



JUVENILE LIFE WITHOUT PAROLE: TRENDS IN SENTENCE USE OVER TIME

Introduction

Juvenile life without parole (JLWOP) sentences are not used anywhere in the world except the United States, where approximately 2,500 individuals are currently serving this sentence for crimes committed when they were under 18 years old. A growing body of research points to evidence that youth are cognitively, behaviorally, and emotionally different from adults in ways that make a sentence of life without parole entirely inappropriate for this segment of our population.

The federal government and most states allow life without parole sentences for juvenile offenders who commit certain crimes. JLWOP is not permitted in 6 states,¹ and it is allowed but not currently used in an additional 9 states.² Seventy-three of the individuals serving JLWOP sentences were age 14 or younger at the time of their offense.³

The Impact of Juvenile Transfer on JLWOP Sentence Use

The use of this extreme sentence for young offenders becomes available once they transferred to the adult system, which can happen mandatorily or discretionarily depending on state law. Once a juvenile case is transferred to the adult system, JLWOP is an option and may be applied again as a mandatory sentence upon conviction or applied as a result of judicial discretion.

The transfer of juveniles to the adult criminal justice system represents a reversal from the reasoning that led to the creation of the juvenile justice system in 1899. For nearly a century, the view prevailed that young people require a different system of justice than adults because of their underdeveloped maturity level and capacity to reform problematic behavior. However, a rise in crime beginning in the late 1980s led many states and the federal government to abandon this view in favor of a more punitive approach. This received public support in large part due to unfounded warnings that a new breed of youth violence led by a remorseless group of “superpredators” was upon us.⁴ One of the harshest responses to delinquent youth has been the expansion of the juvenile transfer provision, now in place in most states. Once a young person is convicted in the adult court system, sentencing options become limited to those available in the adult system. In some instances, sentences are mandatory and cannot take into account the age of the offender.

Recent reports note a decline in use of juvenile transfer around the nation.⁵ The decline is partly due to extensive evidence now available that these young people – and the public – are far worse off because of this practice. Juveniles transferred to the adult system are more likely to commit a new offense upon release than if they had been retained in the juvenile system, and their new offenses are more likely to be violent. In addition, juveniles in adult facilities are significantly more likely to commit suicide, experience physical and sexual assault, and have their needs for education, mental health, and medical attention unmet.

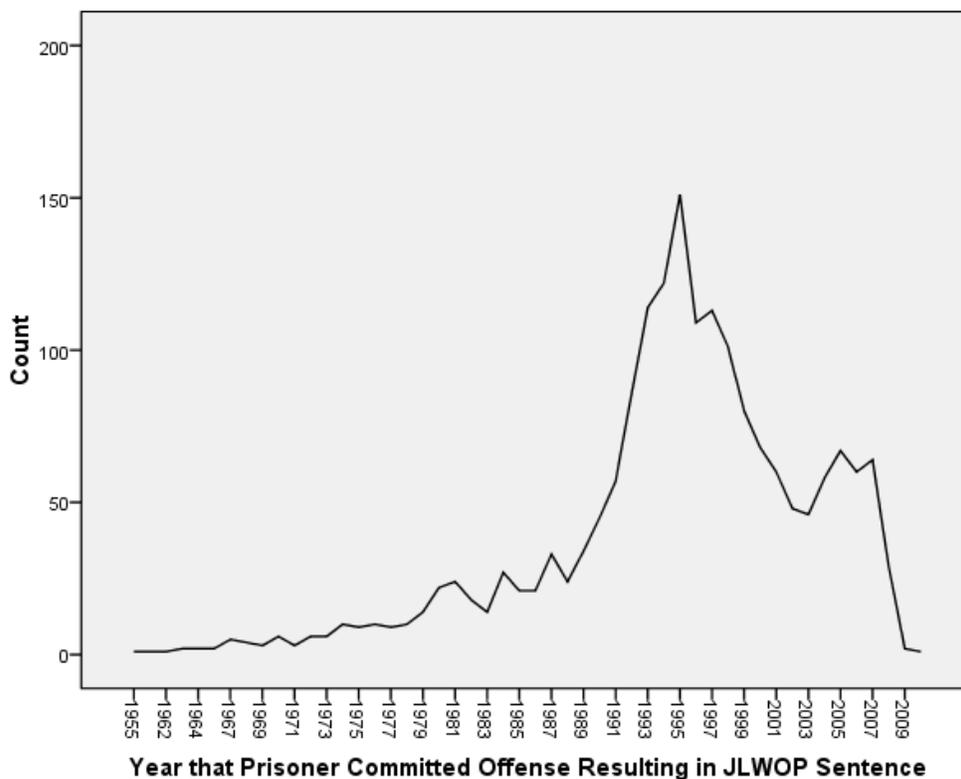
Trends in the Use of JLWOP Over Time

For juveniles convicted in the adult system, the harshest punishment is life without the possibility of parole. This is because in 2005, the United States Supreme Court ruled in *Roper v. Simmons* that the death penalty for juveniles violated the 8th Amendment. The JLWOP sentence was used relatively infrequently until the 1990s, usually with fewer than 30 sentences applied per year nationwide. During the mid-1990s, however, the use of this sentence surged; in fact, 39% of all current JLWOP sentences were applied for crimes that occurred during the 6-year period from 1993 to 1998 (See Figure 1). The sentence use is begun to decline somewhat since this time. The trends in use of JLWOP sentences vary greatly from state to state and future analysis will explore state trends in use over time. Future analysis will also explore the extent to which mandatory sentences of JLWOP fluctuate over time as compared to discretionary application of the sentence.

Conclusion

States' use of juvenile transfer is beginning to wane, which is wise for public safety and for youth. Momentum for reform in this area is expected to carry over to benefit those youth who would otherwise be sentenced to excessive adult sentences including life without the chance for parole.

Figure 1: JLWOP Sentencing Trends



¹ These states are Alaska, Colorado, Kansas, Kentucky, Montana, and Texas.

² These states are Indiana, Georgia, Maine, New Jersey, New York, Ohio, Vermont, West Virginia, and Wyoming.

³ Equal Justice Initiative (2007). *Cruel and Unusual: Sentencing 13 and 14-Year Olds to Die in Prison*. Montgomery: Author.

⁴ DiIulio, J. (1995). *The Coming of the Super-Predators*. Weekly Standard: p. 23; Fox, J.A. (1996). *Trends in Juvenile Justice: A Report to the United States Attorney General on Current and Future Rates of Juvenile Offending*. Boston: Northeastern University Press.

⁵ Arya, N. (2011). *State Trends: Legislative Victories from 2005-2010: Removing Youth from the Adult Criminal Justice System*. Washington, DC: Campaign for Youth Justice.