

“The susceptibility of juveniles to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult.’ Their own vulnerability and comparative lack of control over their immediate

Cruel and Unusual:

surroundings mean juveniles have a greater claim

Sentencing 13- and 14-Year-Old

than adults to be forgiven for failing to escape

Children to Die in Prison

negative influences in their whole environment...

From a moral standpoint it would be misguided

Equal Justice Initiative

to equate the failings of a minor with those of an

adult, for a greater possibility exists that a minor’s

character deficiencies will be reformed.”

U.S. Supreme Court, Roper v. Simmons (2005)

Photo by Steve Liss

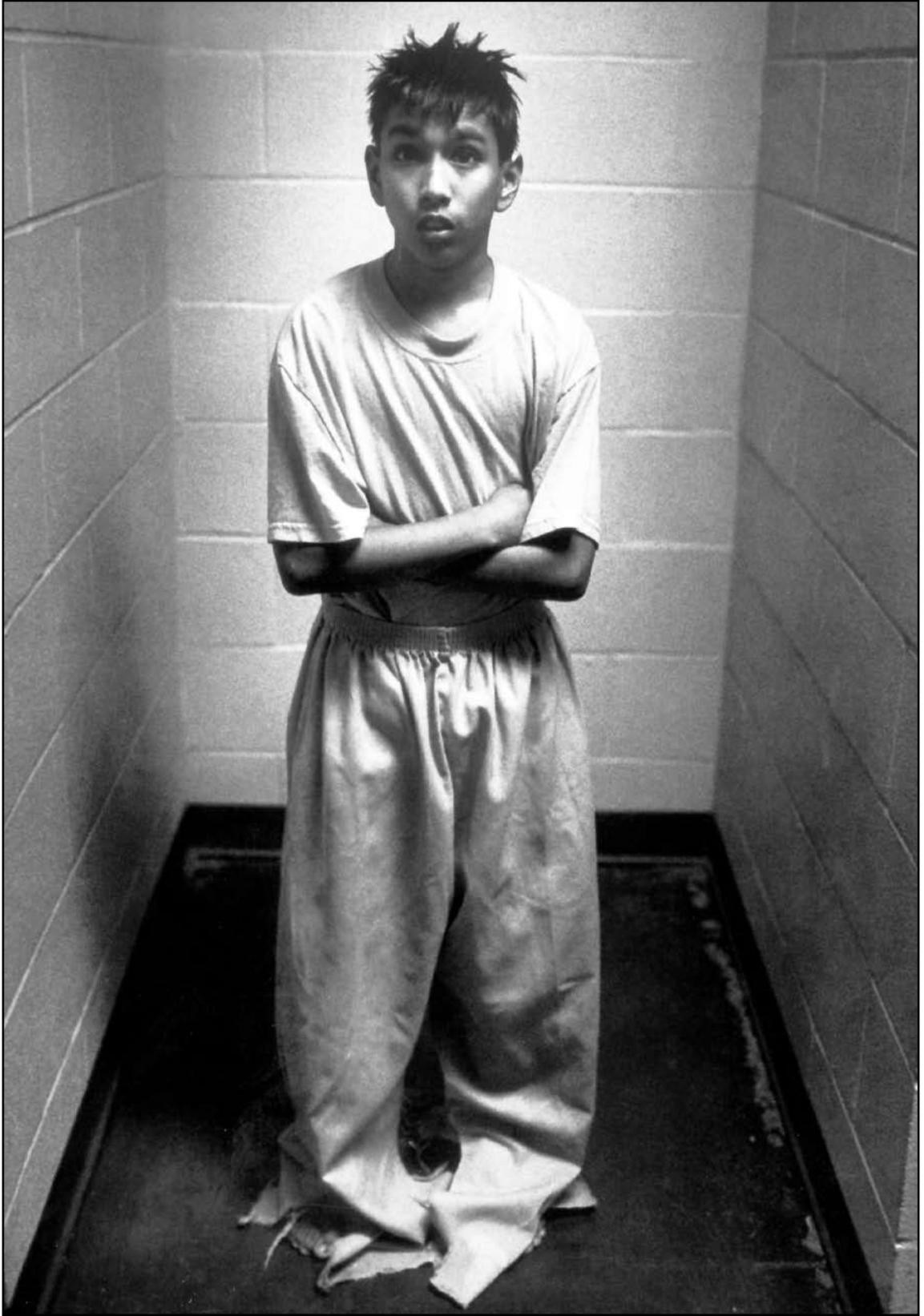
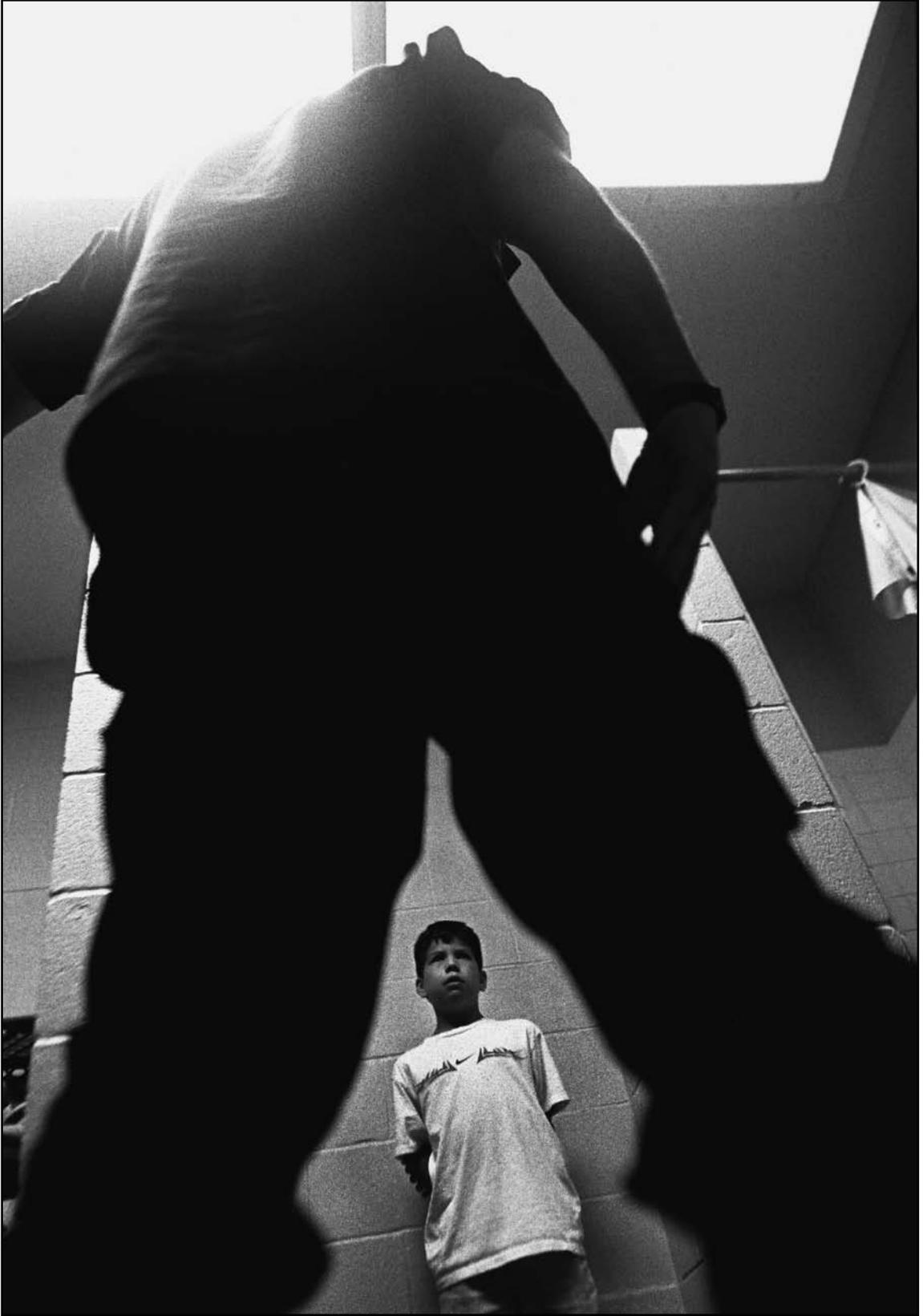


Photo by Steve Liss



*Cruel and Unusual:
Sentencing 13- and 14-Year-Old
Children to Die in Prison*

Equal Justice Initiative

The Equal Justice Initiative is a non-profit law organization with offices in
Montgomery, Alabama and New York City.

