were represented by a court-appointed attorney while one in five retained a private attorney. A plea from the prosecuting attorney was offered in half of the cases (50%) and 26.5% of those who were offered a plea took it. In 65.9% of cases where a death sentence was an option, defendants took a plea that included JLWOP in order to avoid a death sentence, a punishment since found to be unconstitutional.

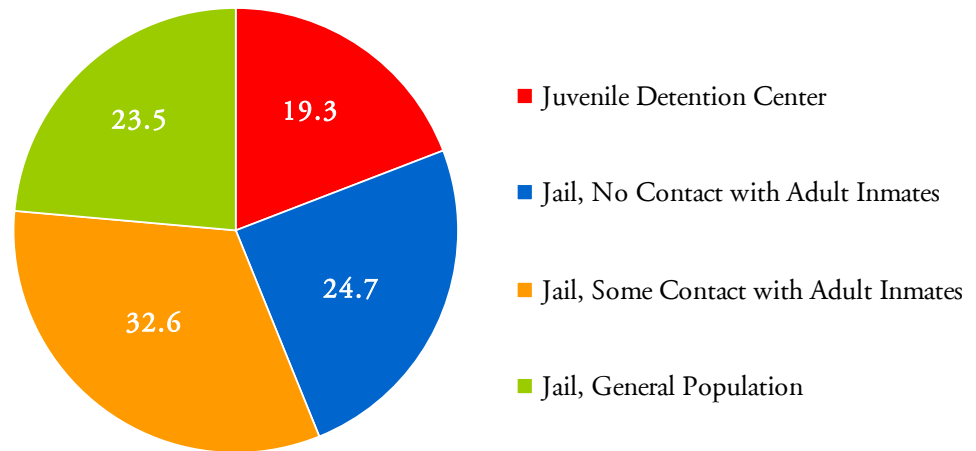
## LIFE IN PRISON

### Housing Before and After Conviction

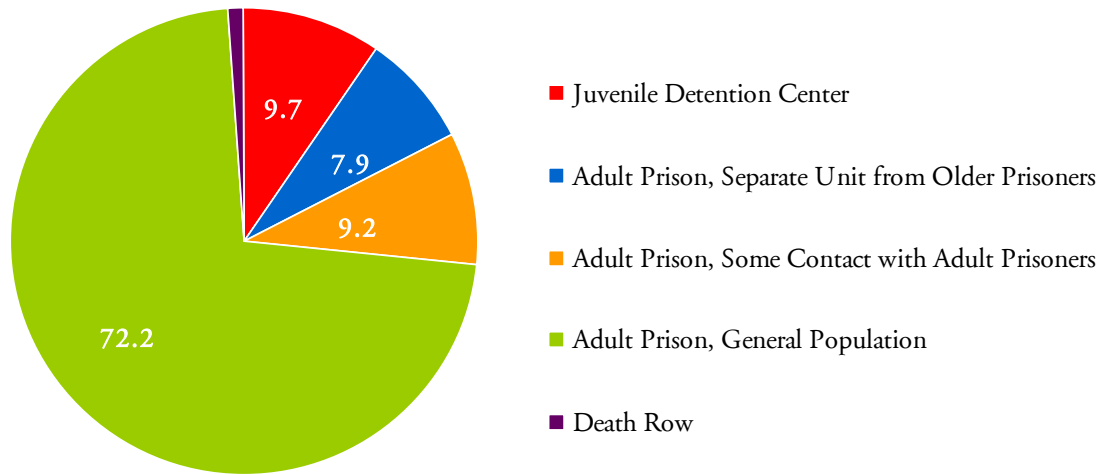
*Indeed, during the first months of his incarceration, Evan was attacked by an older inmate and stabbed nine times.*

Reply Brief in Support of Petition for Writ of Certiorari for Evan Miller,  
USSC No. 10-9646, 2012

A juvenile's case can end up in the adult system because of age, offense, prosecutorial discretion, or judicial discretion. Federal laws protect juveniles from being housed in close proximity to adults when they are maintained in the juvenile justice system but once a case is waived to the adult system, there are no federal protections against separating juveniles from adults while awaiting trial or upon conviction.<sup>26</sup> This federal mandate is in place in the juvenile justice system because of the known dangers to young people when they commingle with adult offenders. Teenagers face a heightened risk of suicide, sexual assault and physical assault when housed in adult prisons.<sup>27</sup> Among our respondents, only 19.3% were retained in juvenile placements before trial; the majority (56.1%) were held in adult jails with at least some contact with adult inmates.

**Figure 3. Housing Pre-Trial (N=1,539)**

By the time of their conviction, 47.2% of the juvenile lifers were at least 18 years old and thus it is reasonable to expect that they would be placed in the general population of a prison, though some states allow young offenders to be held in juvenile facilities until they are as old as 24 years of age. Few survey respondents who were still under 18 at conviction had been housed in age-appropriate detention settings as they began their life sentence. Instead, the vast majority were placed immediately in general population with adult inmates without protections for their young age or physical vulnerability.

