



Testimony of Elizabeth Calvin
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**H.R. 4300, the “Juvenile Justice Accountability
and Improvement Act of 2007”**
House Judiciary Committee
Subcommittee on Crime, Terrorism, and Homeland Security
September 11, 2008

Mr. Chairman and members of the Committee, thank you for holding this hearing and for inviting me to testify on the important topic of the sentencing of youth who were below the age of 18 at the time of their offenses to life without the possibility of parole. I am here to testify in support of legislation that would end this practice in the United States and provide meaningful access to parole hearings or other review for youth offenders serving this sentence.

The decision to sentence a juvenile to life without the possibility of parole is a decision to sentence that young person to die in prison. There is no time off for good behavior, no opportunity to prove that you have become a different person, responded with remorse and chosen paths of rehabilitation. Next to the death penalty, there is no harsher condemnation, no clearer judgment by our criminal courts that this is a life to be thrown away. The federal government and 39 states sentence under-18 offenders to life without the possibility of parole.

In the US we believe that people under the age of 21 lack the judgment needed to drink alcohol responsibly; that those below 18 are too immature to understand the implications of signing a contract; and that someone younger than 16 cannot assess the risks and consequences inherent in driving a car. Yet, in this country we have also decided that children as young as 13 are mature enough to be sentenced to die in prison.

The United States stands alone in its imposition of this sentence on children. In the US there are currently more than 2,484 people who were convicted of crimes committed as children and sentenced to life without parole. There is not a single individual serving this sentence in the rest of the world.

The Juvenile Justice Accountability and Improvement Act of 2007 would allow states and the federal government to ensure that young offenders receive serious punishments to hold them accountable for actions that have caused enormous suffering to victims and their families. H.R. 4300 would, however, also provide youth—who are different from adults in their capacity to change—with an incentive to work towards rehabilitation in prison. Access to a parole hearing or another form of meaningful review is not a “get out of jail free” card. It is a chance to earn one’s release from prison through rehabilitation. Parole hearings would assess a youth offender’s rehabilitation, and they would also provide a necessary opportunity for victims and their families to be heard.

Through in-depth statistical and legal research, in-person interviews with youth, judges, prosecutors and defense attorneys, lawmakers and victims, Human Rights Watch has investigated the use of life without parole for youth throughout the United States since 2004. We have found that not only is the US now the sole country imposing this sentence on children, but the sentence is also imposed unfairly and disproportionately upon racial and ethnic minorities. Based on our research, we support the passage of H.R. 4300 for three main reasons. The use of this sentence for juveniles is frequently disproportionate, racially discriminatory, and a violation of international law.

One example of the disproportionate use of the sentence is the case of Sara K. Sara was raised by her mother who was addicted to drugs and abusive. She was 16 years old at the time of her crime. At age 11 Sara met “G.G.,” a 31-year-old man. Soon after, he sexually assaulted Sara and began grooming her to become a prostitute. At age 13, Sara began working as a prostitute for G.G. He continued sexually assaulting Sara and using her as a prostitute for almost three years. Shortly after turning 16, Sara shot and killed G.G. She was sentenced to life in prison without parole.

It is not just the facts of individual cases that show the disproportionate use of this sentence. There are more systemic problems. The sentence of life without parole was created for the worst criminal offenders. But we have found that life without parole is not reserved for juveniles who commit the worst crimes or who show signs of being irredeemable criminals. For example, this sentence is routinely used with young people who have never before been in trouble with the law. Human Rights Watch found that nationally an estimated 59 percent of youth sentenced to life without parole are first-time offenders. They had no prior juvenile or criminal record whatsoever—not even a shoplifting conviction.¹

Additionally, our research found that these young people often acted under the influence or at times specific direction of adults when they committed their crimes. For example, in California, in an estimated 70 percent of cases in which a teen was acting with codefendants, at least one codefendant was an adult.² Even more disturbing, however, is that in an estimated 56 percent of cases with adult codefendants, the adult received a lower sentence than the youth who is now serving life without parole.³

Also troubling is the fact that often youth sentenced to life without parole were not the primary actors in the crime: they did not pull the trigger; they did not physically commit the crime. Nearly half of youth sentenced to life without parole surveyed in Michigan were sentenced for aiding and abetting or an unplanned murder in the course of a felony.⁴ Thirty-three percent of youth sentenced to life without parole whose cases we investigated in Colorado had convictions based on the felony murder rule.⁵ In 45 percent of California cases surveyed, youth sentenced to life without parole had not actually committed a murder and were convicted for their role

¹ Human Rights Watch and Amnesty International, *The Rest of Their Lives: Life Without Parole for Child Offenders in the United States*, October 2005, <http://hrw.org/reports/2005/us1005/>, pp. 27-28.

