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CIVIL JUSTICE CLINIC



Yale Law School

ALLARD K. LOWENSTEIN INTERNATIONAL HUMAN RIGHTS CLINIC

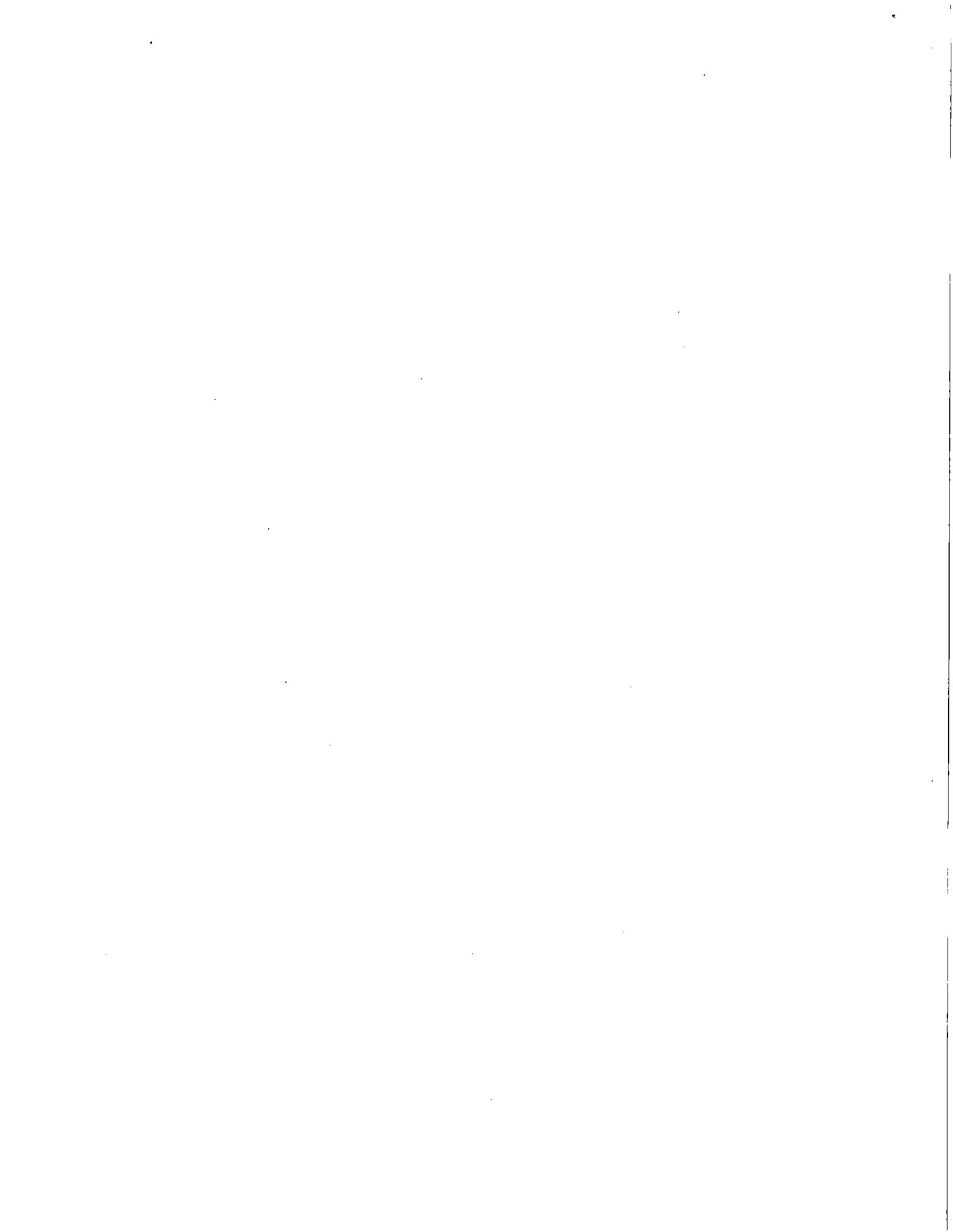
Written Testimony
of the Civil Justice Clinic, Quinnipiac University School of Law &
Allard K. Lowenstein International Human Rights Clinic, Yale Law School
In Support of H.B. No 6581 & S.B. No 1062
Judiciary Committee
March 11, 2013

Dear Distinguished Members of the Judiciary Committee:

The Civil Justice Clinic at Quinnipiac University School of Law and the Allard K. Lowenstein International Human Rights Clinic at Yale Law School submit this testimony in support of H.B. 6581 (An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Lengthy Sentences for Crimes Committed by a Child or Youth) and S.B. 1062 (An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding the Sentencing of a Child Convicted of a Felony Offense).

Enclosed is a new report entitled *Youth Matters: A Second Look for Connecticut's Children Serving Long Prison Sentences*. The report, authored by Quinnipiac's Civil Justice Clinic and Yale's Lowenstein Clinic, reviews current law and practice and conclude that reforms to Connecticut's juvenile sentencing laws are both wise and necessary. The report draws on publicly available information, including testimony presented to the Sentencing Commission, as well as interviews with nine current inmates and letters from others, all of whom are currently serving sentences ranging from 20 to more than 60 years for crimes that occurred when they were children.

Currently in Connecticut, children under 18 who commit certain crimes are automatically tried and sentenced as adults and are subject to harsh adult prison sentences, including life without parole. Approximately 275 people in Connecticut are now serving prison terms longer than 10 years for crimes that occurred when they were kids. About 50 individuals are serving terms of 50 years or more, most without even the chance of parole. Many of these children disappeared into the adult dockets and never appeared before the parole board. Crimes



committed by juveniles were often widely publicized, but the stories of their experiences in the adult system, and their efforts to grow up and rehabilitate in prison, were seldom heard.

As detailed in the enclosed report, many of the men and women who were incarcerated as children in Connecticut are both remorseful and resilient. These individuals have risen above histories of poverty, abuse, and neglect to become reflective, self-controlled, and caring adults who, given the opportunity, are capable of making positive contributions to their families and communities. The report incorporates the voices of some of the people serving these long sentences.

Part I of the report includes a discussion of the recent Supreme Court decisions, relevant brain science, and a brief history of juvenile sentencing policy in Connecticut. Part II draws on interviews with people serving long adult sentences and testimony presented to the Sentencing Commission at a public hearing in November 2012 to describe the experience of these young people—their childhoods, their crimes, their experiences in prison, and their efforts to reform and atone. Part III details the Sentencing Commission’s proposed juvenile sentencing reforms, which would provide a juvenile serving a long sentence with the chance for a hearing before a parole board after he or she has served a substantial portion of the sentence. No one would be released automatically—the parole board could deny parole to anyone, in its discretion. But each of these children—many of whom have been sentenced to 40, 50, or 80 years—would have the opportunity to demonstrate their growth and change.

Now is the time for Connecticut to reform its juvenile sentencing practices to ensure that children who have grown up and rehabilitated in prison are afforded a “second look” and a second chance to contribute to society.

Sincerely,

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...reflecting on my past and how I was

Youth Matters

A SECOND LOOK FOR CONNECTICUT'S CHILDREN
SERVING LONG PRISON SENTENCES

Sorgive me for harming a human soul. I
Ipled me take responsibility for my own
I stop blaming others for my faults. I
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act themselves produce good results." The
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ery aspect of life from understanding
depth, to my learning abilities increas
y will power increasing, and to my know
creasing on understanding human beh
er purpose in life. I would love to bet
have changed for the better. Now, my
"A wise man walks with wise men, the
...and fools will become fools."

CIVIL JUSTICE CLINIC

ALLARD K. LOWENSTEIN INTERNATIONAL
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SUMMARY

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Juvenile Crimes and Adult Consequences

Children are different than adults, but Connecticut sentencing practice still treats them as adults. Many children in Connecticut are serving long, no-parole sentences designed for adult offenders. These children deserve a “second look.”

3 I. BACKGROUND

The U.S. Supreme Court has confirmed that children must be sentenced differently than adults because the adolescent brain is not fully developed, and children are thus less culpable and have greater capacity for rehabilitation and change. Connecticut sentences for children are not appropriately tailored to account for these aspects of youth.

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Children serving lengthy sentences often grew up in severe poverty, and many were exposed to violence at home or in the community. Children who have experienced trauma are particularly likely to be peer-influenced and impulsive when committing crimes. Further, children, especially those with learning or other difficulties, are disadvantaged in criminal proceedings where they do not fully understand the process or the consequences.

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Children who enter the prison system are especially vulnerable and isolated, but access to programming can catalyze growth and rehabilitation in prison. Many individuals who entered the Connecticut prison system as teenagers have grown into mature adults who take responsibility for their actions, show compassion for their victims, and are ready and willing to give back to society.

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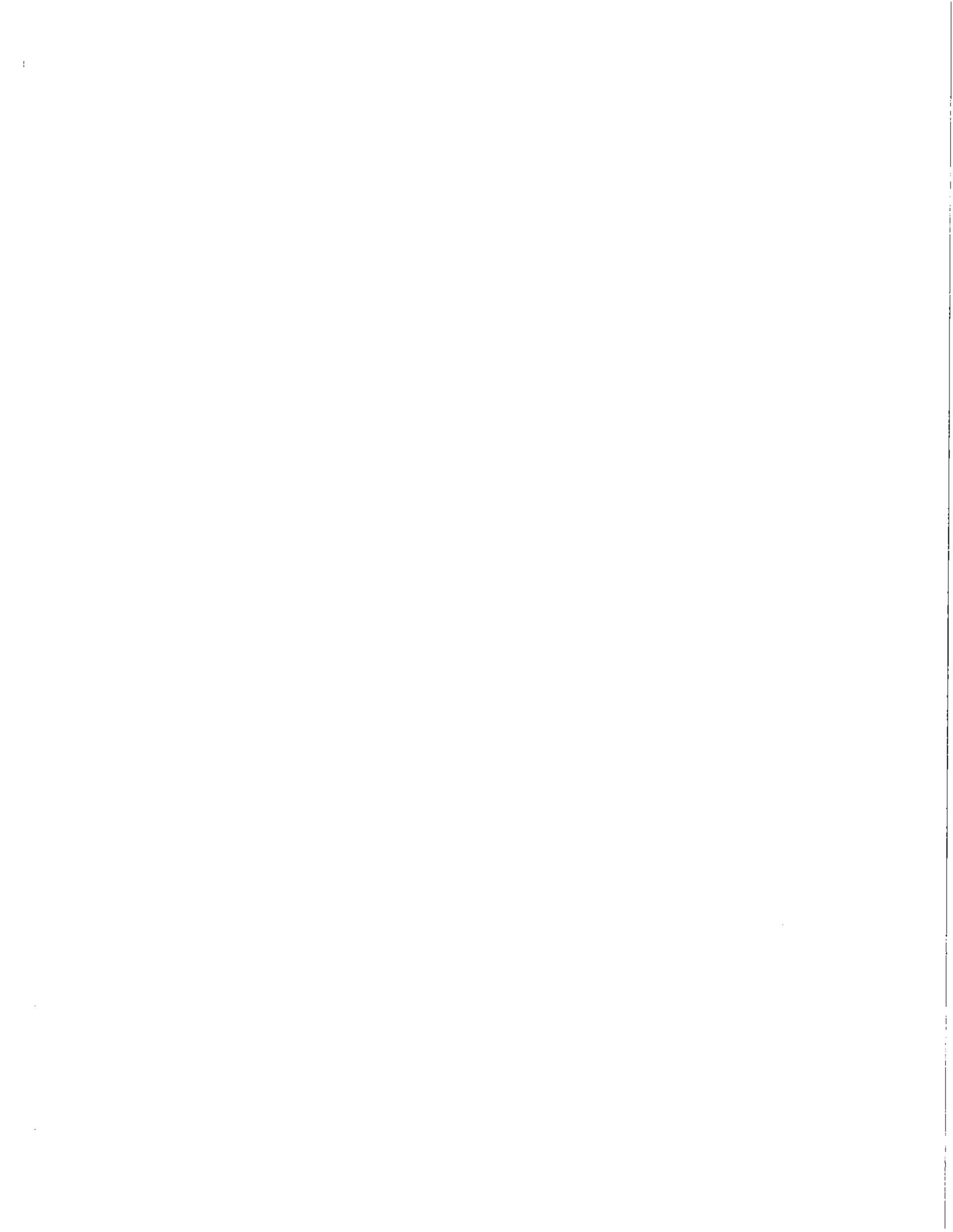
Many individuals who entered the Connecticut prison system as teenagers are now adults eager to contribute to society and to try to prevent a new generation of children from repeating their mistakes.

