



February 2021

National trends in sentencing children to life without parole



U.S. Supreme Court

In four decisions—*Roper v. Simmons* (2005), *Graham v. Florida* (2010), *Miller v. Alabama* (2012), and *Montgomery v. Louisiana* (2016)—the Supreme Court of the United States established that “children are constitutionally different from adults for purposes of sentencing.” *Roper*, *Graham*, *Miller*, and *Montgomery* 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* struck down life-without-parole sentences for the vast majority of youth who commit homicide—all but those deemed incapable of positive growth and change—and five years ago in *Montgomery*, the Court applied *Miller* retroactively.

“In light of what [the Supreme] Court has said in *Roper*, *Graham*, and *Miller* about how children are constitutionally different from adults in their level of culpability . . . prisoners like *Montgomery* must be given the opportunity to show their crime did not reflect irreparable corruption; and, if it did not, their hope for some years of life outside prison walls must be restored.”

Montgomery v. Louisiana

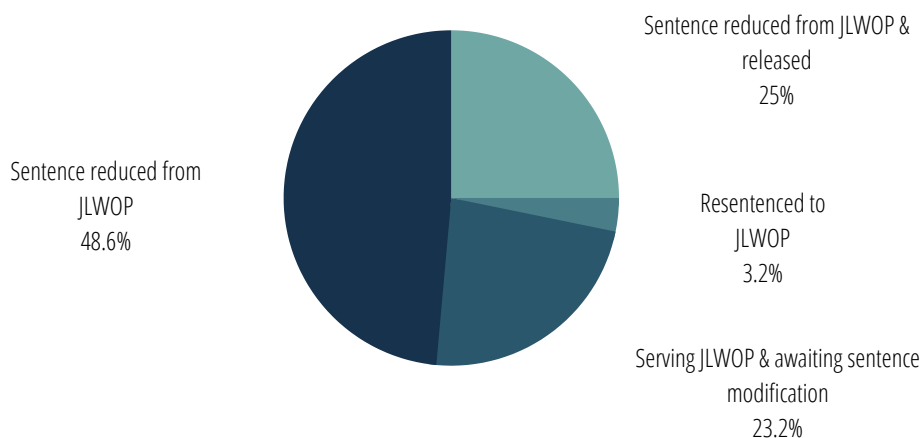
JLWOP post-*Miller* and *Montgomery*

A majority of the 2,800 individuals serving juvenile life without parole (JLWOP) following *Miller* and *Montgomery* 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 75 percent reduction in people serving JLWOP, jurisdictions have varied significantly in their implementation of *Miller* and *Montgomery*. 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* and *Montgomery* disproportionately impacts Black individuals, who represent 61 percent of the total JLWOP population.

The chart below reflects the current status of the approximately 2,8000 people serving JLWOP when *Montgomery* was decided. Within that population, 25 percent have been released, nearly 49 percent have had their sentences reduced from JLWOP, about 23 percent have not yet been afforded relief, and approximately 3 percent have been resentenced to JLWOP.



Fast facts

700

Over 700 people originally sentenced to JLWOP have been released since *Montgomery*

30

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

75%

The national JLWOP population has been reduced by 75 percent in five years

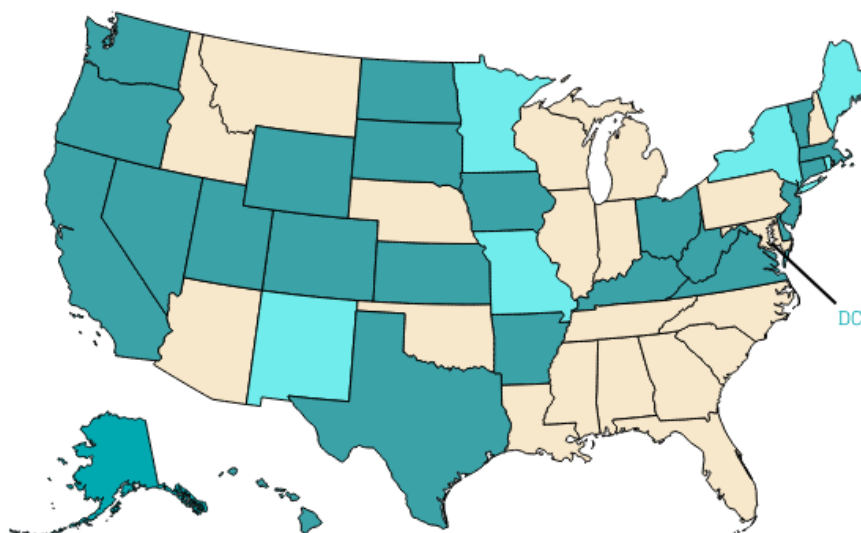
61%

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*

Rapid state-level rejection of life without parole for children

In the nine 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 more than quadrupled since 2012, from five states to twenty-four states and the District of Columbia. And in at least six 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.



24 states and DC ban juvenile life without parole (JLWOP) 6 states have no one serving JLWOP

Jurisdictions that ban JLWOP

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