

# Juvenile life without parole

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## Unusual & Unequal.

The unfinished business of ending life without parole for children in the United States



The **CAMPAIGN** for the  
**FAIR SENTENCING**  
of **YOUTH**

# The unfinished business of ending life without parole for children

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For over 12 years, hundreds of individuals serving juvenile life without parole (JLWOP) have not received a second look at their sentences despite mandates from the United States Supreme Court limiting the practice and requiring new sentencing procedures for youth. Twenty-two states still legally allow JLWOP and what's worse, certain outlier states are increasing their incarcerated populations of children serving the sentence.

These concerns become even more alarming when contextualized in the broader picture. As outlined in this report, the imposition of juvenile life without parole is not only becoming increasingly unusual nationally but also more unequal. In the past 12 years, we've seen an overall 85% decrease in the population of those serving these sentences, while the number of states banning JLWOP has increased by over 800%. However, despite these positive shifts, the percentage of Black children serving juvenile life without parole has risen significantly – from 60% historically to nearly 80% today.

The continued legality of life without parole for youth also further enables the legal system to sentence children to other extreme terms. For instance, JLWOP sentences can be used as bargaining chips in plea deals, resulting in children receiving lengthy terms of years or de facto life sentences with minimal chance of parole. Furthermore, in a context where JLWOP is an option, sentencing a child to 20 years may be more accepted despite the fact that this exceeds the maximum sentence for adults in many countries around the world. [1]

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As this report details, the use of JLWOP is increasingly unusual and increasingly unequal. And when contextualized in these trends, its persistence in outlier states is exceedingly **unacceptable**.

The more **unusual and unequal** it is to sentence a child to life without parole nationally; the worse outlier states fare when held up to globally accepted standards of decency for our youth.

Taken together, the need to address the unfinished business of ending juvenile life without parole is **urgent**.

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# Increasingly unusual: serving JLWOP

Despite JLWOP's persistence in outlier states, the national imposition of life without parole sentences on youth (JLWOP) has become increasingly unusual over the past decade, with the population of those serving the sentence decreasing by 85%.



## Evolving standards of decency

The scientific understanding that young people have limited decision-making abilities and impulse control informed widespread, rapid rejection of JLWOP in state legislatures, the Supreme Court, state courts, and the court of public opinion. Declaring that youth is “a mitigating factor” that must be considered by sentencing judges in *Miller v. Alabama* (2012), the U.S. Supreme Court held that life without parole is disproportionate for the vast majority of youth. [2] In *Montgomery v. Louisiana* (2016), the Court held that *Miller* applied retroactively to the thousands of individuals previously sentenced to life without parole as children. [3] As states aligned their laws to these requirements and examined the use of JLWOP sentences, **28 states** to date have banned JLWOP altogether, accelerating the resentencing and release of more than **1,000 individuals** serving the sentence. Studies of this population’s exceedingly low recidivism rate produced further evidence that the population overwhelmingly “ages out” of crime. Between neuroscience, legal trends, and the success rates of released individuals, JLWOP has become increasingly **unusual**, further eroding its constitutionality.

