

The Rest of Their Lives: Life without Parole for Youth Offenders in the United States in 2008

Youth (persons below the age of 18) can and do commit terrible crimes, causing enormous suffering to victims and their families. When youth commit such crimes, they should be held accountable, but in a manner that reflects their age and immaturity and their special capacity for rehabilitation. Instead, in 39 US states and under federal law, teens who are too young to vote, buy cigarettes, or serve on the juries they appear before, are tried as adults and, if convicted, are sentenced to juvenile life without parole (JLWOP). Life without parole means that a young person is sentenced to die in prison.

This brochure updates *The Rest of Their Lives*, a report first published in 2005.

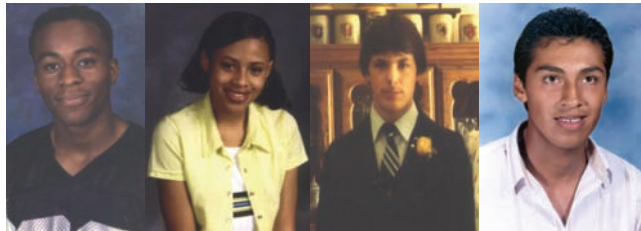
A sentence of juvenile life without parole is cruel, unfair, and unnecessary. It sends an unequivocal message to youth that they are beyond redemption. It erroneously presumes that allowing youth offenders a parole hearing (which is not a guarantee of release) would fail to protect public safety and be unfair to victims. It also ignores the differences between adults and children—differences we accept as a matter of common sense, and which science fully recognizes.

Summary of New Findings in 2008

- There are currently 2,484 persons in US prisons serving sentences of life without parole for crimes committed when they were under the age of 18.
- In 11 states, black youth arrested for murder are significantly more likely to be sentenced to JLWOP than are white youth arrested for the same crime.
- There are no youth serving JLWOP anywhere else in the world.

There are 2,484 youth serving life without parole in the US and none in the rest of the world.

Four youth offenders serving life without parole sentences in US prisons; the pictures depict each of them within a few months of his or her arrest. They were (from left to right) age seventeen, fourteen, sixteen, and fifteen when they committed their crimes. © 2005 Private.



Life without Parole for Youth: A Nationwide Problem

As of May 2008, Human Rights Watch has calculated that there are 2,484 youth offenders serving life without parole in the United States—up from the 2,225 we reported in 2005. The higher number is due primarily to improvements in state data reporting rather than significant increases in JLWOP sentencing rates.

Youth serving JLWOP across the country are predominantly male (only 2.6 percent are female), and the majority are black (60 percent). Sixteen percent were 15 or younger when they committed their crimes. Figure 1 (below) gives the state distribution of the 2,484 youth serving JLWOP sentences.

In some states, a sentence of JLWOP is mandatory once a youth is convicted of certain crimes; in others, the sentencing judge has discretion. California, Florida, Louisiana, Michigan, and Pennsylvania have the largest numbers of youth sentenced to JLWOP, and all but California impose the sentence on a mandatory basis. In California, youth convicted of certain categories of murder are presumptively sentenced to JLWOP, since California law states that in such cases youth “shall be” sentenced to JLWOP unless a judge finds “good reason” to instead impose a sentence of 25 years to life.

California, Florida, Louisiana, Michigan, and Pennsylvania have the largest numbers of youth sentenced to JLWOP, and they all impose the sentence on a presumptive or mandatory basis for some categories of offense.

Harsh Sentencing Practices

The number of youth offenders entering prison with JLWOP sentences each year began to increase in the late 1980s, reaching 50 in 1989. It peaked in 1996 at 152, and then began to decline; in 2003, 54 youth offenders entered prison with the sentence. But states have by no means abandoned the use of life without parole for youth offenders, and in many cases they have treated them more harshly than adults.

In 11 of the 17 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 were adults convicted of the same crime. As shown in Figure 2, even when we consider murderers sentenced to either life without parole or death, in four of those 17 years, youth were more likely than adults to receive one of these two most punitive sentences.

