

Center for **Children's** Advocacy

University of Connecticut School of Law, 65 Elizabeth Street, Hartford, CT 06105

TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY IN SUPPORT OF "A SECOND LOOK" AT LENGTHY SENTENCES FOR JUVENILES WHO HAVE BEEN REHABILITATED

Connecticut Sentencing Commission, November 29, 2012

Background on The Center for Children's Advocacy

This testimony is submitted on behalf of the Center for Children's Advocacy, a non-profit organization based at the University of Connecticut School of Law. The Center provides holistic legal services for poor children in Connecticut's communities through individual representation and systemic advocacy. The Center collaborates with the Public Defender's Office and the Probation Office to improve the child's juvenile or criminal justice outcome by securing needed services through community agencies or the school system, representing the child on educational issues and access to mental health treatment, which may be at the root of the child's court involvement. Through our Disproportionate Minority Contact (DMC) Reduction Projects, the Center partners with the Local Interagency Service Teams (LISTs) in Hartford and Bridgeport, as well as our national partner, the Center for Children's Law and Policy, to develop strategies to reduce the disproportionate representation of youth of color in the juvenile justice system.

Why a Mechanism to Provide a "Second Look" at Lengthy Sentences for Juveniles Who Have Rehabilitated Is Warranted

Connecticut should provide individuals who are serving lengthy sentences for crimes committed as juveniles with a meaningful chance at sentence modification upon demonstration of rehabilitation. There are several reasons for this reform.

1. Extensive research shows that children have a greater capacity than adults to rehabilitate, given significant differences between the brains of children and adults. As the United States Supreme Court has recognized, extensive scientific research shows that children's brains are not yet fully developed, which gives individuals who committed serious crimes when they were young significantly greater capacity than adult offenders to rehabilitate. In its June 2012 decision in *Miller v. Alabama*, the Court reasoned:

"a child's character is not as 'well formed as an adult's; his traits are 'less fixed' and his actions less likely to be 'evidence of irretrievabl[e] deprav[ity].' Our decisions rested not only on common sense — on 'what any parent knows'— but on science and social science as well. In *Roper*, we cited studies showing that "[o]nly a relatively small proportion of adolescents" who engage in illegal activity "develop entrenched patterns of problem behavior." (quoting Steinberg & Scott, *Less Guilty*



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by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, 58 Am. Psychologist 1009, 1014 (2003)). And in *Graham*, we noted that ‘developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds’ — for example, in ‘parts of the brain involved in behavior control.’ We reasoned that those 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." *Miller v. Alabama*, 132 S.Ct. 2455, 2464-2465 (2012) (internal citations omitted)

2. As the Supreme Court has recognized, children who commit serious crimes are less culpable than adults in several key respects. First, as noted above, scientific studies show that adolescents have underdeveloped brains that make them more impulsive, susceptible to peer pressure, and less able to appreciate risks and consequences than adults. *Miller v. Alabama*, 132 S. Ct. at 2464-2465. Second, unlike adults, children are not usually free to extricate themselves from traumatic and violent family situations, and are limited control over their environments. *Id.* at 2464 (“Second, children ‘are more vulnerable ... to negative influences and outside pressures, including from their family and peers; they have limited control[1] over their own environment’ and lack the ability to extricate themselves from horrific, crime-producing settings.”) (internal citations omitted). Indeed, over 90% of juvenile detainees reported having experienced at least one traumatic incident, such as physical or sexual abuse and domestic violence, and the incidence of Post-Traumatic Stress Disorder among youth in the juvenile justice system is up to eight times higher than comparably aged youth in general.i

3. Lengthy juvenile sentences disproportionately affect Connecticut’s minority youth. Although African Americans and Hispanics comprise only 16% of Connecticut’s population, they represent 85% of juvenile offenders serving sentences of more than 3 years and 94% of youth sentenced to more than 50 years.ii Additionally, when convicted of the same crime, African Americans and Hispanics serve longer prison sentences than their white counterparts. In Connecticut, an African American juvenile convicted of felony murder will serve 38 years, a Hispanic juvenile will serve 40 years, and a white juvenile will only serve 32 years.iii

Given these factors, providing a meaningful opportunity for a “second look” is important to ensure that youth who are able to rehabilitate are offered the opportunity to become contributing members of society. We would recommend that individuals who committed serious crimes as children be afforded an opportunity to demonstrate rehabilitation after 10 years, sufficient time for their brains to have fully developed and for them to have demonstrated rehabilitation. We also recommend that individuals be afforded counsel during this process.

Thank you for your time and consideration.

Respectfully submitted,

Handwritten signature of Alexandra Dufresne in cursive script.

Alexandra Dufresne
Staff Attorney

Handwritten signature of Martha Stone in cursive script.

Martha Stone
Executive Director

ⁱ *Trauma Among Youth in the Juvenile Justice System: Critical Issues and New Directions*, Julian Ford, John Chapman, Josephine Hawke, David Albert (June 2007).

ⁱⁱ Data compiled from U.S. Census (2010) and the Connecticut Department of Correction (population data: 7/1111; juvenile data: 9128111).

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