For more information about this report or EJI, please contact:

Equal Justice Initiative
122 Commerce Street
Montgomery, Alabama 36104
(334) 269-1803
www.eji.org

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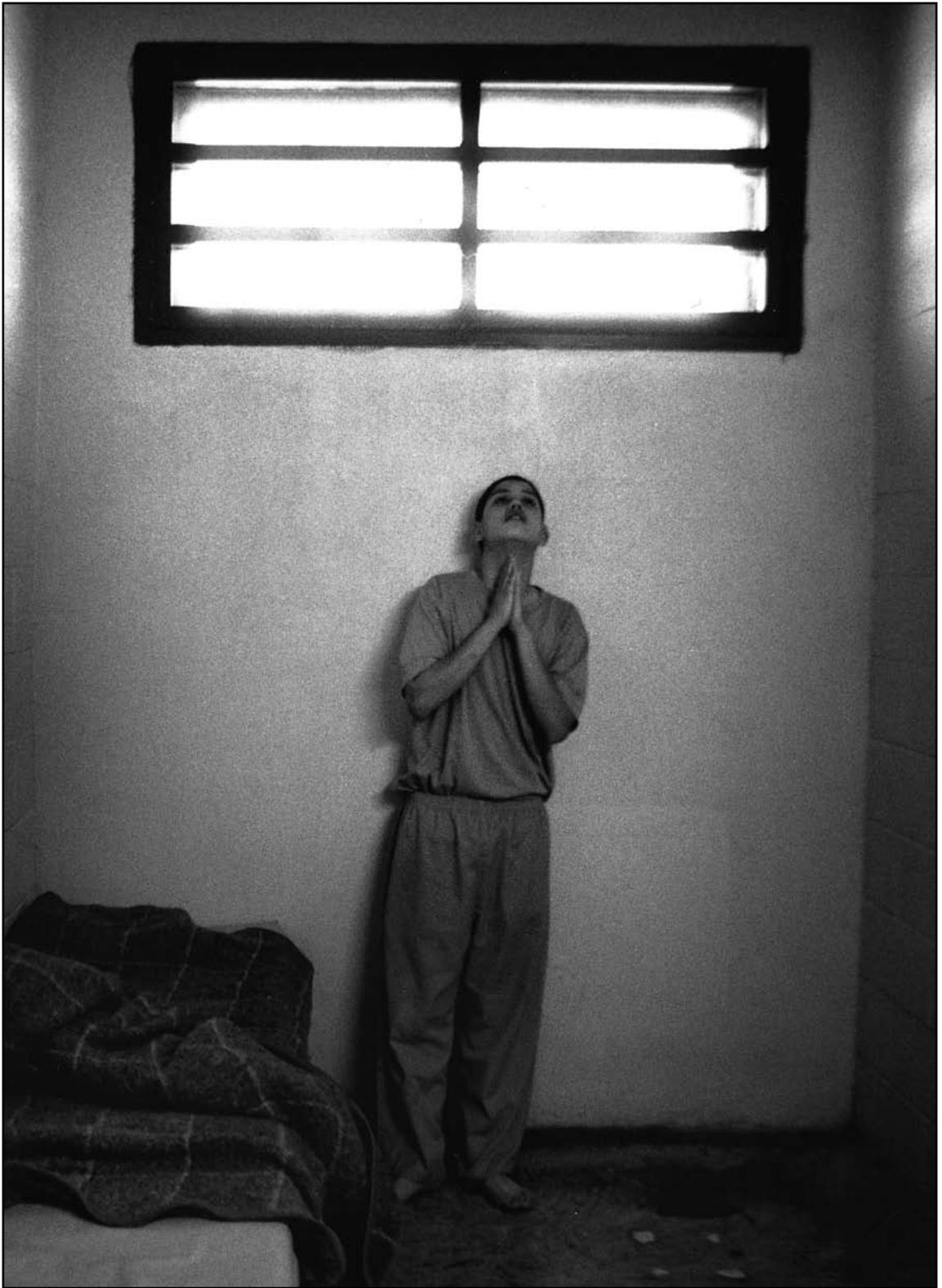


Photo by John Earle

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EXECUTIVE SUMMARY

In the United States, dozens of 13- and 14-year-old children have been sentenced to life imprisonment with no possibility of parole after being prosecuted as adults. While the United States Supreme Court recently declared in *Roper v. Simmons* that death by execution is unconstitutional for juveniles, young children continue to be sentenced to imprisonment until death with very little scrutiny or review. A study by the Equal Justice Initiative (EJI) has documented 73 cases where children 13 and 14 years of age have been condemned to death in prison. Almost all of these kids currently lack legal representation and in most of these cases the propriety and constitutionality of their extreme sentences have never been reviewed.

Most of the sentences imposed on these children were mandatory: the court could not give any consideration to the child's age or life history. Some of the children were charged with crimes that do not involve homicide or even injury; many were convicted for offenses where older teenagers or adults were involved and primarily responsible for the crime; nearly two-thirds are children of color.

Over 2225 juveniles (age 17 or younger) in the United States have been sentenced to life imprisonment without parole. All of these cases raise important legal, penological, and moral issues. However, EJI believes that such a harsh sentence for the youngest offenders – children who are 13 and 14 – is cruel and unusual in violation of the Eighth Amendment to the United States Constitution. These children should be re-sentenced to parole-eligible sentences as soon as possible. Sentences of life imprisonment with no parole also violate international law and the Convention on the Rights of the Child, which has been ratified by every country in the world except the United States and Somalia.

EJI has launched a litigation campaign to challenge death in prison sentences imposed on young children. This report is intended to illuminate this cruel and unusual punishment inflicted on children, particularly for those who have been without legal help for so long that the procedural obstacles to winning relief in court will be formidable. Increased public awareness, coupled with informed activity by advocacy groups, will be necessary to reform policies that reflect a lack of perspective and hope for young children.



Bryan A. Stevenson
Executive Director

INTRODUCTION

In the United States, 13- and 14-year-old children are sentenced to die in prison. Kids too young to drive a car or go to a scary movie by themselves are sentenced to imprisonment until they die, with absolutely no chance of parole or release. In many states, 13- and 14-year-olds are subjected to the harshest possible prison sentence despite widespread acknowledgment by experts, parents, teachers, doctors, and courts that children tend to be incapable of making mature choices, that they are vulnerable to negative influences and peer pressure, and that they are powerless to protect themselves from dysfunctional and dangerous home environments.

In most of these cases, the judges who imposed death in prison sentences on young children had no other legal option. The majority of these children were condemned to die in prison by mandatory sentencing laws that preclude the sentencer from considering the child's age, maturity, or capacity for change.

Some young children have been involved in tragic, horribly misguided violence and dangerous behavior, and they clearly need intervention and correction. However, imposing death in prison sentences on young children is an irresponsible, thoughtless, and uninformed response to kids in crisis.



Photo by Steve Liss

Imprisoning a child for the rest of his life violates standards of decency in this country, particularly in light of what we know about the unique vulnerability of young adolescents and about a child's capacity for growth, change, and redemption. These extreme punishments for children violate international standards which require protection and special consideration for children because they have not fully developed physically, mentally, or emotionally.

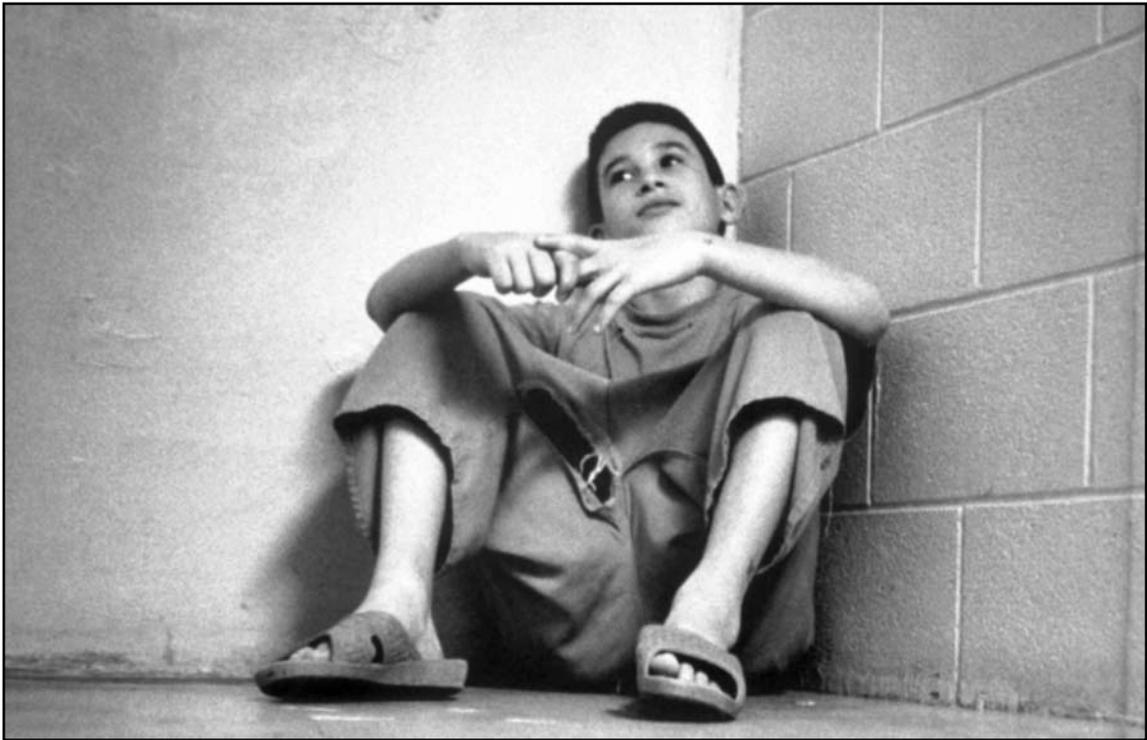


Photo by Steve Liss

Nationwide, at least 2225 people are serving sentences of death in prison for crimes they committed under the age of 18. Death in prison sentences are imposed on juveniles in the United States at a rate at least three times higher today than 15 years ago.¹ The proportion of juveniles convicted of serious crimes who are sentenced to life imprisonment without possibility of parole is increasing as states punish these young offenders more severely.