**Figure 4. Housing Post-Conviction (N=805)**

### Disciplinary Action in Prison

In our survey, we aimed to identify changes in behavior over time. Recall that some of the juvenile lifers have now been in prison for several decades. One way to determine whether convicted serious offenders become less dangerous over time is to review disciplinary reports filed against them in prison. Research finds that inmates tend to act out in their early period of incarceration, but that this behavior often dissipates as they age and grow accustomed to their environment.<sup>28</sup>

Adjusting to prison is difficult. Inmates often feel they have to establish a sense of toughness and resiliency to secure their safety. Combine this with the fact that this population entered prison as teenagers, surrounded by inmates several years older, and it is not unreasonable to expect that it would take a few years for young inmates to adjust to their new environment. In addition, young people frequently require more reminders about rules than adults in all contexts and the prison environment is no exception.

Almost all (94.8%) of our respondents reported disciplinary actions against them at some point, typically including disobeying orders, possessing contraband, failing a drug test, and fighting. But survey data demonstrate that the rate at which juvenile lifers engage in problematic conduct in prison declines over time.

We asked survey respondents to identify the time period(s) in which they received disciplinary reports. We also looked at the volume of disciplinary reports, while taking into consideration the length of time the offender had been in prison. Of those who have been in prison for less than 10 years, only 18.5% have not had a report in at least the past three years. Among those who have been in prison 10 years or longer, 34.6% had not had an infraction in over three years. For those who have been imprisoned for more than 30 years, though, 71% had been incident-free for at least the last three years. Reviewing disciplinary actions over time, it becomes clear that misbehavior dissipates with years spent in prison.

**Table 6. Disciplinary Actions in Prison over Time**

<u>Years in Prison</u>	<u>No Disciplinary Action for at Least 3 Years</u>
Under 10 Years	18.5
10-15 Years	34.6
16-20 Years	44.6
21-30 Years	58.2
More than 30 Years	70.8

While there is often a perception that inmate behavior is dominated by violence and manipulation, in reality, many long-sentenced inmates such as lifers become positively engaged in their environment. Ethnographic accounts from lifers show that they view prison as their home, "...an involuntary one, to be sure—but still a domestic world in which they have an investment; they care about such things as the level of cleanliness, the quality of the food, the variety of activities, and even relations with their keepers."<sup>29</sup> Moreover, many lifers view their prison environment as all they have left to control in life and thus "...strive to make the most of the resources



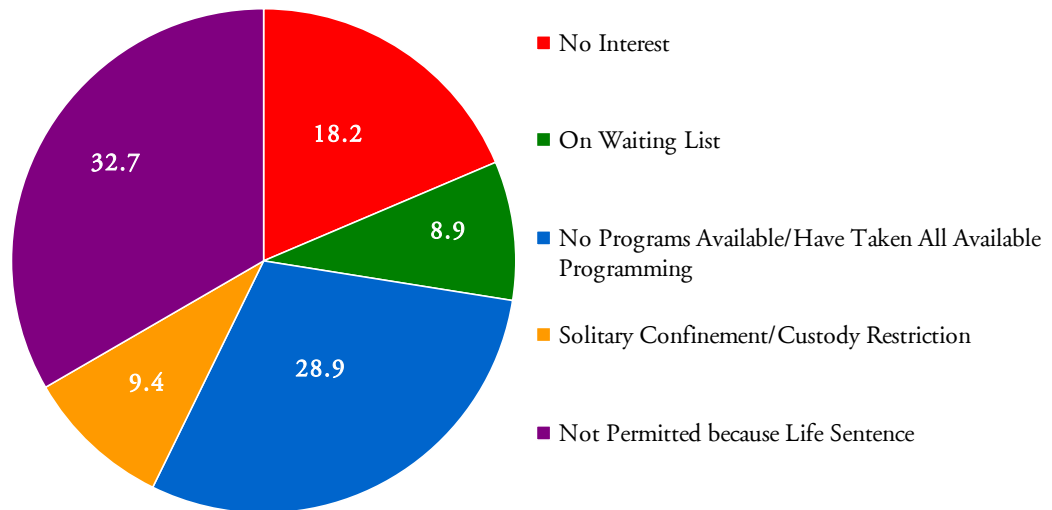
available in prison. As a result, they obey the rules and generally stay out of trouble, secure good jobs, and generally fill their days with structured activities—all so that they might live fully in the present and give as little thought as possible to the world they left behind.”<sup>30</sup>

