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of the

House Judiciary Committee's  
Subcommittee on Crime, Terrorism, and Homeland Security

RE: H.R. 4300, Juvenile Justice Accountability and Improvement Act of 2007

What we have learned from the behavioral sciences about child and adolescent growth and development clearly differentiates children and adolescents from adults. However, exactly how this knowledge should influence the administration of justice to children and adolescents is argued on an almost daily basis. It is argued in jurisdictions across the country in individual cases involving children or adolescents that we never really hear about; then there are the high profile cases involving children or adolescents, some of which have helped to evolve the law in this regard; and of course, this same debate often impacts on the work of legislators and government administrators.

As you know, the most recent high profile case where the relevance of these issues were argued was 'Roper v. Simmons' (125 S. Ct. 1183), where the United States Supreme Court decided that the differences between adult and youth offenders were so marked and well understood that the court abolished the death penalty for juveniles. The behavioral science evidence presented in 'Roper' is also relevant to the matter before you today – the sentencing of juvenile offenders to life without parole.

In the time allotted for me today, I can only briefly summarize what the behavioral sciences have to offer to your deliberations. Therefore, I have attached a copy of the Amici Curiae brief from the American Psychological Association and the Missouri Psychological Association that was entered in 'Roper' to my written statement. I believe that that brief expertly outlines the relevant behavioral science findings that support such different treatment of juvenile offenders in more detail, and provides references for further exploration of the findings that are presented and discussed therein.

In essence, child and adolescent growth and development is best understood as multiple, parallel, but yet interacting vectors. These vectors include physical/biological growth, cognitive development or the development of the ability to think, psychological development, social development, and moral development. It is important to note however that while in some ways, each of these vectors can be examined separately, each of these areas of growth and development can and does impact on the others, in that delays or impairments in one area can also result in delays or impairments in other areas.

Bearing in mind the importance of appreciating the impact of one aspect of development on another, clearly, the two areas of adolescent development that are most central to the matter before you today are cognitive development and psychological development.

### **Cognitive Development:**

We have long known that cognitive capacities increase during childhood and adolescence; for quite some time it has been believed that this gradual progression towards an adult capacity for cognition parallels the growth and development of the brain during the childhood and adolescent years; but now, recent research, made possible by advances in technology, has begun to provide a more clear picture of the differences between the adolescent and adult brain. Of particular relevance to this discussion is the

finding that the brain is not fully developed until after adolescence/until the young adult years, and that the last area to fully develop is the frontal lobes, which is the brain center for higher functions of the brain, which we call the executive functions of the brain. Such executive functions include those brain functions involved in making rational decisions that are in one's long-term best interests, such as being able to identify and consider reasonable options based on available information and weighing the pros and cons of each option. Executive brain functions are also involved in the planning and implementation of goal-directed or 'intended' behaviors. Since impaired frontal lobe functioning has also been associated with impulsivity and difficulties in attention, concentration and self-monitoring, an increase in these capacities has also become associated with the maturation of the frontal lobes.

Simply put, what all of this means is that children and adolescents do not yet have the physical brain capacity for the type of decision-making we expect of adults and have legally held adults responsible for. It is also important to note that even once this biological brain capacity grows in, just like with any other mental function it takes some time and practice before the developing young adult can consistently and effectively employ this new brain capacity.

### **Psychological Development:**

The path to psychological maturity is at least in part clearly influenced by the above described biological growth and development of the brain. More specifically, as the brain's frontal lobes grow and the capacity for executive functions develops, the psychological capacity required for considering alternative courses of action also develops. For example, there is an increased capacity to restrain impulses long enough to think through alternatives and make decisions; there is an increased capacity to inform those decisions using a growing body of knowledge and information; there is an increased capacity to consider the impact that one's decisions will have on others; and there is an increased capacity to consider the short and long-term consequences of one's decisions and actions.

The psychological work of adolescence also includes the consolidation of one's own identity, apart from simply being the child of one's parents. Therefore adolescents are prone to experiment with different aspects of their identity, and if consolidation of an identity is complicated, that experimentation might become actual risk-taking behavior. Although such risky behaviors might cause some adolescents to get into trouble with the law, more often than not, such behaviors are transient expressions of the adolescent's effort to establish an identity instead of evidence of a more fixed/enduring behavioral disturbance.

### **Assessment of Adolescents:**

Given all that is going on during the adolescent stage of growth and development – all of the above noted and the other aspects of development that I have not described here – and given that it is clear that the personalities of adolescents are not yet fixed/will continue to

develop and evolve as they continue to mature, it is *extremely* difficult if not virtually impossible to consistently make long-term predictions about the future behavior of any given adolescent. In fact, many of us who evaluate adolescents involved in juvenile proceedings have found that between the time that the adolescent committed the offense and the time that he/she was evaluated and then appeared in court, the adolescent had already changed/continued to develop in significant ways.

**Implications for Juvenile Justice Accountability:**

These far less than adult capacities of juveniles should clearly be taken into consideration when sentencing juvenile offenders. Most importantly, it should be recognized that adolescents do not have the capacity for decision-making and the forming of an intent that adults have. It should also be recognized that the transitory nature of adolescence is such that the adolescent who stands before the court on one day may become a very different young adult. In addition, there is the related finding that these far less than adult capacities of juveniles compromises the ability of juveniles to adequately participate in all aspects of the adult criminal process including, for example, making important decisions about giving reliable statements, waiving rights, entering pleas and accepting deals.

I am here today because it is my opinion that when what we know about child and adolescent growth and development is taken into consideration, sentencing juveniles to life without parole is clearly inappropriate.

Thank you.