Most critically, dozens of children condemned to die in prisons across the United States were 13 or 14 at the time of the offense. The youngest of these kids facing death in prison share characteristics – distinct from older teens – that highlight the impropriety of imprisoning children until they die.



Photo by Gigi Cohen

Joseph Jones

JOSEPH JONES is imprisoned in North Carolina, where he was condemned to life imprisonment without parole for an offense committed at age 13.

Young Children Are Different

Developmental and Legal Distinctions Between Adolescents and Older Teens and Adults

Unlike older teenagers, 14-year-olds in most states cannot get married without permission or obtain a driver's license. The law mandates that they must attend school and limits the hours they can work in after-school jobs.

The law treats young adolescents differently because they *are* different. Using state-of-the-art imaging technology, scientists have revealed that adolescents' brains are anatomically undeveloped in parts of the cerebrum associated with impulse control, regulation of emotions, risk assessment, and moral reasoning. Accordingly, the neurological development most critical to making good judgments, moral and ethical decision-making, and controlling impulsive behavior is incomplete during adolescence.²

As a result, young teens experience widely fluctuating emotions and vulnerability to stress and peer pressure without the adult ability to resist impulses and risk-taking behavior or the adult capacity to control their emotions.³ At the same time, because a child's character is not yet fully formed, he will change and reform as he grows up.⁴



Photos by John Earle



Quantel Lotts was condemned to die in a Missouri prison after a tragic incident that occurred when he was 14. Quantel was always taught that problems were solved by fighting it out. In his family, if the kids misbehaved, the adults made them box each other. When an argument over a toy ended in the death of his stepbrother, Quantel was convicted of murder and sentenced to death in prison, despite pleas from his stepmother that he have a chance for parole.

While the differences between children and adults are “marked and well understood,”⁵ children as young as 13 have found themselves in the adult criminal justice system and subject to its most severe penalties. Because of their low social status in relation to adult interrogators, beliefs about the need to obey authority, greater dependence on adults, and vulnerability to intimidation, juveniles are uniquely susceptible to coercive psychological interrogation techniques designed for adults, leading to false confessions⁶ and undermining the reliability of the fact-finding process.⁷ Together with their diminished understanding of rights, confusion about trial processes, limited language skills, and inadequate decision-making abilities, young children are at great risk in the adult criminal justice system.

T.J. Tremble was 14 when officers took him to the police station at 2:30 a.m. They searched him, took his clothes, put a jail uniform on him, and handcuffed him behind his back for six hours. He was not allowed to eat, sleep, use the bathroom, or see his parents. He asked for a lawyer but none was provided. T.J. ended up giving a statement so he could see his parents and stop his interrogators from harassing him. Prosecutors used that statement to convict T.J. and he was sentenced to die in a Michigan prison.



The Supreme Court recently acknowledged the differences between juvenile and adult offenders and concluded that children have “insufficient culpability” to merit the most severe punishment:

“[J]uvenile offenders cannot with reliability be classified among the worst offenders.”⁸



Photo by Steve Liss



Photo by Glenn Paul

Joe Sullivan

JOE SULLIVAN has spent 18 years in prison in Florida, where he was sentenced to imprisonment until death for a non-homicide that occurred when he was just 13 years old. He is mentally disabled and, while in prison, has developed serious medical problems that require him to use a wheelchair.

Cruel and Unusual Punishment

Why Sentencing Children to Death in Prison Violates the Constitution

The Eighth Amendment to the United States Constitution prohibits “cruel and unusual punishments.” To determine which punishments are cruel and unusual, courts look to “the evolving standards of decency that mark the progress of a maturing society.”⁹ The analysis includes measuring the blameworthiness of children against the harshness of the penalty and looking at how frequently the penalty is imposed.¹⁰

A sentence of imprisonment until death is a different and harsher punishment when inflicted on a young child.

A sentence of imprisonment until death is a different and harsher punishment when inflicted on a young child.¹¹ In striking down a life without parole sentence imposed on a 13-year-old, the Nevada Supreme Court characterized it as a “denial of hope” and said that “it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the defendant], he will remain in prison for the rest of his days.”¹²

The United States Supreme Court has held:

When a juvenile offender commits a heinous crime, the State can exact forfeiture of some of the most basic liberties, but the State cannot extinguish his life and his potential to attain a mature understanding of his own humanity.¹³

A sentence to die in prison – whether by execution or other means – extinguishes that potential and offends the Constitution.

EJI contacted the department of corrections in every state, reviewed all published decisions and news articles available in electronic databases, and consulted with juvenile justice scholars and practitioners around the country. This research uncovered children 14 years old or younger who were sentenced to die in prison in 19 states.

EJI has identified 73 cases nationwide in which a sentence of life without parole has been imposed on a child who was 13 or 14 years old at the time of the offense. Those cases represent just a tiny fraction of cases in which kids 14 or under have been arrested for homicide.¹⁴ A small handful of these young children have been sentenced to die in prison for non-homicide offenses.

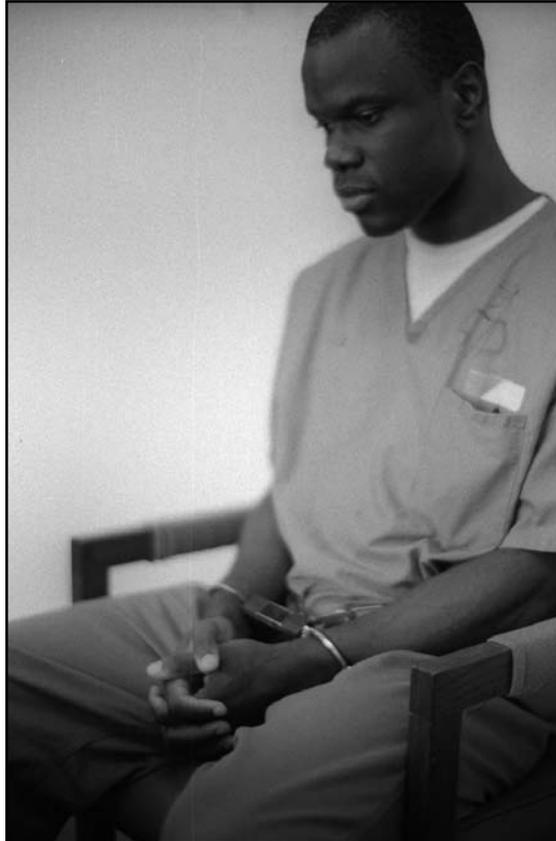


Photo by Glenn Paul

Ian Manuel

IAN MANUEL was sentenced to die in prison for a non-homicide that occurred when he was 13. When he arrived at prison processing in Central Florida, he was so small that no prison uniform fit him. “He was scared of everything and acting like a tough guy as a defense mechanism,” said Ron McAndrew, then the assistant warden. “He didn’t stand a chance in an adult prison.” Within months, Ian was sent to one of the toughest adult prisons in the state, where minor nonviolent infractions landed him in solitary confinement. Now 29, he has spent half his life in a closet-size concrete box, getting his food through a slot in the door, never seeing another inmate, not allowed to read anything but legal and religious materials, so bored that he cuts himself with fragments of a toothpaste tube or a tiny piece of glass. In the past year, he has attempted suicide five times.¹⁵

The Global Consensus

Condemning Children to Die in Prison Violates International Law

International law prohibits sentencing children to death in prison. The United States is the only country in the world where a 13-year-old is known to be sentenced to life in prison without the possibility of parole. The Convention on the Rights of the Child, ratified by every country except the United States and Somalia, forbids this practice¹⁶ and at least 132 countries have rejected the sentence altogether.¹⁷