## Rehabilitation, Education and Connections to Family

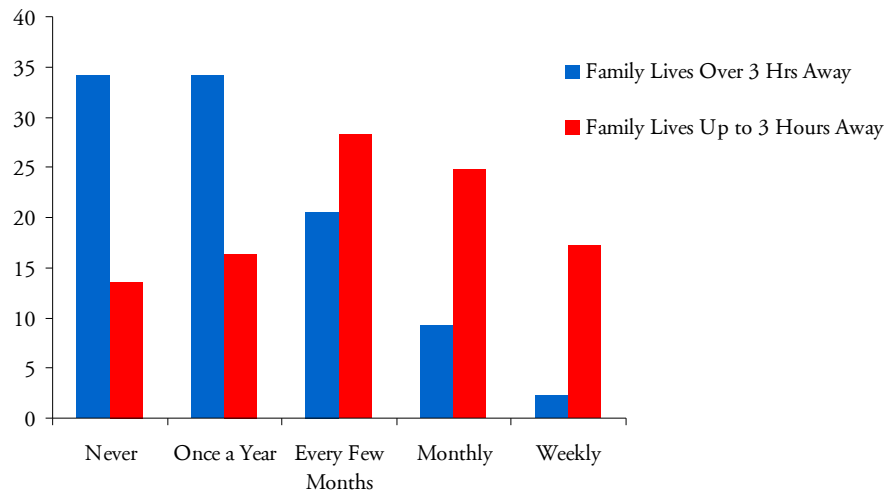
*This man made some terrible mistakes as a fifteen-year-old in 1993. He was then sentenced to life in prison and began serving his sentence in 1995...I find [him] to be an intelligent, thoughtful, self-aware individual who has worked exceedingly hard to turn his life around. He has educated himself in a wide variety of subjects, including a great interest in spiritual matters. He's a poet and has written some very good prison poetry. Through his poetry, I have discovered the extent of [his] knowledge of himself, his sensitivity, his determination to remain balanced in a situation often filled with chaos. I've also seen his despair and fear of dying in prison, never having achieved any of life's goals that all young men think and dream about. He no more belongs in prison than I do.*

Mentor of Juvenile Lifer, Florida

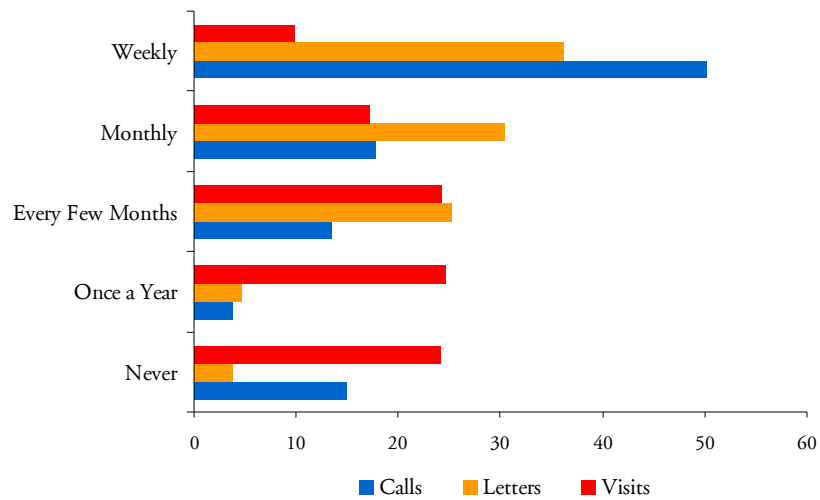
Our survey identified that 61.9% of juvenile lifers are not presently participating in rehabilitation programming. Our follow-up questions for those who were not participating revealed that for two-thirds of them, this is because of restrictions placed by corrections systems: one-third (32.7%) of the non-participants are not permitted to participate because of their life sentence and another 28.9% are in prisons without sufficient programming or have taken everything available to them already. Nevertheless, two-thirds of the juvenile lifers have completed high school or obtained a GED since coming to prison and an additional 24.1% have plans for completion.

**Figure 5. Explanations for Lack of Programming Participation (N=779)**

Unlike people sentenced to prison as adults, those sentenced to prison in their youth are more likely to have been living at home with at least one adult guardian at the time of the offense. The inmates serving life sentences for crimes committed in their youth generally attempt to maintain close ties with family members and friends despite substantial challenges in doing so. Nearly half (47.9%) of the juvenile lifers responded that their families lived more than three hours away from the prison where they were housed. Only one in three juvenile lifers with families living far away *ever* received a family visit. Those who have family members within a three hour drive were 2.5 times more likely to receive regular (monthly) visits.

**Figure 6. Frequency of Visits by Family and Friends (N=1,556)**

Ties to family and friends are most frequently maintained through phone calls; half (50.1%) of the respondents reported weekly phone calls with family and friends; 91.6% exchange mail with loved ones at least every few months.

**Figure 7. Maintenance of Connections with Family and Friends**

N's range from 1,556 to 1,567.

## SUMMARY OF FINDINGS

The information obtained from respondents shows a different picture than one that defines them solely by their crime of conviction. What we observe in these data is that, before their crime, these individuals experienced heightened community and domestic violence, substantial problems in school, friendships with antisocial peers, elevated levels of poverty, and parental incarceration. These childhood experiences placed these youth in disadvantaged positions for success. This does not justify the serious offenses they subsequently committed, but it does help us to understand their behavior, as all these factors are connected to deviance.

These findings also suggest that race and ethnicity may play a role, whether conscious or not, in sentencing youth to JLWOP. Three-quarters of the respondents were youth of color. Additionally, there is preliminary evidence that African American youth with white victims are considerably more likely to receive a life sentence without parole than such offender/victim dynamics overall would suggest.

We also find that upon conviction youth are typically housed with adult offenders. While federal protections for youth retained in the juvenile justice system are in place, once a youth is moved to the adult system, these protections are not afforded despite widespread evidence of heightened abuse.