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Connecticut should eliminate unconstitutional mandatory life-without-parole sentences for children under 18, allow earlier parole consideration for those serving lengthy sentences for crimes that occurred when they were children, and provide criteria for courts to consider when sentencing children.

33 **CONCLUSION**
Youth Matters

Children are different than adults, and Connecticut can no longer afford to impose severe penalties on children as though they were adults. Sentencing laws should reflect public values and fiscal sense and provide Connecticut's children with a "second look."



“The pain of my actions—to know that I am responsible for such permanence, for such pain and loss, that there is nothing in this life nor the life to come that I can do to give back what I had no right to take, I carry with me daily. I understand that to what I say some will care less, others will take my word as a plea for pity and sympathy, but I desire neither from anyone. I write these words simply because they are true, and the burden of my actions weighs heavy on my heart, mind, and soul. To know that I am responsible for taking from two children, what drugs took from my siblings and me—a father—eats at me, as it rightly should. It is for this reason that I fight daily to grow to be better than I was the day before, better than I was 15 and a half years ago. It may mean little, but it is all that I can do. . . . [J]ustice demands that I live a life of servitude, a life of prevention.”

JAMES, written testimony submitted to the Connecticut Sentencing Commission

Introduction

JUVENILE CRIMES AND ADULT CONSEQUENCES

Children are different than adults. Serious crimes deserve serious penalties, but crimes committed by children, though sometimes resulting in serious and tragic harm, deserve special consideration. These crimes tend to be impulsive, short-sighted, and driven by fear and by childish desires to impress peers or pacify adults. New brain science confirms that teenagers have less capacity for self-control, but much greater capacity for self-improvement, than adults. All of this suggests that children should be sentenced differently than adults and receive additional opportunities to demonstrate change.

A strict “life for a life” philosophy can no longer constitutionally apply to children. Three recent United States Supreme Court decisions have held that children cannot be sentenced to death or a mandatory life sentence without parole, even for the most serious crimes. Sentencing policy must recognize children’s limited culpability, circumscribed choices, and enhanced potential for redemption.

Current sentencing statutes in Connecticut, however, treat children who commit certain crimes as though they were adults. Under our laws, children are subject to mandatory no-parole sentencing designed for adults—even mandatory life without parole (now patently unconstitutional under U.S. Supreme Court decisions). As a result, Connecticut currently imprisons approximately 275 people serving sentences of more than 10 years for crimes that occurred before they turned 18. Approximately 50 individuals are serving sentences of 50 years or more, most with no opportunity for parole. Some arrive in prison scared and alone; some attempt suicide; some wrest hope and redemption from despair; many leave, if at all, too late to restart their lives.

After more than a full year of careful consideration of new brain science and new constitutional requirements, after public hearings and compromise, the Connecticut Sentencing Commission has recommended enactment of parole rules tailored for juveniles, not adults. The Commission is a body comprised of law enforcement officials, prison officials, probation experts, parole board members, judges, prosecutors, victim and offender advocates, reentry specialists, and other criminal justice experts. Under the proposal, those men and women who were convicted as young teens would have some opportunity to be heard by a parole board, before they die in prison and while there is still hope of a reformed and independent life on the outside. Release would not be guaranteed but would be possible only if, after thorough review, the parole board determined that a person had truly rehabilitated and could be safely released. Some may never be ready for release. But at least under the Commission’s recommendation, there would be a “second look” for those who are able to demonstrate that they have matured, changed, and been rehabilitated.

This report reviews current law and practices and concludes that reforms to Connecticut’s juvenile sentencing laws are both wise and necessary. The report draws on publicly available information, including testimony presented to the Sentencing Commission, as well as interviews with nine current inmates and letters from others, all of whom are currently serving sentences ranging from 20 to more than 60 years for crimes that occurred before they were 18. A more complete description of the methodology is provided at the end of the report.

Part I provides background information and includes a discussion of the recent Supreme Court decisions, relevant brain science, and a brief history of juvenile sentencing policy in Connecticut. Part II draws on interviews with people serving long adult sentences and testimony presented to the Sentencing Commission at a public hearing in November 2012 to describe the experience of these young people—their childhoods, their crimes, their experiences in prison, and their efforts to reform and atone. Part III details the Sentencing Commission’s proposed juvenile sentencing reforms, which would provide individuals who have grown up and rehabilitated in prison a second chance to contribute to their communities.

“I don’t believe that just because you are young your behaviors should be excused, but I can tell you that no 14-year-old child is the same person as a 30-year-old man or woman.”

LETTER FROM RACHEL, who is serving a 50-year sentence in Connecticut without the chance of parole for an offense committed at age 14

I. Background

A. What “Any Parent Knows”: Children Are Different¹

In several recent decisions, the U.S. Supreme Court has recognized that children are different from adults and must be treated differently in criminal sentencing. Relying on scientific studies about adolescent brain development, the Court has emphasized that adult sentences are not appropriate for children because youth are less culpable for their crimes and more capable of change and rehabilitation.

Brain Science

In its recent decisions, the Court concluded that developments in brain science and psychology show “fundamental differences between juvenile and adult minds.”⁵

- The Court found that scientific studies confirm what “any parent knows”: Adolescents do not have the same judgment and impulse control as mature adults.⁶
- The Court drew on new brain-scan studies demonstrating that areas of the brain involving self-control and judgment continue to develop throughout adolescence and are not completely mature until the early to mid-twenties.⁷
- The Court also found persuasive empirical social-science evidence that teens are more impulsive, more emotional, more apt to be influenced by others and by their environment, and less adept at conceiving and taking into consideration long-term consequences of their actions.⁸

The Court concluded that these findings “of transient rashness, proclivity for risk, and inability to assess consequences—both lessened a child’s moral culpability and enhanced the prospect that, as the years go by and neurological development occurs, his deficiencies will be reformed.”⁹

Diminished Culpability

- Based on the differences between the brains of children and adults, the Court concluded that children have diminished culpability and thus are “less deserving of the most severe punishments.”¹⁰

The U.S. Supreme Court Has Recognized that Children are Different:

In 2005, the Supreme Court held in *Roper v. Simmons* that children who commit crimes under the age of 18 cannot be executed.² The Court reasoned that children are, as a group, less culpable than adults and much more likely to be reformed. Five years later, the Court used similar reasoning when it held in *Graham v. Florida* that children cannot be sentenced to life in prison without the possibility of parole (“LWOP”) for non-homicide crimes.³ Finally, in 2012, the Court held in *Miller v. Alabama* that mandatory LWOP sentences for children are unconstitutional because they prevent the decisionmaker from taking into account the age and diminished culpability of juvenile offenders.⁴

Age and Brain Maturation

Age 0

Age 14

Age 25

(Can be sentenced as an adult in CT)

- The Court observed that children’s “lack of maturity and underdeveloped sense of responsibility lead to recklessness, impulsivity, and heedless risk-taking.”¹¹ Crimes committed by adolescents are often impulsive rather than planned.
- In addition, teens may play a secondary role in an offense and be influenced by older peers or adults. The Court noted that children are more vulnerable “to negative influences and outside pressures, including from their family and peers; they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings.”¹²

Greater Capacity for Change

- The Court also found that because of the differences between the brains of children and adults, a “child’s character is not as well formed as an adult’s” and his “traits are less fixed.”¹³ Children are thus “more capable of change than are adults.”¹⁴
- It is difficult for even “expert psychologists” to “differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.”¹⁵ For this reason, sentencing courts should also be wary of making judgments that children are irredeemable.
- The Court concluded that “[m]aturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation” and juveniles “should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential.”¹⁶

“Laws and regulations prosecuting [juveniles] as adults in adult courts, incarcerating them as adults, and sentencing them to harsh punishments that ignore and diminish their capacity to grow must be replaced or abandoned.”

U.S. Department of Justice, *Report of the Attorney General’s National Task Force on Children Exposed to Violence* xviii (2012).

These Supreme Court decisions call for Connecticut to rethink the manner in which it applies its adult sentencing laws to youth who commit crimes under the age of 18.

“Early in my incarceration, revisiting the night of the crime proved difficult: How can I have participated in something that resulted in a person’s death? For a teenager, this was difficult to comprehend. I oscillated from denial to reality. After I was sentenced to 38 years, I was provided a copy of the pre-sentence investigation report. Included in it were letters by the [victim’s] family, and it was their letter that broke through the wall I created to avoid completely feeling and facing my role in their pain and suffering. With an open heart and mind I read each word. Most profound was the letter of [the victim’s father]. His suffering, unimaginable to me as a father, touched the depths of my heart and mind. He also showed compassion and hope that I would reflect on the errors of my life choices, rehabilitate myself and practice ‘constructive efforts that can validate an altered maturity towards service to others.’ It was his words and examples of humanness that helped me to recognize that I was not beyond redemption.”

Nicholas, written testimony submitted to the Sentencing Commission

“I may have entered this prison a broken little girl but I am a complete woman. I am a woman of depth capable of compassion and love. I am a woman who has worked for years to heal the things that traumatized her. I entered this prison with a 6th grade education and now I have a college education. I have gained my C.N.A. license and care for the sick and dying in the infirmary. I am trained to teach workshops on non-violence and mentor my fellow inmates. I went from having no self-esteem to knowing I am capable of anything. I think of my victim every day and pray for his family every night but I am no longer defined by the thoughts and actions of my former self. People change.”

Letter from Rachel

“Their own vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment. . . . From a moral standpoint 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.”

Roper v. Simmons, 543 US 551, 570 (2005).

“By removing youth from the balance . . . these laws prohibit a sentencing authority from assessing whether the law’s harshest term of imprisonment proportionately punishes a juvenile offender. That contravenes *Graham’s* (and also *Roper’s*) foundational principle: that imposition of a State’s most severe penalties on juvenile offenders cannot proceed as though they were not children.”

Miller v. Alabama, 132 S. Ct. 2455, 2466 (2012).

B. How Did We Get Here? A Short History of Connecticut Juvenile Justice Reforms

The criminal laws and justice system in Connecticut have long recognized that children deserve special consideration.¹⁷ For that reason, children are tried in special courts and are detained separately from adults. Starting in the mid-1990s, however, several national and local trends—including a rise in drug-related crime, misguided social science research, and frustrations regarding the juvenile justice system¹⁸—fueled a series of reforms that resulted in harsh, adult sentences for young people.

In 1995, the legislature mandated that 14- and 15-year-olds charged with serious felonies must be transferred to adult court.²⁴ In the mid-1990s, Connecticut also reformed adult criminal sentencing, delaying parole eligibility from 50% of the sentence to 85% of the sentence for many crimes, eliminating parole eligibility for other crimes, and eliminating “good time” credit.²⁵ In the ensuing decade, Connecticut increased and expanded its mandatory minimum penalties, which, by 2008, applied to 61 different crimes.²⁶ The focus of this second wave of sentencing reforms was adult defendants; there was little or no discussion about how the reforms would impact 14- to 17-year-olds, now automatically tried and sentenced as adults.

The combined effect of: (1) new mandatory transfer to adult court for 14- to 17-year-olds charged with serious felonies,²⁷ (2) new and increased mandatory minimums for adults,²⁸ and (3) new adult parole eligibility restrictions²⁹ created a perfect storm that over the next 20 years resulted in many children in Connecticut going to prison for most of their lives. There are now approximately 275 people serving sentences of more than 10 years for crimes that occurred when they were under the age of 18.³⁰ About 50 are serving sentences of 50 years or more, most with no opportunity for parole.