The International Covenant on Civil and Political Rights, to which the United States became a party in 1992, prohibits life without parole sentencing for juveniles.¹⁸ The official implementation body for the Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment recently commented that life imprisonment for children “could constitute cruel, inhuman or degrading treatment or punishment” in violation of the Convention.¹⁹ Further, the United Nations General Assembly passed by a 185-1 vote (the United States voted against) a resolution calling upon all nations to “abolish by law, as soon as possible, the death penalty and life imprisonment without possibility for release for those under the age of 18 years at the time of the commission of the offence.”²⁰

Photos by John Earle



Children in Adult Prisons

Targets for Sexual and Physical Assault

Juveniles placed in adult prisons are at heightened risk of physical and sexual assault by older, more mature prisoners. Many adolescents suffer horrific abuse for years when sentenced to die in prison.²¹ Young inmates are at particular risk of rape in prison. Children sentenced to adult prisons typically are victimized because they have “no prison experience, friends, companions or social support.”²² Children are five times more likely to be sexually assaulted in adult prisons than in juvenile facilities.²³

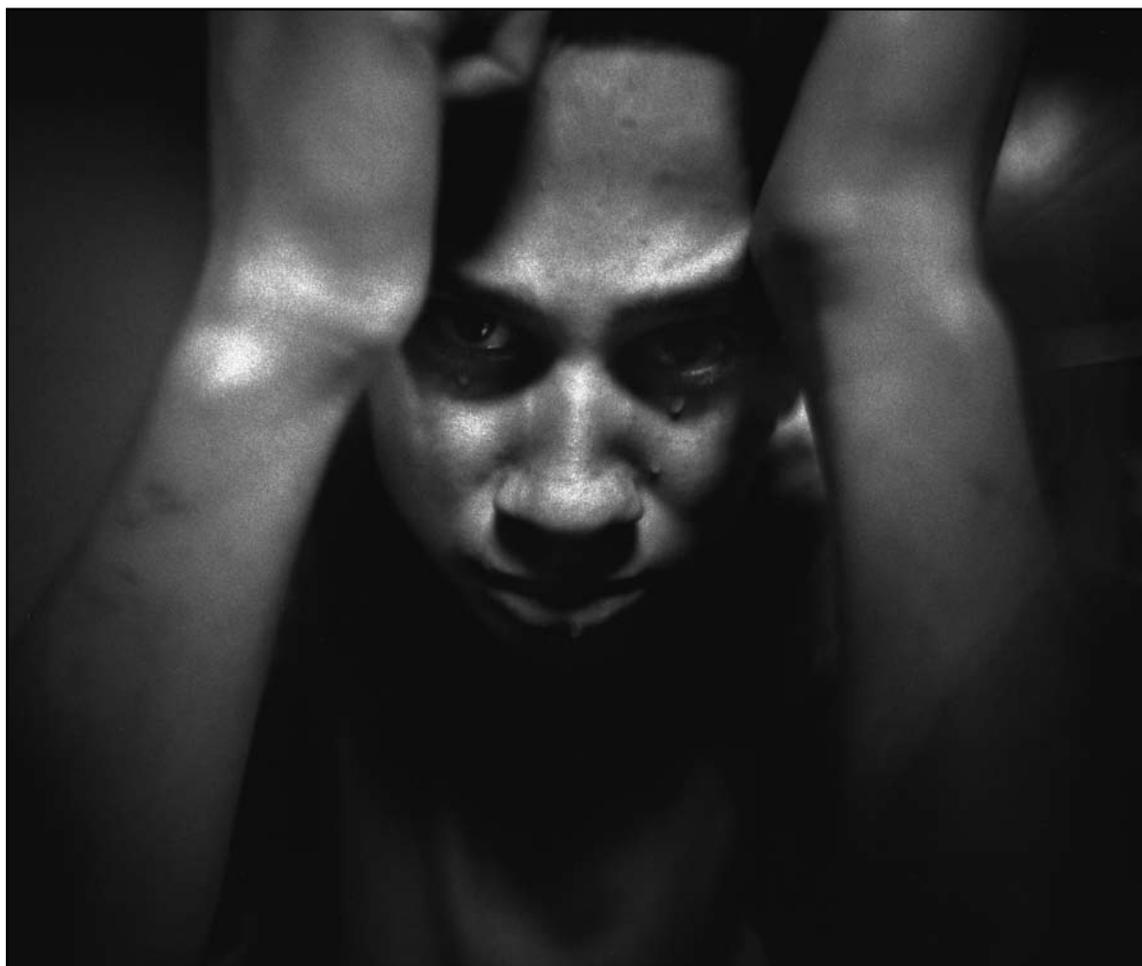


Photo by Steve Liss

EJI attorneys interviewed one Alabama inmate who is serving a sentence of life imprisonment without the possibility of parole for an offense that occurred when he was 15. Since being incarcerated in an adult prison, this boy has been repeatedly raped. He was forced to prostitute himself in exchange for protection from physical beatings and sexual assault by other inmates. His 'protectors' forced him to have their names tattooed on his body to signify their ownership of him. Prison guards target him for beatings and harassment because of the sexual relationships into which he has been forced. His nickname, "Brown Sugar," is one of the prison tattoos that brand him as a victim of repeated and ongoing sexual abuse.



Photo by Steve Liss

This boy's story is not unusual. One of our clients attempted suicide three times after being repeatedly raped by older inmates. After his third suicide attempt, he was moved to another prison. While children in adult prisons often are reluctant to talk about the sexual assaults they have experienced, many EJI clients have been victims of prison rape, sexual assault, and physical violence and abuse while incarcerated.

Victimizing the Most Vulnerable

Condemned Children Share Childhoods of Neglect and Abuse

Most of the children who have been sentenced to die in prison for crimes at 13 or 14 come from violent and dysfunctional backgrounds. They have been physically and sexually abused, neglected, and abandoned; their parents are prostitutes, drug addicts, alcoholics, and crack dealers; they grew up in lethally violent, extremely poor areas where health and safety were luxuries their families could not afford.

"[Y]outh is more than a chronological fact . . . It is a time and condition of life when a person may be most susceptible to influence and to psychological damage."²⁴ During 2005, approximately 899,000 children in the 50 states, the District of Columbia, and Puerto Rico were determined to be victims of abuse or neglect. More than 60% of victims suffered neglect, 15% suffered physical abuse, 10% suffered sexual abuse, and 7% were victims of emotional maltreatment. An estimated 1460 children died due to child abuse or neglect in 2005 – a rate of 1.96 deaths per 100,000 children. More than 40% of child fatalities were attributed to neglect, while physical abuse also was a major contributor to child deaths. Nearly 80% of perpetrators of child maltreatment were parents, and another 6.8% were other relatives of the child victim.²⁵



Ashley Jones, 14, after being sentenced to die in prison in Alabama.
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Children sentenced to die in prison have in common the disturbing failure of police, family courts, child protection agencies, foster systems, and health care providers to treat and protect them. Their crimes occur in the midst of crisis, often resulting from desperate, misguided attempts to protect themselves.

The experiences of EJI's clients exemplify the extremely deprived and difficult backgrounds of children sentenced to die in prison. Many of these children have been victimized by physical violence and sexual abuse inflicted on them by their parents and other family members. Several of these children endured years of sexual abuse and rape: one was repeatedly sexually assaulted beginning when he was just four years old; another boy was raped by a family member.

Ashley Jones was repeatedly threatened at gunpoint by her parents, sexually assaulted by her stepfather, forced into crack houses by an addicted mother, physically abused by family members, and abducted by a gang shortly before her crime.

Severe neglect is also common among children in this group. Joseph Jones grew up in Newark public housing, where his crack-addicted parents left him to cook, clean, and take care of his six younger siblings. At 13, Joseph's parents took him to North Carolina and abandoned him with relatives.

Quantel Lotts saw his uncle gunned down in his front yard in a poor St. Louis neighborhood, where his mother used and sold crack cocaine out of their house. Quantel was removed from his mother's custody at age eight; he smelled of urine, his teeth were rotting, and his legs, arms, and head bore scars from being punched and beaten with curtain rods and broom handles.

Fatal violence is all too common in the impoverished areas where many of these kids spent their childhoods. Antonio Nuñez lived with his family in a brutally violent South Central Los Angeles neighborhood. When he was 13, he was shot while riding a bicycle just down the street from his house. His 14-year-old brother responded to Antonio's cries for help and was shot in the head and killed. Antonio would have died but for emergency surgery to repair his intestines.



OMER NINHAM has been sentenced to imprisonment in a Wisconsin prison until death for a crime that occurred when he was 14.

These adolescents suffer from drug and alcohol dependence that typically began in the womb and can be traced back through their family trees. Omer Ninham is the child of alcoholic parents and, by age ten, was drinking alcohol daily – even in the classroom, where his teachers looked the other way. Omer got his first toothbrush at age 14, when he was removed from his parents and sent to a youth home.

