

# The Sentencing Project

## Criminal Justice Issues and Prisoners' Rights

<https://www.sentencingproject.org/publications/youth-sentenced-life-imprisonment/>

## Campaign and Advocacy

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**This fact sheet is part of The Sentencing Projects [Campaign to End Life Imprisonment](#). Learn more about the facts of life imprisonment in the United States, hear stories of real people impacted by these punitive policies, and discover why #20YearsIsEnough at [www.endlifeimprisonment.org](http://www.endlifeimprisonment.org).**

In the United States, nearly 12,000 people are serving a life sentence for a crime they committed under the age of 18. This fact sheet uses data obtained from state departments of corrections at yearend 2016 and includes details about people serving sentences of life without parole (LWOP), life with parole (LWP), and virtual life imprisonment -sentences that extend to 50 years or more.<sup>2)</sup> Though the federal government allows life sentences without parole and virtual life sentences for juveniles, the population of those serving such sentences has not been made available. The federal system does not allow parole for life sentences

There were 2,310 people serving life-without-parole sentences for crimes committed as juveniles (known as JLWOP) at yearend 2016. In its 2017 ruling in *Montgomery v. Louisiana*, the Supreme Court invalidated all existing JLWOP sentences that had been imposed by mandatory statute. As a result, youth sentenced to parole-ineligible life sentences in 29 states and the federal government are now in the process of having their original sentences reviewed or have been granted a new sentence. In a small fraction of cases, individuals have been released from prison. The post-*Montgomery* years have surely included a decline in the juvenile life without parole population, though there is not exact count as of yet. Pennsylvania, Louisiana, and Michigan hold the greatest number of people serving JLWOP, comprising half of the national total. Twenty-three states and the District of Columbia no longer allow juvenile life without parole.<sup>3)</sup> For more information on juvenile life without parole, see Rovner, Josh. (2019). *Juvenile Life Without Parole: An Overview*. Washington, DC: The Sentencing Project. Available here: <https://www.sentencingproject.org/publications/juvenile-life-withoutparole/>.

As of 2016, 7,346 people were serving life sentences with the possibility of parole (LWP) for crimes committed under the age of 18. These sentences do not guarantee release on parole but allow for a parole review at certain intervals. Typically, an initial wait period of 25 years is required before a first review by the parole board, but states have extended this minimum as far as 51 years, as in the case of Tennessee.

States with the highest population of people serving LWP for crimes committed as minors are California, Georgia, New York, and Texas. Combined, these four states hold more than 60 percent of the national total. Life-with-parole sentences for juveniles were not reported in five states.

In 2012 the U.S. Supreme Court, in *Miller v. Alabama*, vacated the mandatorily-imposed LWOP sentences for approximately 2,000 individuals who were under 18 at the time of their crime. As states implement reforms to comply with this decision, some have commuted these sentences to life with parole, thus granting parole boards the authority to consider factors related to youth at the time of the crime in assessing readiness for release. Beyond this, most states have not required that parole boards develop official procedures for incorporating youth at the time of offense as an integral consideration during the parole hearing. California and Missouri are two exceptions.

California has taken steps to ensure that its parole board considers various age-related factors through creation of its Youth Offender Hearings.<sup>4)</sup> For more information on California's approach, see here. <https://www.cdcr.ca.gov/bph/youth-offender-hearings-overview/>. Note that not all youthful offenders qualify under this law. Specifically, the board is required to give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the inmate. Moreover, if the hearing panel relies on a risk assessment in assessing a youth offenders growth and maturity, the risk assessment must take into consideration these factors.<sup>5)</sup> <https://www.cdcr.ca.gov/bph/youth-offender-hearings-overview/>.

Missouri is under a federal court order to implement new protocols for the parole review process for lifers sentenced as juveniles because the overwhelming majority of parole applicants were denied a release date due to their underlying offense. The order authorizes individuals to have full access to their prison records, ensures the right to bring multiple witnesses to hearings, including an expert witness, and provides a right to counsel. When parole is denied, the Board must specify the reason(s) for denial along with supporting evidence. Risk assessment tools, when used, must account for youthfulness at the time of the crime. Additionally, people serving life sentences cannot be excluded from some programming simply because of their life sentence. Finally, the board is prohibited from denying parole based solely on the nature of the crime.

In 2016, 2,089 people were serving virtual life sentences for crimes committed while under age 18. A virtual life sentence applies when the sentence length exceeds typical life expectancy. Virtual life sentences can be with or without parole. Eight state supreme courts have ruled that de facto life sentences violate the Graham and Miller rulings, which respectively barred life without parole for non-homicide offenses and barred its imposition as part of a mandatory statute.<sup>6</sup>Hoesterey, A. R. (2017). Confusion in Montgomery's Wake: State Responses, the Mandates of Montgomery, and Why a Complete Categorical Ban on Life Without Parole for Juveniles is the Only Constitutional Option. Fordham Urban Law Journal Vol XLV 149- 199. There remains debate in the legal community about how the Courts directive of allowing for a meaningful opportunity for release<sup>7</sup>See Graham v. Florida 560 U.S. at 75 (2010). should be defined.

States with the highest figures of virtual life sentences for juvenile crimes are Indiana, Louisiana, Pennsylvania, and Texas, which together comprise 60 percent of the national total. Twelve states reported having no juveniles serving virtual life sentences.

Racial and ethnic disparities plague the criminal justice system from the point of arrest through the point of imprisonment. This is no different when it comes to life sentences and the problem may be even worse for juveniles. The disproportionate presence of black youth among the life-sentenced population is staggering. Eighty percent of youth serving life sentences are youth of color and more than 50% are African American. In the Southern states of Alabama, Louisiana, Mississippi, and Virginia, over 80% of the youth life-sentenced population is African American. Ethnic disparities are also overwhelming: California, New York, and Texas each report having more than 100 Latino youth serving life sentences. When compared with adults serving life sentences the disproportionality is even more distinct.

Changes in crime policy following a period of rising violence during the 1980s led to today's proliferation of life sentences for juveniles. Policymakers enabled prosecutors to transfer youth out of the juvenile court system into adult court more easily. Additionally, mandatory minimum sentences for certain offenses were set by statute and thereby limited judicial discretion. Consequently, the adult court system increased harsh punishment for youth without accounting for age.

In the years since, the practice of waiving minors into adult courts has drawn wide criticism. States have changed course regarding adjudication of juveniles since the 1990s and most have placed limits on the ability to charge a young person as if he or she was an adult.

The U.S. Supreme Court's decisions to limit life without-parole sentences for juveniles has allowed approximately 2,000 people to be considered for a sentence review. This development has come about because of the established science showing the importance of brain development on decision making. For the young people sentenced to life with the possibility of parole, and the young people serving de facto or virtual life sentences, their future is yet undecided, as the appropriateness of a second look for these two classes of life sentenced individuals has not been addressed directly.

Footnotes[+]

People in prison is serving a life sentence

Incarceration

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