The impact of these laws has fallen disproportionately on children who are poor, African American, and Hispanic. Studies showed that African Americans in Connecticut

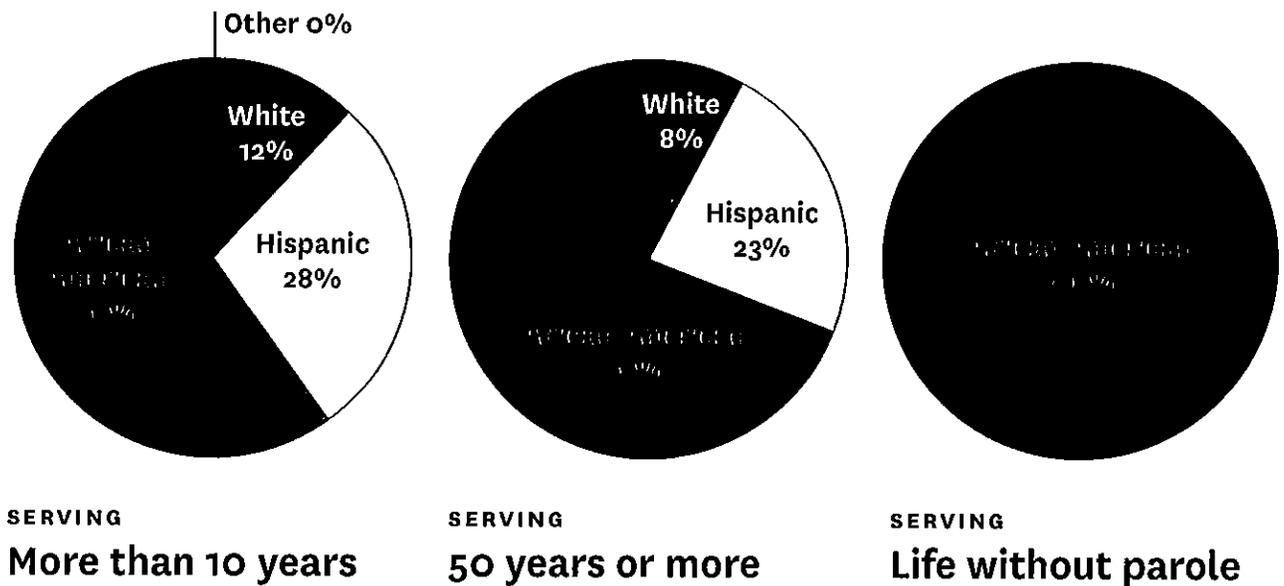
Dispelling the Myth of the Superpredator

In reaction to the growth of drug- and gang-related activity in the mid-1990s, lawmakers in Connecticut and nationally responded forcefully but, in retrospect, misguidedly. The harsh reforms were rooted in the popularization of the idea of the “superpredator,” a supposed class of teenagers who were highly violent, dangerous, and beyond redemption.¹⁹ Meanwhile, public officials worried that gangs were recruiting children to commit crimes because the juvenile justice system would not punish them harshly.²⁰ Public fear of juvenile crime coalesced in claims that some children were so-called “Humpty Dumpty children,” perceived to be broken beyond repair.²¹

Today, new evidence shows that children involved in crime are not broken beyond repair. Neuro-imaging techniques demonstrate that brain regions controlling impulsivity continue to develop until adulthood.²² New empirical evidence demonstrates that established methods of education and programming—designed to teach dispute resolution techniques, long-term thinking, empathy, and responsibility—do work, especially with young people.²³

accounted for 40% of juveniles transferred to adult court between 1997 and 2002.³¹ A later study found racial imbalances in both transfer decisions and secure confinement decisions, even when controlling for risk factors.³² Racial disparities also appear in Connecticut's prison population. Although African Americans and Hispanics make up only 16% of Connecticut's population, these groups represent 68% of the overall incarcerated population.³³ The disparities are even greater for juveniles serving adult prison sentences. As the sentence length increases, so do the disparities:

Composition of Juvenile Offenders in Connecticut³⁴



Many of these children disappeared into the adult dockets and never appeared before the parole board. Crimes committed by juveniles were widely publicized, but the stories of their experiences in the adult system, and their efforts to grow up and rehabilitate in prison, were seldom heard.

As detailed below, many of the men and women who were incarcerated as children in Connecticut are both remorseful and resilient. These individuals have risen above histories of poverty, abuse, and neglect to become reflective, self-controlled, and caring adults who, given the opportunity, are capable of making positive contributions to their families and communities.

“The man that I visit twice a week for the past 17 years, is someone that any mother would be proud of today. Somewhere along the way throughout these past years, I have become the student in our relationship and Nicholas has become the teacher. Nicholas is one of the smartest and most caring individuals that I know. I go to him for several things such as advice, knowledge, and understanding. I go to him because of all of these qualities that he possesses. All of these qualities he has taught himself, within the compounds of those prison walls. He never let those prison walls consume him.”

LESLIE, written testimony submitted to Sentencing Commission
in support of her son, Nicholas, incarcerated since age 17

“I am fortunate to have become the man I am. Thankfully, I have had so much help along the way. From the unconditional love of my family, to the guidance and direction of people gracious enough to see past my status as an inmate, each person contributed to the evolution of my maturity. Along with a formal education and personal enrichment learning I gained what was integral for the self-edification that affirmed my value as a thinking, rational, decent, moral human being.”

NICHOLAS, written testimony submitted to the Sentencing Commission

II. Children in the Criminal Justice System

A. Before Prison

“My mom used to beat me
I got tired. . . . I wanted to get the hell
out of there. But there’s nowhere to go.”

INTERVIEW WITH KHAIRI

“[The day after his 17th birthday] my cousin got killed right in front of me when I was 13 or 14 years old. . . . [That] hurt real bad.” [I was so broke down afterwards that my mother called 9-1-1, and the hospital] “did some tests, asked questions, and I stayed a night or two. . . . That stuck with me. Made me feel like guns would protect me, and I needed protection.”

Interview with Khairi

I’ve seen a lot of things—a guy got stomped on. Some things I’ve seen are still scary but I’m able to deal with it better now. You have to be careful, you’ve got to numb yourself to certain things, you can’t walk around with your heart on your sleeve.”

Interview with Morris

“I grew up in a housing project in New Haven, right across the street from the train station. . . . Growing up there, you never made yourself vulnerable. When I was 11 years old, I used to watch cartoons, early in the morning. We were about to go to the bus stop. There was a loud noise, as if someone was banging on the door—BOOM BOOM BOOM. Then this guy busted open the door, he ran through the apartment to the backyard, then the cops ran through. . . . There was a level of fear there that I will never forget, it marked exactly what I was doing. [Another time] I was going to a friend’s house, I was probably 12. . . . A guy came running past me and you could hear like little firecrackers. There were these popping noises—someone was shooting at him. I was grazed, I have a mark on my chest. My friend’s mother came out and grabbed me. . . . I’ve never really discussed it with anybody.”

Interview with Jeremy

1. Growing Up Under Fire

Children serving lengthy sentences often grew up in violent environments. In a national survey conducted last year by the Sentencing Project, 63% of juvenile lifers perceived their neighborhoods to be unsafe; 66% saw drugs sold openly in their home communities; and 54% witnessed acts of violence on at least a weekly basis.³⁵ As many as half of the youth in the juvenile justice system experience chronic health and psychological impairments related to trauma.³⁶

Nor is it necessarily safer at home. Children serving lengthy sentences often were raised in severe poverty, and many were victims of neglect or physical and sexual abuse in the home.³⁷ Many have parents or close relatives in prison.³⁸ According to the Sentencing Project, youth serving life-without-parole sentences are more than six times more likely to have witnessed family violence in their home than youth in the general public. The survey found that approximately 80% witnessed violence in their homes; 50% experienced physical abuse; and 20% were sexually abused.³⁹ The survey also found that a significant

“My father died of AIDS when I was 12. I grew up with my mom. He was in and out, picked me up twice a year if I was lucky. Tried to bring toys on Christmas . . . tried to. I’m not trying to speak bad about my mom, but she was on heroin.”

Interview with Devon

“My mom would drink and start doing painkillers. She would grab a metal hanger and try to hit me with it. I would fight back. It was bad . . . Dad would hit me really bad all the time if I did anything. But I was still overprotective of him. . . . I didn’t tell anybody about [Dad’s sexual abuse of me at age 12] until prison. DCF asked me and I denied it . . . Later, I found out [Dad] did the same thing to my brother.”

Interview with Evelyn

“I felt safe with my grandma. I knew I had lights, food, school, clothes. I didn’t have to worry if my mom’s boyfriend would come in and fight or the lights would go off. I knew I’d have a bath at the end of the day. [When I was sent back to my mom’s house] I felt at the time like they were throwing me to the wolves, but now I understand that [my grandma] had the heart attack and she had another kid to take care of. [At 10 I started] living with my Mom. At mom’s it was every man for himself. I felt like a stranger.”

Interview with Morris

portion of children serving life sentences were not raised in stable homes; many stayed with friends or distant relatives, many lived in state placements, and many were homeless.⁴⁰

Yet these statistics fail to demonstrate the true complexities of life for many kids. Interviewees described a diversity of relationships with the people who cared for them as children, ranging from loving to abusive to absent.

For children who grow up in severe poverty, the drug trade may seem like the only way to support their loved ones.⁴¹ As one interviewee described, he could make more money selling marijuana than he could working in the fast food industry. Fifteen years old and trying to support his child, he explained “thinking about the consequences of selling versus working never even crossed my mind . . . It just felt like something I had to do to make ends meet.”⁴² But involvement in the drug trade often comes with the expectation that they will participate in violence and continue the cycle of childhood instability.

“I was going to school. I was good—pretty smart. But I was having problems: fights. Then [at age 13] I started hustling. That was the problem. Selling crack around the neighborhood. So I dropped out eventually. . . . I thought I could be a man. But I wasn’t no man.”

Interview with Khairi

“My Mom whooped my little brother. He went to school with welts When I was taken from my Mom [the state] put me to school in Washington, CT. I really liked it. . . . But then instead of going back home they wanted to put me with another family. This was when I was around 12 and I ran away because if I wasn’t going to be at that school that I loved, then I wanted to be with my family, not some other family. They didn’t do anything to me, or were bad to me, but I just wanted to be with my family.”

Interview with Elijah

“Sometimes we went without heat or lights. We might not have it and then have it the next month. At the time, it was like everyone else around me. My sister was trying to raise me and my brother, but she had two kids of her own We was able to eat because my two older brothers were in the drug game. They were providers. I looked up to them, they was my big brothers. Today my brother is a changed man and still a provider to his family who has been working for 12 1/2 years.”

Interview with Devon

“I was arrested one time for selling narcotics. I was able to get out as a youthful offender. I had a PO [probation officer] to report to. . . . She asked me what do I want to do, what do I want as the ultimate goal for my future. I wanted to get my family out of there. I wanted to get my mother out of the housing projects.”

Interview with Jeremy

2. Impulsivity, Peer Pressure, and Crime

Serious crimes committed by juveniles are often peer-influenced and impulsive.

Often juveniles are convinced to engage in criminal conduct by older teenagers or adults, and frequently they act in groups, subject to peer-pressure.⁴³

Sometimes, juveniles convicted of murder didn't actually kill anyone. A felony murder charge requires only that the juvenile be engaged in a felony (most often robbery), that someone died as a result (even by accident), and that the juvenile had reason to know that one of his co-felons was carrying a dangerous weapon.⁴⁴ All of the juveniles involved in a robbery-gone-wrong, whether as a shooter, as a look-out, or as a back-up ride-along, can be guilty of felony murder and subject to the same murder sentence of 25 to 60 years, without the chance of parole. Since juveniles often commit crimes in peer groups, felony murder is a common charge.⁴⁵

Many people in Connecticut are serving long felony murder sentences for crimes that occurred when they were children. (Because of the potential for pending litigation in these cases, facts of these crimes are taken from public case reports only, not inmate interviews.):

- Nick is serving 38 years for felony murder, attempted robbery, and conspiracy to rob, crimes he was convicted of committing when he was 17. At trial, his co-participant testified that Nick wanted to back out, but was coerced by his cousin who had been drinking and “flipped”—pointing the gun at Nick and stating: “you’re not punking out on me now.” His cousin confessed to being the shooter.⁴⁶
- Fred is serving 35 years for felony murder, a crime that occurred when he was 16. Witnesses testified that Fred’s brother was the shooter.⁴⁷
- Robin is serving 50 years for felony murder, attempted robbery, and conspiracy to rob; she was 14 at the time of her arrest. Lucis, Robin’s codefendant, is also serving 50 years for the same crimes; he was 16 at the time. He was tried twice: his first jury hung on the felony murder count.⁴⁸
- Hector,⁴⁹ Wilfredo,⁵⁰ and Jesus⁵¹ received 37 years, 27 years, and 40 years, respectively, for a felony murder and attempted robbery. They pled guilty. They were all 17.

