

Unjust justice: juveniles serving life without parole

[Law](#), [Capital Punishment](#)



Unjust Justice: Juveniles Serving Life Without Parole The 14th amendment of Constitution of the United States grants every American Citizen the right of due process of the law. This right is being denied juveniles sentenced to " life without parole". Recent Supreme Court rulings have held that " life without parole" is cruel and unjust punishment for those juveniles sentenced for non-homicidal crimes, because of limited capacity. Life without parole is essentially cruel and unjust punishment for all juveniles sentenced, regardless of crime committed. This paper will delve into the recent changes in juvenile sentencing of " life without parole" initiated by May 2010 decision of the court in *Graham v. Florida* and the unconstitutionality of life without parole for juveniles. It will briefly discuss the 14th amendment which involves due process and the 8th amendment which involves cruel and unjust punishment. It will argue that juveniles should not be sentenced to life without parole regardless of their particular crime. The 14th Amendment to the United States Constitution declares, ... " nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

Individuals are protected by due process when the state is required to follow the law of the land. Due process is violated when a person is harmed when the government does not follow the intent and letter of the law. Juveniles caught in an adult criminal system and sentenced to life without parole has their due process violated. The Eighth Amendment to the U. S. Constitution reads: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. The cruel and unusual punishments clause restricts the severity of punishments that state and federal

governments may impose upon persons who have been convicted of a criminal offense. This paper contends that sentencing juvenile criminals to life without parole is cruel and unjust punishment. In 1899, the first juvenile court was established in Cook County, State of Illinois. The format used for the court was based on the doctrine *parens patriae*, which recognizes that the state is a parent and possess the right to intervene and protect children whose parents did not provide adequate care or supervision. The court's primary concern was to provide rehabilitation and supervision. In the landmark case of *In re Gault* (No. 116), 99 Ariz. 181, 407 P. 2d 760 (1967) the court ruled that the proceedings of the Juvenile Court failed to comply with the 14th amendment of the Constitution. It held that the proceedings for juveniles had to comply with the requirements of the Fourteenth Amendment and those requirements including adequate notice of charges, notification of both the parents and the child of the juvenile's right to counsel, opportunity for confrontation and cross- examination at the hearings, and adequate safeguards against self- incrimination. During this particular time in the history of juvenile court, the court displayed marked differences from the adult criminal court in that it focused on the juvenile offender and not the offense of the juvenile; punishment was not the main focus. Most cases that were subsequently transferred to adult court were juveniles under the age of eighteen and were decided on a case by case basis. In the 1960's, the Supreme Court formalized juvenile courts to make them more like criminal courts. Formal hearings were required in situations where juveniles were transferred to adult courts. This included a mandate that Juveniles sentenced to incarceration had to be given notice of criminal

charges leveled against them as well as, the right to legal representation. Adjudication was not "Proof beyond a reasonable doubt", instead of "a preponderance of evidence". When the public seemingly become aware that juvenile crime was on the rise and concluded the system was too lenient, most states passed stringent laws, including mandatory sentences and automatic waivers to adult court for certain crimes. Emphasis on sentencing moved from rehabilitation to punishment. Today, children are not only transferred to and prosecuted in the adult system more easily than before, and they are also sentenced to its second to last penalty life without the possibility of parole. This can be interpreted as "Death by incarceration", since juveniles, in effect, would be sentenced to die in prison. Life without parole can be just as painful as the death penalty for juveniles. Yes, they are alive but their whole natural lives will exist only in prison. Is this not the death penalty revisited? In the same context as the death penalty, life without parole places an unalterable judgment upon the life of the juvenile and declares that a juvenile is endlessly unfit to be a part of society. Do these juveniles constitute such a threat to society that they can never be released back into society? Some may say that life without parole is not a deterrent for the juvenile in the criminal justice system. In *Thompson v. Oklahoma* the court felt that because of the lesser culpability of the juvenile offender, the adolescent's capacity for growth, and society's fiduciary obligations to its children, the deterrence rationale was unacceptable. In effect the culpability of juveniles committing any criminal offense must be taken into consideration because of lack of moral and neurological development. As stated in the *Graham* court, juveniles are less capable of

controlling their impulses utilizing their reason to control their behavior and to think about the consequences of their actions than adults. The Supreme Court had also recognized that cognitive capacity must be considered when imposing the death penalty in *Atkins v. Virginia*, which held executions of mentally retarded individuals unconstitutional. According to the Court: “Because of their impairments, however, by definition they have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others. . . . Their deficiencies do not warrant exemption from criminal sanctions, but they do diminish their personal culpability. ” “At least 2225 people in the United States currently are serving sentences of life without parole for crimes they committed before their eighteenth birthdays. FIGURE 1: STATE DISTRIBUTION OF ESTIMATED 2, 574 JUVENILE OFFENDERS SERVING JUVENILE LIFE WITHOUT PAROLE