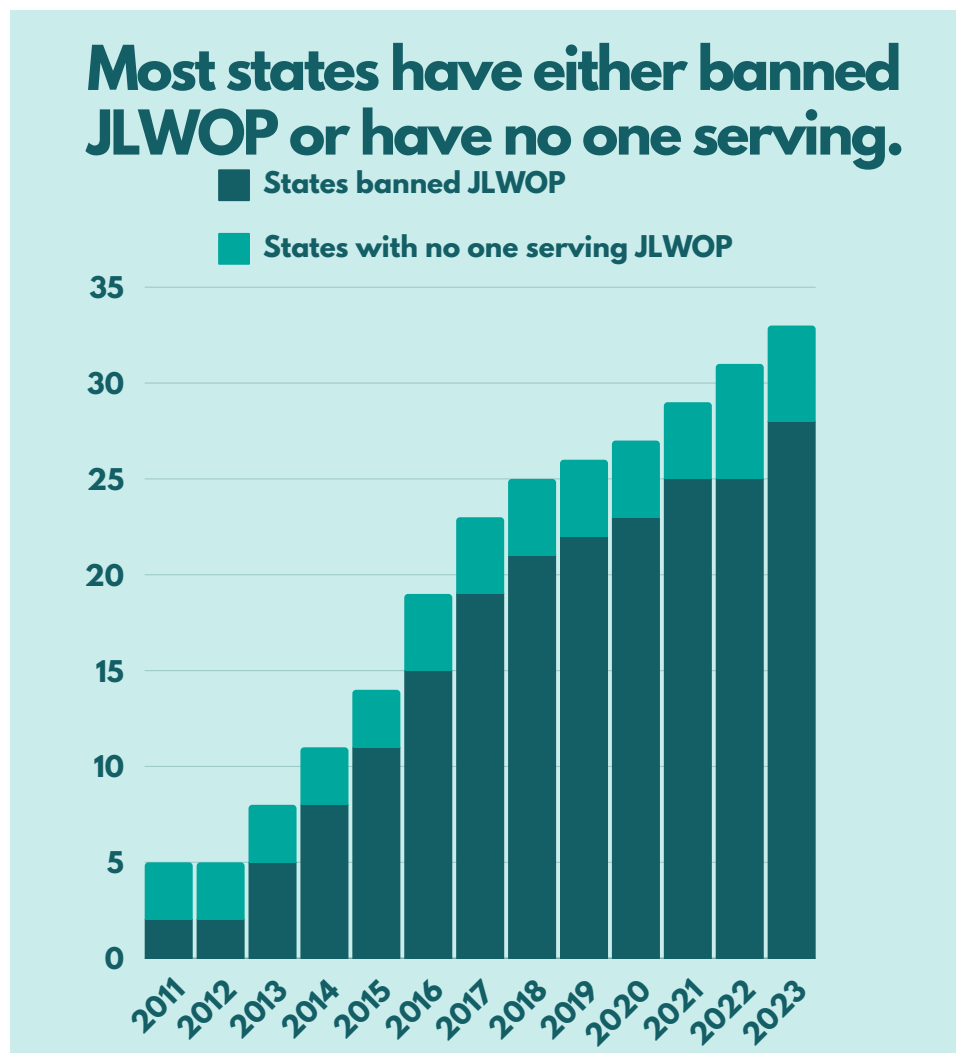
In a study of released individuals serving JLWOP, only:

**1.14%**

had new convictions. [4]

# Increasingly usual: banning JLWOP

As the number of people serving JLWOP trends down, the number of states banning JLWOP trends up. A decade ago, 28 states had mandatory juvenile life without parole sentences for certain offenses. Today, 28 states have completely banned the practice, representing **a complete flip of the number of states that legally accepted the practice to those that legally abolish it.** This reversal demonstrates that JLWOP conflicts with evolving standards of decency in states as diverse as Texas and Vermont.



While 28 states ban juvenile life without parole altogether, an additional five states have no one serving the sentence, totaling 33 states that have either banned JLWOP or have no one serving.

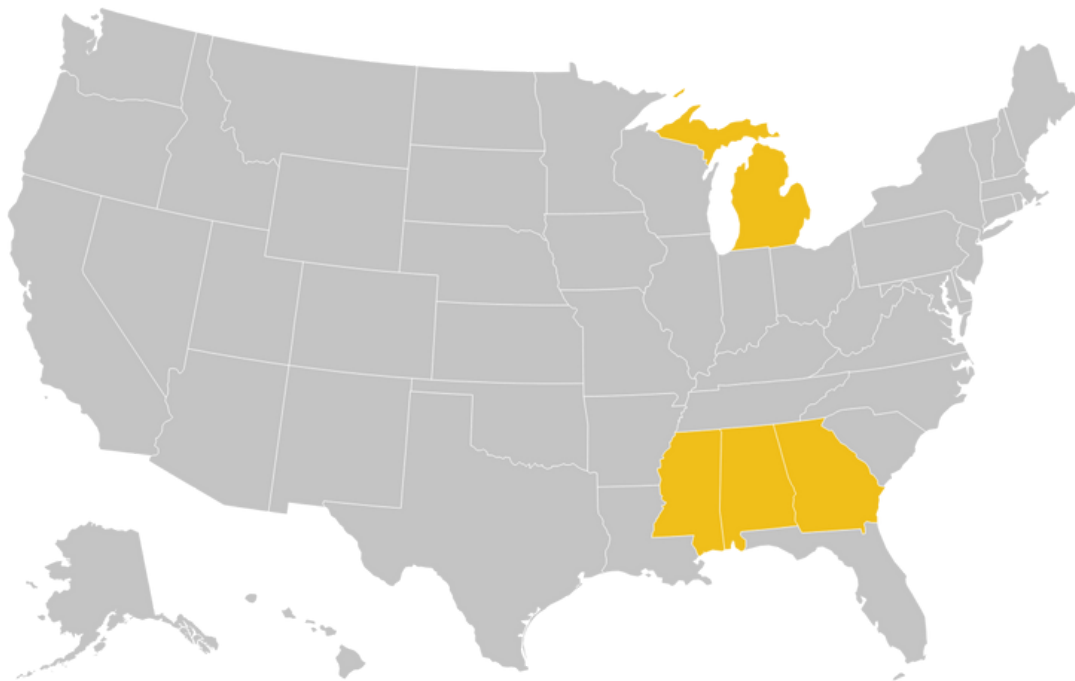
**Banned as of 2023 (28 states):** Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Kansas, Kentucky, Maryland, Minnesota, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oregon, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming. **No one serving (5 states):** Maine, Missouri, Montana, New York, Rhode Island.