Tragically, these children received no effective or long-term services, even where their cries for help were early, frequent, and unmistakable. Evan Miller suffered physical and emotional abuse so severe that he tried to kill himself when he was just seven years old. By age eight, he had attempted suicide several times.

Research has shown that juveniles subjected to trauma, abuse, and neglect suffer from cognitive underdevelopment, lack of maturity, decreased ability to restrain impulses, and susceptibility to outside influences greater even than those suffered by normal teenagers.²⁶

Normal adolescents cannot be expected to transcend their own psychological or biological capacities in order to operate with the level of maturity, judgment, risk aversion, or impulse control of an adult. A 14-year-old who has suffered brain trauma, a dysfunctional family life, violence, or abuse cannot be presumed to function even at standard levels for adolescents.

Children overwhelmed by dysfunction and without resources to flee or seek help are not provided treatment or safe haven. Instead, in the adult criminal justice system, they are subjected to mandatory sentencing that ignores the child's circumstances and those of the offense in imposing the harshest available sentence.



EVAN MILLER was condemned to die in an Alabama prison for an offense when he was 14 years old.



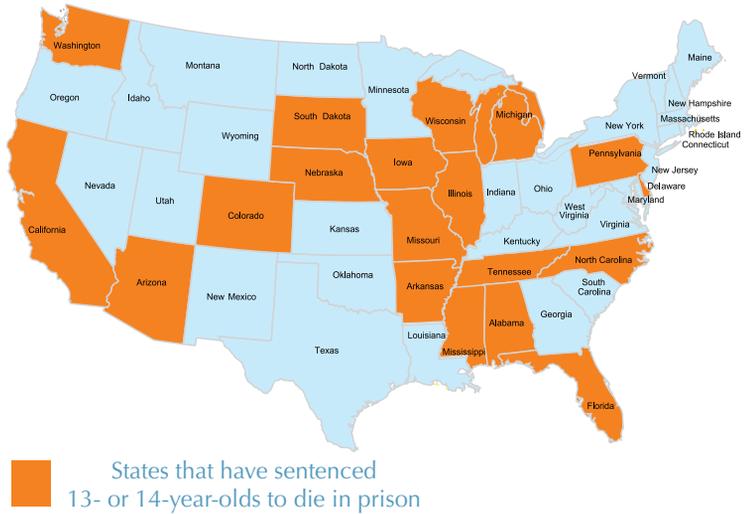
Dominic Culpepper

The State of Florida condemned **DOMINIC CULPEPPER** to death in prison for a crime that occurred when he was 14.

The Data

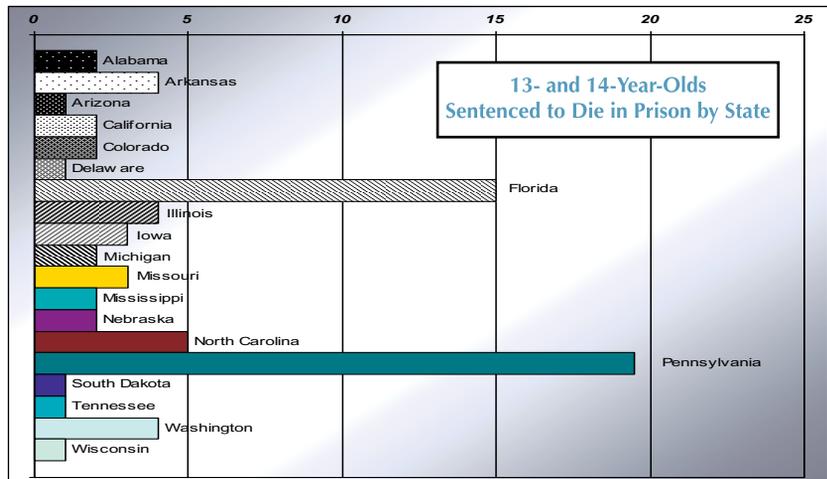
Numbers and Demographics of Young Children Sentenced to Death in Prison

EJI conducted a nationwide investigation to determine how many people in the United States are serving sentences of life imprisonment with no possibility of parole for crimes committed when they were 13 or 14 years old. By reviewing court decisions, searching media reports, and collecting information from state departments of corrections and from prisoners directly, we have identified **73** people who are serving sentences to die in prison for crimes they committed at age 13 or 14.



These 73 children sentenced to death in prison are serving their sentences in just **19** states: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Illinois, Iowa, Michigan, Mississippi, Missouri, Nebraska, North Carolina, Pennsylvania, South Dakota, Tennessee, Washington, and Wisconsin.

Pennsylvania is the worst state in the country when it comes to sentencing 13- and 14-year-old children to die in prison. Of the 73 children sentenced to die in prison nationwide, **18** were sentenced by Pennsylvania. Florida is second, with 15 young children sentenced to die in prison. In six states – Florida, Illinois, Nebraska, North Carolina, Pennsylvania, and Washington – 13-year-old children have been condemned to death in prison.



Race

Children of Color Are Disproportionately Sentenced to Die in Prison

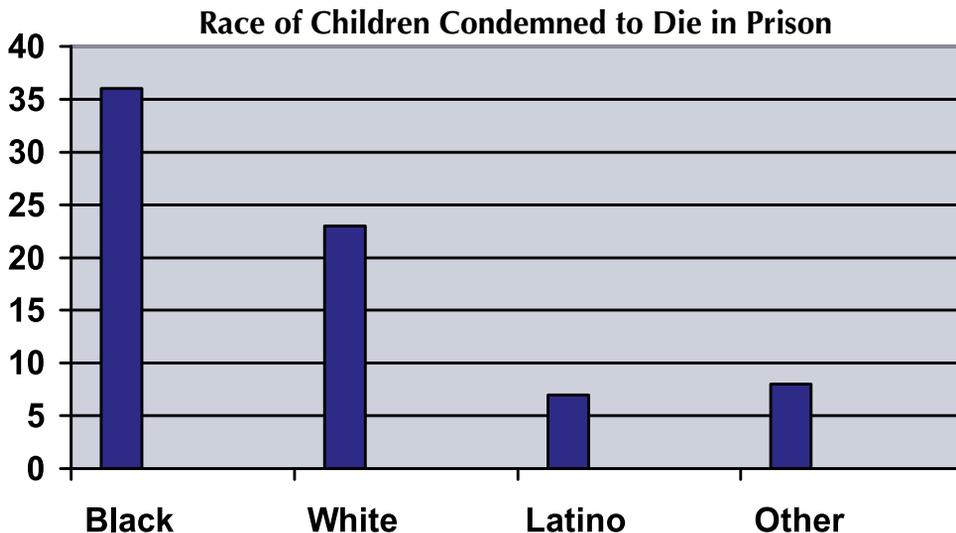
Photo by John Earle



Of the 73 children we identified, **nearly half** (36, or 49%) are African American. Seven (9.6%) are Latino. Twenty-two (30%) are white. One is Native American; one is Asian American.

All of the children condemned to death in prison for non-homicide offenses are children of color. All but one of the children sentenced to life without parole for offenses committed at age 13 are children of color.

In cases involving children sentenced to die in prison, race, vulnerability, and family dysfunction are predominant factors. Of the 15 cases EJI has investigated in connection with its litigation campaign for young children, 12 are children of color. In nine of these cases, the victim is white. Two cases involve intra-family offenses; three are non-homicide offenses. Three of these children were 13 years old at the time of the offense. All but five death in prison sentences were mandatory.



Poverty

Children from Poor Families Are Unable to Get Legal Help

Photo by Jacob Holtt



Most of our clients are from poor families and did not receive adequate legal assistance to challenge their convictions and sentences. Most had no lawyer when EJI contacted them. Many had never filed postconviction appeals.

In many of these cases, appointed trial and appellate lawyers failed to challenge the death in prison sentences imposed on their adolescent clients, or worse, filed briefs stating that they could find no issue in the case worth challenging on appeal. Indeed, when contacted by EJI, a number of these lawyers did not realize or remember that their clients were just 13 or 14 at the time of the offense.

Ian Manuel's appointed trial lawyer persuaded him to plead guilty and told him he would receive a 15-year sentence. Ian pleaded guilty and was sentenced to life imprisonment with no parole. His lawyer never appealed or withdrew the plea.

Phillip Shaw's appointed trial lawyer failed to object to the prosecution's discriminatory exclusion of women from his jury. As a result of the lawyer's failure to object, the appellate court refused to review the claim on appeal. Phillip was tried in a joint trial with his older co-defendant. The co-defendant's lawyer objected to the illegal exclusion of jurors, and the co-defendant won a new trial on appeal. (He pleaded guilty, was sentenced to ten years, and is now out of prison.)

Joe Sullivan's trial lawyer has been suspended from the practice of law after being convicted of felony assault.

