



Testimony of Marc Mauer Executive Director The Sentencing Project

**Prepared for the United States House of
Representatives, Committee on the Judiciary
Subcommittee on Crime, Terrorism, and
Homeland Security**

**Hearing on H. R. 2289, Juvenile Justice
Accountability and Improvement Act of 2009**

June 9, 2009

I am pleased to submit this testimony on behalf of The Sentencing Project to express our strong support for H.R. 2289, the Juvenile Justice Accountability and Improvement Act of 2009. I am Marc Mauer, Executive Director of The Sentencing Project, a national non-profit organization engaged in research and advocacy on criminal and juvenile justice policy issues. I thank Chairman Scott and the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security for holding today's hearing.

In the United States, there are more than 2,500 people serving life sentences without the possibility of parole for crimes committed when they were less than 18 years old. The federal government and 45 states allow sentences of life without parole for juveniles; it is prohibited in 5 states and the District of Columbia.

The Sentencing Project opposes sentences of juvenile life without parole (JLWOP) because they declare that young people are beyond reform. All other nations have devised strategies to hold youth accountable, promote public safety, and prioritize rehabilitation to limit recidivism without resorting to this extreme punishment.

Our country's juvenile justice system was founded on the majority view that children, even those responsible for grave acts, are fundamentally different from adults. The imposition of life without parole sentences on young people is especially cruel and misguided because it ignores the fact that children are different from adults in critical ways. Behavioral research confirms that children do not have fully matured levels of judgment, impulse control, or the ability to accurately assess risks and consequences. Because of these characteristics among young people, the threat of a JLWOP sentence does not serve as a deterrent.

Current law recognizes the fundamental differences between youth and adults in many ways. Age restrictions exist for voting, driving, alcohol consumption, and entering into a variety of legal contracts based on young people's relative immaturity.

The decision to treat youth as adults with criminal sanctions is at odds with the distinctions we recognize in these other arenas.

There is widespread agreement among child development scientists that young people who engage in delinquency are very capable of reforming their behavior and leading law-abiding lives. The transitory nature of adolescence is such that the youth who stands in the courtroom at sentencing is quite different from the individual who could appear before a parole board in the years ahead. The U.S. Supreme Court agrees—in *Roper v. Simmons* the Court explained, “From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.”

Detailed research on the application of JLWOP sentences around the country documents evidence of systemic racial disparities and gross failures in legal representation. There is also some evidence that adult codefendants receive more lenient sentences than their juvenile counterparts. Despite the popular misconception that these sentences are reserved for the “worst of the worst,” a large portion—as many as 60%—of the people serving JLWOP sentences are first-time offenders.¹

In addition, more than one quarter of people serving JLWOP were convicted of “felony murder,” which means they were participants in an underlying crime that resulted in a murder, but did not actually commit it, and may not have even been present at the time.² In many cases, a youth is reported to have accompanied an older accomplice without even full awareness of the activities to be undertaken but, because of felony murder rules in some states, these individuals are held equally accountable. For example, data collected last year in California reveal that in 70% of

¹ Human Rights Watch/Amnesty International (2005). *The Rest of their Lives*. San Francisco: Human Rights Watch.

² Ibid.

the cases in which the youth was acting within a group, at least one other member of that group was an adult.³

Our young people deserve fair treatment and a chance to reform their lives. To gauge their progress, they deserve the opportunity for a parole hearing at some point during their sentence to determine whether they can safely be released to the community. Enactment of H.R. 2289, The Juvenile Justice and Accountability Act of 2009, would not mean that violent people will simply be released to the streets. Instead, it would allow for careful, periodic reviews of individual cases to determine whether, 15 years later, people sentenced to life without parole as youth continue to pose a threat. We support legislation that acknowledges the critical differences between youth and adults and imposes age-appropriate sentences that protect public safety and gives a second chance to young people.

³ Human Rights Watch (2008). *When I Die They'll Send Me Home: Youth Sentenced to Life without Parole in California*. San Francisco: Human Rights Watch.



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