

## The Rest of Their Lives: Life without Parole for Child Offenders in the United States

Children can and do commit terrible crimes. When they do, they should be held accountable, but in a manner that reflects their special capacity for rehabilitation. In the United States, however, all too often their punishment is no different from that given to adults. In forty-two states and under federal law, the commission of a serious crime by youth under eighteen—indeed in some states children as young as ten—transforms them instantly into adults for criminal justice purposes. Children who are too young to buy cigarettes legally, who may not have started to get facial hair, who still have stuffed animals on their beds, are tried as adults. If convicted, they receive adult prison sentences, including life without parole (LWOP).

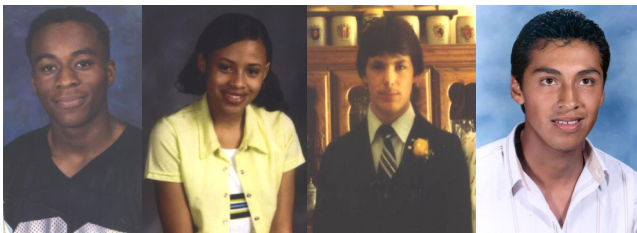
A sentence of life without parole for child offenders is cruel, unfair, and unnecessary. It sends an unequivocal message to youth that they are beyond redemption. It erroneously presumes that other forms of punishment would not serve the public's interests equally well. It also ignores the differences between adults and children—differences we accept as a matter of common sense, and which science fully recognizes.

### ***Life without Parole for Children: A Nationwide Problem***

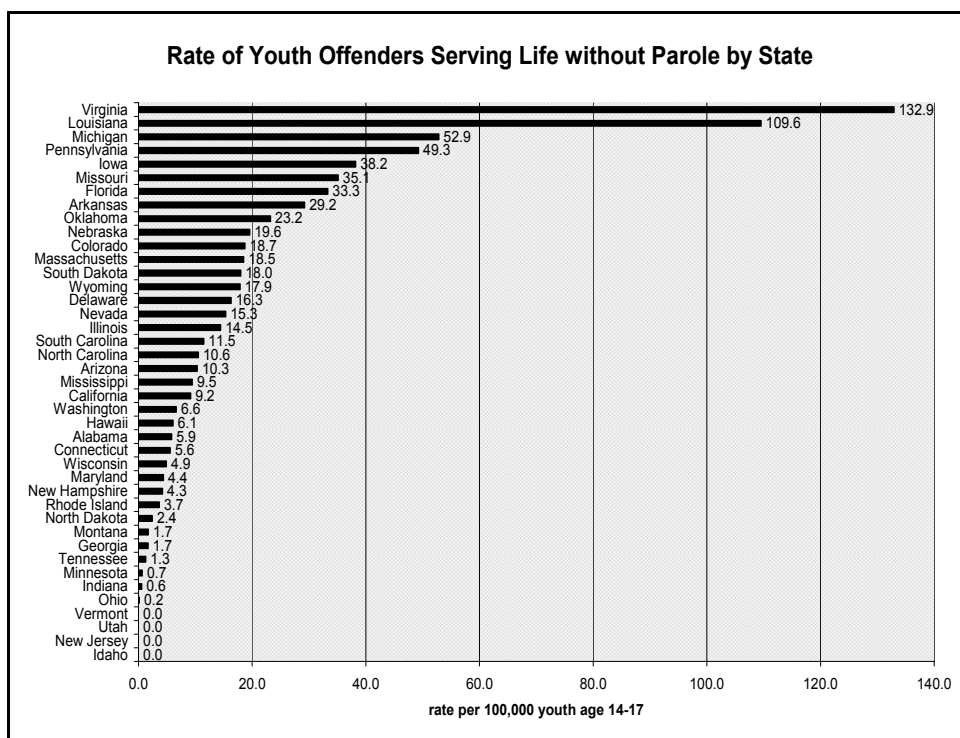
Since there are no publicly available data, Human Rights Watch and Amnesty International engaged in a year of detailed research to determine the number of young offenders sentenced to life without possibility of parole in the United States. While there appear to be only about a dozen youth serving the sentence in the rest of the world, the data we gathered show that there are at least 2,225 youth offenders serving life without parole in the United States. These offenders are predominantly male (only 2.6 percent are female), and the majority are African-American (60 percent). Sixteen percent were fifteen or younger when they committed their crimes. There is great variation in the rate at which youth receive the sentence in each state.