“I met Tyrone at the age of 15, at the time I was at the age of 18. I had a very large drug operation run out of a . . . house in an area known as the Jungle. He was influenced by me. He was an outstanding athlete and it’s real emotional for me to sit here talking about this, but it’s the truth . . . when a kid is a young age, it’s easy to be influenced.”

William, formerly incarcerated reentry worker, testimony at Sentencing Commission public hearing

A second significant category of juvenile crimes involves retaliation for prior violence. Some youth may be marginally involved in their friends’ or older family members’ “pay-back” crimes, but they nonetheless may receive conspiracy, accessory, or felony murder convictions and sentences comparable to the main

actors. Other times, juveniles may react impulsively in an explosive situation and use unreasonable force, believing their actions are necessary for self-defense. Examples from Connecticut case law do not excuse the use of violence, but shed light on how such tragedies can occur:

- Nyron received 30 years for manslaughter (after a plea) at age 14. The cycle of violence began when Nyron was stabbed at a football game at age 13 and hospitalized. His 16-year-old brother Jason later shot the 19-year-old stabber, and Nyron later shot a 20-year-old in connection with the stabbing.⁵²

- Anthony received a mandatory sentence of life without the possibility of release for being an accessory to capital felony.

A 15-year-old died as a result of a shooting stemming from hostilities between Anthony and his codefendant, and the victim and his brothers. At trial, there was conflicting testimony about who pulled the trigger.⁵³ Anthony was 17 at the time of the shooting.

- Ronnie received a mandatory sentence of life without the possibility of release for capital felony committed when he was 17. The crime occurred after two rival gangs confronted each other in the street. A member of the other group waived a weapon at Ronnie, asking “remember this?,” and Ronnie reacted by firing a shot from a shotgun. The single shot killed three people.⁵⁴

“Kids know right from wrong. But at that age, they don’t know how serious things can get. People get that when they’re older. I’ve seen people come in at age 17 grow up, change and they’re different people now.”

Interview with Evelyn

3. Children Lost in an Adult Criminal Justice System

The U.S. Supreme Court has recognized that “the features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings.”⁵⁵ Studies have shown that some juveniles will falsely confess to crimes under pressure from adults, often believing that if they confess, they will be able to go home.⁵⁶

Juveniles may mistrust their court-appointed lawyers and turn for advice to fellow prisoners, or to family members who may not have the facts or have not spoken to the attorney. It is well documented that children, and especially those who have literacy or other learning difficulties, find it difficult to understand the criminal justice system, may not accurately weigh long-term consequences or understand risks, and often don’t know whom to trust. A juvenile is often significantly disadvantaged in plea negotiations because of these factors, and communication with his attorney may be a challenge.⁵⁷

Just as juveniles are especially susceptible to police pressure to confess, they may be vulnerable to pleading guilty to charges that they do not fully understand and to taking responsibility for conduct that may not be theirs.⁵⁸ For example, technical legal rules, like felony murder, accomplice liability, and conspiracy, make everyone involved equally guilty. Many youth and their families don’t understand that you can be punished for murder even if you do not intend harm and are not the direct actor. Rosa testified that her son was charged at age 17 with murder, even though he was only driving the car at the time of the shooting and “[h]e told the attorney that he didn’t do [the shooting].” But the lawyer advised that he should plead guilty and he was sentenced to 30 years in prison. She explained that “I didn’t understand this plea and he didn’t either. I wasn’t present when he was interrogated by the police and detectives. I never fully understood this.”⁵⁹

A juvenile may end up serving a longer sentence than a more culpable adult because he rejects a plea offer and takes the case to trial. The consequences of such decisions can be severe: the sentence received after a trial may be decades longer than the plea offer.

“Pardon me, but the mumbo jumbo that they be talking in that courtroom—a kid don’t understand that.”

Fredrick, formerly incarcerated reentry worker, testimony at Sentencing Commission public hearing

“You only know what [the attorney] tells you. . . . You think he has your best interests in mind but he doesn’t. You’re just another docket number that he gets out of the way. You just sit there and agree to everything he says. I only met with my public defender one time. . . . I talked to a lawyer [about a habeas corpus petition] and he said ‘what are you doing? Go to the law library.’ But there are so many books. You don’t know where to start.”

Interview with Morris

"[Juveniles] don't know the law. They don't have an education. They need someone who knows the law to represent them so that they know fully what's going on. See, they don't really fully understand what's going on. So if the lawyer's to sit with them and talk with them and tell them the right things. They can do this. Cause my son wasn't told the right things when he was there. A lot of things was left out. But through the grace of God we found out. But this was after the fact. We don't need to find out stuff after the fact, we need to find out before the fact so we can make good decisions and wise choices."

Linda, regarding her son's experience with the criminal justice system as a teenager, testimony at Sentencing Commission public hearing

Tyquanna, daughter of Tyrone, testified that "from my knowledge, they gave him 10 years at first [as a plea bargain] and then him being young [17], didn't know much, he didn't understand the system, his lawyer barely tried to help him . . . he took it to trial and that's when they gave him 50-to-life."

Testimony at Sentencing Commission public hearing

They explain your rights to you, but you don't really know what they mean. I thought that if I didn't agree . . . then they'll think I'm being a wise guy. . . . You don't want to be difficult because they might think it's a sign of guilt. They take your words and twist them. . . . I didn't have my Mom or my Dad. I was alone. . . . I don't know the law. . . . Mom should have been there [when they questioned me again]. She'd say you don't have anything to worry about. I had anger [with her] but there was no way to show it. . . . Now I'm older and I understand. She dropped out of school in the 5th grade so she didn't understand. It might not have happened if she came with me. . . . It's selfish if I don't understand what the other person is going through. She was naïve like I was."

Interview with Morris

Aurelia testified that her husband Marcus was offered 7 years if he pled, but "took it to trial, because he was 16 and thought that was the best deal and he got 31 years as a result."

Testimony at Sentencing Commission public hearing

Other times, a juvenile may accept a plea deal without understanding the actual consequences of the plea.

“The lawyer said I’d get 15-20 years. He didn’t tell me it was going to be 40 years. I was under the impression I was doing 20. Someone told me to write for a mittimus if I want to find out how long I’m in for and it said 40 consecutive years and it explained what consecutive meant. I was like, ‘40 years?’ . . . Six years [had] passed [since sentencing] before I found this out.”

Interview with Morris

“I met with that lawyer twice. When I met her, before she told me her name, she said, ‘I have an offer for you.’ And I said, ‘Are you telling me I’m supposed to take it?’ And she said, ‘Yes, I have no defense for you.’ . . . The day I copped out, I was supposed to pick jurors. [The lawyer] came back with 40 years, 2 years better than the 42 years the first time and they let my mom in and she told me, ‘40 is better than 60 and the lady says you can’t win.’ To a 16-year-old who knows nothing about it 40 looks better than 60. It’s 20 less. . . . My mom just said what they said and begged me to do it. The day I pled guilty the conversation with the PD [public defender] was only her telling me what would happen: the judge will ask these questions and I have to answer this way. I felt like I had no choice.”

Interview with Elijah

At the time juveniles are making critical decisions about their cases, they are usually in custody, isolated from family and support systems, and placed under considerable stress. Although the current practice is to separate children and adults in Connecticut jails, that is a relatively recent change.⁶⁰ Interviewees who had been placed as boys with adult inmates reported that that they were afraid for their physical safety and believed they had to fight in order to gain enough respect to be left alone.

“When I came into the county jail, there was no separation unit, so 16- and 17-year-olds were thrown in with grown men from the start. You had to adjust very quickly. Four days in I was fighting to defend myself from the guys. . . . Less than a year before I got to Whalley Avenue [jail], my step-brother was killed in Whalley Avenue.”

Interview with Elijah

“Coming in here at a young age was the hardest most painful experience I ever have been through. From the beginning, I was not put around juveniles my own age. I was placed around grown adult men, old enough to be my father or grandfather. A juvenile placed in a situation like that wasn’t unusual back then It wasn’t pretty.”

Michael, written testimony submitted to Sentencing Commission

Many individuals convicted as juveniles report that their ability to find the words and courage to speak about their past, their crime, their fear and remorse, and to use words to de-escalate conflict, came only after years of growth and education. An emotionally closed-off teen's inability to express fear and remorse in words, in public, and in court can have a devastating effect on sentencing, as both victims and judges expect to see public expressions or demonstrations of remorse.⁶¹ Numerous studies make clear that young teens are often intimidated, overwhelmed, and frozen in court, unable to take in what is happening and unable to respond.⁶² Sometimes their anxiety leads to nervous laughter, creating an even worse impression of remorselessness. This effect is exacerbated when they have language impairments, which are more than four times more common among incarcerated juveniles than in the general population.⁶³

“In court I was frozen and numb and exhausted. The words just weren't penetrating. I was just going through the motions. You just shut down. I started hyperventilating (before my plea). The prosecutor took me to his office. I got light headed and I started shaking. I looked at my lawyer. But he acted like he didn't know what was happening (to me). They took me downstairs and gave me some water. They asked me if I wanted to see a doctor. My lawyer said 'I'll try my best.' Like he didn't even see what just happened. They're using all these confusing words. I was emotionally shut down. The lawyer said go plead guilty and you'll get it over with.”

Interview with Morris

“I'm here on behalf of [Michael], who's in Cheshire [Correctional Institution]. I know him because I was an alternate on his jury. And I wasn't chosen. No one got sick; nothing happened. So I went home after the trial very disappointed in his defense. And a few months later I heard from one of the jury members who called me to tell me the verdicts and I was extremely disappointed, and my husband and I went to his sentencing. Found out later he was counseled not to say anything at the sentencing and so at the sentencing he was given five more years. I feel he's kind of in a place of being voiceless, so I'm very happy to read a letter that he's written. “

Greta, testimony at Sentencing Commission public hearing, on behalf of Michael, incarcerated since age 16

B. Children in Prison

“When the transfer orders came . . . the staff at the juvenile facility where I was housed tried to prepare me for what was ahead. In addition to several pep talks they packed a care package of a few cosmetics, some extra underclothes, my photos, and a teddy bear that my mother had given me. I kept it in my room and slept with it every night while I was in juvie. When I arrived at York my property was taken to be searched. The guard in charge of my intake laughed at the sight of the bear. The idea that I had one in tow was humorous to him and he told me this as he cut the head of the bear searching it for contraband. A term at the time that was foreign to me. I cringe at the thought of how ignorant I was entering this prison and at how I must have looked standing in front of that guard teary eyed as he decapitated my bear. I had been in the system for a year already before the transfer and I still hadn’t grasped the magnitude of my offense and what it meant for my victim and his family or even myself. The worst part of my process into a maximum security, level 5, prison was not my crime, the strip search or the fact that I was entering the place I could potentially spend the rest of my life in but the loss of a stuffed bear. It’s a testament to the way a child’s brain works and the inability to fully understand the magnitude of their actions.”

Letter from Rachel, who arrived at York at age 15

Juveniles who receive long adult sentences are children when they enter the prison system. They do not leave for decades. Some may never be released. They must grow up, and begin their adult lives, behind bars.

1. The First Years in Prison: Vulnerable and Alone

Fourteen, fifteen, sixteen, and seventeen year olds who are tried in Connecticut as adults are not adults. They are still children, and are not fully developed physically, cognitively, socially, or emotionally.⁶⁴ When they enter the prison system, and are abruptly separated from their families and communities, they are uniquely vulnerable.⁶⁵ Walking into prisons they know they may never leave, children can be overwhelmed with feelings of isolation and hopelessness.

The prisons where juveniles are housed may be hours away from their homes and difficult to reach by public transportation, which can make family visits infrequent or

impossible. Children often do not know how to properly request visits, and many families cannot afford the high rates charged for telephone calls from prisons.⁶⁶ Visitation and telephone privileges can be taken away for disciplinary infractions.⁶⁷ Children can be left unable to communicate with the people they need most.

