



Eastern Region Office  
PO Box 40008  
Philadelphia, PA 19106  
215-592-1513 T  
215-592-1343 F

Central Region Office  
PO Box 11761  
Harrisburg, PA 17108  
717-238-2258 T  
717-236-6895 F

Western Region Office  
313 Atwood St.  
Pittsburgh, PA 15213  
412-681-7736 T  
412-681-8707 F

**Testimony submitted by  
Andy Hoover, Legislative Director  
American Civil Liberties Union of Pennsylvania  
To  
Senate Judiciary Committee  
Hearing on Child Lifers  
State Capitol, Harrisburg  
September 22, 2008**

---

Good morning, Chairman Greenleaf and members of the committee. My name is Andy Hoover. I am the legislative director for the American Civil Liberties Union of Pennsylvania. Thank you for the opportunity to testify today about life without parole sentences for child offenders. I am here today on behalf of the nearly 19,000 members of the ACLU of Pennsylvania. Founded in 1920, the ACLU is one of America's oldest civil rights organizations. Today our nationwide membership is approximately half a million people, a number that has doubled since 2001.

The topic of today's hearing, life without parole sentences for children, is an issue that leaves the United States isolated in the world. Within the last year, Israel stopped the practice of sentencing child offenders to life without parole (CLWOP) and is giving its child offenders who are currently incarcerated – a total of seven individuals - the opportunity for parole. Israel's reform leaves the United States as the only country in the world that continues to sentence children to life without parole and the only country that today has inmates serving life without parole sentences for crimes they committed as children. Pennsylvania leads the country, and the world, with 444 child offenders serving life without parole sentences.

The ACLU opposes life without parole sentences for children who commit crimes. Life without parole sentences for children violate the 8<sup>th</sup> Amendment ban on cruel and unusual punishment as well as several international treaties to which the United States is a signatory. Our constitutional values are diminished and our standing in the world is stained when we send children to die behind bars.

When we consider sentencing for those who carry out violent offenses, we must never forget the victims of the crimes that these offenders have committed. These crimes harm individuals and tear families apart. When the crime is homicide, the victim's loved ones are forever saddled with their loss.

One such crime occurred in Tioga County in 1969 when Charlotte Goodwin was killed by her 15-year-old boyfriend, Jackie Lee Thompson.<sup>1</sup> Ms. Goodwin told Mr. Thompson that she was pregnant. Thompson had spent the previous five years in four different foster homes and was finally in a home he liked, but he feared that Goodwin's pregnancy, which turned out to be untrue, could lead to his expulsion from the home. With a friend's help, Thompson shot Goodwin three times with a shotgun and then drowned her in a creek. Thompson received a life sentence.

Today, Thompson is 53 years old and is an inmate at the state prison at Rockview. He has earned his general equivalency diploma and an associate's degree in business. In prison, he has learned numerous trades, including carpentry, masonry, electrical, plumbing, welding, and auto mechanics. In 2005, Thompson told *The New York Times*:

---

<sup>1</sup> Liptak, A. (2005) To more inmates, life term means dying behind bars. *The New York Times*, October 2, 2005.

That 15-year-old kid was so scared. He was a special-ed kid. Special-ed kids get teased a lot. I was small. I kept running away. Here was a kid who was always scared to death, picked on, possibly beat up. Looking back, I wish someone would have grabbed hold of me and kicked my butt. I wasn't a bad kid.

When Thompson applied to the state pardons board for release, Goodwin's parents supported his release. Her father, Duane Goodwin, said to the board, "We can forgive him. Why can't you?" A retired corrections official offered Thompson a home and a job, and the clerk of the Orphans Court of Tioga County at the time of Goodwin's death wrote to the board that the judge in the case never intended for Thompson to spend the rest of his life in jail.

Thompson failed in his effort to win release, thanks to the vote of one board member- Attorney General Tom Corbett. In 1997, the commonwealth amended the state constitution to require a unanimous vote of the board of pardons before the board can send a recommendation to the governor in cases involving the death penalty and life sentences. Any member of the board has veto power over any case that comes before them, and Corbett exercised that veto power in Thompson's case. There is currently a lawsuit in federal court challenging the law.

The story of Charlotte Goodwin and Jackie Lee Thompson illustrates how the commonwealth's policy on life sentences for child offenders fails to recognize the potential for rehabilitation in these young people. In the 1990s, with fears of youth crime rampant, child offenders increasingly found themselves in adult court and facing adult

sentencing. We were told by policy makers that these children were beyond repair and that they were repeat offenders who needed to be locked away.