**This brochure summarizes *The Rest of Their Lives*, a report by Human Rights Watch and Amnesty International.**

***The Rest of Their Lives* reveals for the first time that there are at least 2,225 young offenders serving life without parole sentences in U.S. state and federal prisons.**



Four young offenders serving life without parole sentences in U.S. prisons; the pictures depict each of them within a few months of their arrests. They were (from left to right) age seventeen, fourteen, sixteen, and fifteen when they committed their crimes.



Source: Data provided by thirty-eight state correctional departments and additional other sources for the states of Alabama and Virginia. Population data were obtained from Population Division, U.S. Census Bureau, "Table 2: Annual Estimates of the Population: April 1, 2000 to July 1, 2003," released in September 2004, available online at: <http://www.census.gov/popest/states/asrh/SC-EST2003-02.html>, accessed on August 30, 2005.

### **Crimes That Can Lead to a Life without Parole Sentence**

State and federal laws recognize the immaturity and irresponsibility of children. For example, they typically establish eighteen as the minimum age to get married without parental consent, to vote, to sign contracts, or to serve on a jury. However, as youth and adult crime rates rose in the late 1980s and early 1990s, states and the federal government decided to treat more young offenders as adults. Politicians and the public feared they were being besieged by "super-predators"—youth who were repeatedly convicted of violent offenses. In response, states decided to try youth as adults and to send greater numbers of those convicted to adult prison, some with life without parole sentences. The actual profiles of these youth show how misguided and unnecessary that decision was.

**59 percent of youth offenders serving life without parole received the sentence for their first-ever criminal conviction of any sort.**

- The majority of youth sentenced to life without parole are first offenders. Prior to the crime for which they were sentenced to life without parole, an estimated 59 percent had neither an adult criminal record nor a juvenile adjudication. The other 41 percent had criminal records that ranged from convictions as adults for serious crimes such as robbery, to juvenile offenses such as getting into fights with other teenagers.

- An estimated 26 percent of youth offenders were convicted of felony murder crimes. These are crimes in which teens commit a felony such as robbery during which another participant in the crime kills someone, often without the child offender having intended the murder to occur—and sometimes without even knowing the other participant was armed. Many of these felony murder crimes were robberies that went awry, often involving a group of offenders, at least one of whom was an adult.
- Our interviews suggest that young offenders sentenced to life without parole are not the cold, calculating criminals the public fears. Many committed unplanned, impulsive, and sometimes reckless crimes.

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### **Life without Parole for Felony Murder**

Peter A. was fifteen years old, a sophomore in high school, and living at home with his family in Chicago, Illinois when he committed his crime. Peter spent much of his time with his adult older brother, with whom Peter would “go to the movies and go go-cart racing” and for whom Peter would sometimes act as a drug courier. After two individuals stole both drugs and money from his brother’s apartment, in retaliation, and at the instruction of his brother, Peter helped to steal a van in order to drive to their home to recover the drugs and money.

Peter stayed in the van while two others went inside. He heard shots, and a few seconds later one of the men came running out of the house. Two people had been killed.

Peter was held accountable for the double murder, because it was proven he had stolen the van used to drive to the victims’ house. He was sentenced to life without possibility of parole even though the judge called Peter “a bright lad” with “rehabilitative potential.” It was a mandatory sentence; the judge had no discretion to decide otherwise.