# Outlier states imposing JLWOP at scale

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Thirty-eight states have not sentenced a child to life without the possibility of parole in the past five years. Thus, even among the states that have not yet banned JLWOP, JLWOP is seldom imposed.

**Only four states have imposed JLWOP more than five times in the past five years: Alabama, Georgia, Michigan, and Mississippi**



JLWOP sentences imposed in these four states over the past five years account for nearly a third of all JLWOP sentences imposed since 2012, signaling how uneven JLWOP imposition is nationally.

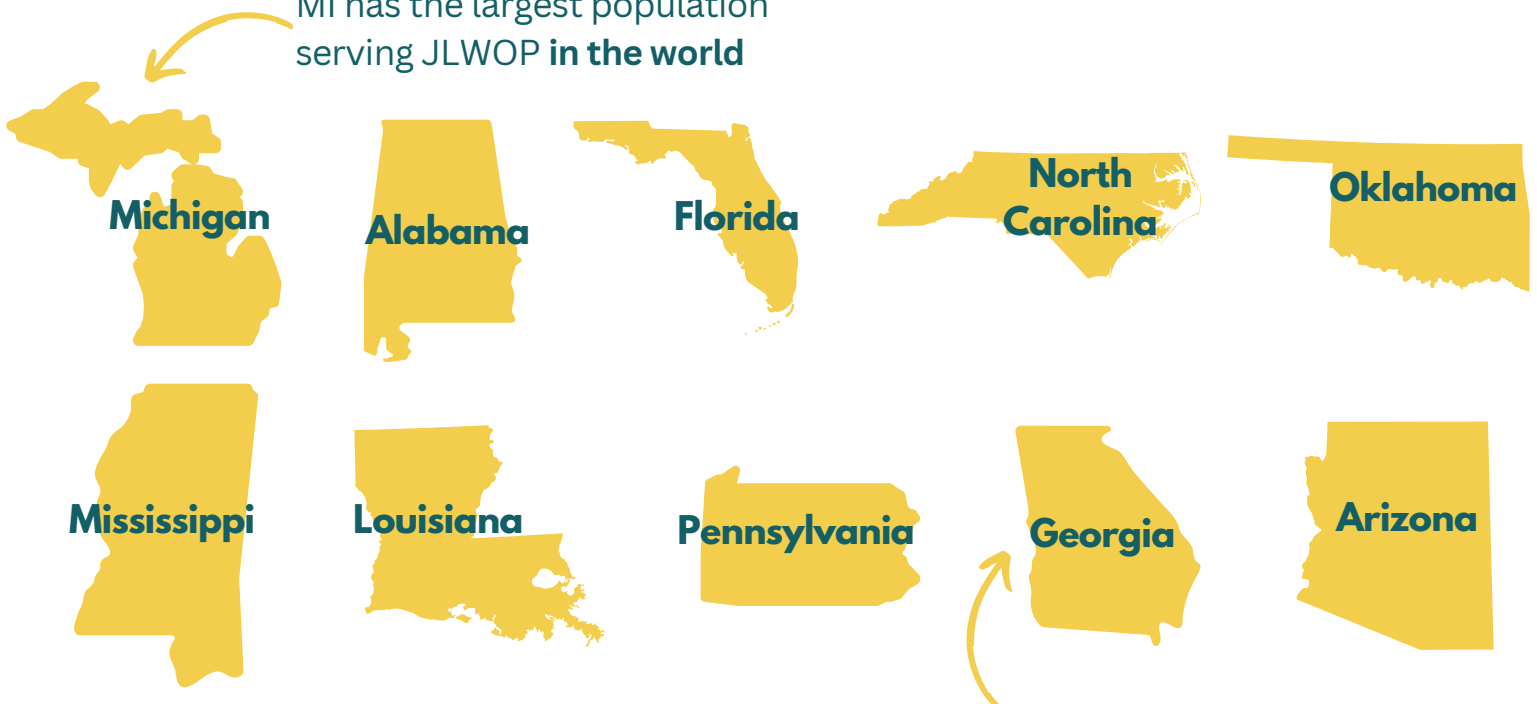
Yet even *within* these outlier states, the imposition of JLWOP is arbitrary, with geography playing an outsized role. For instance, in Georgia, 20% of post-*Miller* cases come from a single county. [5]