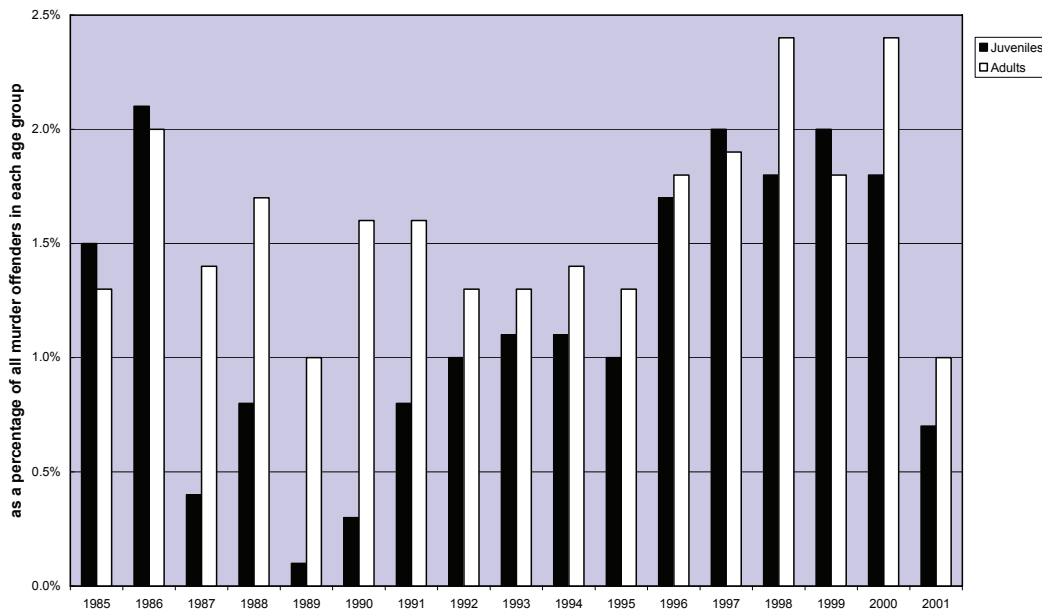
Figure 1 – State Distribution of 2,484 Juvenile Offenders Serving JLWOP

State	Total	State Law	State	Total	State Law
Alabama	62	Mandatory	Nebraska	24	Mandatory
Alaska	0	No JLWOP	Nevada	16	Discretionary
Arizona	32	Discretionary	New Hampshire	3	Mandatory
Arkansas	73	Mandatory	New Jersey	0	Mandatory
California	227	JLWOP Presumption	New Mexico	0	No JLWOP
Colorado	48	No JLWOP post-2005	New York	0	Mandatory
Connecticut	9	Mandatory	North Carolina	44	Mandatory
Delaware	7	Mandatory	North Dakota	1	Discretionary
Florida	266	Mandatory	Ohio	0	Mandatory
Georgia	8	Discretionary	Oklahoma	48	Discretionary
Hawaii	4	Mandatory	Oregon	0	No JLWOP
Idaho	4	Mandatory	Pennsylvania	444	Mandatory
Illinois	103	Mandatory	Rhode Island	2	Discretionary
Indiana	2	Mandatory	South Carolina	26	Mandatory
Iowa	42	Mandatory	South Dakota	9	Mandatory
Kansas	0	No JLWOP	Tennessee	4	Discretionary
Kentucky	5	Ban on sentencing to JLWOP under court challenge	Texas	1	Mandatory
Louisiana	334	Mandatory	Utah	1	Discretionary
Maine	0	Discretionary	Vermont	0	Discretionary
Maryland	13	Discretionary	Virginia	48	Mandatory
Massachusetts	53	Mandatory	Washington	28	Mandatory
Michigan	316	Mandatory	West Virginia	0	Discretionary
Minnesota	2	Mandatory	Wisconsin	16	Discretionary
Mississippi	24	Mandatory	Wyoming	6	Discretionary
Missouri	116	Mandatory	Federal Prisons	2	Discretionary
Montana	1	Mandatory	Washington, D.C.	0	No JLWOP

Sources: State prison systems provided data directly to Human Rights Watch as of mid-2004 (except that we used the National Corrections Reporting Program to obtain data for Virginia, and for Alabama, we used its inmate locator system). We updated data between mid-2004 and 2008 using the following methods: state departments of corrections sent updated data directly to Human Rights Watch or to other organizations; post-2004 press reports were checked against inmate records with state departments of corrections; and correspondence received by Human Rights Watch from youth offenders sentenced to life without parole was checked against press reports and state inmate records. The term “mandatory” means judges have no option other than to sentence youth offenders to JLWOP upon conviction for at least one type of offense. Most often that offense is first degree murder.

