

Statement in support of elimination of juvenile life without parole sentencing

We, the undersigned current and former prosecutors and judges, write in support of changing state and federal laws to ensure that any life sentence imposed in a case where the defendant was under the age of eighteen at the time of the offense, receives meaningful periodic reviews. As those who have served as prosecutors and judges, we are well aware of the need to protect our community and ensure that individuals who commit serious offenses are sentenced appropriately. We question, however, whether it makes sense to send a youth to prison for the rest of his/her life (known as a life without parole or “LWOP” sentence) with no opportunity for review and no ability to assess whether the individual has been reformed and is safe to return to the community at some point before he or she dies. We thus support a carefully tailored review at an appropriate time to determine whether these individuals should remain incarcerated.

Scientific evidence proves that youth are fundamentally different from adults because of their immature brain development, and their weaker impulse control and reasoning abilities. Indeed, these exact factors led the U.S. Supreme Court a few years ago to conclude that youth should be treated differently by the criminal justice system because of their developmental differences. In the decision, Justice Kennedy, who wrote for the majority, noted the fact that youth have more potential to reform their behavior and be rehabilitated than adults. As such, the Supreme Court ruled that it is unconstitutional to execute those under the age of 18 at the time they committed a crime.¹

Juvenile LWOP is not only an unduly harsh and inappropriate penalty for youth, it is also extremely costly to taxpayers. In the United States, we spend approximately \$90 million per year to incarcerate people serving juvenile LWOP sentences. Assuming they are incarcerated at age 17 (many are younger) and live to the average life expectancy of 78, we are spending a total of about \$5.5 billion to incarcerate people who may at some point in their lives pose no threat to society and could be productive members of our community.

We know there are some people who have committed heinous crimes and are unfit to be released into the community regardless of their age when they committed the crime. Elimination of juvenile LWOP will not allow these people to be released to the streets. Instead, it will allow for careful reviews to determine whether, years later, individuals sentenced to life without parole as youth continue to pose a threat to the community.

For all of these reasons, we believe that it is both inappropriate and unjust to sentence juveniles to life without the possibility of parole.

Anthony S. Barkow, Assistant United States Attorney, Southern District of New York, 2002-2008; Assistant United States Attorney, District of Columbia, 1998-2002; Trial Attorney, Attorney General’s Honors Program in the Office of Consumer Litigation, United States Department of Justice, 1996-1998

¹ See *Roper v. Simmons*, 543 U.S. 551, 569–73 (2005).

Shay Bilchik, *Assistant State Attorney, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice, 1993-2000; Administrator, Miami-Dade State Attorney's Office, Florida, 1977-1999*

Robert J. Del Tufo, *Attorney General, State of New Jersey, 1990-1993; United States Attorney, District of New Jersey, 1977-1980; First Assistant State Attorney General and Director of New Jersey's Division of Criminal Justice*

Michael H. Dettmer, *United States Attorney, Western District of Michigan, 1994-2001*

Bennett Gershman, *Prosecutor, Manhattan District Attorney's Office, 1967-1972*

Isabel Gomez, *Former Judge, Hennepin County Circuit Court, State of Minnesota*

Joseph R. Grodin, *Former Associate Justice, California Supreme Court*

Shirley M. Hufstедler, *United States Secretary of Education, 1979-1981; Judge, United States Court of Appeals for the Ninth Circuit, 1968-1979; Associate Justice, California Court of Appeal, 1966-1968; Judge, Los Angeles County Superior Court, 1961-1966*

Bruce Jacob, *Former Assistant Attorney General, State of Florida*

Anne Kenner, *Assistant United States Attorney, Northern District of California, 1990-2000, Eastern District of New York, 1986-1989*

William A. Kimbrough Jr., *United States Attorney, Southern District of Alabama, 1977-1981; Assistant United States Attorney, Southern District of Alabama, 1961-1965*

Gerald Kogan, *Former Chief Justice, Supreme Court of the State of Florida; Former Chief Prosecutor, Homicide and Capital Crimes Division, Dade County, Florida*

Miriam Krinsky, *Assistant United States Attorney, Central District of California; Assistant US Attorney, Central District of California 1987-1988, 1990-2002, District of Maryland, 1988-1999; Chief, Criminal Appellate Section, Central District of California 1992-2000; Chief, General Crimes Section, Central District of California, 1991-1992.*

Mark Osler, *Assistant United States Attorney, Eastern District of Michigan, 1995-2000*

A. John Pappalardo, *United States Attorney, District of Massachusetts, 1992-1993*

H. James Pickerstein, *Chief Assistant United States Attorney, District of Connecticut, 1974-1996; Court Appointed United States Attorney, District of Connecticut, 1974-1975*

Richard A. Rossman, *Chief of Staff, Criminal Division, United States Department of Justice, 1998-1999; United States Attorney, Eastern District of Michigan, 1980-1981;*

Chief Assistant United States Attorney, Eastern District of Michigan, 1977-1980; Chief Deputy Federal Defender, Eastern District of Michigan, 1972-1975

Heidi Rummel, Assistant United States Attorney, District of Columbia, 1994-1996, Los Angeles, California, 1996-2005

Patricia Wald, United States Judge to the International Criminal Tribunal for the Former Yugoslavia, 1999-2001; Judge, United States Court of Appeals for D.C. Circuit, 1979-1999, Chief Judge, 1986-1991

James J. West, United States Attorney, Middle District of Pennsylvania, 1985-1993