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Commentary

## The limits of juvenile sentencing

### Locking up young offenders for life without parole is inherently unjust.

By Marsha Levick and David Fassler

Even in the face of the recent scandal involving the Luzerne County juvenile court, Pennsylvania can be proud of its leadership in protecting children in the justice system. Since 1995, the state has emphasized balanced, restorative justice as a core principle in the disposition of juvenile offenders.

Pennsylvania is among a minority of states that allow every juvenile transferred to adult court the opportunity to have the case returned to juvenile court for trial. Because of its progressive record, it was the first state the MacArthur Foundation chose to participate in its juvenile justice reform initiative.

But Pennsylvanians might be surprised to learn that we also hold a more dubious distinction with regard to youthful offenders: We have more children sentenced to life in prison without the possibility of parole than any other state in the country.

Young offenders must be held accountable, but affording them the chance to have their sentences reviewed later in life is hardly inconsistent with this goal. Adolescents who have served significant time behind bars should have the opportunity to demonstrate that they have been rehabilitated and deserve release. Juvenile life sentences ignore the likelihood that the offenders will be very different people after they serve extended sentences.

They also fail to recognize that children cannot be held accountable for their actions to the same degree as adults. Research shows that adolescents are less able to resist peer pressure, remove themselves from dangerous surroundings, or make decisions and weigh consequences in a mature way.

Successful passage into adulthood is more difficult for adolescents who live in poverty, lack positive role models, or are exposed to violence. The malleability of adolescents also makes it more likely that they will reform with age.

The issue of juvenile life sentences in cases where no life was taken is now before the U.S. Supreme Court in *Sullivan v. Florida* and *Graham v. Florida*. The question presented in these cases, which were argued last week, is whether the Eighth Amendment's ban on cruel and unusual punishment prohibits the imprisonment of a juvenile offender for life without the possibility of parole.

In 2005, in *Roper v. Simmons*, the court held that it is unconstitutional to impose the death penalty on offenders under the age of 18. In his majority opinion, Justice Anthony Kennedy explained that adolescents are less blameworthy than adults because of their relative immaturity, susceptibility to outside influences, impulsiveness, and greater chance for rehabilitation. For this reason, the court recognized that "juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment."

Since *Roper*, experts have done additional research confirming the court's reasoning. They have shown that, as a group, adolescents don't have adults' ability to resist pressure, restrain impulses, and make mature decisions. Adolescents are more prone to risky behavior, and they're also more likely to grow out of it.

This developmental immaturity does not excuse criminal conduct. But it does diminish teenagers' culpability and undermine the justifications for sentencing them to die in prison.

Every state has laws that acknowledge the special status of children. Youths under 18 are prohibited from voting, serving on juries, entering into contracts, or marrying without parental consent. Pennsylvania sets minimum ages for a range of activities that require mature judgment, including driving, purchasing alcohol or tobacco, and consenting to sexual activity. Criminal sentencing should not be the only area in which society fails to recognize the effects of youth on judgment, decision-making, and responsibility.

In *Roper*, the Supreme Court endorsed research showing that kids differ from adults in salient ways, and that we can't know at the time of sentencing any particular adolescent's capacity to rehabilitate. The court now has an opportunity to apply that understanding to sentences of life without parole, by ruling that all juveniles must have their sentences reviewed in the future, when we can make more informed decisions about keeping them in prison. Given all we know about adolescent development, the court should do away with this cruel and unusual punishment.

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