Incarcerated children are especially vulnerable to mental health conditions. The vast majority of children involved in the juvenile justice system have survived exposure to violence in their homes or communities, and are still grappling with the trauma of those experiences.⁶⁸ These children are likely to experience chronic health and psychological problems related to trauma and severe victimization, which puts them at higher risk of suicide.⁶⁹ These health conditions may be exacerbated by the experience of confinement.⁷⁰

The U.S. Supreme Court has ruled, and Connecticut Department of Correction policy confirms, that incarcerated people must have access to appropriate health care, including necessary medical and psychological care.⁷¹ However, children can easily get lost in a large system where needs often outstrip resources.⁷² Just as children need help in the outside world in caring for themselves, children in prison often do not know how to be effective advocates for their own medical needs.⁷³ Most secure facilities are not designed and staffed to meet the significant needs of young people, and staff and administrators vary in their willingness to acknowledge the need for mental health and related services.⁷⁴

Adjustment to prison life is difficult for incarcerated children. Many young people in the criminal justice system do not yet have the skills to handle the threats, perceived insults, and potential conflicts that are regular aspects of prison life.⁷⁵ Consequently, children often react by fighting or displaying other aggressive behavior. Children with mental health needs are even more likely to have difficulty controlling this behavior. The system has historically labeled these children “beyond hope” without recognizing that, with the proper help, these children can become “well-adjusted, law-abiding, and productive citizens.”⁷⁶

Officers, who may lack training in mental health issues and juvenile behavior, may react to children using disciplinary tactics that are regularly used on adult inmates, such as lengthy periods of isolation and restraints. However, research shows that such strategies can have devastating psychological, emotional, and physical effects on young people.⁷⁷ A 2002 U.S. Department of Justice investigation showed that juveniles experience symptoms of paranoia, anxiety, and depression even after very short periods of isolation.⁷⁸ Youth who spend extended periods in isolation are among the most likely to attempt or commit suicide.⁷⁹

Physically small and temperamentally explosive teenagers are also easier targets for

“Back then [when I first got to prison] I would just bark on them, but now I can make my point as a man. I can say, ‘I don’t appreciate this or that.’ Before, it was, ‘If you say that again, I’ll punch you in the face.’ . . . The impulses at 16 and 17 were a lot quicker. Now there’s a little bit of a thought process. . . . Back then the ‘I don’t care’ factor was there. It takes a whole lot now to get me in any kind of position like that. . . . Thank God for growth.”

Interview with Elijah

“You can get in trouble for anything. There was some writing on the wall, from 1998 and 1999. I didn’t write on the wall, I couldn’t have done it, wasn’t in prison then. I got a ticket. I learned the hard way. They told me to go to appellate if I wanted to fight it, but I didn’t know what that was. When I was 16, I was unfairly blamed for getting gang affiliated, couldn’t stand up for myself and fight that. 1.5 years in the gang block.”

Interview with Morris

abuse by staff and other inmates. Although Connecticut now protects children who are convicted as adults by separating them from adult populations, juveniles are still vulnerable to abuse, particularly when they enter the adult population in their late teens or early twenties.⁸⁰

In recent years, Connecticut has started to recognize the special vulnerabilities and risks associated with the incarceration of young people. Children serving adult sentences are now housed apart from adults and receive some youth-focused services.⁸¹ The Attorney General's National Task Force on Children Exposed to Violence explains the importance of this type of child-oriented decision-making and the remarkable changes children can make when provided with help: "[b]y correctly assessing the needs of youth in the justice system, including youth exposed to violence, and matching services directly to those needs, the system can help children recover from the effects of exposure to violence and become whole."⁸²

"That lieutenant invested a lot of time in me. There were a couple of episodes prior to graduating [from the GED program] and instead of punishing me, like sending me to solitary-confinement, he scolded me basically. And it worked. I excelled from there and became a tutor. Going to the hole—that didn't work for me. I can easily close myself off emotionally. Instead, he pulled me out of the room and basically preached to me, 'There's things you can do from here. I promise you there's something else out there.' I guess that worked for me Years later, I got reacquainted with him. He was proud of me. He made me feel proud that I accomplished something that someone else saw. He saw me [working in the medical ward of the prison] and he was like, 'You work here? I watched you grow up, you were a little knucklehead, look at you now.'"

Interview with Jeremy

"[After I left Manson Youth Institution] when I got to [another prison], it was older guys, it was one of the most dangerous places. I'm looking at them and I'm in the tiers and the COs [Correctional Officers] are like, 'LOCK UP!' It was different and I was scared. In the beginning, you don't know who to trust. I tried to stay to myself."

Interview with Devon

2. Growing Up in Prison

Juveniles who receive long sentences spend many of their formative years behind bars. An individual may be incarcerated at age fourteen or fifteen and have no hope of leaving prison for fifty years or more. During this time, and particularly during the first years of the sentence, he or she will grow and change. Scientific studies make clear that children's brains are evolving and changing at a rapid rate, and therefore that children have a greater capacity than adults to change and to rehabilitate.⁸⁶ Given this capacity for change and growth, and the unique vulnerabilities of young people, it is essential that children have access to the age-appropriate educational, vocational, and recreational opportunities they need. With the right rehabilitation opportunities in prison, even children with traumatic backgrounds can grow to be mature, caring, and productive adults.

An increasing body of research demonstrates that education and training programs in prison can raise employment prospects and reduce recidivism.⁸⁷ The more extensive the educational program, the greater the chance of success.⁸⁸ But programming in prisons does more than provide inmates with marketable skills. People who enter the prison system as children need access to programming to complete their high school education and to develop and mature as individuals.

The Connecticut Department of Corrections provides inmates with educational, vocational, and substance abuse programming to support them in their efforts towards personal achievement and rehabilitation. However, resources are limited, and interviewees reported difficulty accessing these resources, particularly after they turned 18.⁸⁹ Some of the individuals interviewed stated that they often found themselves at the end of the line for access to programming because they are far from their release dates.⁹⁰ Nevertheless, many individuals who have been able to attend classes and other trainings speak of how important programming was in their personal development and growth.

International Law Perspective:

International standards provide that custodial sentences must conscientiously account for the child's age and for the need to safeguard "the well-being and the future of the young person."⁸³ The goal must be "to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society."⁸⁴ International guidelines also recognize the specific developmental needs of juveniles for privacy, sensory stimuli, opportunities for association with peers, participation in sports and physical exercise, and adequate communication with the outside world.⁸⁵

"I'm a hospice volunteer. I love everything about it. It may sound selfish but it gives me a sense of worth. I think about my mother [who is HIV positive]—I'd want someone to do this for her."

Interview with Devon

"[In prison], I tried to get my GED, but they told me I needed to have been in Special Ed in school and be under 21 to qualify for the classes. I remembered that at one school I went to, they classified almost everyone—including me—as Special Ed. So I tried to get my file from that school. I wrote to them to get the file, but by the time they had sent me my file, I was over 21 and couldn't take the GED class. Luckily, the GED teacher sometimes stops by my cell to loan me books and answer a question or two. I try to not take more than two or three minutes of her time."

Interview with Shawn

Many of the individuals who have been in prison since their teenage years want the chance to try to prevent a new generation of children from making the same mistakes that they did. People who made mistakes and learned from them can often be the most effective at intervening with youth and setting them on the right path. There are many people in the community who are providing valuable contributions after being incarcerated for years for crimes committed in their youth. These people provide proof that change and successful reentry are possible. At the Sentencing Commission's public hearing, some powerful examples were presented of what people can do with a second chance.

- Trent was sentenced to 45 years for murder but was released after serving 14 years when his conviction was overturned. Since then, he has graduated from the University of New Haven and is working on a master's degree in criminal justice. He has two full-time jobs that he has held for the past six years. He has also assisted law enforcement with Project Longevity, a project aimed at reducing gang and gun violence in Connecticut's cities.⁹⁷
- After serving 17.5 years of a 25-year sentence for murder and assault, which occurred when he was 19 years old, Dae has also transformed his life. Today, he works as a reentry coordinator for a program that contracts with the Department of Correction to facilitate reentry groups and help ex-offenders reintegrate successfully into society. As Dae explained to the Sentencing Commission: "I think this is very important that people get an opportunity to change. And with that opportunity, they also get the opportunity to not be a deficit to society but an asset and make a contribution to the development of society. I am living proof . . . I was allowed to go through the metamorphosis process and be able to transform into a butterfly and I spread my wings today to fly, and I ask that you give that opportunity to others as well."⁹⁸

"Nicholas wants to become a nurse when he comes home. As well as volunteer a lot of his time with those in need. I will try to do all that I can in order to help him accomplish this dream. . . . If Nicholas came home today he would have the love and support of so many, many people."

Leslie, written testimony submitted to the Sentencing Commission in support of her son, Nicholas, incarcerated since age 17

"I am ready and willing to provide Luis with a safe home and every aspect of support, guidance, accountability, and love. My son in law can offer him direct employment at his company I also have an extra vehicle Luis can use to commute back and forth to work and school, as he plans to continue his education by attending college."

Maria, written testimony submitted to the Sentencing Commission in support of her grandson, Luis, incarcerated since age 16

"I received 85 years in a New Haven court in 1988 at the age of 19 years of age [After legal proceedings] I did 20 years flat . . . , released in 2008, and the people you heard speak before me [today] . . . all those are my colleagues. They were the guys that when I was in jail, I hung out with and a pact was made that we would not return to this society and be a menace, but that we would come out here and work with youth and work with other ex-offenders. I now work two jobs, one with New Haven Family Alliance, outreach worker in the streets of Newhallville, every night, deterring kids from violence. I also work for the Second Chance Act Easter Seal Good Will. I meet ex-offenders coming out the door and try to get them on the right path."

William, formerly incarcerated, testimony at Sentencing Commission public hearing

"One thing for sure, rehabilitation works. How do we know? I've been out for 9 years I'm never going back to prison again. We can change people. Children were not born violent, vicious, or dangerous. Those are learned skills Let's rehabilitate and keep our children out of prisons."

Robert, formerly incarcerated, testimony at Sentencing Commission public hearing

"I'm sitting before you as a product of change I've been out since 1994. And I've done many, many positive things. And I still have many, many positive things to do. And I look at things as an opportunity [T]hose who are looking for a blessing such as this, they should want a process that gives back to their community so that people who are in pain every day from their vicious acts can see them trying to save some lives and bring some understanding to their communities so that another family doesn't have to go through the pain that they're going through."

Kenny, formerly incarcerated, testimony at Sentencing Commission public hearing

"I'm too an ex-offender. Was sentenced to a 27 year prison term in 1992, served 14 years, came home in 2005, and I am a success. I've completed five consecutive years of parole, never had any issues with the parole officers, and I just hit the ground running. So we can, us ex-offenders can be effective in society. We just need a chance."

Alexander, formerly incarcerated, testimony at Sentencing Commission public hearing

“I was never able to get established, live out my dreams before coming in. I didn’t get an apartment, work, or write a check before getting arrested. . . . When I came in, the . . . friends I knew was still in high school. [But I] definitely matured. I feel older. . . . I want a day, when I have a chance of parole. I’ll be able to tell [my daughter] I have a chance for the future.”

INTERVIEW WITH KHAIRI

“From a moral standpoint 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.”

Roper v. Simmons, 543 U.S. 551, 570 (2005)

“[Y]outh is more than a chronological fact. It is a time of immaturity, irresponsibility, impetuosity[,] and recklessness. It is a moment and condition of life when a person may be most susceptible to influence and to psychological damage. And its signature qualities are all transient.”

Miller v. Alabama, 132 S. Ct. 2455, 2467 (2012)

III. Age-Appropriate Sentencing and a Second Look

Following the Supreme Court decisions in *Graham* and *Miller*, the Connecticut Sentencing Commission engaged in extensive deliberation regarding possible legislative responses. In December 2012, the Commission reached a consensus recommendation in support of the following legislative changes designed to bring Connecticut into compliance with constitutional requirements and provide a second chance for people who have grown up and rehabilitated in prison:⁹⁹

- “Second Look” Provision: Allow earlier parole consideration for those serving lengthy sentences for crimes that occurred when they were children.
- Youth Factors and Sentencing: Eliminate unconstitutional mandatory life-without-parole sentences for children under 18 and provide youth-related criteria for adult courts to consider when sentencing children.

