



June 2022

National trends in sentencing children to life without parole



U.S. Supreme Court

In five decisions—*Roper v. Simmons* (2005), *Graham v. Florida* (2010), *Miller v. Alabama* (2012), *Montgomery v. Louisiana* (2016), and *Jones v. Mississippi* (2021)—the Supreme Court of the United States established that “children are constitutionally different from adults for purposes of sentencing.” *Roper*, *Graham*, *Miller*, *Montgomery*, and *Jones* are critical in defining Eighth Amendment limitations for sentencing a child to die in prison.

Roper struck down the death penalty for children. *Graham* struck down life without parole for children who commit non-homicide offenses, requiring a meaningful opportunity to obtain release. *Miller* required sentencing judges to consider the mitigating attributes of youth before a child charged with homicide can be sentenced to life without parole—and *Montgomery* applied *Miller* retroactively.

In the Supreme Court's most recent decision in *Jones*, the Court declined to adopt additional procedural protections for children facing life without parole, but it affirmed *Miller* and *Montgomery* and the core constitutional proposition that “youth matters in sentencing.” Moreover, the Court in *Jones* made clear that state legislatures and Congress are empowered to enact legislation that bans life without parole for children.

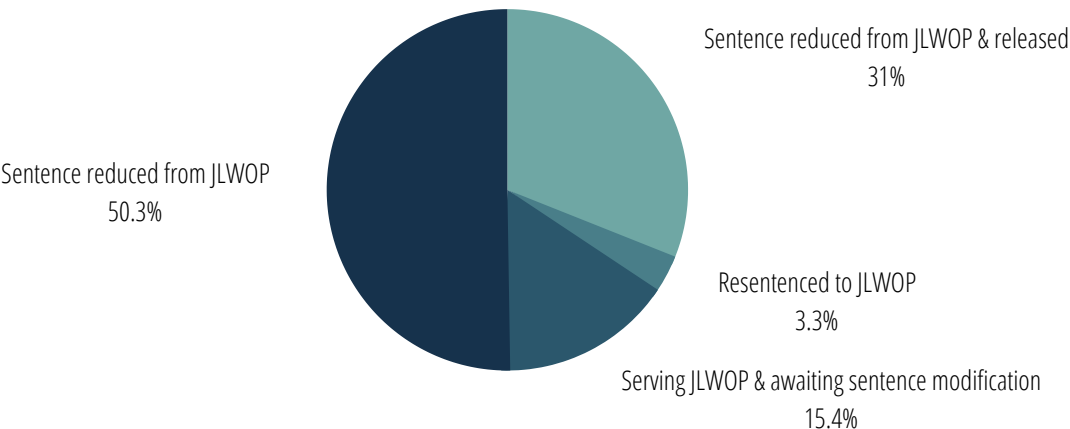
Ten years since *Miller*

A majority of the 2,800 individuals serving juvenile life without parole (JLWOP) following *Miller* have been resentenced in court or had their sentences amended via legislation, depending on the jurisdiction in which they were convicted.

Yet despite the over 80 percent reduction in people serving JLWOP, jurisdictions have varied significantly in their implementation of *Miller*. As a result, relief afforded to individuals serving JLWOP is based more on jurisdiction than on whether the individual has demonstrated positive growth and maturation.

The uneven implementation of *Miller* disproportionately impacts Black individuals, who represent 61 percent of the total JLWOP population.

The chart below reflects the current status of the approximately 2,800 people serving JLWOP when *Montgomery* was decided. Within that population, 31 percent have been released, over 50 percent have had their sentences reduced from JLWOP, about 15 percent have not yet been afforded relief, and approximately 3 percent have been resentenced to JLWOP.



Data on file at the Campaign for the Fair Sentencing of Youth

Fast facts



880

Over 880 people originally sentenced to JLWOP have been released since *Montgomery*, including over 100 since *Jones*

32

32 states now ban JLWOP or have no one serving the sentence

80%

The national JLWOP population has been reduced by over 80 percent in five years

61%

Sixty-one percent of children sentenced to JLWOP pre-*Miller* are Black, and the proportion of Black children sentenced to JLWOP has increased in new cases post-*Miller*

Jurisdictions that ban JLWOP

Alaska
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Hawaii
Iowa
Kansas
Kentucky
Maryland
Massachusetts
Nevada
New Jersey
North Dakota
Ohio
Oregon
South Dakota
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wyoming

Rapid state-level rejection of life without parole for children

In the ten years since *Miller* was decided in June 2012, the United States has experienced sweeping change in the practice of sentencing children to die in prison. When *Miller* was decided, 45 states and the District of Columbia permitted life without parole as a sentencing option for children. In many states, life without parole was the only sentence available if a child was convicted of homicide.

Remarkably, the number of states that do not allow life without parole to be imposed on children has quintupled since 2012, from five states to twenty-five states and the District of Columbia. And in at least seven additional states, no one is serving the sentence for an offense committed as a child. Today a majority of states ban life without parole for children or have no one serving the sentence.