But statistics and science do not bear this out. Nationally, a majority of children sentenced to life without parole are first time offenders, according to the report *The Rest of Their Lives*, by Human Rights Watch, a report that was originally released in 2005 and updated earlier this year.<sup>2</sup> 59 percent of individuals serving life without parole sentences for crimes they committed under the age of 18 had no previous criminal record.

We know that these young people have the potential for rehabilitation thanks to current research on brain development. Homicide is a crime committed largely by young people. Department of Justice statistics indicate that homicide is most likely to be carried out by offenders between the ages of 14 and 34. The age range in which the homicide rate is the highest is 18-24 with a rate of nearly 30 per 100,000.<sup>3</sup> This is nearly double the rate of any other age group. The homicide rate among offenders 14-17 is approximately 10 per 100,000. The rate among offenders 35 and older is 5 or less per 100,000.

This is not surprising in light of recent research on brain development. We now know that the human brain is not fully developed until the mid-20s. The frontal lobe determines impulse control, risk assessment, and moral reasoning, and it is the last part of the brain to fully develop.<sup>4</sup> Because the brain does not reach full development until the 20s, children act more irrationally, impulsively and immaturely, are less able to

---

<sup>2</sup> Human Rights Watch. (2008) *The Rest of Their Lives: Life Without Parole for Child Offenders in the United States*.

<sup>3</sup> Bureau of Justice Statistics. (2007) Bureau of Justice Statistics Homicide trends in the U.S.: Age. Retrieved September 19, 2008, from <http://www.ojp.usdoj.gov/bjs/homicide/teens.htm>.

<sup>4</sup> American Bar Association. (2004) Adolescence, Brain Development and Legal Culpability. Retrieved September 19, 2008, from <http://www.abanet.org/crimjust/juvjus/Adolescence.pdf>.

comprehend the long-term consequences of their actions, are more likely to take risks, have a harder time understanding the perspectives of others, and are more likely to yield to peer pressures than are adults.

In its 2005 *Roper v. Simmons* decision banning the juvenile death penalty, the United States Supreme Court recognized the fallacy in holding child offenders to adult sentencing standards when children do not think and reason like adults. In the court's majority opinion, Justice Anthony Kennedy recognized that children cannot be held to the same level of culpability and that they have greater potential for rehabilitation.<sup>5</sup> Thus, the court struck down executing child offenders as unconstitutional under the Constitution's 8<sup>th</sup> Amendment ban on cruel and unusual punishment. Kennedy wrote:

Juveniles' susceptibility to immature and irresponsible behavior means "their irresponsible conduct is not as morally reprehensible as that of an adult." *Thompson v. Oklahoma*, 487 U. S. 815, 835. Their own vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment. See *Stanford, supra*, at 395. The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character.

Ending life without parole sentences for children is a natural extension of the *Roper* decision.

By continuing to sentence children to life without parole, Pennsylvania is enabling U.S. violations of international treaties. The Committee Against Torture enforces the Convention Against Torture (CAT), and in 2006, the committee expressed concern about

---

<sup>5</sup> 543 U.S. 551 (2005).

the high number of children sentenced to life imprisonment, citing article 16 of CAT.<sup>6</sup> The committee recommended that the United States address child life imprisonment because it “could constitute cruel, inhuman or degrading treatment or punishment.”

Two months later, the United Nations Human Rights Committee, which enforces the International Covenant on Civil and Political Rights, expressed similar concern and advocated for the end of child life without parole sentencing in the United States.

Studies also indicate that racial discrimination may play an alarming role in sentencing children to life without parole. A 2007 report from the University of San Francisco School of Law found that African-American children are ten times more likely to receive a sentence of life without parole than white children.<sup>7</sup>

In a similar finding, the Human Rights Watch report referenced earlier showed that Pennsylvania is among the states with an extreme disparity in life sentences by race. The ratio of black to white youth serving life without parole in Pennsylvania is 20-to-1, second-highest in the nation. HRW went a step further and examined the arrest rate and the CLWOP rate by race. The murder-arrest-to-CLWOP ratio for black children in Pennsylvania is 1.90-to-1. That same ratio for white children is 2.82-to-1. In other words, for every 2 black children arrested for homicide, one is sentenced to life without parole while for every three white children arrested for homicide, one is sentenced to life without parole.

---

<sup>6</sup> Committee Against Torture. (2006) *Consideration of Reports submitted by States Parties Under Article 19 of the Convention*. Retrieved September 19, 2008, from [http://www.aclu.org/images/torture/asset\\_upload\\_file807\\_25607.pdf](http://www.aclu.org/images/torture/asset_upload_file807_25607.pdf).