Many of these individuals have now been in prison for decades, and in these intervening years many have engaged in rehabilitation programming, received an education, and maintained strong ties to family. Many of the respondents have indicated a desire to turn their lives around, with substantial progress in doing so. Most have now obtained high school diplomas or a GED, and nearly 40% are currently engaged in programming. Many more would likely be engaged in programming were they permitted to do so, but because of prison restrictions or lack of programming they are excluded. Prisoners attempt to maintain close ties to friends and family as well, a known correlate to successful reentry upon release.<sup>31</sup>

## **JLWOP: HISTORICAL AND LEGAL PERSPECTIVES**

The use of life-without-parole sentences for our nation's youth violates the principles that first shaped our protected treatment of juvenile offenders, a hallmark of the American justice system for over a century. Today, the United States continues to sentence juveniles to life without parole while the rest of the world has rejected this practice. Through JLWOP, courts have discarded unprecedented numbers of young, redeemable lives. We arrived at this accepted practice through a series of mistaken beliefs and misguided policies about youth's culpability; these have landed teenagers in adult criminal court, thus subjecting them—and, in some cases, mandating them—to LWOP. The Supreme Court is now reviewing the appropriateness of treating juveniles as if they were adults in a number of criminal matters and has thus far consistently concluded that youth are quite different than adults in their maturity, responsibility, and capability for reform.<sup>32</sup>

It is important to view our current situation in its historical context. The rise in juvenile life sentences reached its peak during the late 1990s in response to a temporary upswing in youth violence, yet the favored response was a permanent fix: the enactment of “adult crime, adult time” sanctions including life without parole for youth. Crime has now been declining for more than a decade and youth violence is at historic lows, but there is no evidence that JLWOP sentences have produced these declines.<sup>33</sup>

Over the past few decades, developments in the medical field have allowed scientists to observe individuals' cognitive development with improved precision; and these findings show that teenagers are indeed different. Finally, we previously knew less about the dangers of placing youth in adult prisons; today, we see that this practice creates threats to individual and public safety.

## A “Statutory Accident”

The imposition of life sentences for young teenagers has never been endorsed explicitly by state legislatures; rather, it came into being by way of a “statutory accident.”<sup>34</sup> In his opinion in *Graham v. Florida*, which eliminated JLWOP as a sentencing option for nonhomicides committed by juveniles, Justice Kennedy noted: “[t]he statutory eligibility of a juvenile offender for life without parole does not indicate that the penalty has been endorsed through deliberate, express and full legislative consideration.”<sup>35</sup> Similarly, in *Thompson v. Oklahoma*, which eliminated the death penalty for teens under 16, Justice O’Connor noted, “When a legislature provides for some 15-year-olds to be processed through the adult criminal justice system, and capital punishment is available for adults in that jurisdiction, the death penalty becomes at least theoretically applicable to some defendants...[H]owever, it does not necessarily follow that the legislatures in those jurisdictions have deliberately concluded that it would be appropriate.”<sup>36</sup>

Sentencing young people to life without parole only becomes an option once an individual is transferred to the adult system, and in at least 17 states, this sentence is mandatory upon conviction for specific crimes without regard to age. In Pennsylvania, for example, juveniles can receive a sentence of life without parole through two decisions over which a judge has no control. First a juvenile of any age charged with murder is automatically placed in the adult court system.<sup>37</sup> Second, upon conviction, all juveniles are required to be sentenced to life without parole. It is therefore not surprising that Pennsylvania leads the nation in these sentences. The majority of JLWOP sentences have been applied in states where the sentence is mandatory.<sup>38</sup>

## The Supreme Court's View on Appropriate Sentences for Juveniles

Evolving views on appropriate responses to juvenile crime are evidenced by recent Supreme Court decisions. In *Roper v. Simmons*, the Supreme Court ruled in 2005 that the death penalty was unconstitutional for people who were younger than 18 at the time of their offense.<sup>39</sup> The basis for this decision was largely derived from expert medical knowledge about adolescent brain development. Specifically, the Court rested its decision on the argument that the use of the death penalty was cruel and unusual for young people because it failed to meet the penological goals of retribution and deterrence. In order for a court's punishment goal of a retributive effect to take hold, one has to be fully culpable for his or her actions, but the undeveloped brain—inherent in adolescence—limits one's culpability.<sup>40</sup>

For deterrence to be an effective violence prevention strategy, one would have to believe that potential serious offenders were aware of the sentence they would receive and would be deterred by it. Criminologists fail to see evidence for this in the data, however. In reality, and as many parents would agree, young people often lack the foresight to appreciate the consequences of their actions. The fact is that most offenders—especially adolescents—do not believe they will be caught for their actions. As Justice Kennedy noted, “The same characteristics that render a juvenile less culpable than adults suggest...that juveniles will be less susceptible to deterrence.”<sup>41</sup>

In 2010 the issue of extreme sentences for juveniles received international attention once more when the U.S. Supreme Court relied on medical science to resolve that young people who commit nonhomicide offenses cannot be sentenced to life without parole. While the *Graham v. Florida* ruling affected less than 6% of the JLWOP population, it opened the door for review of the imposition of life sentences for all offenses committed by juveniles that bar any possibility for parole.