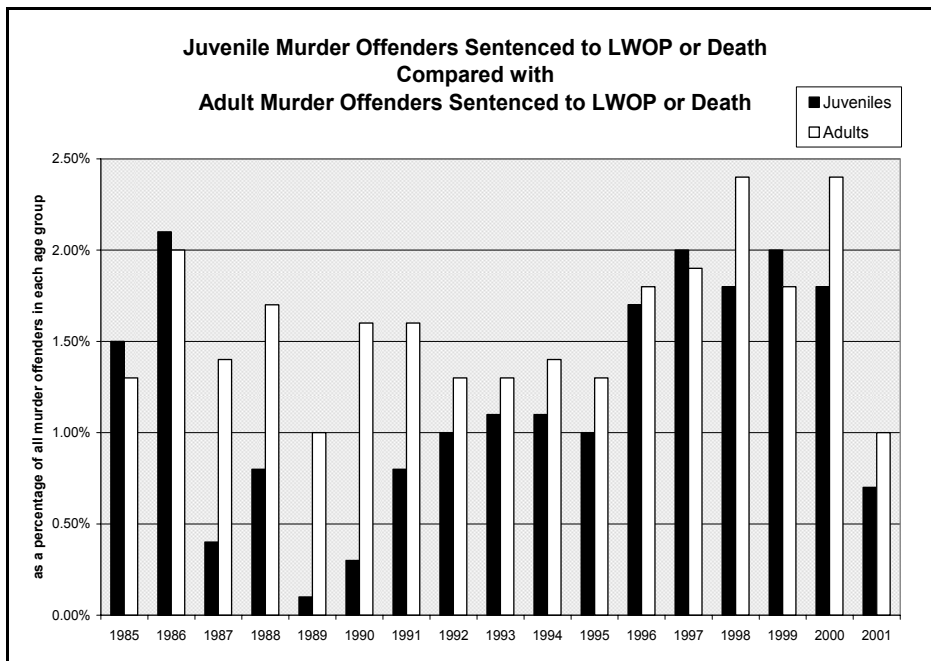
### **Harsh Sentencing Practices**

The annual number of child offenders sentenced to life without parole began to increase in the late 1980s, reaching 50 in 1989. It peaked in 1996 at 152, and then began to drop off; in 2003, 54 child offenders entered prison with the sentence. But states have by no means abandoned the use of life without parole for child offenders: the estimated rate at which the sentence is imposed on children nationwide remains at least three times higher today than it was fifteen years ago. In fact, the proportion of certain youth offenders who receive life without parole has been increasing, suggesting a tendency among states to punish them with increasing severity. For example, in 1990 there were 2,234 youth convicted of murder in the United States, almost three percent of whom were sentenced to

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life without parole. Ten years later, in 2000, the number of youth murderers had dropped to 1,006, but 9 percent were sentenced to life without parole.

In addition, in eleven out of the seventeen years between 1985 and 2001, youth convicted of murder in the United States were more likely to enter prison with a life without parole sentence than adult murder offenders. Even when we consider murder offenders sentenced to either life without parole or death sentences, in one quarter of those seventeen years, youth were more likely than adults to receive one of those two most punitive sentences.



In one quarter of the years between 1985 and 2001, youth were more likely than adults to be sentenced to life without parole or death.

Source: The data are from the National Corrections Reporting Program (NCRP). The NCRP is sponsored by the Bureau of Justice Statistics (BJS), U.S. Department of Justice and evolved from the need to consolidate data on corrections at the national level. Its objective is to provide a consistent and comprehensive description of prisoners entering and leaving the custody or supervision of state and federal authorities. NCRP data downloads are available online at <http://www.icpsr.umich.edu/NACJD/NCRP/>, accessed on September 6, 2005.

### Life in Prison

No one, offenders included, expects prison to be a pleasant place. But there is a considerable incongruity between the physical or mental maturity of young prisoners and the kinds of experiences and people prison forces them to confront.

The vast majority of youth serving life without parole have had violent experiences in prison. Many child offenders get into fights with other inmates in order to defend themselves from physical violence, including rape.

- Jackson W., who entered prison at age seventeen with a life without parole sentence, said that he was hospitalized in prison in Arkansas because, “I got stabbed a couple times. . . . I got my head busted by locks. That’s a small weapon, but they still hurt.”
- Andrew H., who was sixteen at the time of his crime and entered prison with life without parole at the same age, explained that he was hospitalized after being “stabbed in the left shoulder helping a guy that I knew when others tried to rape him.”

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Rape is a particular risk for child offenders because they come to prison so young.