Figure 2

Percentage of Juvenile Murder Offenders Sentenced to LWOP or Death Compared with Percentage of Adult Murder Offenders Sentenced to LWOP or Death



Source: National Corrections Reporting Program (NCRP). The NCRP is sponsored by the Bureau of Justice Statistics (BJS), US Department of Justice, and was created to address the need to consolidate data on corrections at the national level. NCRP data downloads are available online at <http://www.icpsr.umich.edu/NACJD/NCRP/> (accessed September 6, 2005).

Crimes That Can Lead to a Life without Parole Sentence

As youth and adult crime rates rose in the late 1980s and early 1990s, politicians and the public feared they were being besieged by “super-predators”—youth who repeatedly committed 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 youth sentenced to JLWOP show how misguided and unnecessary those decisions were.

- The majority of youth sentenced to life without parole are first offenders. Prior to the crime for which they were sentenced to JLWOP, an estimated 59 percent had neither an adult criminal record nor a juvenile adjudication.
- An estimated 26 percent of youth offenders were convicted of felony murder. These are crimes in which a teen who commits a non-homicide felony such as robbery is held responsible for a codefendant’s act of murder that occurs during the course of the felony. State laws often do not require the teen to

In some years, youth convicted of murder were more likely to enter prison with a life without parole sentence than were adults convicted of murder.

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

26 percent of youth serving life without parole were convicted of felony murder.

know that a murder will take place or even that the codefendant is armed.

- Many teens serving JLWOP committed their crimes with adults. For example, in 70 percent of JLWOP cases in California in which a teen was acting with codefendants, at least one of the codefendants was an adult. And, in an estimated 56 percent of California cases in which a juvenile who received JLWOP had an adult codefendant, the adult received a more lenient sentence than the teen.

Life without Parole for Felony Murder

Peter A. was 15 years old, a sophomore in high school, and living at home with his family in Chicago when he committed his crime. Peter spent much of his time with his adult 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 drugs and money from his brother’s apartment, Peter, on instructions from his brother, helped to steal a van in order to drive to the individuals’ 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 who had gone in came running out of the house. Two people had been killed.

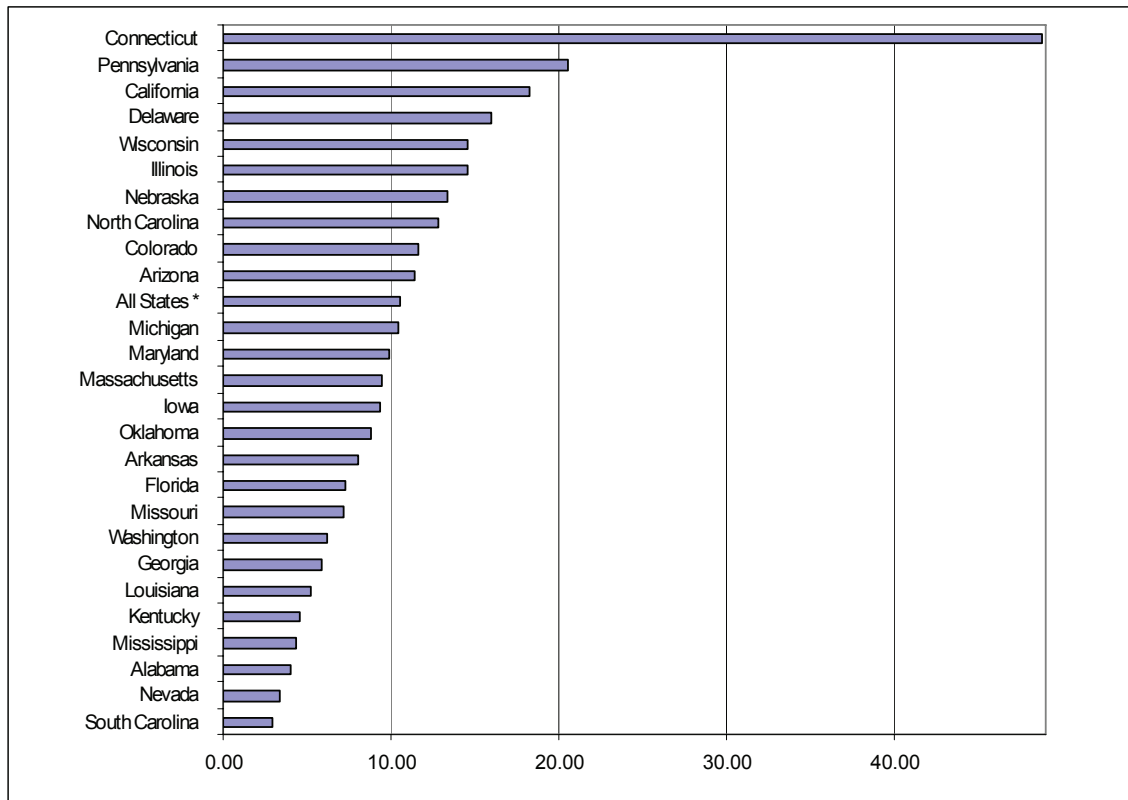
Peter was held accountable for the double murder because it was proven he had stolen the van used to drive to the victims’ house. He was sentenced to life without possibility of parole even though the judge called Peter “a bright lad” with “rehabilitative potential.” It was a mandatory sentence; the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