The case surrounded the constitutionality of imposing a life sentence on Terrance Graham, who was sentenced at the age of 17 for violating his probation by

committing a home invasion robbery, possessing a firearm, and associating with persons engaged in criminal activity. Despite a call by the prosecuting attorney for a shorter sentence, the judge sentenced Graham to life without parole. In his statement, he said:

*The only thing I can rationalize is that you decided that this is how you were going to lead your life and that there is nothing we can do for you.... We can't do anything to deter you. This is the way you are going to lead your life, and I don't know why you are going to...I have reviewed the statute. I don't see where any further juvenile sanctions would be appropriate...the only thing I can do now is to try to protect the community from your actions.<sup>42</sup>*

In the *Graham* decision, the Court refuted the sentencing judge's assessment of Graham's potential for reform, stating that it "...forswears altogether the rehabilitative ideal. By denying the defendant the right to reenter the community, the State makes an irrevocable judgment about that person's value and place in society." Here the Court acknowledged that the dismissal of rehabilitation as a viable goal for juvenile offenders is in direct violation of society's preferred response to young offenders established over a century ago.

The Supreme Court is now taking up the issue again and will soon consider the constitutionality of applying JLWOP sentences to very young offenders convicted of homicide in situations where the sentence was mandatorily applied as well as situations where the convicted offender was not the principal actor.<sup>43</sup>



## IMPACT OF JLWOP ON INDIVIDUALS AND PUBLIC SAFETY

### Harmful Consequences of Juvenile Transfer

Treating juveniles as if they were adults in criminal matters has proven to be a failure for public safety. There is now a growing body of evidence that has emerged on the array of problems associated with this practice. Many state policymakers are beginning to reconsider transfer policies and are shifting youth back to the juvenile courts where they were previously handled. Mississippi, Connecticut, and Illinois have all enacted legislation in the past several years that limits the ability to transfer juveniles to the adult system.<sup>44</sup>

A key factor contributing to this shift is the consistent finding that placing youth in the adult system creates problems for the community later, as transferred youth are more likely to recidivate upon release and their offenses are more likely to be violent than similar youth who were retained in the juvenile system.<sup>45</sup> Young people in the adult system are significantly more likely to be sexually and physically assaulted than if they had been retained in the juvenile justice system.<sup>46</sup> In addition, several studies demonstrate higher rates of criminal activity upon release. And, research notes the absence of a noticeable deterrent effect of transfer laws in lowering juvenile crime. In 2010, the federal Office of Juvenile Justice and Delinquency Prevention issued a report enumerating these documented problems associated with transferring youth to criminal court. “Thus, the extant research provides sound evidence that transferring juvenile offenders to the criminal court does not engender community protection by reducing recidivism. On the contrary, transfer substantially increases recidivism.”<sup>47</sup>

## JLWOP and Violent Crime

The expansion of transfer laws resulted in a rise in the use of juvenile life without parole in the mid-1990s. While some observers suggest that imposition of these sentences was responsible for the decline in crime that developed in the early 1990s, there is much reason to be skeptical about such claims. First, the imposition of JLWOP sentences reached its peak in 1996, several years after juvenile crime rates had already begun to decline. In studies to date, the overall effect of increased incarceration on reducing crime has been estimated to be no more than 10% to 25% of the violent crime decline.<sup>48</sup> Instead, the decline has more to do with restrictions on the availability of handguns, enhanced community-based policing strategies, changing landscape of the drug market, and a stronger economy in the 1990s.<sup>49</sup> As a result, crime went down nearly everywhere, both in states where JLWOP is permitted as well as states where it is prohibited.

A recent study investigated the impact of the U.S. Supreme Court's decision to eliminate the death penalty as a sentencing option for those under 18 on juvenile homicide rates. Controlling for relevant factors, the researchers failed to find a change in the frequency of juvenile homicides after the decision.<sup>50</sup> In other words, there had been no deterrent effect of the death sentence on juvenile homicides above any general deterrent effect of the justice system.

As a case in point, consider New York City, lauded nationally as achieving some of the greatest declines in crime over the past two decades. New York City, along with many other urban areas, suffered from high levels of violence in the late 1980s and early 1990s. The state has since experienced steadily falling crime rates, largely because of improved policing practices, better utilization of crime data, waning crack markets, and enhanced reliance on community-based detention alternatives. From 1990 to 2000, New York City experienced a 73% drop in homicides, almost twice the national level.<sup>51</sup> Juvenile homicide arrests in New York declined 67.3% during this time, also substantially more than the national decline for juvenile homicide arrests during this period (52.7%).

What is significant here is that New York is a state that does not permit juveniles to receive life without parole except in cases of terrorism<sup>52</sup> and there are no juveniles serving life without parole sentences in the state. Therefore, the state recorded these unprecedented gains despite the absence of any potential deterrent effect of JLWOP sentences.