Jurisdiction	Total	State Law	Jurisdiction	Total
Alabama	62c	Mandatory	Nebraska	24c
Alaska	0	No JLWOP	Nevada	16
Arizona	32	Discretionary	New Hampshire	3
Arkansas	73	Mandatory	New Jersey	0
California	250b	JLWOP Presumption	New Mexico	0
Colorado	48	No JLWOP	post-2005 New York	0
Connecticut	9c	Mandatory	North Carolina	44
Delaware	7	Mandatory	North Dakota	1
Florida	266c	Mandatory	Ohio	2
Georgia	8	Discretionary	Oklahoma	48
Hawaii	4	Mandatory	Oregon	0
Idaho	4	Mandatory	Pennsylvania	444c
Illinois	103c	Mandatory	Rhode Island	2
Indiana	2	Discretionary	South Carolina	26
Iowa	44b	Mandatory		

Mandatory South Dakota 9 Mandatory Kansas 0 No JLWOP Tennessee 4
Discretionary Kentucky 5 Ban on sentencing to JLWOP under court challenge
Texas 4 b Mandatory Louisiana 335c Mandatory Utah 1 Discretionary Maine 0
Discretionary Vermont 0 Discretionary Maryland 13 Discretionary Virginia 48
Mandatory Massachusetts 57 b Mandatory Washington 28b 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. Eddings v. Oklahoma,
455 U. S. 104 (1982) - Supreme Court 1982" stated, that youth must be
considered a relevant mitigating factor. According to the Psychiatric Times,
youth should be considered 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. " With this in mind, juveniles brought up in highly
dysfunctional surroundings will suffer some form of emotional and mental
lack of development. It can be observed that the juveniles ability to
understand and reason is significantly underdeveloped depending on the
interactions that they have with their familial authority figures. It is noted
that most juvenile who end up in criminal proceedings have had some sort of
disruption in their moral understanding and development because of drug
abuse, sexual abuse or apparent lack of parental instruction. The Harvard
Law Review stated that, "the understanding of right and wrong starts to
develop early in life, and depends on interactions with caregivers, usually

within the family. Therefore, assigning life without parole for juvenile offenders is disproportionate and would serve no other justification than a death sentence behind bars. Dr. Jenna Saul in her article, "Criminal Responsibility of Juvenile Offenders" recognizes that juveniles from chaotic backgrounds are less likely to understand the consequences of their actions on others, and may have a diminished ability to understand right from wrong, and an impaired ability to assess the consequences of their actions. Reduced culpability comes into play when the court determines that the punishment of a juvenile in criminal cases. In *Roper v. Simmons* (03-633), 543 U. S. 551 (2005) the court established that because juveniles have lessened culpability they are less deserving of the most severe punishments. Basically, juveniles were said to be sufficiently less responsible for their criminal acts. Although crimes committed by youths are just as damaging to victims as those committed by adults, youths deserve less punishment because they have less capacity to control their behavior and to think in long-range terms. The court stated specific characteristics inherent to juveniles under the age of eighteen. The juveniles lack of maturity, vulnerability to negative influences and outside pressures, and juveniles personality traits are more transitory than those of an adult. Moreover, crimes committed by juveniles is not exclusively the juvenile offender's fault but these offenses represent a failure of family, school, and the social system, which share responsibility for the development of juvenile. Finally, juvenile life without parole violates international laws which are accepted around the world. The United States stands alone in sentencing juveniles to life without parole and has been reminded by the United Nations Human

Rights Committee that sentencing juveniles to life without parole is incompatible with the International Covenant on Civil and Political Rights. There are no juveniles serving life without parole in the rest of the world. As an alternative to sentencing juveniles to life without parole, the court should consider individual circumstances and seek to find proportionate punishment and seek to rehabilitate the youth life allowing them to rejoin and contribute to society, rather than sentencing to die in prison. This would allow government to abandon the unconstitutional practice of cruel and unjust punishment.