New Study Recommends Illinois Abolish Life-Without-Possibility-of-Parole Sentence for Children

Study Concludes Illinois Policy Violates Human Rights

(Chicago, February 13, 2008) - Illinois needs to abolish its policy of sentencing children to life without parole, according to concerns raised by a new report released today by the Illinois Coalition for the Fair Sentencing of Children.

“Dramatic reform is necessary in order to eliminate this egregious practice which has ensnared too many juveniles here in Illinois,” said Randolph Stone, member of the Coalition and clinical professor of law at the University of Chicago.

The 40-page report, Categorically Less Culpable: Children Sentenced to Life Without Possibility of Parole in Illinois, offers an extensive and unprecedented look at the lives of 103 Illinoisans serving life sentences for crimes they committed as children. For the report, the Coalition took the unusual measure of interviewing nearly all 103 prisoners sentenced to life without the possibility of parole (LWOP) for crimes committed between the ages of 14 and 17.

To capture the impact of this type of punishment, the report draws upon the findings of these interviews, along with an extensive statistical review of all the cases, to present the first study on the impact of life without the possibility of parole sentencing practices on children in Illinois.

“Providing the first-ever look into Illinois’ juvenile life-without-parole sentences, this report reveals the need for swift action to end this now archaic policy,” explained Coalition member Richard F. Klawiter, a partner with law firm DLA Piper.

In addition to urging the abolition of this sentence, the report also recommends establishing a process by which a parole board can review sentences for juvenile offenders who have been incarcerated for a substantial period of time, which is not to exceed 15 years.

The report stresses that providing offenders with an opportunity for parole, however, does not suggest that they will or should be granted parole at any time in the near future. Instead, this opportunity for parole simply means that they would now have the chance to be heard and the incentive to mature, take responsibility for their actions, and prove that they are capable of change.

Less Culpable: The Need for Change

Identifying several key misgivings with the state’s current policy, the report cites five conclusions which illustrate that the need for a new solution is of paramount importance to the Illinois judiciary system, including:

1. Children Are Different: Neuroscience Contradicts LWOP – The State of Illinois has recognized the inherent differences in children, prohibiting them from using alcohol, voting, making decisions regarding healthcare, being drafted, serving on juries, marrying without parental consent, or signing contracts. Despite this recognition, and a growing body of scientific evidence, the state has failed to properly revise its life-without-parole sentencing policy for children.
Cutting-edge neuroscience research now reveals that adolescents are more susceptible to rehabilitation, more likely to engage in behavior without evaluating consequences, and more likely to be susceptible to peer pressure than adults because their brains are not fully formed. In 2005, the U.S. Supreme Court relied extensively on emerging brain development research to support its decision in *Roper v. Simmons* (125 S.Ct. 1183), abolishing use of the death penalty for children. The Court found that because an adolescent’s brain is still developing, children are “categorically less culpable” for their crimes. Today, this same argument the Supreme Court used in Roper to invalidate juvenile death sentences applies to juveniles serving life sentences.

2. **Disproportionate Impact on Youth of Color** – The report notes the sentence of child life without parole disproportionately impacts African American and Latino youth. According to the report, 83% of the 103 JLWOP are prisoners of color: 72% are African-American and 10% are Latino.

The report also highlights two other demographic trends of note: 15% were age 15 or younger at the time of their offense and the overwhelming majority of cases originated from Cook County (73%).

3. **Human Rights Violation: Out of Step with Rest of World** – Illinois’ policy is a violation of human rights and is particularly troubling given the disapproval of such extreme sentences throughout the rest of the world. Based on data from Human Rights Watch, the United States has the highest rate of incarcerated juveniles serving LWOP in the world. Astonishingly, only seven people sentenced as children are serving LWOP throughout the rest of the world, compared to 2,380 in the United States, 103 of which are in Illinois alone.

In the United States, meanwhile, several states are considering reforms or have efforts underway to eliminate LWOP for children, including Florida, Louisiana, Michigan, Massachusetts, California and Nebraska. Two years ago, the State of Colorado abolished LWOP sentences for children.