- Luke J., who came to prison at age nineteen but admitted that he had always been “real skinny” and always looked younger than his age, said: “When I first came into prison [a] dude told me that he was gonna make me his ‘bitch’ and he beat me up real bad.”

Once in prison, it is difficult for child offenders to fathom what the life without parole sentence actually means.

- One young man said: “I started doing drugs [when I came to prison]. I mean I always smoked weed, but then I started doing like heroin and stuff. Sometimes I try to escape. I went to mental health one time and they put me on a pain killer. I told them I was starting to have suicidal thoughts . . . and they said that was normal and just go back to my cell. I cut up my wrist. Well, I thought that drugs helped me to escape. But then reality is still here when I wake up.”

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Not surprisingly, child offenders sentenced to life without parole believe that American society has thrown them away. As one young man wrote to Human Rights Watch, “I’m very depressed because life without parole is the reality I face every day, all day. I’m paranoid about people in general. I trust no one and I honestly believe there is no good person on the face of the earth.”

### ***Life without Parole and International Human Rights***

U.S. courts repeatedly have recognized the salient differences between adults and young offenders, most recently in a 2005 Supreme Court decision abolishing the juvenile death penalty. International human rights law also acknowledges those differences and requires governments to take them into account. The global rejection of life without parole (as well as the death penalty) for young offenders

is overwhelming: the United States is an international anomaly.

The Convention on the Rights of the Child (CRC), the world's most universally ratified human rights treaty, codifies international safeguards for children. The CRC unequivocally prohibits sentencing children to life sentences without parole. Article 37(a) states:

Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.

The United States and Somalia are the only two countries in the world that have failed to ratify the CRC. However, the United States signed the CRC on February 16, 1995. As a signatory to the treaty, the United States is obligated not to contravene its object and purpose. Permitting life without parole sentencing for children directly violates at least one article and arguably the purpose of the CRC.

At least 132 countries have rejected life without parole sentencing for youth. These countries do not consider the sentence a necessary weapon in their crime-fighting arsenals. For example, not one of the original fifteen member states of the European Union allows children to be sentenced to life without parole. In the thirteen countries worldwide we know of (outside of the United States) that have laws allowing for youth offenders to be sentenced to life without parole, there are only about a dozen youth who are serving the sentence.

### ***Just Sentencing for Children***

Lawmakers do not face a choice of being “soft on crime” or supporting life without parole for teen offenders. They can protect community safety, save on incarceration costs, and save youth. Giving youth offenders a second chance would align U.S. sentencing practices with the rest of the world and with the goals of criminal punishment.

In the United States, criminal punishment is measured against the success or failure of four goals: rehabilitation, retribution, deterrence, and incapacitation. Sentencing children to life without parole fails to measure up on all four counts.

After a couple of decades of ignoring the goal of **rehabilitation**, the United States is moving back to recognizing it as crucial to community safety. Life without parole not only does not further this goal, it negates it. The sentence sends an unequivocal message to youth offenders that they are banished from the community forever, no matter how they change or grow.

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Proponents of life without parole believe the sentence is necessary in order to ensure **retribution**—that society metes out the worst punishment for the worst offenses. However, while children can commit the same acts as adults, by virtue of their immaturity they cannot be as blameworthy or culpable. They do not have adults' developed abilities to think, to weigh consequences, to make sound decisions, to control their impulses, and to resist group pressures; their brains are anatomically different, still evolving into the brains of adults.

Neuroscientists conducting magnetic resonance imaging (MRI) research have uncovered striking differences between the brains of adolescents and those of adults, showing that children have physiologically less developed means of controlling themselves. These findings suggest that states should re-examine their sentencing laws to ensure that children are not sentenced as if they were adults.

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Supporters of the life without parole sentence also claim that children who pause to consider the consequences before committing homicide will be **deterred** if they face harsh sentences such as life in prison without parole. But young people rarely pause before acting, and when they do, research has failed to show that the threat of adult punishment deters adolescents from crime. Deterrence is also unlikely given that adolescents cannot really grasp the true significance of the sentence.