These examples illustrate that kids who cannot afford competent counsel face a dramatically escalated risk of being sentenced to die in prison and of losing any chance to challenge their convictions or sentences.



Photo by Gigi Cohen

Ken-Tay Lee

KEN-TAY LEE was sentenced to die in a North Carolina prison for a crime committed at age 14.

Non-Homicides

Children Sentenced to Death in Prison for Crimes Without Fatalities

Of the 73 children sentenced to die in prison, six were sentenced to die in prison for crimes in which no one was killed. **All of these kids are children of color.**

Only two people in the nation are known to have been sentenced to life without parole for a non-homicide offense at age 13. One is Joe Sullivan, who was blamed by an older co-defendant for a sexual battery that was allegedly committed when they broke into a home together. No physical evidence (like DNA) proved that Joe, and not the older teen, committed this offense.

The second is Ian Manuel, who was 13 years old when he was directed by gang members to commit a robbery. During the botched robbery attempt, the subject of the robbery suffered a nonfatal gunshot wound and a remorseful Ian turned himself in to the police. Although the victim of the robbery supports parole for Ian, he remains condemned to die in prison.

In one of these non-homicide cases, a 14-year-old was sentenced to die in prison in California for an offense in which **no one was injured**. Fourteen-year-old Antonio Nuñez got into a car with two men nearly twice his age who picked him up at a party. One of the men later claimed to be a kidnap victim. When their car was chased by the police and shots were fired, Antonio was arrested and charged, along with the 27-year-old driver, with aggravated kidnapping.



Joe Sullivan

Photo by Glenn Paul

The Children

Profiles of Children Condemned to Die in Prison

EJI has filed legal challenges on behalf of 13- and 14-year-old children sentenced to die in prison in eight states. Our clients' stories illustrate what all children sentenced to death in prison have in common: lack of competent legal help, offenses characterized by an inability to make mature judgments, impulsiveness, and the influence of older people, and brutal and traumatic childhood experiences.

Ashley Jones – Alabama

Ashley Jones is the only girl in Alabama sentenced to death in prison for an offense when she was 14 years old. From the time she was an infant, Ashley was terrorized by abusive and violent adults. Her addicted mother abandoned Ashley in crack houses while she was still in diapers and on several occasions threatened her at gunpoint. Her father assaulted her, resulting in a hospitalization. Her stepfather sexually assaulted her when she was 11. Relentless violence in her home left Ashley depressed, traumatized, and suicidal. At 14, Ashley tried to escape the violence and abuse by running away with an older boyfriend who shot and killed her grandfather and aunt. Her grandmother and sister, who were injured during the offense, want Ashley to come home. But Alabama's mandatory sentencing law does not recognize mitigation, mercy, or the abusive dysfunction that led to her crime. Instead, it condemns Ashley to die in prison despite the fact that today, at 22, she has matured into a remarkable young woman who is incredibly bright and promising.



Ashley Jones, 14, after being sentenced to die in prison in Alabama.

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Evan Miller – Alabama

From the time Evan Miller was a toddler, his father severely beat him whenever he got angry. Because of this abuse, Evan tried to hang himself with a belt when he was seven. His impoverished family lived in neighborhoods where Evan was exposed to alcohol, drugs, and violence. His parents used drugs and drank heavily. At age ten, Evan was removed from his home and placed in foster care for two years. When he was returned to his mother, he returned to a life of poverty and neglect. Evan began using drugs and alcohol and was hospitalized twice for depression and anger management. On the night of the crime, a middle-aged man gave Evan and an older boy drugs and alcohol. The two intoxicated kids got into a physical altercation with the older man, who was hit with a baseball bat and his trailer set on fire. Evan was sentenced to die in prison without any consideration of his age or the abuse and neglect he suffered throughout his short life.



Kuntrell Jackson – Arkansas

At 14, Kuntrell Jackson was arrested and accused of robbery-murder in a video store robbery and shooting that the prosecution acknowledges was carried out by someone else. Kuntrell was with several other teens when the crime allegedly was committed. Before Kuntrell entered the store, another teen shot and killed the clerk. The State of Arkansas sentenced 14-year-old Kuntrell to die in prison despite its concession that he did not kill the clerk. Kuntrell's life at home had been seriously disrupted when his father abandoned the family three years prior to this incident. Kuntrell's time in jail as a young child has been horrific. He attempted to escape on two occasions and now is confined in a maximum security prison.



Antonio Nuñez – California

The month after his 13th birthday, Antonio Nuñez was riding a bicycle near his home in South Central L.A. when he was shot multiple times. His brother, just 14 years old, ran to help him and was shot in the head and killed. Antonio left his neighborhood to escape the violence that claimed his brother's life, but a probation officer threatened his mother if he did not return to South Central. Antonio returned to L.A. with his family and, two weeks later, got into a car with two men nearly twice his age who picked him up at a party. One of the men later claimed to be a kidnap victim. When their car was chased by the police and shots were fired, Antonio was arrested and charged, along with the 27-year-old driver, with aggravated kidnaping. No one was injured, but 14-year-old Antonio was sentenced to die in prison. He is the only child in the country known to be serving a death in prison sentence for his involvement, at age 14, in a single incident where no one was injured.



Antonio Nuñez with his aunt (center) and grandmother.

Dominic Culpepper – Florida

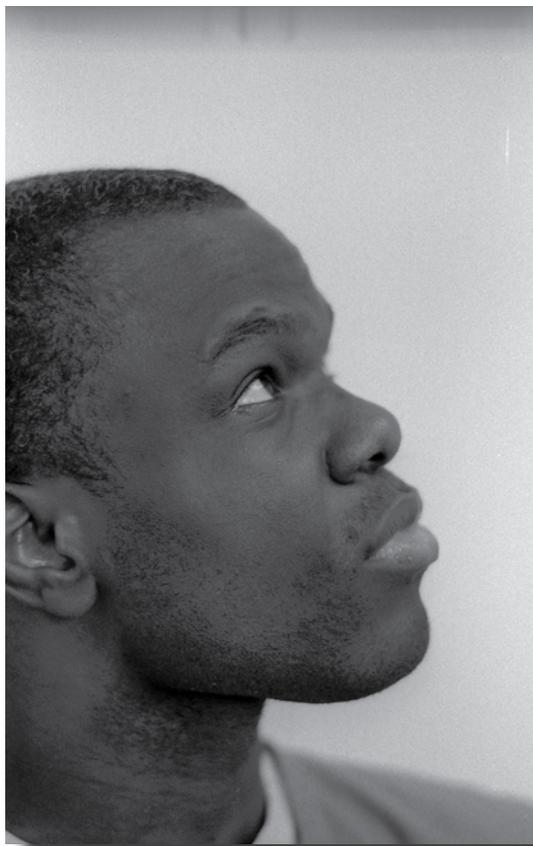
Dominic Culpepper suffered constant emotional and physical abuse from his mother, who beat him severely and told him she wished he was dead. Dominic's parents divorced and his father moved out, leaving him with his unstable and violent mother. Dominic was befriended by older men in the neighborhood who used him to deal drugs for them. When he was 14, a drug dealer who had threatened and stolen from Dominic came into his home. Dominic attacked him with a baseball bat. Afraid and confused, 14-year-old Dominic moved the injured drug dealer out of the house and contacted emergency services. Emergency services personnel were unable to save the young man's life and Dominic was arrested for murder. Although Dominic was only 14 and had used the bat against an intruder in his own home, the State of Florida sentenced him to die in prison.



Ian Manuel – Florida

Ian Manuel was raised in gruesome violence and extreme poverty. At age four, Ian was raped by a sibling. Violence and despair defined Ian's childhood and neighborhood and he was quickly pushed into destructive gang violence. When Ian was 13, he was directed by gang members to commit a robbery. During the botched robbery attempt, a woman suffered a nonfatal gunshot wound and a remorseful Ian turned himself in to the police. Ian's attorney instructed him to plead guilty and told him he would receive a 15-year sentence. Ian, accepting responsibility for his actions, pleaded guilty but was sentenced to life imprisonment without possibility of parole. Ian's lawyer never appealed or withdrew the plea. In prison, Ian has spent years in solitary confinement and repeatedly attempted suicide. The victim has forgiven Ian and petitioned for his release but the State of Florida demands that Ian remain in prison from the age of 13 until he is dead.

Photo by Clemm Paul



Joe Sullivan – Florida

Joe Sullivan is one of only two people in the nation known to have been sentenced to die in prison for a non-homicide offense at age 13. A severely mentally disabled boy, Joe was blamed by an older co-defendant for a sexual battery that was allegedly committed when they broke into a home together. Despite Joe's young age and disabilities, his father dropped him off at police headquarters to face questioning alone after hearing about the allegations. At trial, Joe was represented by an attorney who has since been suspended from the practice of law. Joe, who continues to assert his innocence, is 31 and confined to a wheelchair.