4. **Judicial Concerns Mounting Over Constitutionality of LWOP for Children** – In recent years, the Illinois Supreme Court and several circuit courts have questioned the constitutionality and fairness of Illinois’ mandatory juvenile LWOP laws. In 2007, two Illinois circuit courts similarly held unconstitutional mandatory life sentences for 15-year-old Marshan Allen and 16-year-old Charles Green, each of whom had been found guilty for their roles as accomplices. In another case, the Illinois Supreme Court announced that a mandatory juvenile LWOP sentence went too far to comport with the constitutional requirement of proportionality.

5. **Dangerous Default Sentencing Provision on the Rise** – Despite a growing consensus among juvenile justice professionals that LWOP for children runs contrary to emerging concepts of juvenile rights, as well as brain development research, the rate at which children receive this sentenced has more than tripled since 1990.

For example, in 1990, 2,234 children were convicted of murder nationwide and 2.9% of them received life sentences. In 2000, only 1,006 children were convicted of murder, but the rate of those who were sentence to life more than tripled to 9.1%.

**Common Threads of Children Serving Life Without Possibility of Parole Sentences**

In addition to the report’s key conclusions recommending that the current mandatory LWOP provisions for children should be revoked, it also presents a more complete picture of those currently incarcerated under LWOP. Although not every person interviewed could be categorized, the report authors noted several characteristics common to those juveniles serving LWOP:

Before prison:

- Many became involved with gangs, often between the ages of 9 and 12
Almost everyone described witnessing or being the victim of violence regularly throughout childhood and adolescence.

Nearly everyone grew up in poverty.

Many became serious alcohol and drug users at a very young age.

Many had parents who also were abusing drugs or alcohol.

Many suffered from learning disabilities and had either dropped out of school or were not in the grade commensurate with their age.

Since entering prison:

- Despite limited educational opportunities, almost everyone had tried to improve their lives through education, study, and vocational training.
- Many accepted responsibility for their pasts, and acknowledged that they should be punished for their actions.
- Several told us they would want to mentor youth facing the same challenges they faced if they were ever released.
- Almost every individual held onto hope that some day he would be released.

**Establishing a Dialogue with Policymakers**

The report concludes by asking legislators, policy makers, prosecutors, defense attorneys, victims’ families, families of persons serving JLWOP, and child advocates to begin a dialogue that works toward a solution to this extreme, disproportionate sentence.

Specific policy recommendations include:

- Pass legislation that would set 15 years as the maximum amount of time a child could serve before the opportunity to appear before a parole board.
- Apply this new legislation retroactively to any child alleged to have committed a crime when under the age of 18.
- Eliminate all mandatory life sentences for juveniles from Illinois’s sentencing scheme, and instead give judges the discretion to determine whether a given sentence is appropriate for a particular child.
- Grant Petitions for Leave to Appeal filed by any person who has received a life sentence for a crime committed while under the age of 18.
- Create a mechanism whereby every child sentenced to life automatically is entitled to full review of his direct appeal by the Illinois Supreme Court, without having to file a Petition for Leave to Appeal.

For a complete copy of the report, please visit: [www.law.northwestern.edu/cfjc/jlwop](http://www.law.northwestern.edu/cfjc/jlwop)
About the Illinois Coalition for the Fair Sentencing of Children

The Illinois Coalition for the Fair Sentencing of Children is a network of attorneys, academics, child advocates, and concerned citizens who believe that life without parole sentences are inappropriate for children under the age of eighteen. It is comprised of the following member organizations: American Civil Liberties Union of Illinois; DLA Piper US LLP; Human Rights Watch, Chicago Committee; John Howard Association; Juvenile Justice Initiative; Law Office of the Cook County Public Defender; Children and Family Justice Center, Bluhm Legal Clinic, Northwestern University School of Law; Edwin F. Mandel Legal Aid Clinic, University of Chicago School of Law, and Voices for Illinois Children.

# # #