In Connecticut, Pennsylvania, and California, black youth are between 18 and 48 times more likely to be serving a sentence of life without parole than white youth.

Racially Discriminatory Sentencing

On average across the country, black youth are serving life without parole at a per capita rate that is 10 times that of white youth. Many states have racial disparities that are far greater. Among the 26 states with five or more youth offenders serving JLWOP and for which we had data on race, the highest black to white ratios are in Connecticut, Pennsylvania, and California, where black youth are between 18 and 48 times more likely to be serving a sentence of life without parole than white youth.

Figure 3 – Ratio of Black to White Youth Serving JLWOP Sentences



Human Rights Watch challenges the US government's claim that there is no proof that black youth were sentenced to JLWOP because of racial discrimination.

Sources: See Figure 1 above for JLWOP sentencing data. Population data extracted by Human Rights Watch from C. Puzzanchera, T. Finnegan, and W. Kang, National Center for Juvenile Justice, "Easy Access to Juvenile Populations Online: US Census Population Data," State Population Data with Bridged Race Categories 2004, for ages 14-17, <http://www.ojjdp.ncjrs.gov/ojstatbb/ezapop/> (accessed January 2, 2008). Certain states are not included in the above figure because of insufficient data. The ratios were calculated using rates per 10,000 population of youth age 14-17 disaggregated by race and state.

On February 22, 2008, at a hearing before the United Nations Committee on the Elimination of Racial Discrimination (CERD), the US Department of Justice claimed that although black youth are more likely to be sentenced to JLWOP, crime rates among black youth are higher and therefore the "disparate impacts are not per se evidence of racial discrimination. There is no proof that they were sentenced to life without parole because of racial discrimination." Human Rights Watch has found evidence that, while not conclusive, seriously challenges this claim.

Across the US, black youth arrested for murder were sentenced to LWOP at a rate 1.59 times that of white youth arrested for murder.

We gathered data on the race of youth arrested for murder (which is the criminal conviction that most often leads to the life without parole sentence), and the race of youth serving life without parole. Figure 4 presents the ratio of black youth arrested for murder to black youth sentenced to life without the possibility of parole (column A) and the comparable ratio for white youth (column B). The difference between the ratio for black and for white youth is presented as a ratio in column C.

Figure 4 — Sentencing of Black and White Youth to JLWOP After Arrest for Murder

State	A: Black Juvenile Murder Arrest Rate / Black JLWOP Rate	B: White Juvenile Murder Arrest Rate / White JLWOP Rate	C: Black Rate of JLWOP Per Arrests / White Rate of JLWOP Per Arrests
California	21.14	123.31	5.83
Connecticut	17.13	95.00	5.55
Delaware	3.00	12.00	4.00
Colorado	4.23	11.89	2.81
Arizona	16.33	41.00	2.51
*All States	7.98	12.70	1.59
North Carolina	21.19	32.43	1.53
Washington	11.60	17.31	1.49
Illinois	12.74	18.90	1.48
Pennsylvania	1.90	2.82	1.48
Nebraska	4.00	4.50	1.13

Something other than the criminality of black and white youth—such as discrimination—causes JLWOP sentencing disparities.

