



JUVENILE JUSTICE NEWSLETTER

Juvenile Justice Program

July and August 2006

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1. Adult Time for Adult Crime: Life without Parole

In 1991, Marshan Allen helped two acquaintances of his older brother commit a robbery. While Allen was waiting inside a van, one of the acquaintances botched the robbery and murdered two victims. Allen did not have any previous record of violent crime or felony convictions, but because the court found that Allen had helped steal the van that was used to drive to the victims' house, he was held accountable for the two murders. At the age of fifteen, he was sentenced to life without parole. He is currently thirty years old and is being detained in a penitentiary in Illinois.

In October 2005, Amnesty International and Human Rights Watch published a joint report of the United States' practice of trying children as adults and sentencing them to life without the possibility of parole. The Rest of Their Lives: Life Without Parole for Child Offenders in the United States is the first national study regarding this issue, and it provides data that highlights a stark contrast to that of the rest of the world. Currently, there are approximately 2,225 prisoners who have been sentenced to life imprisonment due to crimes they committed as children. Of this number, approximately 59 percent received the sentence for their first-ever criminal conviction. Sixteen percent were between thirteen and fifteen years old at the time they committed their crimes and 26 percent were convicted of felony murder in which someone else actually committed the murder, without the knowledge or intent of the juvenile, as was the case for Marshan Allen.

In sharp contrast, all fifteen members of the original European Union do not allow children to be sentenced to life without parole.¹ Thirty-one African countries prohibit the sentencing of children to life without parole.² While Malawi, Nigeria, and Sierra Leone's laws allow for the sentence to be used, it has never been used in practice. According to research conducted by Amnesty International and Human Rights Watch, in 2005, there are only a dozen child offenders serving sentences of life without parole outside of the United States: four in South Africa, one in Tanzania, and between four and seven in Israel. While other countries' legal systems may allow for life imprisonment of juveniles, it appears that the sentence is used rarely, if at all.

State and federal laws within the United States seem to be one of the major reasons for the high numbers of juveniles sentenced to life without parole. While laws differ from state to state, twenty-seven states³ have laws mandating the sentence for anyone, child or adult, who is guilty of certain crimes. On the other hand, Kentucky, New York, Oregon, and the District of Columbia do not allow juveniles to be sentenced to life without parole. As a result, the eight states with the

¹ Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and United Kingdom.

² Algeria, Angola, Benin, Botswana, Burundi, Cameroon, Cape Verde, Chad, Cote d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Guinea, Guinea-Bissau, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritius, Morocco, Mozambique, Namibia, Niger, Rwanda, Sao Tome and Principe, Togo, Tunisia, Uganda, and Zimbabwe.

³ Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, South Dakota, Virginia, Washington, and Wisconsin.



highest rates of sentencing youth to life without parole are states where the sentence is mandatory upon conviction of certain crimes, and the states with the lowest rates of sentencing are those that make the sentence discretionary. Many judges have openly stated that they do not agree with sentencing juveniles to life without parole, yet the law mandates these sentences in many states. In Marshaan Allen's case the judge had difficulty sentencing Allen to life without parole. However, life without parole "is the sentence that I am mandated by law to impose. If I had my discretion, I would impose another sentence, but that is mandated by law."

While the laws do pose severe obstacles, part of the problem may also be attributed to public prosecutors. Prosecutors have much discretion in deciding whether to file cases in adult court. Furthermore, they do not have to submit reasons for bringing charges in adult court, and there is rarely any judicial supervision over these decisions.

Life without parole has been defined by many as "adult time for adult crime." Supporters of life without parole believe that a lack of maturity is not a palpable reason to abolish the sentence. Moreover, they argue that this type of punishment serves as a deterrent factor for future crimes. In response, Amnesty International and Human Rights Watch argue that "the effectiveness of punishment – whether life in prison or a week in jail – should be measured against the yardstick of [rehabilitation, retribution, deterrence, and incapacitation] and should accord with the widely accepted corollary that no punishment should be more severe than necessary to achieve these stated goals." Children should be held accountable for their actions, but the nature of their punishment must reflect the idea that children have the capacity for rehabilitation.

I would be very grateful, in fact, for the chance to spend my life now for some good reason. I would go to the most dangerous parts of Afghanistan or Israel, or jump on the first manned mission to Mars...[I]f the state were to offer me some opportunity to end my life doing some good, rather a slow-wasting plague to the world, it would be a great mercy to me.

Children in conflict with the law confront a host of issues as soon as a judge or jury condemns them to life imprisonment without the possibility of parole. Not only are children subject to physical and sexual abuse while in prison, but they are also forced to cope with the gravity of their life sentence. Juveniles sentenced to life without parole must grapple with isolation, loneliness, hopelessness, fear, and anger, and of course, since these juveniles have a lifetime to sit in their prison cells to think about their future, or the lack of it, these psychological issues often appear time and time again. Furthermore, there is a lack of resources and support for these juveniles, at a time when they also tend to lose all contact with family and friends. Consequently, many juveniles sentenced to life without parole contemplate suicide.

I mean at least if you got a dog that you know is never going to get adopted, that's never going to live free again, I mean they kill it. They put it to sleep. That's more humane than keeping him in this cage the next twenty years...