### **The Cost of Life Sentences**

Life-sentenced inmates will grow old in prison and eventually die, but before they do, they will require substantially greater health care and medical services. Thus, life sentences add to the rising geriatric prison population and place heavy financial burdens on states. The average cost of incarcerating a person is \$22,000 annually.<sup>53</sup> A life sentence that begins in one's late teens can be expected to last at least 55 years. But with rising costs of older inmates, beginning at age 55, the annual cost is closer to \$65,000,<sup>54</sup> yielding a lifetime cost to taxpayers of \$2 million per prisoner. Most state departments of corrections report spending over 10% of their annual budget on the health care and housing needs of elderly prisoners.<sup>55</sup>

## RECOMMENDATIONS FOR REFORM

Public safety is compromised when at-risk youth are not provided with adequate, evidence-based, early intervention and violence prevention programming. As a society we can invest early in the lives of high-risk youth to provide skills and support and thus alter the pathways that lead to crime. Waiting until a young person commits a serious violent crime before positively intervening in his or her life is both cruel and misguided. Instead of immersion in evidence-based prevention and early intervention programming to offset their risk factors, for too many individuals, their first formal “intervention” is a life-without-parole sentence.

The seriousness of the crimes committed by these individuals cannot be dismissed. All juvenile lifers were convicted of serious crimes and usually a life has been lost. Family members of victims have had a terrible injustice done to them and their lives are forever changed. There is little support for victims in the criminal justice system in terms of healing from the loss and compensating for the harms done; surviving family members are frequently left out of the justice process despite how intimately they are involved in the offense that occurred.

### **Eliminate Juvenile Life Without Parole (JLWOP)**

Enactment of laws that allowed for lifelong prison sentences occurred in the absence of comprehensive review, expertise, and careful weighing of the consequences of a juvenile life-without-parole sentence. We are not aware of a single hearing at the state or federal level on the appropriateness of JLWOP until recent years; some juvenile lifers had already been imprisoned for decades before the appropriateness of this sentence for youth offenders was brought into question. Only a handful of studies on the matter have been produced.

Responses to some of the questions that have now emerged suggest that these questions ought to have been considered long before thousands of lives were forever changed by a sentence that would fate them to die in prison. It is far too simple to pass harmful criminal justice policies and far too difficult to undo them once the damage is realized.

Eliminating juvenile life without parole would not result in serious, violent offenders escaping punishment. Instead, this would involve adoption of punishments proportionate to the crime while considering an offender's age, maturity, and capacity for personal transformation through rehabilitation. The imposition of sentences that deny any hope for release contradicts what we know about young people's potential for change. There is a wide gap between the view that some youthful offenders deserve stiff punishment and the perspective that no juvenile, under any circumstance, should ever be afforded the opportunity to seek release from imprisonment.

### **Allow and Encourage Life-Sentenced Inmates to Engage in Rehabilitation Programming**

Rehabilitation programming in prison is often reduced in corrections budgets in times of fiscal constraints, despite the reality that 93% of prisoners return home.<sup>56</sup> For life-sentenced inmates, the opportunities for rehabilitation are even slimmer; the limited number of available slots are generally reserved for those who will be released the soonest, so lifers are consistently pushed to the back of the line, if they are permitted to engage in programming at all. This is especially problematic for juveniles with life sentences, as their sentences are, by definition, longer than most. Many youth whose life sentences were determined to be unconstitutional in 2010 under the *Graham v. Florida* ruling now face challenges in demonstrating reform in order to be considered for release, as some have been denied the opportunity for programming because of their life sentences. This poses a challenge to the Supreme Court's requirement that, "What the State must do, however, is give

defendants...some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.”<sup>57</sup>

### **House Youth in Age-Appropriate Settings Pre-Trial and Post-Conviction**

To the extent that some youth will continue to be transferred to adult court and processed as if they were adults, this does not mean that they need to be housed with older, adult offenders and have their lives put in danger on a daily basis because of their physical and psychological vulnerabilities. Instead, youth placed in the adult system should be housed separately from adults and commingling should be prohibited. Ideally, youth serving long sentences should be placed in juvenile detention centers until their early 20s before being transferred to an adult facility.

### **Address Racial Disparities**

Racial and ethnic disparities observed at this stage of the system are greater than elsewhere in the spectrum of sanctions for juveniles who commit crime. While some disparity might be explained by differential treatment in the justice system, we also know that since a high proportion of juvenile lifers are from poor, high-violence neighborhoods, this can contribute to higher rates of involvement in serious crime. Greater investment in prevention and early intervention strategies in high-need communities would result in lower incidences of life sentences for juveniles. In addition, closer inspection of the racial dynamics between offenders and their victim(s) in lengthy sentences including JLWOP sentences may reveal unwarranted racial disparity in sentence imposition. Though most of the attention on this topic is devoted to death sentences, there is good reason to expand such analysis to other death-in-prison sentences. Building on evidence from death penalty research, analysis of racial dynamics between offender and victim in the allocation of JLWOP sentences, both retrospective and prospective, will allow better understanding about how sentences are applied.<sup>58</sup>

## Invest in Prevention, Not Warehousing

Instead of spending scarce resources on warehousing lives that could be transformed, we could be spending money more wisely, helping victims, and improving public safety. The nonpartisan American Law Institute recommends a “second look” after 10 years of imprisonment for life-sentenced youth.<sup>59</sup> Notwithstanding the probability that most prisoners would not be granted release after only 10 years, if even one eligible inmate was determined to be ready for release upon this “second look,” this could save a typical state \$1.8 million in needless incarceration. The money saved could instead be directed at prevention and intervention programs that have a strong evidence-base in lowering crime: preschool programs, parenting skills development, multi-systemic therapy, vocational training, substance abuse treatment, and a host of other effective interventions that would reduce crime and repair families and communities from damage associated with violence.