Sources: See Figures 1 and 3 above. Murder arrest data extracted by Human Rights Watch from data provided by the Federal Bureau of Investigation (FBI), “Uniform Crime Reporting Program: 1990-2005 Arrest by State” (extracted by code for murder crimes, juvenile status, and race), on file with Human Rights Watch.

If race were not related to JLWOP sentencing, we would expect the ratio in column C to be equal to one. However, in 10 states, we found that the ratio was significantly higher. California has the worst disparities in the nation: for every 21.14 black youth arrested for murder in the state, one is serving a JLWOP sentence, while for every 123.31 white youth arrested for murder, one is serving JLWOP. In other words, black youth arrested for murder are sentenced to JLWOP in California at a rate that is 5.83 times that of white youth arrested for murder. Across all 25 states for which we had data, black youth arrested for murder were sentenced to JLWOP at a rate 1.59 times that of white youth arrested for murder.

These disparities suggest that there is something other than the relative criminality of these two racial groups—something that happens after their arrest for murder, such as discriminatory treatment by prosecutors, before courts, and by sentencing judges—that causes the disparities between sentencing of black and white youth to JLWOP.

Life in Prison

No one expects prison to be a pleasant place. But there is a considerable incongruity between the physical and mental maturity of young prisoners and the kinds of people and experiences they confront in prison. The vast majority of youth serving life without parole have had violent experiences in prison.

Many youth get into fights with other prisoners in order to defend themselves from physical violence, including rape:

- Jackson W., who entered prison at age 17 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 16 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.”

“I got stabbed a couple times I got my head busted by locks. That’s a small weapon, but they still hurt.”

“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 But then reality is still here when I wake up.”

Rape is a particular risk for youth offenders:

- Luke J., who committed his crime at age 17 and is sentenced to JLWOP, said that he had always been “real skinny” and always looked younger than his age: “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, youth offenders sentenced to life without parole believe that society has thrown them away, and their loss of hope can result in self-harm and suicide:

- José F., who committed his crime at age 17 and is sentenced to JLWOP, said: “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.”

Life without Parole and International Human Rights

The global rejection of life without parole for young offenders is overwhelming: The Center For Law and Global Justice at the University of San Francisco, in collaboration with Human Rights Watch, has confirmed that there are no youth offenders serving life without parole sentences anywhere in the rest of the world. In its use of LWOP sentences for youth, the United States is an international anomaly.

In its use of LWOP sentences for youth, the US is an international anomaly.

The United States' practice of sentencing youth to JLWOP is a violation of, or raises concerns under, at least three international treaties to which the United States is party. The Human Rights Committee (the oversight and enforcement body for the International Covenant on Civil and Political Rights) has said that "[t]he Committee is of the view that sentencing children to life sentences without parole is of itself not in compliance with article 24(1) of the Covenant." Moreover, the Committee Against Torture (the oversight and enforcement body for the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) has stated that JLWOP for youth "could constitute cruel, inhuman or degrading treatment or punishment" in violation of the treaty.

Finally, in March 2008, the Committee on the Elimination of Racial Discrimination (the oversight and enforcement body for the International Convention on the Elimination of All Forms of Racial Discrimination) found that, in light of the racial disparities in the sentencing of youth to JLWOP in the US, "the persistence of such [youth LWOP] sentencing is incompatible with article 5(a) of the Convention. The Committee therefore recommends that the State party discontinue the use of life sentence without parole against [youth offenders], and review the situation of persons already serving such sentences."

Lawmakers can protect community safety, save on incarceration costs, and save youth from a lifetime in prison.

Fair Sentences for Youth

Lawmakers do not face a choice between being "soft on crime" and supporting life without parole for teen offenders. They can protect community safety, save on incarceration costs, and still save youth from a lifetime in prison. Giving youth offenders a second chance would align US sentencing practices with the rest of the world and with the goals of criminal punishment.

