

Kids Locked Up for Life

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Terrance Graham was a bad kid. No one's disputing that. At 16, he and some of his buddies robbed a barbecue restaurant in Jacksonville, Florida. In the process, they bashed the manager on the head with a steel bar, hurting but not killing him. Graham got a year in jail and three years probation for that. But soon after he got out, he joined two older guys in a couple of armed robberies.

Graham was still a minor at the time, too young to vote, serve on a jury or join the Army. But he drew an adult-sized punishment. The Florida courts ruled he should stay in prison until he dies.

Graham is one of at least 1,755 Americans serving sentences of life without the possibility of parole for crimes committed while they were under age 18. The U.S. is almost alone in the world in handing out this particular punishment; it was the only country to vote against a 2006 United Nations resolution calling for its abolition.

Life without parole for juveniles caught on during the hysteria over crack and youth gangs in the 1980s, part of a wave of tough-on-crime legislation that has quadrupled America's prison population to a record-shattering 2.3 million inmates. Almost every state as well as the federal government permits it. But now, with crime rates far lower, that punishment is coming under fire from a growing number of lawmakers, jurists, activists and even crime victims. Today the debate reaches a head as the Supreme Court takes up Graham's case and another, involving Joe Sullivan, who was convicted of burglary and rape at age 13.

The issue is not whether young offenders should be punished; it's only whether they should be given the chance to someday make the case that they've changed their ways. Graham and Sullivan are going to court with the support of an impressive array of groups, including, in addition to the predictable human rights outfits, the American Bar Association, the American Medical Association, and the American Psychological Association. Their basic argument is that no matter what the crime, it makes no sense to declare anyone that young beyond hope of reform. After all, the whole reason we have a separate system of juvenile justice is precisely because of the notion that young people can change.

"There is a simple reason the criminal justice system should treat juveniles and adults differently: Kids are a helluva lot dumber than adults," summed up Alan Simpson [in a recent Washington Post editorial](#). Simpson is himself a former juvenile offender who grew up to be a Republican Senator representing Wyoming. "They do stupid things—as I did—and some even commit serious crimes," wrote Simpson. "But youths don't really ever think through the consequences."

That's a notion solidly backed by science. Researchers have established that juveniles' brains are less developed than adults' in key areas important for controlling impulsive behavior, thinking ahead, and resisting pressure from others. "That doesn't excuse kids who commit crimes, but it should affect our judgment about how responsible they are," says Dr. Laurence Steinberg, a professor of adolescent psychology at Temple University. "It's not necessarily relevant to determining their guilt, but it is for their sentencing."

The Supreme Court itself accepted that logic in 2005, when it abolished the death penalty for juveniles. As Justice Anthony Kennedy wrote in the majority opinion: "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. . . . 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."

That ruling has provided powerful ammunition to sentencing reformers. It even convinced politicians in law-and-order loving Texas, where the legislature this year banned life without parole for juveniles. "If the U.S. Supreme Court said to Texas and all the other states, 'You cannot give these juvenile offenders the death penalty', then I believe the state of Texas should not be sending them to prison for life without parole," declared state Sen. Juan Hinojosa in introducing the bill earlier this year.

Colorado took a similar step in 2006, and Montana recently changed its laws to open the possibility of parole for some juvenile lifers. Bills seeking to eliminate the sentence, or at least narrow those to whom it can be applied, have also been introduced in Congress, as well as the state legislatures of California, Florida, Michigan, and at least 8 other states. And last April, a California appellate court struck down a life without parole sentence imposed on a man for a kidnapping he was involved in at age 14, declaring it to be unconstitutionally cruel and unusual punishment.

Not everybody's cheering those developments, of course. "Most juveniles are capable of reform, but a small minority commit horrendous crimes, and the juvenile justice system is incapable of dealing with them," says Charles Stimson, a former prosecutor and current Heritage Foundation researcher. "The only way to protect ourselves from the worst of the worst is to lock them up for their natural lives."

It's easy to see his point. The roster of underage lifers includes a 16-year-old who murdered both her parents, a boy the same age who stabbed a middle-aged couple to death in their beds while he was robbing their home, and a 14-year-old who set fire to his neighbor's house, burning its 4 occupants to death.

Most juvenile lifers were convicted on murder charges. But according to a 2009 Florida State University study, 111 of them—including Graham and Sullivan—committed lesser crimes that did not result in a death. And a 2005 report by Human Rights Watch and Amnesty International found

that more than a quarter of all juvenile lifers were convicted essentially as accessories to murders they were present for but didn't personally commit—which can sometimes mean just having been in the room or the car when the deed went down.

Even those who kill are not always the hardened, repeat offenders that life without parole laws were intended for. Consider the case of Sara Kruzan, a California woman who was forced into prostitution at age 13. After three years of sexual and physical abuse, she finally worked up the courage to shoot her pimp. She's locked up for life as a result. A recent study by the Alabama-based Equal Rights Initiative, a nonprofit legal outfit that is representing Graham, found 73 cases of life-without sentences imposed on kids who were only 13 or 14 at the time of their crime.

The Supreme Court may not settle the issue completely. Their ruling might apply only to juvenile life without parole sentences for non-homicide offenses, or set a minimum age below which the sentence cannot be applied.

Even if they do strike down life without parole for minors across the board, no one will get out of prison right away as a result. All they'll win is the right to a hearing—someday. Texas and Colorado's laws, for instance, allow kids sentenced to life to seek parole only after serving 40 years.

"What Graham and Sullivan's lawyers are arguing for isn't really that much," says University of Miami juvenile law professor Stephen Harper. "If a kid is dangerous, you don't let him out. If he's not—you punish him, but you don't lock him up and throw away the key."

About the Author

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