



## Position Statement 58: Life Without Parole for Juvenile Offenders

### Policy Position

Mental Health America (MHA) opposes sentences of life without parole for juvenile offenders. Such sentences are inconsistent with any of the purposes which ordinarily guide sentencing: deterrence, retribution, incapacitation or rehabilitation.

### Background

The United States is one of the few countries in the world that sentences juveniles to life without parole. In 42 states and under federal law, children who are too young to legally buy cigarettes are being tried for crimes as adults and if convicted, they can be sentenced to life without the possibility of parole. There are currently at least 2,500 youthful offenders serving life without parole in U.S. prisons. Nationally, 59% of these individuals received their sentences for their first ever criminal conviction. 16% were between the ages of 13 and 15 when they committed their crimes, and 26% were sentenced under a felony murder charge where their offense did not involve carrying a weapon or pulling a trigger.

Our society recognizes that juveniles differ from adults in their decision-making capacities as reflected in laws regarding voting, driving, access to alcoholic beverages, and consent to treatment. Adolescents are also more easily influenced by peers and less able to accurately interpret the actions, emotions and intent of others. We also know that teens who have been victims of abuse or who have witnessed violence may show an increased tendency to overreact to perceived threats. Victims of child abuse and neglect are over-represented among incarcerated juveniles, including those serving life without parole. Studies of this population also consistently demonstrate a high incidence of mental health and substance use disorders, serious brain injuries, and learning disabilities. In many instances, these juveniles have not received adequate diagnostic assessments or interventions.

Adolescents differ from adults in the way they behave, solve problems, and make decisions. There is a biological explanation for these differences. Recent research has demonstrated that the brain continues to mature and develop throughout adolescence and into early adulthood. Neuroimaging studies have also shown that adolescents use their brains in fundamentally different ways than adults. As a result, they are more likely to respond impulsively, utilizing a more primitive part of their brain. They are also less likely to stop, think things through, and analyze the consequences of their actions.

The U.N. Convention of the Rights of the Child, ratified by 192 nations, explicitly prohibits the imposition of life without parole for crimes committed by juveniles. Such sentences also constitute a violation of additional international treaties, including:

- International Covenant on Civil and Political Rights
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice
- United Nations Guidelines for the Prevention of Juvenile Delinquency
- United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment
- American Declaration of the Rights of Duties of Man
- Inter-American Convention to Prevent and Punish Torture

In 2005, the Supreme Court recognized that juveniles are inherently different from adults. In the *Roper v. Simmons* decision, they declared the juvenile death penalty to be unconstitutional. Their reasoning was based, in part, on our evolving understanding of adolescent brain development, and the increased potential for change and rehabilitation. Writing for the majority, Justice Kennedy said, "It would be misguided to equate the failing of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed." *Roper v. Simmons*, 543 US 551, 125 S.Ct. 1183, 1195 (2005). The same reasoning is equally valid with respect to life without parole.

Sentencing, including sentencing to imprisonment, has long been guided by four considerations: deterrence, retribution, incapacitation and rehabilitation. None of these purposes are served by sentencing juveniles to life without parole.

The deterrent value of life without parole has yet to be demonstrated. It is

particularly unlikely to deter adolescents from crime, as they tend to live in the present, think of themselves as invincible, and have difficulty contemplating the long-term consequences of their behavior.

Retribution is predicated on matching the harshness of the punishment to seriousness of the offense. The seriousness of the offense is measured not only by the acts done by the defendant and the harm caused by those acts, but also by the mental state of the defendant. We know that juveniles commonly do not have the maturity to understand the consequences of their acts. Thus, they ordinarily do not harbor the same intentions as adults even when they are performing the same acts and causing the same very bad consequences, including death. Thus, retributive considerations do not support life without parole.

Nor are the goals of incapacitation and rehabilitation served by life sentences. As the Supreme Court recognized in *Roper v. Simmons*, it is far more likely that a juvenile can be rehabilitated, than can an adult. Incapacitation serves no legitimate purpose once a defendant has been rehabilitated and no longer poses a threat to society. Because imprisonment is expensive, imprisonment beyond the point at which a defendant has been rehabilitated wastes scarce government resources.

### Call to Action

MHA encourages its affiliates and allies to work to repeal laws in those states which permit a sentence of life without parole. Mental health advocates, professionals and other service providers should work to ensure that juveniles are provided with appropriate services while incarcerated whose goal is to identify and ameliorate those problems which may have led to the crime and which need to be addressed before release will be safe and appropriate. Mental health advocates should also work to insure that are appropriate services available in the community for those juvenile offenders who may be released.

### Effective Period

The Mental Health America Board of Directors approved this policy on September 12, 2009. It will remain in effect for five (5) years and will be reviewed as required by the Public Policy Committee

Expiration: December 31, 2014

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