Over the past year, the United States has made progress in the area of children's rights, specifically with the Supreme Court's ruling in *Roper v. Simmons*, which put an end to the execution of individuals under the age of eighteen. However, while juveniles may have escaped the death penalty, they are now forced to come to grips with the possibility of life imprisonment. While many argue that life without the possibility of parole is an adequate alternative to the death penalty, one cannot help but wonder whether life imprisonment merely serves as a form of the death penalty under disguise.

My life in prison has been like living in hell. It's like living and dying at the same time, and with my sentence the misery never ends. Life in prison is no life at all. It is a mere existence.

**All data and quotes in this article are based upon The Rest of Their Lives: Life Without Parole for Child Offenders in the United States, which can be found at <http://hrw.org/reports/2005/us1005>. **

Joy Park
DCI-International Secretariat

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2. Juvenile Justice: World news

ASIA/PACIFIC

Australia

Lawyers say changes to juvenile centres in New South Wales could breach Australian and international conventions on children's rights. Recently passed laws have given the centres new powers to control detainees, including attack dogs. Young detainees can also be given medical procedures without permission and can be isolated indefinitely.
ABC news online. 10th July 2006

Azerbaijan

Juvenile Pilot Project Discussed. State Committee on Problems of Family, Women and Children organized a "round table" jointly with UNICEF Baku Office. Professors of Essex University were invited to the event dedicated to the reform of juvenile justice.
www.demaz.org. 24th July 2006

India

In an effort to provide better care and protection to children under the Juvenile Justice Act, the Government has proposed several steps. According to the proposed amendment, no child should be placed in police custody or jail and maximum period of keeping him in special home would not be more than three years.
Express India. 10th July

AFRICA

Cameroon

A more human treatment of minors in prison. A dialogue was started by the Ministry of Social Affairs' provincial delegation for the West in order to better their conditions.
Le Messenger. 5th July 2006

Morocco

The debates of the first national congress on the reintegration of juvenile offenders and of detained persons started on Monday in Rabat.
L'Opinion. 27th July 2006

South Africa

South African children are being coaxed by hardened criminals to commit violent crimes. This was the shocking finding of a study carried out in Gauteng and the Western Cape by the Community Law Centre (CLC) of the University of the Western Cape.
IOL news. 10th July 2006

EUROPE

Czech Republic

Czech judges will be allowed to release the names and photographs of juvenile perpetrators of very serious crimes, under the amendment to the Penal Code that the Senate passed today. The amendment is yet to be signed by the president to



become law. The amendment enables courts to release the name and photograph of a juvenile criminal after the verdict is issued if it is necessary for protection of the society.

Prague Monitor. 19th April 2006

Spain

The deputy vice-president and Justice and Interior Counselor of the Madrid Region, Alfredo Prada, underscored that the capital will not be able to cope with the reform of the Juvenile Penal Code. The piece of legislation, currently under review by the Senate, foresees that persons aged 18 to 21 will be placed in juvenile detention centers instead of ordinary detention facilities. *V.Lex, 5th July 2006*

United Kingdom

Thousands of young muggers are to be spared prison sentences under new guidelines issued to judges and magistrates.

Daily Mail. 25th July 2006

AMERICAS

Argentina

The Office of the Ombudsman deplors the situation in which minors are imprisoned in Rosario.

La Capital Online. 27th July 2006

México

On a daily basis, 20 children and adolescents are arrested by the police of Mexico City for having committed an offence, especially violent or non violent assaults, which are the most frequent offences perpetrated. Thus, there's a need for a legislation that reflects the political and social context of the Federal District, with regards to adolescents. *El Sol de México, 9th July 2006.*

United States

The number of girls entering Florida's juvenile justice system is growing, and they are entering programs designed for boys that fail to meet their unique needs, according to a study released Tuesday.

News 4 Jax, 18th July 2006

3. Upcoming events

- XVII World Congress of the International Association of Youth and Family Judges and Magistrates

Dates: 27 August – 1 September 2006

Location: Belfast, Northern Ireland, United Kingdom

- IJJO Second International Conference. Juvenile Justice in Europe: a Framework for the Integration

Dates: 24-25 October 2006

Location: Brussels, Belgium



4. Publications

Arrestations et détentions dans les prisons et cachots de la RDC.

Partie II : La détention des enfants et la justice pour mineurs

MONUC. Division Droits de l'Homme. Section Protection de l'Enfant.
(Mars 2006)

Gaining Respect. The voices of children in conflict with the law

Author Vicky Johnson and Robert Nurick. Development Focus Trust
International Save the Children Alliance
(2006)

Does feminism spoil girls? Explanations for official rises in female delinquency

Kerry Carrington
Australian and New Zealand Journal of Criminology
Thomson Gale
(April 1, 2006)

Juvenile justice: stuck in the system: how one teen offender was able to turn his life around.

Lisa Poliak
Junior Scholastic
(April 24, 2006)

Intervenir auprès des mineurs : La justice des enfants perdus

Manuel Palacio
Editions La Découverte
(24 mai 2006)

Justicia Juvenil, Modalidades Socio-Educativas, Experiencias Internacionales y Nacionales

Corporación Opción
(2005)

Report to the Polish government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (4 – 15 October 2004).

Council of Europe
(March 2, 2006)



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