“Second Look” Provision

Under current law, some juveniles sentenced in adult court may be entirely ineligible for parole, or eligible only after serving 85% of their sentences. Under the Sentencing Commission’s recommendation, those serving sentences of more than 10 years for crimes that occurred before they turned 18 would be eligible for parole consideration after serving 50% of the sentence or 10 years, whichever is longer. Those serving sentences of more than 60 years would be eligible after serving 30 years.

The legislation does not guarantee release, only the chance for a hearing before the Board of Pardons and Paroles. After thoroughly reviewing information provided by the Department of Correction, victim, prosecutor, and inmate—and using risk assessment tools—the Board would determine if an inmate has truly rehabilitated and can be safely released. Those who have demonstrated growth and change while in prison would have a chance at release, enabling them to make positive contributions to society from outside prison walls. Under the Commission’s proposal, released individuals would be subject to close parole supervision and have a reentry plan in place to ensure a smooth transition into the community.

Youth Factors and Sentencing

The Sentencing Commission also recommends bringing Connecticut into compliance with *Miller v. Alabama* by eliminating mandatory life-without-parole sentences and permitting judges to consider youth-related factors in sentencing children convicted of crimes in adult court.

Under current Connecticut law, individuals ages 14-17 convicted of murder with special circumstances are subject to mandatory sentences of natural life without the possibility of release. These sentences are unconstitutional under *Miller v. Alabama*. Under the Commission's recommendation, individuals under the age of 18 would no longer be covered by the murder-with-special-circumstances statute. Minors would still be subject to adult murder penalties.

The Commission also recommends specific youth-related factors for courts to consider in sentencing youth transferred to adult court. These factors are based on criteria outlined by the Supreme Court in *Miller v. Alabama*.

“When I first came to prison, I was a confused little boy. At the age of 16 years old, coming through those prison gates to a whole other world . . . I had to learn how to survive . . . I starting saying to myself, “I don’t want to be like this man or that man,” so my journey started by reflecting on my past and how I was raised. I had to reprogram myself from the false realities of life and the lies and suggestions I was fed as a child. During this time I learned to let go of that anger. . . This helped me to take responsibility for my own actions and stop blaming others for my faults and failures. I also had to learn how to rebuild my self esteem . . . I would love to believe I have changed for the better.”

Letter from Travis

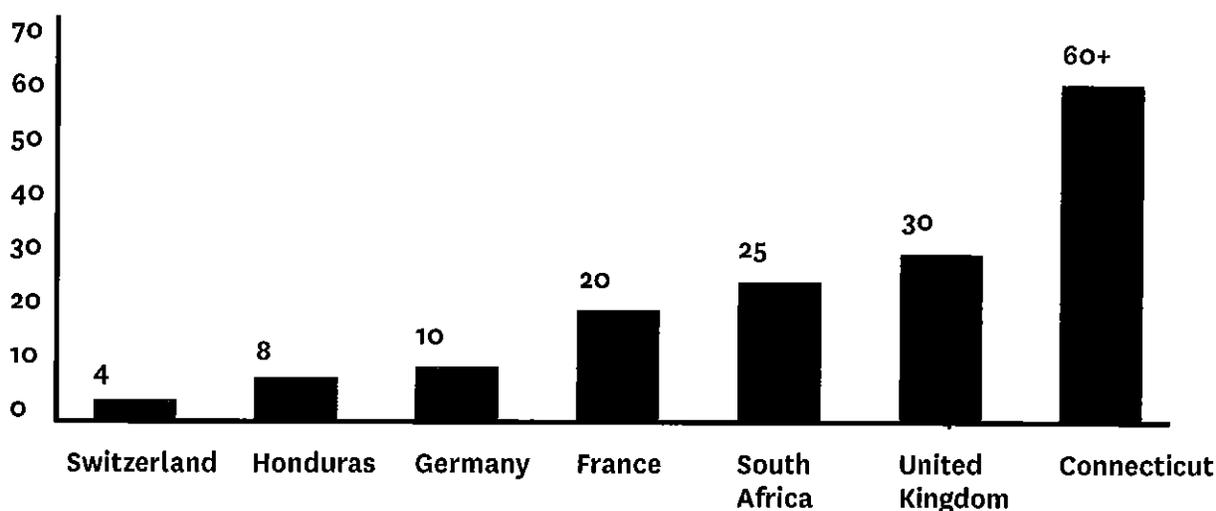
Children’s Rights and Human Rights

Reforming Connecticut’s juvenile sentencing practices to permit “second look” review would be an important expression of Connecticut’s commitment to protect the rights and wellbeing of its children and to uphold human rights law standards.

- The international human rights law framework establishes that juveniles must be treated differently than adults in criminal sentencing. The International Covenant on Civil and Political Rights, which the United States has signed and ratified, creates a legally binding obligation to account for age and the desirability of promoting juveniles’ rehabilitation in criminal procedures.¹⁰⁰
- International standards require that sentences of imprisonment for children must be limited to the shortest appropriate amount of time and employed only as a last resort,¹⁰¹ and must conscientiously account for the child’s age and for the need to safeguard “the well-being and the future of the young person.”¹⁰²
- Criminal sanctions for children should promote their rehabilitation and reintegration into society. The goal must be to prepare incarcerated young people “to assume socially constructive and productive roles in society.”¹⁰³

Countries around the world recognize that children should be incarcerated only as a measure of last resort and for the minimum necessary period, and most countries limit maximum sentences for children to between five and twenty-five years.¹⁰⁴ Connecticut’s juvenile sentencing practices make the state an outlier with respect to global practice.

Connecticut Sentences Children to Longer Prison Terms Than Most Countries¹⁰⁵



JURISDICTION

“With seventy-five years of life experience, I dare to say that Jaquam is truly ready and profoundly desires to be an honest, positive, law-abiding, compassionate citizen. . . . Jaquam has been one of my mentees since June 29, 2009. [If his sentence is reduced] I pledge to continue to mentor him and assist him after release, as I would my own son.”

DAVID, retired pastor, written testimony submitted to Sentencing Commission in support of Jaquam, incarcerated since age 15

Conclusion

YOUTH MATTERS

Kids are different from adults. Common sense teaches us this. Any teacher or parent could tell you that “[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young.”¹⁰⁶ But this intuition is also consistent with recent “developments in psychology and brain science [which] continue to show fundamental differences between juvenile and adult minds.”¹⁰⁷ Because of this, youth are not mere miniature adults, but rather have “distinctive attributes”—“transient rashness, proclivity for risk, and inability to assess consequences”—that “lessen [their] moral culpability” and make it more likely that they are capable of change and reform.¹⁰⁸ In light of this, the U.S. Supreme Court has held that “the imposition of a State’s most severe penalties on juvenile offenders cannot proceed as though they were not children.”¹⁰⁹ In other words, youth matters.

Connecticut can no longer afford to impose severe penalties on children as though they are adults. Instead, juvenile sentencing—even in the case of serious offenses—requires age-appropriate, constitutionally compliant, and developmentally sound procedures that are consistent with the teachings of science and social science. Specifically, such procedures must: (1) include a second look mechanism that carefully reviews whether individuals convicted of crimes as youth have rehabilitated and are suitable for release and (2) eliminate unconstitutional mandatory life-without-parole sentences for individuals convicted as children and provide criteria for adult courts to consider when sentencing children. Such procedures will hold juveniles accountable for serious crimes but will do so in a way that recognizes their unique capacity for growth and change.

Juvenile sentencing reforms are consistent with fiscal priorities and public safety. The cost of incarcerating individuals sentenced to long sentences for crimes committed as juveniles is staggering. In Connecticut, the average cost of incarcerating just one person is \$34,733.40 per year.¹¹⁰ In the absence of reform, the costs of incarcerating youth for extreme sentences will continue to burden Connecticut’s budget for decades to come. Moreover, such reform is consistent with protecting public safety. Extreme, long sentences for children do not make our streets safer. In fact, such sentences often incarcerate individuals who will pose the least threat to public safety in the long-term.¹¹¹

Second look reforms make sound public policy. In the last several years, Connecticut has striven to create evidence-based criminal justice policies that balance the needs of juveniles in the criminal justice system with public safety, fairness to victims, and fiscal concerns. As part of those efforts, Connecticut has moved to adopt many of the new “best practices” that recognize differences between children and adults:

- In 2010-12, Connecticut raised the age at which children guilty of less serious crimes may be treated as adults from 16 to 18. (Children ages 14-17 charged with serious felonies are still subject to mandatory transfer to adult court).¹¹²
- In the last decade, Connecticut has separated children from adults in jails and prisons, has moved incarcerated children back to juvenile-specific facilities until they turn 18,

and has separated younger from older teens at Manson Youth Institution.¹¹³

- In the last decade, Connecticut has instituted special training policies for police and correctional officers working with young people.¹¹⁴
- In the last decade and moving forward, Connecticut has focused on programs to intervene before children go to prison,¹¹⁵ enhanced educational opportunities for young people in prison, taken steps to adopt more evidence-based rehabilitation programs, and reduced reliance on 1990s-era “get tough” approaches (like “boot camp,” “scared straight,” solitary confinement, and isolation from family visits) that have been demonstrated to increase rather than reduce recidivism among youth.¹¹⁶

Connecticut can continue to make progress by taking youth into account in sentencing children, and by allowing parole authorities to take a second look at the cases of children who are given long sentences—after they have grown up and matured, in light of new science, and with the benefit of hindsight.

Now is the time for Connecticut to express its support for common-sense juvenile sentencing reform. Children are not beyond redemption. They grow up and mature. The U.S. Supreme Court has recognized that juveniles “are less deserving of the most severe punishments” given to adults.¹¹⁷ Connecticut must heed this pronouncement and reform our juvenile sentencing practices to ensure that children who have grown up and rehabilitated in prison are afforded a “second look” and a second chance to contribute to society.

Methodology

This report is the result of a joint project by members of the Civil Justice Clinic at Quinnipiac University School of Law and the Allard K. Lowenstein International Human Rights Clinic at Yale Law School. The Civil Justice Clinic represents low-income individuals and works on public policy projects, and the Lowenstein Clinic conducts human rights advocacy in the United States and abroad. The joint team carried out research from September 2011 to February 2013, drawing on quantitative and qualitative information about the approximately 275 people serving prison sentences in Connecticut of more than ten years for crimes that occurred when they were under the age of 18. Compiled data of publicly available information provided by the Connecticut Department of Correction upon our request in September 2011 forms the basis for the statistics in this report. Law and news databases were used to investigate particular cases.

This report endeavors to reflect the experiences of some of the men and women who have been incarcerated since they were boys and girls. Their stories and insights were gathered from several sources. We conducted interviews with nine persons who are currently incarcerated in six correctional facilities throughout Connecticut—Garner, Osborn, York, Corrigan-Radgowski, MacDougall-Walker, and Cheshire prisons. Their sentences range from 20 to over 60 years, and they have so far served between 6 and 18 years of their respective sentences. Interviews were conducted with each person individually, and they lasted on average about two hours. Interviewees and their legal counsel provided consent for the interviews and for the use of their quotes in this report. We also received letters from other people serving such sentences, and in several instances excerpts from those letters appear in this report. Pseudonyms have been used to protect identities, and informed consent was obtained in all instances.

We also spoke with professionals who work in the juvenile justice field, including representatives from the Office of the Child Advocate, attorneys from the Connecticut Public Defender, and individuals from non-governmental organizations working on juvenile sentencing.

Lastly, we drew upon written and oral testimony submitted for the Sentencing Commission's Public Hearing on November 29, 2012, and the Judiciary Committee's Public Hearing on March 23, 2012. This testimony is publicly available at <http://www.ct.gov/opm/cwp/view.asp?a=2967&Q=515266> (Sentencing Commission) and http://www.cga.ct.gov/asp/menu/CommDocTmyBillAllComm.asp?bill=HB-05546&doc_year=2012 (Judiciary Committee).