Photo by Glenn Paul

T.J. Tremble – Michigan

T.J. Tremble was arrested just four months after Michigan enacted harsh new laws permitting 14-year-old children to be tried as adults. As police held and interrogated him overnight, they refused to permit his worried parents to see him and denied requests for an attorney. T.J. was convicted of first-degree murder and automatically sentenced to death in prison with no consideration of his age or background. He was sent to Baldwin Correctional Facility, a privately-run maximum security prison that closed after a federal lawsuit alleged that youths in the prison were illegally subjected to extreme isolation and forced to spend weeks in small concrete cells. T.J., who has been moved to another prison located hours from home, sends the money that he earns at his prison job to his ailing parents. He is one of only two 14-year-old kids in Michigan sentenced to die in prison.



Quantel Lotts – Missouri

Quantel Lotts spent the first seven years of his life in a turbulent, violent St. Louis neighborhood. His mother sold and used crack in their house. He saw his uncle shot by drug dealers in his front yard. Quantel, who is African American, was removed from his mother's home and lived in three different foster homes before moving with his father to rural, predominately white St. Francois County. Quantel's father moved his three children into the home of a white woman, with whom he developed a relationship, and her children from a prior marriage. The step-siblings became very close. Quantel loved his stepbrother Michael and spent a lot of time with him. On the day of the crime, however, the two boys got into an argument. Michael was stabbed with a knife and died. Despite objections from the victim's mother, Quantel was tried and convicted as an adult. Without any consideration of his age, psychological state, or family background, and against Michael's mother's wishes, Quantel was sentenced to die in prison.



Photo by Sean Gallagher

Phillip Shaw – Missouri

Phillip Shaw was sentenced to die in prison for a robbery-shooting that took place when he was 14 years old. Phillip was with a group of older boys in an abandoned building when one of them was shot by two masked gunmen. Phillip immediately ran home and called the police. The police came and arrested Phillip for the shooting, along with a 21-year-old man. On appeal, Phillip's older co-defendant won a new trial because women were illegally excluded from the jury that convicted him and Phillip. Phillip's attorney failed to object and his conviction was affirmed. At the co-defendant's retrial, the co-defendant got a reduced sentence and now has been released from prison. Phillip, who has matured into a thoughtful young man, remains condemned to die in prison.



Photo by Sean Gallagher

Joseph Jones – North Carolina

Joseph Jones is one of eight 13-year-olds nationwide sentenced to die in prison. Growing up in Newark public housing, Joseph raised his six younger siblings practically by himself. His crack-addicted parents left the children alone for days on end, leaving Joseph to cook, clean, and make sure his brothers and sisters went to school. He always did well at school and often made the honor roll. When he was 13, Joseph's parents took him and his brother to North Carolina and left them there with Joseph's aunt and 16-year-old uncle. One afternoon, while 13-year-old Joseph, who is black, was riding his bike, his uncle and an 18-year-old friend told him to invite home a white girl they knew from the neighborhood. Thinking nothing of it, Joseph complied. When the older teens began beating and sexually assaulting the girl, Joseph turned to run. His older and bigger uncle forced him to participate. After Joseph left, the girl was killed by the older teens, who threatened Joseph not to tell anyone. Despite the glaring conflict of interest, Joseph's aunt acted as his 'guardian' during his 12-hour-long interrogation. He was convicted of murder and sentenced to die in prison.



Photo by Gigi Cohen

Ken-Tay Lee – North Carolina

Ken-Tay Lee grew up in a poor neighborhood in Charlotte, North Carolina. His parents divorced when he was young, and his mother held down numerous jobs to maintain the home for Ken-Tay and his brother. With his mother at work and absent from the home, Ken-Tay fell in with the wrong crowd. He smoked marijuana on a daily basis and spent days breaking into cars. Ken-Tay was 14 years old when he and an older teenager were invited to a New Year's Eve party by a 30-year-old man. After being served numerous drinks, smoking marijuana, and after aggressive maneuvers by the older man, Ken-Tay and the older teenager responded violently and fatally injured the man. Despite his older co-defendant receiving a parole date of 2017 for his part in the man's death, Ken-Tay was sentenced to die in prison.

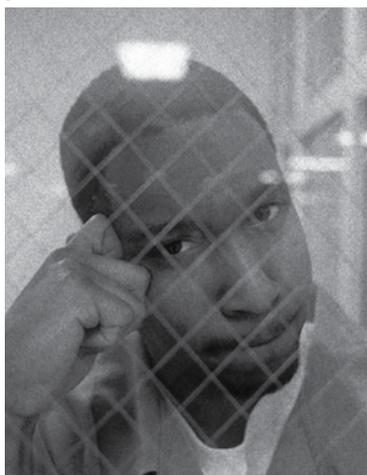


Photo by Gigi Cohen

Omer Ninham – Wisconsin

Omer Ninham is the only 14-year-old sentenced to die in prison in Wisconsin. His mother drank heavily while pregnant with him and Omer was drinking alcohol daily from the time he was ten. His parents, both violent alcoholics, allowed Omer's older brothers to beat him routinely. The police were a regular presence at the family's numerous addresses. By the time Omer was 13 he had run away too many times to count. Omer struggled in school, but did well when he spent a short time on a reservation with a program for Native American children. One evening Omer and a group of five friends began picking on a kid from school and it quickly escalated to tragic violence and the young man was killed. Despite the powerful evidence of Omer's dysfunctional and abusive childhood, the judge sentenced him to die in prison.



CONCLUSION

Many young children in America are imperiled by abuse, neglect, domestic and community violence, and poverty. Without effective intervention and help, these children suffer, struggle, and fall into despair and hopelessness. Some young teens cannot manage the emotional, social, and psychological challenges of adolescence and eventually engage in destructive and violent behavior. Sadly, many states have ignored the crisis and dysfunction that creates child delinquency and instead have subjected kids to further victimization and abuse in the adult criminal justice system.

The imposition of life imprisonment without parole sentences on the 13- and 14-year-olds documented in this report reveals the misguided consequences of thoughtlessly surrendering children to the adult criminal justice system. Condemning young children to die in prison is cruel and incompatible with fundamental standards of decency that require protection for children. These sentences undermine the efforts of parents, teachers, lawyers, activists, legislators, policymakers, judges, child advocates, clergy, students, and ordinary citizens to ensure the well-being of young children in our society and they feed the despair and violence that traumatizes too many of our communities and young people. The denial of all hope to a child whose brain - much less his character or personality - is not yet developed cannot be reconciled with society's commitment to help, guide, and nurture our children.

Life imprisonment without parole for young children should be abolished. States that impose death in prison sentences on young children should immediately eliminate the practice and provide opportunities for parole to people who are currently sentenced to imprisonment until death for crimes committed at 13 or 14. Recent legal developments, international law, and medical insights on child development provide powerful support for ending life without parole sentences for young children. There is an urgent need to change current criminal justice policy and institute reforms that protect young children from death in prison sentences. The plight of the condemned children in this report is not disconnected from the fate of all children, who frequently need correction, guidance, and direction, but always need hope.

NOTES

1. Amnesty Int'l & Human Rights Watch, *The Rest of Their Lives: Life Without Parole for Child Offenders in the United States* (2005), at <http://hrw.org/reports/2005/us1005/>.
2. Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, 1021 *Ann. N.Y. Acad. Sci.* 77-85 (2004); Nitin Gogtay et al., *Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood*, 101 *Proceedings Nat'l Acad. Sci.* 8174 (2004); Elizabeth R. Sowell et al., *Mapping Cortical Change Across the Human Life Span*, 6 *Nature Neuroscience* 309 (2003).
3. L.P. Spear, *The Adolescent Brain and Age-Related Behavioral Manifestations*, 24 *Neuroscience & Biobehav. Revs.* 417, 421 (2000); Elizabeth Cauffman & Laurence Steinberg, *(Im)Maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults*, 18 *Behav. Sci. & L.* 741,742 (2000); Lita Furby & Ruth Beyth-Marom, *Risk Taking in Adolescence: A Decision-Making Perspective*, 12 *Developmental Rev.* 1, 9-11 (1992).
4. *Roper v. Simmons*, 543 U.S. 551, 570 (2005) (it would be "misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed.").
5. *Id.* at 572-73.
6. Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 *N.C. L. Rev.* 891, 1005 (2004).
7. Gerald D. Robin, *Juvenile Interrogation and Confessions*, 10 *J. Police Sci. & Admin.* 224, 225 (1982); Barbara Kaban & Ann E. Tobey, *When Police Question Children: Are Protections Adequate?*, 1 *J. Center Child. & Cts.* 151, 158 (1999) ("Interrogation procedures designed for adults but used with children increase the likelihood of false confessions and may even undermine the integrity of the fact-finding process.").
8. *Roper*, 543 U.S. at 569.
9. *Roper*, 543 U.S. at 561 (quoting *Trop v. Dulles*, 356 U.S. 86, 100-101 (1958) (plurality opinion)).
10. In *Furman v. Georgia*, 408 U.S. 238 (1972), the Court struck down Georgia's statute "under which the death penalty was 'infrequently imposed' upon 'a capriciously selected random handful.'" *Godfrey v. Georgia*, 446 U.S. 420, 438 (1980) (Marshall, J., concurring) (citing *Furman*, 408 U.S. at 309-10 (Stewart, J.,

