

Testimony of  
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Before the  
U.S. House Subcommittee  
On Judiciary, Crime, Terrorism and Homeland Security  
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As requested by Subcommittee Chairman Robert C. Scott  
On  
House Bill 2289  
“The Juvenile Justice Accountability and Improvement Act of 2009”

First, I would like to thank you, Congressman Scott, for introducing HB2289 and for holding this hearing. I commend you for both your concern over the issue of sentencing juveniles to life without the possibility of parole, as well as your willingness to step forward to address it.

My name is Anita Colón. I am the sister of Robert Holbrook, a man currently serving a life sentence in Pennsylvania for a crime he was convicted of participating in at the age of 16, a crime that occurred on his sixteenth birthday. That day, lured by the promise of \$500 made by a neighborhood drug dealer, Robert agreed to serve as a lookout for four men for what he thought was going to be a simple drug deal. My brother soon found himself in the midst of a robbery of a young woman inside her home. Although he desperately wanted to run once he realized what was happening, he was terrified of the drug dealer that had ordered him to stay, and oblivious to the consequences that would await him if he remained.

As a result of that terrible night, an innocent young woman lost her life and my brother's freedom was taken away forever. Having no prior experience with the court system, my brother accepted his attorney's advice and pled guilty to murder generally. The attorney told us that if he did not do this, the D.A. would seek the death penalty.

Despite the fact that Robert was a juvenile and did not participate in the actual murder of this woman, the judge sentenced him to first degree murder for aiding and abetting in the crime. Because of mandatory sentencing in Pennsylvania, he was sentenced to life without the possibility of parole. At sentencing, the judge stated that my brother had most certainly been the least culpable of the offenders, but that the law did not permit him to use

discretion in his sentencing. That was over 19 years ago and my brother is now 35 years old. While his friends continued high school, got their drivers licenses, went on to college, got married and now have children, he sits confined to a cell. Most of his early years were spent in isolation, separated from the adult offenders.

My brother's conviction and incarceration was devastating to my family, especially my mother. My mother wrote to her son in prison each and every day right up until the end of her life four years ago. At that time she was diagnosed with Cancer and within months she passed away. Robert was not even able to attend her funeral because the Department of Corrections no longer allows the transporting of lifers to attend funerals, even when a parent dies.

In spite of the lack of hope afforded him, my brother has refused to give up on his life. While in prison, he obtained his GED, participated in a paralegal course, and became an avid reader and writer. He has had several articles published and works closely with many human rights organizations fighting against racism and unfair sentencing such as his. My brother deeply regrets his participation in the crime and the horrible loss suffered by the victim's family, but does not believe that his entire life and hope for the future should have been taken away from him. Whereas I do believe that my brother's actions that day did warrant punishment, I am confident that he does not deserve to spend the rest of his life ( what could turn out to be 60, 70, even 80 years) in prison for one horrible choice he made while barely 16.

Although my initial concern over juveniles sentenced to Life without the Possibility of Parole came as a result of my brother's conviction, after truly researching this issue I became an advocate for juvenile justice, dedicated to

this cause, and I am speaking to you today on behalf of the approximate 2,500 juveniles currently sentenced to die in prison throughout the United States. Please allow me to share some background on this serious human rights issue we are addressing. Much of this may have been said already, but I feel it is important to highlight.

The United States is currently the only country in the world known to have children sentenced to and serving life without the possibility of parole. This alone tells me that there is something wrong with this policy. Sentencing juveniles to life without the possibility of parole violates customary international law and it is expressly prohibited under any circumstances by Article 37 (a) of the United Nations Convention on the Rights of a Child (CRC). The United States and Somalia are currently the only countries that have refused to ratify this treaty.

As you are aware, The U.S. Supreme Court made the distinction between the culpability of juvenile offenders and adult offenders when it abolished the death penalty for juvenile offenders in 2005 (*Roper vs Simmons*). Citing both clinical and academic research, the Court acknowledged that adolescents are immature, incapable of clear adult decision making, and prone to peer pressure. Using this same logic, it is time that the United States acknowledges and addressing the fact that this same logic applies to sentencing our children to die in prison.

Throughout the country, states are re-examining the affect of automatic transferring of juveniles to adult court in combination with mandatory sentencing laws resulting in life without parole sentences for juveniles, and I believe it is the perfect time for the Federal Judiciary System to address this problem.

Nationally, almost 60 percent of the prisoners serving life without parole for crimes they committed as juveniles were first time offenders, never having been convicted of a previous crime. In addition, one third of those juveniles convicted of life without parole were convicted of felony murder, because they participated in a crime that resulted in a homicide, but they did not themselves kill anyone. In most of the cases, these sentences were a result of mandatory sentencing currently in place for adults convicted of murder, leaving judges with no discretion in sentencing.

Also, there are a significant disproportionate number of minorities serving JLWOP throughout the United States. In California and Pennsylvania, an African American youth is 20 times more likely to receive a sentence of life without the possibility of parole than a white youth even though African Americans make up less than 15% of these states' youth population. These statistics are similar throughout the country.

Finally, JLWOP, like most forms of unusually harsh punishment, does not serve as a deterrent. FBI Statistics show that from 1994-2004 the number of juveniles arrested for murder rose by over 24%. Research studies have shown that juvenile offenders are more susceptible to rehabilitation and treatment than adult offenders. These children are not beyond redemption, but currently they are without hope. We imprison children for the rest of their lives, without any hope of rehabilitation or re-entry into society and call it justice. Well, I call it inhumane.

Our laws do not allow juveniles to assume the same responsibilities as adults (such as driving, voting, drinking, or joining the military) because we know that they are not mature or mentally developed enough to make these decisions about or control these actions. Yet, we hold these same children as

accountable as adults when it comes to crime. Juvenile offenders should not be held to the same level of accountability as *adults because they are not adults*.

In my home state of Pennsylvania, we have the distinction of having the highest number of juvenile lifers of any state in the country, with approximately 450 prisoners serving life sentences for crimes they committed or participated in as juveniles. The Pennsylvania District Attorney's Office claims that only the worst child offenders are sentenced to life without parole, and only in exceptional circumstances, but that is simply not true.

While I acknowledge that those fighting crime throughout this country face daunting challenges, the answer is not to throw away the lives of our children forever. The fact that a child commits a crime does not negate the fact that they are still a child. Please understand that I am in no way suggesting that you open the prison gates and free everyone that was incarcerated as a juvenile. The legislation proposed in HR2289 does not ignore the fact that some juveniles commit horrible crimes and cause tremendous grief to victims' families, and deserve to be punished for their actions. Nor does the bill ignore the fact that there are some juvenile offenders that may never be able to develop into reasoning members of society and should therefore not be released. What this legislation does is provide these offenders the prospect, not guarantee, of parole after a reasonable period of incarceration. I find it incomprehensible that heinous mass murderers such as Charles Manson are given the chance for parole, yet thousands of children whose crimes could never begin to compare to his are not.

Juvenile offenders should be given a second chance, a chance to prove that an extremely poor choice made during adolescence does not have to define who they can become as an adult within society. Congressman Scott, committee members, I implore you to do just that. Again, thank you for allowing me to testify before you today. I urge you to enact this bill and restore hope to the thousands of individuals currently serving juvenile life without the possibility of parole in this country.