

Testimony of Charles D. Stimson*
Before the Pennsylvania House Judiciary Committee
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HB 1999

Mr. Chairman and Members of the Committee, I want to thank you for the opportunity to discuss the legal and policy implications of life without parole for juvenile killers. My name is Cully Stimson. I am a Senior Legal Fellow at The Heritage Foundation, and a former local, state, federal, military prosecutor and defense attorney, and the author of *Adult Time for Adult Crimes: Life Without Parole for Juvenile Killers and Violent Teens*.

Life without parole for juvenile killers is reasonable, constitutional, and (appropriately) rare. In response to the Western world's worst juvenile crime problem, U.S. legislators have enacted commonsense measures to protect their citizens and hold these dangerous criminals accountable. Forty-three states, the District of Columbia, and the federal government have set the maximum punishment for juvenile killers at life without the possibility of parole. By the numbers, support for its use is overwhelming.

Nonetheless, its continued viability is at risk from misleading lobbying efforts in many states and court cases that seek to substitute feel-good policies, and international law for legislative judgments and constitutional text.

Emboldened by the Supreme Court's *Roper v. Simmons* decision, which relied on the Eighth Amendment's "cruel and unusual punishments" language to prohibit capital sentences for juveniles, anti-incarceration activists have set about extending the result of *Roper* to life without parole for juvenile killers. If they succeed, an important tool of criminal punishment will be eliminated, and all criminal sentences could be subjected to second-guessing by judges, just as they are in capital punishment cases today.

The most visible aspects of this campaign are a number of self-published reports and “studies” featuring photographs of young children and litigation attacking the constitutionality of life without parole for juvenile offenders—including two cases heard by the Supreme Court in its 2009 term.

Because the activists have monopolized the debate over life without parole, legislatures, courts, the media, and the public have been misled on crucial points. For example, dozens of newspaper articles, television reports, and court briefs have echoed the activists’ assertion that 2,225 juvenile offenders are serving LWOP sentences in the United States, despite that this figure is nothing more than a manufactured statistic. That is why we did the research, and wrote this book. It is the first-ever effort to set the record straight. It provides reliable facts and analysis, as well as detailed case studies, with full citations to primary sources.

Activists argue that the United States does not need life-without-parole sentences for juvenile offenders because other Western nations, particularly in Europe, do not use it. In fact, the need is real.

In one recent year, juveniles committed as many violent crimes in the United States as in the next seven highest countries combined. The U.S. ranks third in murders committed by youths and 14th in murders per capita committed by youths, putting it in the same league as Panama, the Philippines, Kazakhstan, Paraguay, Cuba, and Belarus.

Also contrary to activists’ arguments, the Constitution does not forbid use of the sentence. In fact, the Supreme Court, once again, upheld the constitutionality of JLWOP for juvenile killers in the *Graham v. Florida* decision this past spring.

The Eighth Amendment's prohibition on "cruel and unusual punishments" was intended to bar only the most "inhuman and barbarous" punishments, like torture. Though the Supreme Court has departed from this original meaning, it has honored the principle that courts should defer to lawmakers in setting sentences in almost every instance.

One exception applies to punishments that are "grossly disproportionate to the crime," something that the Court has found only in a handful of cases. Otherwise, the Court has approved harsh punishments for a variety of offenses so long as legislatures have a "reasonable basis" for believing that the punishment advances the criminal-justice system's goals. Because no state imposes life without parole for minor crimes, the punishment will never be constitutionally disproportionate. The other exception applies only in death-penalty cases like *Roper*, and the Court has long refused to subject non-death punishments to the deep scrutiny that it uses in capital cases.

Even ignoring that distinction, the argument that *Roper* or *Graham* could be extended to life-without parole sentences comes up short. Indeed, the *Roper* and *Graham* Court decisions actually relied on the availability of the sentence to justify prohibiting the juvenile death penalty.

In fact, the Supreme Court in its most recent term upheld life without parole sentences for juvenile murderers. In *Graham v. Florida*, despite ruling differently for non-homicide crimes, the Supreme Court found that, under the Constitution, sentencing juveniles who commit murder can be sentenced to life without parole. After *Graham*, it seems that any of the tortured arguments that seek to extend *Roper* to life without parole for juvenile murderers suffer from a mortal lack of merit.

Finally, anti-incarceration activists turn to international law to challenge life-without-parole sentences for juvenile offenders, relying on the aspirational

adults, and a small proportion of them are sentenced to life without parole—the strongest sentence available to express society’s disapproval, incapacitate the criminal, and deter the most serious offenses.

A fair look at the Constitution provides no basis for overruling the democratic processes of 43 states, the District of Columbia, and the U.S. Congress. Neither do international law or the misleading and sometimes just wrong statistics and stories marshaled in activists’ studies. Used sparingly, as it is, life without parole is an effective and lawful sentence for the worst juvenile offenders. On the merits, it has a place in our laws.

Radical public policy changes, especially those related to justly convicted juvenile killers, should not be taken lightly. The best policies are based on real facts, and should not be crafted on a campaign of manipulated facts, manufactured statistics, and pro-murderer feel-good stories.

I challenge any member of this committee to recite the gruesome facts of just five of the juvenile killers serving LWOP in Pennsylvania jails. Furthermore, by allowing justly convicted juvenile killers already sentenced to LWOP the privilege of a parole hearing every three years after their 31st birthday, you are sentencing the victims to lifetime of torture, while providing a pathway of freedom for the murderers to rape and kill again.

Under our constitutional framework, States rightly enjoy the sovereignty to enact laws to protect its citizens. Before enacting this radical policy change, it would be prudent for this body to review all the real and unvarnished facts and grizzly details of each murder that lead to a JLWOP sentence. You can start by reading my book, which I have attached to the record.

Thank you for the privilege of testifying before the Committee, and I look forward to your questions.

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