In the United States, criminal punishment has four goals: rehabilitation, retribution, deterrence, and incapacitation. Sentencing youth to life without parole fails to measure up on all four counts.

After years 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 advance 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.

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 teens can commit the same acts as adults, by virtue of their immaturity they are not 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 physical differences between the brains of adolescents and those of adults, showing that the areas involved in impulse control are less developed in youth. These findings suggest that states should revise their sentencing laws to ensure that youth are not sentenced as if they were adults.

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

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

The terrible crimes committed by youth can cause injury and death and ruin lives. In

Life without parole sends an unequivocal message to youth offenders that they are banished from the community forever, no matter how they change or grow.

The need to protect public safety and to incapacitate a particular offender ends once he or she has been rehabilitated.

its sentencing choices, the United States must reflect the harm these youth have caused. But it must also acknowledge that they are not all irredeemably violent people. 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.

The United States must reflect the harm that youth have caused, but it must also acknowledge that not all youth serving JLWOP are irredeemably violent people.

Recommendations

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

To the federal government

- Abolish the sentence of life without parole for youth charged with violating federal laws.
- Condition federal funding of state programs under the Juvenile Justice and Delinquency Prevention Act upon the state's elimination of life without parole sentences for youth offenders.

To state lawmakers

- Enact legislation that abolishes the sentence of life without parole for any offense committed by a person below the age of 18. Such legislation should include a retroactivity provision enabling youth offenders currently serving life without parole to have their cases reviewed by a court for re-assessment and re-sentencing to a sentence that includes 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 a prior criminal record, and if convicted, the precise sentence received.

Enact legislation that abolishes the sentence of life without parole for any offense committed by a person below the age of 18.

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.

For more information, including the sources upon which this summary is based, 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.

State Distribution of Estimated 2,574 Juvenile Offenders Serving Juvenile Life Without Parole

Jurisdiction	Total	State Law	Jurisdiction	Total	State Law
Alabama	62 ^c	Mandatory ^a	Nebraska	24 ^c	Mandatory
Alaska	0	No JLWOP	Nevada	16	Discretionary
Arizona	32	Discretionary	New Hampshire	3	Mandatory
Arkansas	73	Mandatory	New Jersey	0	Mandatory
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Colorado	48	No JLWOP post-2005	New York	0	Mandatory
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Florida	266 ^c	Mandatory	Ohio	2 ^b	Mandatory
Georgia	8	Discretionary	Oklahoma	48	Discretionary
Hawaii	4	Mandatory	Oregon	0	No JLWOP
Idaho	4	Mandatory	Pennsylvania	444 ^c	Mandatory
Illinois	103 ^c	Mandatory	Rhode Island	2	Discretionary
Indiana	2	Mandatory	South Carolina	26	Mandatory
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Louisiana	335 ^c	Mandatory	Utah	1	Discretionary
Maine	0	Discretionary	Vermont	0	Discretionary
Maryland	13	Discretionary	Virginia	48	Mandatory
Massachusetts	57 ^b	Mandatory	Washington	28 ^b	Discretionary
Michigan	346 ^b	Mandatory	West Virginia	0	Discretionary
Minnesota	2	Mandatory	Wisconsin	16	Discretionary
Mississippi	24	Mandatory	Wyoming	6	Discretionary
Missouri	116	Mandatory	Federal Prisons	37 ^b	Discretionary
Montana	1	Mandatory	District of Columbia	0	No JLWOP

Sources: Unless otherwise indicated, these figures are based on data provided directly to Human Rights Watch as of mid-2004 (except that we used the National Corrections Reporting Program to obtain data for Virginia, and for Alabama, we used its inmate locator system). Unless otherwise indicated, and where possible, we updated data between mid-2004 and 2009 using the following methods: post-2004 press reports were checked against inmate records with state departments of corrections; and correspondence received by Human Rights Watch from youth offenders sentenced to life without parole was checked against press reports and state inmate records.

^a The term “mandatory” means judges have no option other than to sentence youth offenders to JLWOP upon conviction for at least one type of offense. Most often that offense is first degree murder.

^b In 2009, state department of corrections or Federal Bureau of Prisons sent updated data directly to Human Rights Watch or to partner organizations.

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