**Incapacitation** as a justification for life without parole sentences falters because some proportion of child offenders can rehabilitate and become productive members of society. No one can deny that life without parole makes a direct contribution to public safety to the extent that locking up kids prevents them from committing additional crimes. But the need to protect public safety and to incapacitate a particular offender ends once he or she has been rehabilitated. There is no basis for believing that all or even many of the children who receive life without parole sentences would otherwise have engaged in a life of crime. Our research indicates that many child offenders received life without parole for their first offense. There is little in their histories to warrant the assumption that they would not grow up and be rehabilitated if they were spared a lifetime in prison.

**Many children received life without parole for their first offense. Why assume that they would not grow up and be rehabilitated if they were spared a lifetime in prison?**

The terrible crimes committed by children can ruin lives, causing injury and death. The sentencing choices of the United States must reflect the harm these children have caused. But it must also acknowledge that these youth are not all terrifying, inherently violent teenagers. Recognizing their capacity to grow and to transform themselves is deeply embedded in human rights principles. Instead of violating those principles with regularity, the United States should vigorously uphold them.

## **Recommendations**

The United States must stop sentencing youth offenders to life without possibility of parole. Specifically, Human Rights Watch recommends that:

### **To the Federal Government**

- Abolish the sentence of life without parole for child defendants charged with violating federal laws.
- Ratify the Convention on the Rights of the Child without reservation.
- Condition the funding of state programs under the Juvenile Justice and Delinquency Prevention Act upon the elimination of life without parole sentences for child offenders.

### **To State Lawmakers**

- Enact legislation that abolishes the sentence of life without parole for any offense committed by a child. Such legislation should include a retroactivity provision enabling current child offenders serving life without parole to have their cases reviewed by a court for re-assessment and re-sentencing to a sentence with the possibility of parole.
- Develop and publish annual statistics on youth in the adult criminal justice system, including: demographic information (age, race, sex), data on children tried in adult criminal court, the manner by which each child reached adult criminal court (e.g. transfer, direct file), the nature of the crimes alleged, existence of prior adult record, and if convicted, the precise sentence received.

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### **To State and Federal Departments of Corrections**

- Take into account the mental and physical maturity of incarcerated youth offenders when allocating cells or other housing within correctional facilities.
- Provide mental health and social services to assist youth offenders with adjusting to prison conditions as well as coping with the length of their sentences.

To download free of charge the full text of ***For the Rest of Their Lives***, please visit Human Rights Watch's website at:  
**<http://hrw.org/reports/2005/us1005/>**.  
On the website you can also view photos and listen to audio clips of youth offenders serving life without parole.



## Executive Summary

State	Total youth offenders serving LWOP	Youth serving LWOP per 100,000 14-17 yr. olds	Rank from highest to lowest rate of sentencing youth to LWOP (out of 40 states)
Alabama	15	5.86	25
Arizona	30	10.33	20
Arkansas	46	29.21	8
California	180	9.18	22
Colorado	46	18.75	11
Connecticut	10	5.58	26
Delaware	7	16.31	15
Florida	273	33.32	7
Georgia	8	1.71	32
Hawaii	4	6.08	24
Idaho	data missing	data missing	data missing
Illinois	103	14.46	17
Indiana	2	0.57	36
Iowa	67	38.23	5
Louisiana	317	109.56	2
Maryland	13	4.41	28
Massachusetts	60	18.49	12
Michigan	306	52.87	3
Minnesota	2	0.66	35
Mississippi	17	9.48	21
Missouri	116	35.13	6
Montana	1	1.71	33
Nebraska	21	19.57	10
Nevada	16	15.35	16
New Hampshire	3	4.25	29
New Jersey	0	0	38
North Carolina	44	10.55	19
North Dakota	1	2.44	31
Ohio	1	0.15	37
Oklahoma	49	23.21	9
Pennsylvania	332	49.27	4
Rhode Island	2	3.69	30
South Carolina	26	11.5	18
South Dakota	9	17.99	13
Tennessee	4	1.29	34
Utah	0	0	39
Vermont	0	0	40
Virginia	48	132.94	1
Washington	23	6.65	23
Wisconsin	16	4.91	27
Wyoming	6	17.88	14
Federal	1	n/a	n/a
National	2225	17.35	n/a