*As kids we know right from wrong but we do not know the full consequences.  
Please ask people to give us a second chance.*

Juvenile Lifer, Michigan

## **APPENDIX: METHODOLOGY**

The aim of our national survey of juvenile lifers was to learn more about this population using self-report data obtained directly from the individuals serving these sentences. In order to accomplish this, we drafted a 15-page, 76-question paper-and-pen survey to be answered by the sentenced prisoners themselves. The survey questions were derived from known factors that correlate with engagement in delinquency, including attachment to school, family functioning, community crime, family imprisonment history, and physical and sexual abuse history. The survey also asked a series of questions pertaining to the courtroom experience, the prison atmosphere, engagement in rehabilitation programming, disciplinary actions since arriving at prison, and visitation with family and friends.

The Sentencing Project conducted its data collection phase of this study between October 2010 and August 2011. We obtained mailing addresses of all individuals serving life without parole for crimes committed before their 18<sup>th</sup> birthday by contacting each state's department of corrections for this information. We then contacted each juvenile lifer with a cover letter and a survey.

### **Preparation of Survey Questions**

Our objective in this research was to learn more about the lives of juvenile lifers and provide a more complete picture of their lives at the time of the offense as well as their lives today. To create the questionnaire, we consulted with a variety of researchers, practitioners, advocates, and attorneys to gain their feedback on question items. We also consulted the relevant academic literature to determine the appropriate and necessary domains to cover in our survey.



## **Survey Administration**

We developed and followed a systematic process for obtaining names, prison identification numbers, and mailing addresses of all those who qualified for our survey. To each inmate who was identified as a juvenile lifer and for whom we had a valid mailing address, we sent one copy of the complete questionnaire, a cover letter, and a self-addressed stamped envelope if possible. Some states did not allow this (e.g., Michigan) so inmates were asked to obtain a stamp on their own. Surveys were in the field between October 2010 and August 2011.

Individuals in Arizona and California received the survey in both English and Spanish because of the increased probability of Spanish-speaking inmates in these two states. We received five completed surveys in Spanish.

We sent a second survey to inmates in states with an initial response rate of under 65%. Second surveys were sent in November 2010 to the following states: Alabama, Arizona, Colorado, Maryland, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, Oklahoma, South Carolina, Tennessee, and Washington.

In the cover letter, we introduced the purpose of our research and requested participation while also informing recipients that they would receive neither benefit nor consequence for participating in our study.<sup>60</sup> We informed inmates who were currently represented by an attorney to alert them to this questionnaire and gain their consent. For each survey, we also provided a self-addressed, stamped envelope whenever this was allowed by the prison.

## **Gaining Institutional Review Board Approval**

Three states requested that we submit a research proposal to their institutional review board (IRB) before they would release the prisoners' names and/or allow us to

administer surveys to them. Upon approval from the IRB in Pennsylvania and Michigan, we received a list of the JLWOP inmates in their prisons. In Massachusetts, the procedure was slightly different; to further protect the anonymity of their inmates, the prisons delivered the IRB-approved survey directly (rather than allowing us to mail them). Inmates were instructed to send their completed surveys to us. It is because of this extra step that Massachusetts' response rate is substantially lower (39.0%) than other states.

### **Protecting Inmate Privacy**

The sole reason we originally requested identifying information about the prisoners serving JLWOP sentences was to send them our cover letter and questionnaire. Once we received and entered all of the information from the completed questionnaires, we discarded all identifying information. Survey data information is not identifiable by name.

### **Procedure for Handling Ongoing Litigation**

In instances where survey candidates had their cases in court, we worked with each state's lead litigators to ensure the protection of their clients. In Pennsylvania and in Michigan, we elected not to survey about two dozen juvenile lifers who are currently appealing their cases. In addition, we determined that it would not be feasible to survey any of the juvenile lifers in Louisiana because of ongoing litigation. The final number of surveys sent to the remaining juvenile lifers was 2,309. In response we received 1,579 completed surveys, yielding a response rate of 68.4%.