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- 1469 (2002); Theodore Eisenberg et al., *But Was He Sorry? The Role of Remorse in Capital Sentencing*, 83 Cornell L. Rev. 1599 (1998); Bryan H. Ward, *Sentencing Without Remorse*, 38 Loyola Univ. Law J. 131 (2006) (pointing to numerous problems with judge and jury evaluation of remorse).
- 62 See generally Michele LaVigne & Gregory J. Van Rybroek, *Breakdown in the Language Zone: The Prevalence of Language Impairments Among Juvenile and Adult Offenders and Why It Matters*, 15 U.C. Davis J. Juvenile L. & Policy 37 (2010).
- 63 *Id.*
- 64 *National Prison Rape Elimination Commission Report 142* (2009).
- 65 Institutionalization, a term used to describe the process by which inmates are shaped and transformed by the institutional environments in which they live, may have more profound effects on persons who enter institutional settings at an early age, before they have formed the ability to control many of their own life choices. For these individuals, institutionalization may proceed more quickly and have deeper and more lasting effects. Craig Haney, *The Psychological Impact of Incarceration: Implications for Postprison Adjustment* 38-39 (2003).
- 66 Interview with the Office of the Child Advocate, in Hartford, Conn. (Feb. 1, 2013).
- 67 Office of the Child Advocate, *From Trauma to Tragedy: Connecticut Girls in Adult Prison* 6, 15 (2008) (“During incarceration, many girls were confined to quarters and had co-occurring loss of commissary, recreation, visits and phone contacts for several weeks.”); see also Connecticut Department of Correction, *Administrative Directive 10.7: Inmate Communications* § 5 (2012).
- 68 U.S. Department of Justice, *Report of the Attorney General’s National Task Force on Children Exposed to Violence* xvii, 110 (2012). A particularly high percentage of girls in the juvenile justice system have been exposed to significant violence and trauma; 92% of incarcerated girls in one California study reported having experienced emotional, physical and/or sexual abuse. Leslie Acocha and Kelly Dedel, National Council on Crime and Delinquency, *No Place to Hide: Understanding and Meeting the Needs of Girls in the California Juvenile Justice System*, 6 (1998), available at http://www.nccdglob.org/sites/default/files/publication_pdf/no-place-to-hide.pdf.
- 69 Julian Ford et al., *Trauma Among Youth in the Juvenile Justice System: Critical Issues and New Directions* (2007); David Brent, *Risk Factors for Adolescent Suicide and Suicidal Behavior: Mental and Substance Abuse Disorders, Family Environmental Factors, and Life Stress* (1995). Studies show that nearly two thirds of males and nearly three quarters of females in detention met the diagnostic criteria for one or more mental health disorders. Linda A. Teplin et al., *Psychiatric Disorders of Youth in Detention*, *Juvenile Justice Bulletin* 9 (2006), available at <http://www.ncjrs.gov/pdffiles1/ojdp/210331.pdf>. Nearly a quarter of youth in residential placements have attempted suicide. Andrea J. Sedlak and Karla McPherson, *Youth’s Needs and Services: Findings from the Survey of Youth in Residential Placement Online Database*, Office of Juvenile Justice and Delinquency Prevention (2010), available at <http://www.ncjrs.gov/pdffiles1/ojdp/227720.pdf>. The U.S. Department of Justice’s Bureau of Justice Statistics reports that jail inmates under 10 have the highest suicide rates of all inmates (101 per 100,000 during 2000-2002). C.J. Mumola, *Suicide and Homicide in State Prisons and Local Jails*, *Bureau of Justice Statistics* (2005). Lindsay Hayes, national expert in the field of suicide prevention, suggests that “if all youth are to some degree at risk for suicide, it could be argued that juveniles in confinement are at greater risk because they have life histories that predispose them to suicide (e.g. mental disorders and substance abuse, physical, sexual and emotional abuse, and perhaps most importantly, current and prior self injurious behavior).” Lindsay Hayes, *National Center on Institutions and Alternatives, Juvenile Justice in Confinement: A National Survey* (2004), available at <http://www.ncjrs.gov/pdffiles1/ojdp/grants/206354.pdf>.
- 70 Confinement and restraints have been shown to create significant risks for people with mental disorders and have been shown to re-traumatize people with a history of trauma. Janice L. Cooper, *Creating Politics to Support Trauma-Informed Perspectives and Practices, Power Point Presentation at the Third Annual Symposium, Bridging the Gap* (2009), available at www.mentalhealthconnection.org/janice-cooper-ppt; Kevin A. Hukshorn, *Redesigning State Mental Health Policy to Prevent the Use of Seclusion and Restraint*, *Administration and Policy in Mental Health Services Research* 33:4 1 (2006).
- 71 *Estelle v. Gamble*, 429 U.S. 97, 103-04 (1976); Connecticut Department of Correction, *Administrative Directive 8.1, Scope of Health Services Care* (2007).
- 72 Office of the Child Advocate, *From Trauma to Tragedy: Connecticut Girls in Adult Prison* 14-15 (2008) (“Most girls reported unmet medical and mental health needs since arriving at YCI. Several did not have their prescription glasses and had not received medication that they were taking prior to incarceration. They showed us infected cuts from attempts at self piercing and cutting. Others requested our assistance with medical attention for gynecological needs. Many expressed wanting to speak with a mental health clinician because they felt scared, angry, and desperate.”).
- 73 Interview with the Office of the Child Advocate, in Hartford, Conn. (Feb. 1, 2013).
- 74 An ACLU Report on solitary confinement of juveniles in the United States recounts that some young people describe corrections staff telling them that they did not believe their cries for help or their requests for mental health care. The report explains: “An extremely complicated and toxic atmosphere can develop when corrections staff feel they need to be gatekeepers to mental healthcare. It is too easy for overworked and under-resourced medical and corrections staff to dismiss as malingering a cry for help.” Human Rights Watch & American Civil Liberties Union, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* 51-52 (2012); see also Campaign for Youth Justice, *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Prisons in America* 10-11 (2007).
- 75 Craig Haney, *The Psychological Impact of Incarceration: Implications for Postprison Adjustment* 41 (2003); U.S. Department of Justice, *Report of the Attorney General’s National Task Force on Children Exposed to Violence* 110 (2012) (“Exposure to violence often leads to distrust, hypervigilance, impulsive behavior, isolation, addiction, lack of empathy or concern for others, and self-protective aggression. When young people experience prolonged or repeated violence, their bodies and brains adapt by becoming focused on survival. This dramatically reduces their ability to delay impulses and gratification, to a degree even beyond that of normal adolescents. Youth who are trying to protect themselves from more violence, or who do not know how to deal with violence they have already experienced, may engage in delinquent or criminal behavior as a way to gain a sense of control in their chaotic lives and to cope with the emotional turmoil and barriers to security and success that violence creates.”); Human Rights Watch & American Civil Liberties Union, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* 51-52 (2012) (“More than adults, incarcerated teens often act out to protect themselves or to fit into a culture of violence, including by fighting or committing other disciplinary infractions An analysis of data made available to independent researchers by the Florida Department of Corrections suggests that rates

- of misconduct of adolescents under age 18 were significantly greater than adults between the ages of 18 and 20, and many times greater than older adults.”) (citing Attapol Kuanliang et al., *Juvenile Inmates in an Adult Prison System: Rates of Disciplinary Misconduct and Violence*, 35 *Criminal Justice and Behavior* (2008), available at <http://www.sagepub.com/stohrstudy/articles/11/Kuanliang.pdf>).
- 76 U.S. Department of Justice, *Report of the Attorney General's National Task Force on Children Exposed to Violence* 111 (2012). The Task Force Report explains that reform must involve an understanding that children in the justice system are not “bad kids” but, instead, are traumatized survivors who have made bad decisions but can still turn things around if they have help. “By failing to correctly identify and treat children exposed to violence, the system wastes an opportunity to alter the delinquent or criminal conduct of the children . . . This is not inevitable. These youth are not beyond our ability to help if we recognize that exposure to violence causes many children to become desperate survivors rather than hardened criminals. There are evidence-based interventions that can help to repair the emotional damage done to children as a result of exposure to violence and that can put them on a course to be well-adjusted, law-abiding, and productive citizens.” *Id.* See also Julian D. Ford, *Complex Trauma and Aggression in Secure Juvenile Justice Settings*, 39 *Criminal Justice and Behavior* 694-98 (2012) (documenting that 90% of youth in juvenile detention facilities have undergone childhood trauma).
- 77 According to University of California-Santa Cruz psychology professor Craig Haney: “These [14- or 16-year-olds who commit adult crimes] are the least appropriate to place in solitary confinement. Not only are you putting them in a situation where they have nothing to rely on but their own, underdeveloped internal mechanisms, but you are making it impossible for them to develop a healthy functioning adult social identity. You’re basically taking someone who’s in the process of finding out who they are and twisting their psyche in a way that will make it very, very difficult for them to ever recover.” Campaign for Youth Justice, *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America* (November 2007); see also Human Rights Watch & American Civil Liberties Union, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* 1-2 (2012); United States Department of Justice, Civil Rights Division, Letter to Governor Parris N. Glendening from Assistant Attorney General Ralph F. Boyd, Jr., available at http://www.justice.gov/crt/about/spl/documents/baltimore_findings.let.php; Lindsay M. Hayes, *Juvenile Suicide in Confinement: A National Survey* 24 (2004), available at <http://www.ncjrs.gov/pdffiles1/ojdp/grants/206354.pdf>; Matt Olson, *Kids in the Hole—Juvenile Offenders*, *The Progressive* 67 (8), Aug. 2003; Office of the Child Advocate, *From Trauma to Tragedy: Connecticut Girls in Adult Prison* 28 (2008) (“OCA [Office of the Child Advocate] has expressed concerns to DOC [Department of Corrections] that disciplinary sanctions often fail to reflect the developmental, cognitive, and mental health capacity of the girls. Very often, the girls are unclear about the rules, react impulsively in an environment that has minimal tolerance for rule-breaking, and have extreme emotional and behavioral reactions triggered by post traumatic stress disorders.”).
- 78 U.S. Department of Justice, *Report of the Attorney General's National Task Force on Children Exposed to Violence* 115 (2012). The American Academy of Child and Adolescent Psychiatry recently released a statement flatly opposing the use of solitary confinement in correctional facilities that house juveniles. American Academy of Child and Adolescent Psychiatry: Policy Statements, *Solitary Confinement of Juvenile Offenders* (2012), available at http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders.
- 79 Lindsay M. Hayes, *Juvenile Suicide in Confinement: A National Survey* 24 (2004), available at <http://www.ncjrs.gov/pdffiles1/ojdp/grants/206354.pdf>. Human Rights Watch & American Civil Liberties Union, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States* 30 (2012).
- 80 In Connecticut, boys who are tried as adults are sent to Manson Youth Institution. Girls are sent to York Correctional Institution. Connecticut Department of Correction Administrative Directive 9.2: Offender Classification § 7C-D (2006). See also Connecticut Office of Policy and Management, *Juvenile Justice and Youth Development*, <http://www.ct.gov/opm/cwp/view.asp?A=2974&Q=383628#Transfer> (last visited Feb. 24, 2013). A national analysis of data from state agencies overseeing juvenile detention facilities found that between 2004 and 2007 there were over 13,000 documented reports nationwide of alleged physical, sexual, or emotional abuse by staff members. H. Mohr, *13K Claims of Abuse in Juvenile Detention Since '04*, *USA Today*, Mar. 2, 2008, available at http://usatoday30.usatoday.com/news/nation/2008-03-02-juvenile-detention_N.htm. Because children are often afraid to report abuse and documentation practices are inconsistent, the actual number of assaults is undoubtedly higher. S. Department of Justice, *Report of the Attorney General's National Task Force on Children Exposed to Violence* 113 (2012).
- 81 Interview with the Office of the Child Advocate, in Hartford, Conn. (Feb. 1, 2013).
- 82 U.S. Department of Justice, *Report of the Attorney General's National Task Force on Children Exposed to Violence* xvii-xviii (2012).
- 83 Beijing Rules, art. 17. Commentary.
- 84 Beijing Rules, art. 26.1. Other international law sources supporting the importance of rehabilitation, as opposed to repression or retribution, as the goal of criminal justice where children are concerned include the Convention on the Rights of the Child, the ICCPR, the UN Committee on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and the Inter-American Commission on Human Rights.
- 85 Havana Rules, art. 32, 59.
- 86 In *Graham v. Florida*, the Supreme Court emphasized that juveniles are “more capable of change than are adults.” The malleability of an adolescent’s brain development implies that teens through their twenties may be particularly amenable to change and rehabilitation as they grow older and attain adult levels of development. *Graham v. Florida*, 130 S. Ct. 2011, 2026, (2010). National Institute of Mental Health, *The Teen Brain: Still Under Construction* 2-3, 5 (2001) available at <http://www.nimh.nih.gov/health/publications/the-teen-brain-still-under-construction/teen-brain.pdf>.
- 87 Educational Testing Service, *Locked Up and Locked Out: An Educational Perspective on the U.S. Prison Population* 3 (2006), available at <http://www.ets.org/Media/Research/pdf/PIC-LOCKEDUP.pdf>; Washington State Institute for Public Policy, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*, (October 2006), available at <http://www.wsipp.wa.gov/rptfiles/06-10-1201.pdf>.
- 88 One three-state study concluded that one million dollars spent on correctional education prevents 600 crimes, and is almost twice as cost-effective as money spent expanding the capacity of prisons. Audrey Bazos and Jessica Hausman, UCLA School of Public Policy and Social Research, *Correctional Education as a Crime Control Program* 2 (2004).
- 89 Letter from Julian, September 2012; Letter from Mark, November 2012.
- 90 Interview with Vincent, December 2012 (“I was taken off the program lists for programs