concurring)); see also *id.* at 439 n.9 (noting that, in *Furman*, Justices Stewart and White “concluded in the judgment largely on the ground that the death penalty had been so infrequently imposed that it made no contribution to the goals of punishment.”). In *Coker v. Georgia*, 433 U.S. 584, 596-97 (1977), the Court looked to the rarity of death sentences for rape of an adult woman in concluding that the death penalty is an unconstitutionally cruel and unusual punishment for that crime. Likewise, in *Thompson v. Oklahoma*, 487 U.S. 815 (1988), a plurality of the Court determined that contemporary standards of decency did not permit the execution of offenders under the age of 16 at the time of the crime, noting that the death penalty was imposed on offenders under 16 with exceeding rarity. *Id.* at 832-33. When *Atkins v. Virginia*, 536 U.S. 304 (2002), was decided, only a minority of states permitted the execution of persons with mental retardation, “and even in those States it was rare. On the basis of these indicia the Court determined that executing mentally retarded offenders ‘has become truly unusual, and it is fair to say that a national consensus has developed against it.’” *Roper*, 543 U.S. at 563 (citations omitted); see also *id.* at 564 (“*Atkins* emphasized that even in the 20 States without formal prohibition, the practice of executing the mentally retarded was infrequent. Since *Penry*, only five States had executed offenders known to have an IQ under 70.”).

11. *Hampton v. Kentucky*, 666 S.W.2d 737, 741 (Ky. 1984) (“life without parole for a juvenile, like death, is a sentence different in quality and character from a sentence to a term of years subject to parole.”).
12. *Naovarath v. Nevada*, 779 P.2d 944, 948-49 (Nev. 1989).
13. *Roper*, 543 U.S. at 573-574.
14. For example, in just the 10-year period between 1995 and 2004, 1343 children aged 14 or under were arrested for murder or non-negligent manslaughter nationwide. U.S. Dept. of Justice, Uniform Crime Reports: Crime in the United States 290 (2004), available at <http://www.fbi.gov/ucr/ucr.htm>; *id.* at p. 280 (2003); *id.* at p. 244 (2002); *id.* at p. 244 (2001); *id.* at p. 226 (2000); *id.* at p. 222 (1999); *id.* at p. 220 (1998); *id.* at p. 232 (1997); *id.* at p. 224 (1996); *id.* at p. 218 (1995).
15. Meg Laughlin, *Does separation equal suffering?*, St. Petersburg Times, Dec. 17, 2006, 1A.
16. United Nations Convention on the Rights of the Child, art. 37, Nov. 20, 1989, 1577 U.N.T.S. 3, 28 I.L.M. 1448, 1468-1470 (entered into force Sept. 2, 1990). The Committee on the Rights of the Child, which is the implementation authority for the treaty, recently made clear in a General Comment: “The death penalty and a life sentence without the possibility of parole are explicitly prohibited in

article 37(a) CRC.” Committee on the Rights of the Child, *General Comment No. 10: Children’s Rights in Juvenile Justice*, ¶ 11, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007).

17. Connie de la Vega & Michelle Leighton, *Special Report on Human Rights Violations in Sentencing Children to Die in Prison: State Practice of Imposing Life Without Possibility of Parole* 5 (2007).
18. Human Rights Committee, *Concluding Observations of the Human Rights Committee on the United States of America*, ¶ 34, U.N. Doc. CCPR/C/USA/CO/3/Rev.1 (Dec. 18, 2006) (determining that life without parole sentencing for children does not comply with articles 7 or 24(1) of the ICCPR).
19. Committee Against Torture, *Conclusions and Recommendations of the Committee Against Torture: United States of America*, ¶ 34, U.N. Doc. CAT/C/USA/CO/2 (July 25, 2006).
20. G.A. Res. 61/146, ¶ 31(a), U.N. Doc. A/Res/61/146 (Jan. 23, 2007).
21. Human Rights Watch, *No Escape: Male Rape in U.S. Prisons* (2002), available at http://www.hrw.org/reports/2001/prison/report4.html#_1_24 (citing Daniel Welzer-Lang, Lilian Mathieu and Michael Faure, *Sexualits et violences en prison* 150-53 (1996); Carl Weiss & David James Friar, *Terror in the Prisons: Homosexual Rape and Why Society Condone It* 74 (1974) (explaining that “[n]o age escapes prison rape, but youth is hit the hardest”).
22. National Institute of Justice, *NIJ’s Response to the Prison Rape Elimination Act 60*, *Corrections Today* (Feb. 2006), available at <http://www.ncjrs.gov/pdffiles1/nij/213137.pdf>.
23. 42 U.S.C.A. 15601 (2003) (congressional findings in support of Prison Rape Elimination Act).
24. *Eddings v. Oklahoma*, 455 U.S. 104, 115-16 (1982).
25. U.S. Department of Health and Human Services, Administration on Children, Youth and Families, *Child Maltreatment 2005* (Washington, DC: U.S. Government Printing Office, 2007), available at <http://www.acf.hhs.gov/programs/cb/pubs/cm05/index.htm>.
26. Nancy Kaser-Boyd, Ph.D., *Post-Traumatic Stress Disorders in Children and Adults: The Legal Relevance*, 20 W. St. U. L. Rev. 319 (1993).

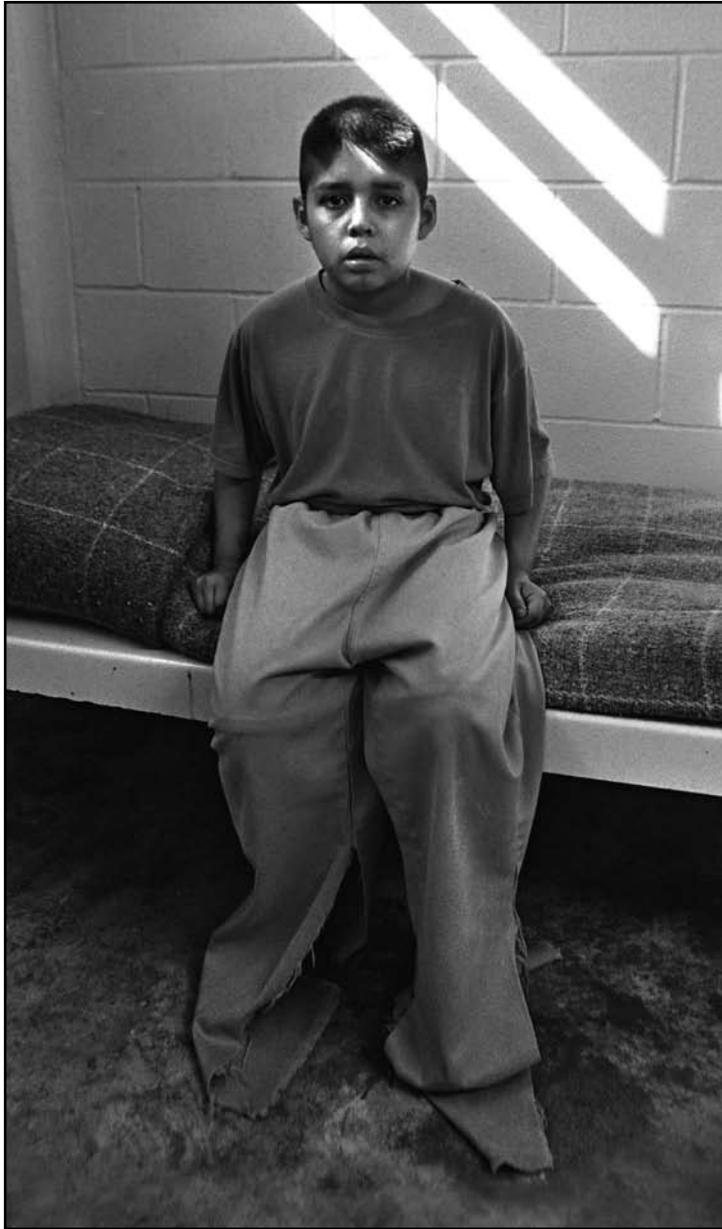


Photo by Steve Liss

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Equal Justice Initiative
122 Commerce Street
Montgomery, Alabama 36104
(334) 269-1803
www.eji.org