² Human Rights Watch, *When I Die, They'll Send Me Home: Youth Sentenced to Life without Parole in California*, January 2008, <http://www.hrw.org/reports/2008/us0108/>, p. 35.

³ *Ibid.*, p. 36.

⁴ American Civil Liberties Union of Michigan, "Second Chances, Juveniles Serving Life without Parole in Michigan's Prisons," 2004, <http://www.aclumich.org/pubs/juvenilelifers.pdf> (accessed September 2, 2008), p. 4.

⁵ Human Rights Watch, *Thrown Away: Children Sentenced to Life without Parole in Colorado*, February 2005, <http://hrw.org/reports/2005/us0205/>, pp.18-19.

in aiding and abetting or participating in a felony.⁶ These are all cases in which someone else was the primary actor. A significant number of these cases involved an attempted crime gone awry—a tragically botched robbery attempt, for example—rather than premeditated murder.

We also have serious concerns that racial discrimination and disparities plague the sentencing of youth to life without parole throughout the United States. On average across the country, black youth are serving life without parole at a per capita rate that is 10 times that of white youth. Many states have racial disparities that are far greater. Among the 26 states with five or more youth offenders serving life without parole for which we have race data, the highest black-to-white ratios are in Connecticut, Pennsylvania, and California, where black youth are between 18 and 48 times more likely to be serving a sentence of life without parole than white youth.⁷

Poor legal assistance afforded to many teen defendants appears to further compromise just outcomes. Some of those Human Rights Watch interviewed or surveyed described a level of legal representation that falls well below professional norms. In California, one of the most salient errors reported to Human Rights Watch is attorneys' failure to adequately represent youth offenders at the sentencing hearing. In 46 percent of cases, respondents reported that their attorney failed to argue for a lower sentence.

We support H.R. 4300 because it is sound public policy. Lawmakers do not face a choice between being “soft on crime” and supporting life without parole for teen offenders. Lawmakers can protect community safety, save on incarceration costs, and save youth from a lifetime in prison.

Proponents of life without parole believe the sentence is necessary in order to ensure retribution—that society metes out the worst punishment for the worst offenses. However, while teens can commit the same acts as adults, by virtue of their

⁶ Human Rights Watch, *When I Die, They'll Send Me Home: Youth Sentenced to Life without Parole in California*, January 2008, <http://www.hrw.org/reports/2008/us0108/>, p. 21.

⁷ Human Rights Watch, *Executive Summary, The Rest of Their Lives: Life without Parole for Youth Offenders in the United States in 2008*, May 2008, <http://www.hrw.org/backgrounder/2008/us1005/us1005execsum.pdf>, pp. 5-7.

immaturity they are not as blameworthy or culpable. Recent developments in neuroscience have found that teens do not have adults' developed abilities to think, to weigh consequences, to make sound decisions, to control their impulses, and to resist group pressures; their brains are anatomically different, still evolving into the brains of adults. These findings suggest that sentencing laws should be revised to ensure that youth offenders are not sentenced as if they were adults.

Supporters of the life without parole sentence also claim that teens who pause to consider the consequences before committing crimes will be deterred if they face harsh sentences such as life in prison without parole. But young people are less likely than adults to pause before acting, and when they do, research has failed to show that the threat of adult punishment deters them from crime. Deterrence is also unlikely given research showing that adolescents cannot really grasp the true significance of the sentence.

Some proponents claim that incapacitation justifies the use of life without parole sentences. No one can deny that life without parole makes some contribution to public safety to the extent that locking up youth offenders prevents them from committing additional crimes. It is undeniable, however, that many youth offenders can be rehabilitated and become productive members of society. The need to incapacitate a particular offender ends once he or she has been rehabilitated. There is no basis for believing that all or even most of the teens who receive life without parole sentences would otherwise have engaged in a life of crime. Our research indicates that many teens received life without parole for their first offense. There is little in their histories to warrant the assumption that they would not mature and be rehabilitated if they were spared a lifetime in prison.

Finally, we support H.R. 4300 because the US practice of sentencing youth to life without parole violates international law. International law prohibits life without parole sentences for those who commit their crimes before the age of 18, a prohibition that is universally applied outside of the United States. Oversight and enforcement bodies for two treaties to which the United States is a party (the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination) have found the practice of

sentencing juvenile offenders to life without parole to be a clear violation of US treaty obligations.

There is movement to change these laws occurring across the country. Legislative efforts are pending in California, Florida, Illinois, and Michigan and there are grassroots movements in Iowa, Louisiana, Massachusetts, Nebraska, and Washington. Most recently, Colorado outlawed life without parole for children in 2006.

H.R. 4300 would eliminate life without parole for juvenile offenders in the United States and bring our country into compliance with international law and standards of justice. It would recognize that youth are different from adults and provide incentives for rehabilitation that reflect their unique ability to change. Human Rights Watch urges you to support this bill.