- at [particular prison] because of the length of my sentence. You have to fit certain criteria for programs here . . . and sometimes they deny you for no reason.”); Interview with Devon, December 2012 (We came in at a young age, we never had nothing. I need this program, but I need to wait a longer time . . . [There are] lots of programs [at this facility] but I haven’t been able to get into them. Guys who are [getting out sooner] get in first”).
- 91 Sentencing Commission Public Hearing (Nov. 29, 2012).
- 92 *Id.*
- 93 Letter from Curtis, October 2012.
- 94 Deborah L. Levi, *The Role of Apology in Mediation*, 72 N.Y.U. L. Rev. 1165 (1997) (“Even when individual parties are suited to the apology ritual, the possibility for apology may never arise if their lawyers are present.”); Jonathan Cohen, *Advising Clients to Apologize*, 72 S. Cal. L. Rev. 1009 (1999) (same); Wendy Anton Fitzgerald, *Stories of Child Outlaws: On Child Heroism and Adult Power in Juvenile Justice*, 1995 Wis. L. Rev. 495, 504, 535 (1996) (“As our system now functions, then, we erect the subjective filter of adult experts between the child and lawmakers in legislative and judicial forums. . . . The stories we then tell on behalf of child outlaws in juvenile court all sound numbingly alike, and different child outlaws dissolve into dehumanized case files, dockets, and statistics.”); William J. Bowers et al., *Too Young for the Death Penalty: An Empirical Examination of Community Consensus and the Juvenile Death Penalty*, 84 Boston U. L. Rev. 609, 650 (2004) (In a study of pre-Roper juvenile death cases, researchers found that juveniles were less likely than adults to testify on their own behalf at the sentencing stage of the trial—6.4% compared to 29.5%; see also Law Offices of George I. Kita, *What to Do If Your Child Has Been Arrested*, http://www.topjuveniledefender.com/what_if_arrested.html (web advice of California juvenile attorney)).
- 95 The most recent Bureau of Justice Statistics report shows that recidivism decreases with age. Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1994* (June 2002), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/rpr94.pdf>. A 2011 California study similarly found that criminality decreases with age. Robert Welsberg, Debbie A. Mukamal & Jordan D. Segall, *Life in Limbo: An Examination of Parole Release for Prisoners Serving Life Sentences with the Possibility of Parole in California* 17 (2011), available at http://blogs.law.stanford.edu/newsfeed/files/2011/09/SCJC_report_Parole_Release_for_Lifers.pdf.
- 96 A recent Connecticut report shows a drop off in recidivism rates for males over age 23. It also found that recidivism rates generally decrease as offenders get older. State of Connecticut, Office of Policy and Management, Criminal Justice Policy and Planning Division, 2010 Annual Recidivism Report 20, 22 (Feb. 15, 2010), available at http://www.ct.gov/opm/lib/opm/cjppd/cjresearch/recidivismstudy/2010_0215_recidivismstudy.pdf.
- 97 Testimony of Trent, Connecticut Sentencing Commission Public Hearing (Nov. 26, 2012).
- 98 Testimony of Dae, Connecticut Sentencing Commission Public Hearing (Nov. 26, 2012).
- 99 Connecticut Sentencing Commission, *Annual Report 2012*, at 14-15, available at http://www.ct.gov/opm/lib/opm/cjppd/cjabout/sentencingcommission/2012_sentencing_commission_annual_report.pdf.
- 100 International Covenant on Civil and Political Rights art. 10(3), 14(4), opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPR]. The United States ratified the ICCPR on June 8, 1992.
- 101 Convention on the Rights of the Child art. 37(b), opened for signature Nov. 20, 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990) [hereinafter CRC]; U.N. Committee on the Rights of the Child, General Comment No. 10: Children’s Rights in Juvenile Justice, ¶¶11, 77-88; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), G.A. Res. 40/33, art. 17, 19.1; United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“The Havana Rules”), G.A. Res. 45/113, art. 1, U.N. Doc. A/RES/45/113 (Dec. 14, 1990); United Nations Guidelines for the Prevention of Juvenile Delinquency (“The Riyadh Guidelines”), G.A. Res. 45/112, art. 46, UN Doc. A/RES/45/112 (Dec. 14, 1990); Human rights in the administration of justice, GA A/Res/65/213, art.14, U.N. Doc. A/RES/65/213 (Apr. 1, 2011); Eur. Parl. Ass., *Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice*, IV(A)(6)(19) (Nov. 17, 2010) [hereinafter Council of Europe Guidelines] (“Any form of deprivation of liberty of children should be a measure of last resort and be for the shortest appropriate period of time.”); Inter-Am. Comm’n H.R., *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*, princ. III(1) (March 3-4, 2008) [hereinafter IACHR Best Practices], available at <http://www.cidh.oas.org/Basico/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>. See also IACHR Juvenile Justice Report, *Juvenile Justice and Human Rights in the Americas*, Inter-Am. Comm’n H.R., ¶ 360 (2011) [hereinafter
- IACHR Juvenile Justice Report], available at <http://www.cidh.oas.org/countryrep/JusticiaJuvenileng/jjtoc.eng.htm> (“When, in observance of the principles of last resort and the proportionality of the sentence, a State decides to sentence a child to some form of deprivation of liberty for violation of a criminal law, it must also make certain that the measure has an upper limit, which should be reasonably short.”).
- 102 The Beijing Rules, see *supra*, art. 17 Commentary. See also IACHR Juvenile Justice Report *supra*, ¶ 359 (“The IACHR encourages States to enforce laws allowing the state’s response to offenses by children to be in proportion to the circumstances under which the offense was committed, the seriousness of the offense, the child’s age and needs and other considerations.”).
- 103 The Beijing Rules, see *supra*, art. 26.1. Relevant circumstances of offenders to be considered in sentencing include: social status, family situation, harm caused, or other factors, including “an offender’s endeavor to indemnify the victim or willingness to turn to a wholesome and useful life.” *Id.* art. 5.1, Commentary.
- 104 In England and Wales, judges are effectively required to impose sentences that are half the length of the adult sentences. See Brief for Amnesty Int’l, et al., as Amici Curiae in Support of Petitioners, *Graham v. Florida, Sullivan v. Florida*, 130 S. Ct. 211 (2010) (Nos. 08-7412 and 08-7621), 36-38 [hereinafter *Graham Amnesty Amicus Brief*]; see also United Kingdom Sentencing Guidelines Council, *Overarching Principles – Sentencing Youths: Definitive Guidelines* 24 (2009) available at http://sentencingcouncil.judiciary.gov.uk/docs/web_overarching_principles_sentencing_youths.pdf (“Where there is no offence specific guideline, it may be appropriate, depending on maturity, to consider a starting point from half to three quarters of that which would have been identified for an adult offender.”). The longest known sentence imposed on a child under the age of 18 in England and Wales is 30 years. *Graham Amnesty Amicus Brief* at 36. In Europe, maximum sentences for children under 10 include: 5 years in the Czech Republic, Brief for Amnesty Int’l et al. as Amici Curiae Supporting Petitioners, *Miller v. Alabama, Jackson v. Hobbs*, 132 S. Ct. 2455 (2012) (Nos. 10-9646 and 10-9647), 17 [hereinafter *Miller Amnesty Amicus Brief*]; 10 years in Estonia, *id.*; 10 years in Germany, *id.*; 24 years in Italy, Codice Penale arts. 23, 65 and 98 (It.); 3 years in Portugal, *Miller Amnesty Amicus Brief* at 16; 10 years in Slovenia, *id.*, at 17; and 4 years in Switzerland, *id.*, at 16. Comparative maximum sentences for children

- under 18 in the rest of the world include: 10 years in Chile, IACHR Juvenile Justice Report, *Juvenile Justice and Human Rights in the Americas*, Inter-Am. Comm'n H.R., ¶ 369 (2011) [hereinafter IACHR Juvenile Justice Report], available at <http://www.cldh.oas.org/countryrep/JusticiaJuvenileng/jjtoc.eng.htm>; 8 years in Colombia, *id.*; 0 years in Honduras, *id.*; and 8 years in Paraguay, *id.* South Africa's Child Justice Act, enacted in 2008, sets a 25-year maximum sentence for children under 18 years of age. Child Justice Act 75 of 2008 (S. Afr.).
- 105 See *id.* Note that although longer sentences are legally permissible in England and Wales, the longest known sentence imposed on a juvenile for any crime or combination of crimes that occurred when they were under 18 is 30 years. Graham Amicus Brief, *supra*, at 36.
- 106 *Roper v. Simmons*, 125 S. Ct. 1183, 1195 (2005).
- 107 *Graham v. Florida*, 130 S. Ct. 2011, 2026 (2010).
- 108 *Miller v. Alabama*, 132 S. Ct. 2455, 2464-65 (2012).
- 109 *Id.* at 2466.
- 110 See Frequently Asked Questions, Connecticut Department of Correction, <http://www.ct.gov/doc/cwp/view.asp?a=1492&q=265472> (stating that it costs \$95.16 per day to incarcerate an inmate in Department of Correction facilities).
- 111 Studies have found that as inmates age, their threat to society diminishes, and society often incarcerates individuals who pose the least threat to public safety. See American Civil Liberties Union, *At America's Expense: The Mass Incarceration of the Elderly* (June 2012), available at https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf.
- 112 Conn. Public Acts 07-4; Ken Dixon, Column, Connecticut Post, July 2, 2012 (describing Raise the Age reforms).
- 113 See State of Connecticut, Office of Policy and Management, Juvenile Justice and Youth Development, *Juvenile Justice System*, <http://www.ct.gov/opm/cwp/view.asp?A=2974&Q=383628#Transfer>.
- 114 State of Connecticut, Office of Policy and Management, Juvenile Justice & Youth Development, Publications, Police and Youth, http://www.ct.gov/opm/cwp/view.asp?a=2974&Q=383624&opmNav_GID=1797&opmNav=%7C46656%7C%623Revised_2006 (providing materials to guide police interactions with youth); State of Connecticut, Office of Policy and Management, Connecticut Juvenile Justice Advisory Council, Accomplishments, <http://www.ct.gov/opm/cwp/view.asp?A=2974&Q=383614#Accomplishments>.
- 115 Court Support Services Division, Connecticut Judicial Branch, *Review of Judicial Branch Activities in "Raise the Age"* (June 2012), http://www.ct.gov/opm/lib/opm/cjppd/cjcpac/20120628_cjpac_presentation.pdf; State of Connecticut, Office of Policy and Management, Connecticut Juvenile Justice Advisory Council, Accomplishments, <http://www.ct.gov/opm/cwp/view.asp?A=2974&Q=383614#Accomplishments>.
- 116 Boot camp had no effect on recidivism rates, though it decreases prison costs. Scared Straight programs actually increased recidivism rates by 6.8%. Washington State Institute for Public Policy, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates* (Oct. 2006), <http://www.wsipp.wa.gov/rptfiles/06-10-1201.pdf>. For sources on the ineffectiveness of solitary confinement, see Editorial, *The Abuse of Solitary Confinement*, N.Y. Times, June 20, 2012.
- 117 *Graham v. Florida*, 130 S. Ct. 2011, 2016 (2010).

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