<sup>7</sup> Leighton, M. and de la Vega, C. (2007) *Sentencing Our Children to Die in Prison*. University of San Francisco School of Law. Retrieved September 19, 2008, from [http://www.usfca.edu/law/home/CenterforLawandGlobalJustice/LWOP\\_Final\\_Nov\\_30\\_Web.pdf](http://www.usfca.edu/law/home/CenterforLawandGlobalJustice/LWOP_Final_Nov_30_Web.pdf)

This data grabbed the attention of the Committee on the Elimination of Racial Discrimination, the UN committee that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination. In March, the committee recommended that the United States end child life sentencing due to the disproportionate impact on racial, ethnic, and national minorities.

Of course, it would be ideal if the crimes that lead child offenders to face life sentences never occurred at all. Current laws on the books and proposed legislation take a punitive approach toward juvenile crime. Research, however, indicates that preventive measures are considerably more effective than punitive measures. In June, the Penn State Prevention Research Center released a report that found that prevention works.<sup>8</sup> The study indicated that \$60 million worth of grants from the Pennsylvania Commission on Crime and Delinquency to evidence-based prevention programs had a return of more than \$300 million.

The seven programs that received PCCD funding and were analyzed by Penn State addressed youth crime and prevention. The strategies employed by the programs include mentoring programs, school-based skill building programs, family strengthening programs, and individual and family therapy for juvenile offenders. These crime prevention strategies save taxpayer dollars spent on law enforcement, courts, corrections, drug and alcohol treatment, welfare, and victims' services. In a press release, Dr. Mark

---

<sup>8</sup> Jones, D. et al. (2008) *The Economic Return on PCCD's Investment in Research-Based Programs: A Cost-Benefit Assessment of Delinquency Prevention in Pennsylvania*. The Prevention Research Center for the Promotion of Human Development, Pennsylvania State University. March, 2008. Retrieved September 19, 2008, from [http://prevention.psu.edu/pubs/docs/PCCD\\_Report2.pdf](http://prevention.psu.edu/pubs/docs/PCCD_Report2.pdf)

Greenberg, director of the Penn State Prevention Research Center, said that these programs are “a cost-effective, wise investment of taxpayer dollars that will continue to pay dividends for years to come.”

In the same release, Michael Pennington, the director of PCCD’s Office of Juvenile Justice and Delinquency Prevention, stated, “(W)e...need to be smart about preventing kids from becoming the next generation of adult criminals.”

If legislators are moved to address the problem of sentencing children to spend the rest of their lives in prison, what can be done? The best way to end this practice is to pass legislation banning life without parole for child offenders and offering them an opportunity for parole after a period of time. This move should also include a retroactive provision that would allow those currently serving CLWOP the opportunity for a review and re-sentencing. A diverse group of five states- Alaska, Colorado, Kansas, New Mexico, and Oregon- have outlawed this cruel sentence. Six more states- Maine, New Jersey, New York, Ohio, Vermont, and West Virginia- have no one serving life without parole for a crime committed as a child.

Short of total repeal, a separate clemency board for juvenile cases would provide a place for child offenders to have their cases heard outside the established state pardons board. Colorado established a juvenile clemency board last year via an executive order by Governor Bill Ritter.<sup>9</sup> When making decisions in cases, the board considers exemplary rehabilitation and institutional behavior, aiding offenders suffering from catastrophic or

---

<sup>9</sup> (2007) Governor Ritter establishes juvenile clemency board. Retrieved September 19, 2008, from <https://www.colorado.gov/governor/press/august07/juvenile-clemency-board.html>.

terminal medical, mental or physical conditions, rewarding acts of heroism by inmates who prevent risk or injury to staff, citizens or other inmates, addressing sentencing disparities, and correcting inequities within the Colorado criminal justice system. In announcing the establishment of the juvenile clemency board, Governor Ritter, who is a former prosecutor, said, "This Juvenile Clemency Board will bring an added level of expertise to the review process and help ensure that the interests of justice are served in cases where juveniles are tried and sentenced as adults."

Sending children to prison for the rest of their lives is an affront to American values articulated in the U.S. Constitution and diminishes our country's reputation around the world. Pennsylvania leads the nation in dispensing this cruel and this increasingly unusual punishment, but you have an opportunity to reverse that. As you consider legislative priorities for the next session, the ACLU of Pennsylvania encourages you to end life without parole sentences for child offenders. Thank you for the opportunity to testify today, and I am willing to take questions at this time.