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- <sup>7</sup> Six states forbid JLWOP sentences and in 11 states and the District of Columbia, JLWOP is allowed but not used. The six states that prohibit JLWOP are Alaska, Colorado, Kansas, Kentucky, Montana, and Texas. Colorado prohibited JLWOP in 2007 and Texas prohibited JLWOP in 2009; the law was not made retroactive in either state, so there are still individuals serving life sentences in these two states. The 11 states that allow JLWOP but do not currently use it are Hawaii, Indiana, Maine, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Vermont, West Virginia, Wyoming, and the District of Columbia.
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- <sup>23</sup> Fox, J. A. and Swatt, M. L. (2009). *Uniform Crime Reporting Program Data [United States]: Supplementary Homicide Reports with Multiple Imputation, Cumulative Files, 1976-2007 [Computer file]*. Compiled by the Northeastern University, College of Criminal Justice. ICPSR24801-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor]. Only states from which JLWOP surveys were received are included in this analysis.
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- <sup>25</sup> Fox, J. A. and Swatt, M. L. , *supra* note 23.
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- <sup>33</sup> *Kuntrell v. Hobbs*; *Miller v. Jackson*, In the U.S. Supreme Court, Brief of Jeffrey Fagan et al., as *Amicus Curiae* in support of petitioner, January 17, 2012.
- <sup>34</sup> *Commonwealth of Pennsylvania v. Jovon Knox* 599 WDA 2009.
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- <sup>37</sup> Pennsylvania technically allows a reverse waiver of a case back to juvenile court but in practice it is almost never used.
- <sup>38</sup> States defined as having mandatory JLWOP sentences upon conviction for homicide are: Alabama, Arkansas, Delaware, Florida, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, Pennsylvania, South Carolina, and South Dakota. These states are determined to be mandatory JLWOP states because upon conviction, the court must sentence the defendant to LWOP and cannot impose a lesser sentence based on age.
- <sup>39</sup> 543 U.S. 551 (2005).
- <sup>40</sup> *Roper v. Simmons*, In the U.S. Supreme Court, Brief of the American Psychological Association as *Amicus Curiae* in support of petitioner, July 19 2004; see also, Grisso, T., and Schwartz, R. (eds.). (2000). *Youth on trial: A developmental perspective on juvenile justice*. Chicago: University of Chicago Press.
- <sup>41</sup> *Roper v. Simmons* 543 US 551 (2005).
- <sup>42</sup> *Graham v. Florida* 130 S. Ct. 2011 (2010).
- <sup>43</sup> *Miller v. Alabama* USSC No. 10-9646; *Jackson v. Hobbs* USSC No. 10-9647.
- <sup>44</sup> Arya, N. (2011). *State trends: Legislative victories from 2005 to 2010: Removing youth from the adult criminal justice system*. Washington, DC: Campaign for Youth Justice.

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- <sup>45</sup> Steiner, B. and Wright, E. (2006). Assessing the relative effects of state direct file waiver laws on violent juvenile crime: Deterrence or irrelevance? *Journal of Criminal Law and Criminology*, 96:1451-1478.
- <sup>46</sup> Woolard, J., Odgers, C., Lanza-Kaduce, L., and Daglis, H. (2005). Juveniles in adult corrections settings: Legal pathways and developmental considerations. *International Journal of Forensic Mental Health* 4(1): 1-18.
- <sup>47</sup> Redding, R. (2010). *Juvenile transfer laws: An effective deterrent to delinquency?* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, p. 6.
- <sup>48</sup> Spelman, W. (2000). The limited importance of prison expansion. In Blumstein and Wallman, *The Crime Drop in America*, Eds. Cambridge, Cambridge University Press; Western, B. (2006). *Punishment and inequality in America*. New York: Russell Sage Foundation.
- <sup>49</sup> King, R., Mauer, M., and Young M. (2005). *Incarceration and crime: A complex relationship*. Washington, DC: The Sentencing Project.
- <sup>50</sup> Flexon, J., Stolzenberg, L., and D'Alessio, S. J. (2011). Cheating the hangman: The effect of *Roper v. Simmons* decision on homicides committed by juveniles. *Crime and Delinquency* 57(6): 928-949.
- <sup>51</sup> Zimring, F., *supra* note 3, p.13.
- <sup>52</sup> New York Penal Law §490.25(d).
- <sup>53</sup> Stephan, J. (2004). *State prison expenditures, 2001*. Washington, DC: Bureau of Justice Statistics.
- <sup>54</sup> National Institute of Corrections (2004). *Corrections Health Care: Addressing the needs of elderly, chronically ill, and terminally ill inmates*. Washington, DC: National Institute of Corrections.
- <sup>55</sup> Aday, R. (2003). *Aging prisoners: Crisis in American prisons*. Praeger: Westport.
- <sup>56</sup> Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. Oxford: Oxford University Press.
- <sup>57</sup> *Graham v. Florida* 560 US 2011 (2010).
- <sup>58</sup> In 2009, the North Carolina legislature passed the Racial Justice Act (North Carolina Code §15A-2010), which permits death row inmates to present evidence of racial bias in court if they suspect their race or the race of the victim affected the sentence they received.
- <sup>59</sup> American Law Institute (October, 2010). *Model penal code: Sentencing: Council draft No. 3*. Philadelphia: American Law Institute.
- <sup>60</sup> A copy of the cover letter and survey questions is available upon request.

**FURTHER READING AVAILABLE AT [www.sentencingproject.org](http://www.sentencingproject.org):**

No Exit: The Expanding Use of Life Sentences in America

Throwing Away the Key: The Expansion of Life without Parole Sentences in the United States

The Sentencing Project's Amicus Brief for *Graham v. Florida* and *Sullivan v. Florida*

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