# Outlier states with the largest JLWOP populations

JLWOP sentences are concentrated in a minority of states, home to hundreds of individuals behind bars serving life without the possibility of parole for offenses committed as children. **Michigan** has the unfortunate distinction of the largest population of individuals serving JLWOP in the country, while **Georgia** has the unfortunate distinction as the only state that is adding to its population of those serving JLWOP at scale. Yet the remaining states with JLWOP populations that are not on this list are still home to a human rights crisis: The number of children serving de facto life sentences or lengthy terms of years is exceedingly high. In **Wisconsin**, for instance, over 100 people sentenced as children are serving life equivalent sentences with no meaningful opportunity for review. As the United States is the only country in the world that permits JLWOP as a sentencing option, these minority states are not just national outliers but are global pariahs.

## The 10 states with the largest JLWOP populations:

MI has the largest population serving JLWOP in the world



The use of JLWOP has **more than doubled** in GA since *Miller*

# Awaiting resentencing

The Supreme Court decision in *Miller v. Alabama* (2012) catalyzed the resentencing of thousands of individuals serving life without parole for crimes committed as children. However, there has been uneven access to SCOTUS-authorized resentencings as hundreds have not been afforded a hearing. In fact, of all the individuals serving JLWOP today, over two-thirds have been awaiting a resentencing hearing since 2012.

**Over 2/3 of those  
serving JLWOP today:**



**have been waiting for their  
resentencing hearing for 12 years.**

Despite *Miller* and *Montgomery*, some states have resentenced very few of their JLWOP population. In Tennessee, for instance, not a single individual serving JLWOP has been resentenced.



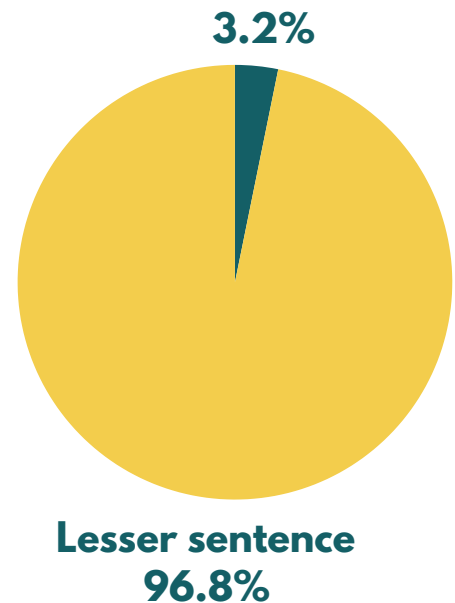
# Seldom re-imposed

Despite the volume of those who await their resentencing hearings, when individuals *were* granted their resentencing hearing, JLWOP was seldom reimposed. In the ten states with the largest JLWOP populations, for instance, only 3.2% were resentenced to JLWOP.

In other words, the states most reluctant to deem JLWOP unconstitutional still deemed 96.8% of their reviewed sentences unconstitutional. **Even in state contexts with the strictest interpretation of today's legal parameters, JLWOP fails to stand up to scrutiny and becomes increasingly unusual.**

Further, evidence suggests that these 3% of cases were **imposed in arbitrary ways**, and that despite procedural protections, these same people would be eligible for relief if only they lived in a different county or came before a different judge. [6]

**Of the over 1,000 individuals resentenced in the ten states with the largest JLWOP populations, JLWOP was reimposed in**



**Even in state contexts with the strictest interpretation of today's legal parameters, JLWOP fails to stand up to scrutiny and becomes increasingly unusual.**

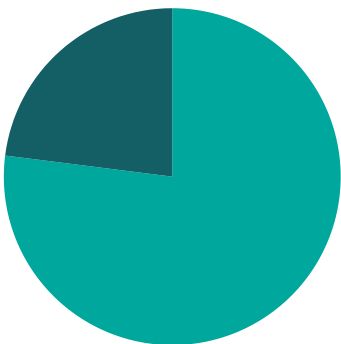
# Increasingly unequal

While JLWOP has become increasingly unusual, it has also grown increasingly unequal. In the wake of Supreme Court rulings mandating increased judicial discretion, racial disparities have worsened.

## Overwhelmingly, those awaiting resentencing are Black.

Black individuals make up the majority of those awaiting resentencing, thus benefiting less from the standards set by *Miller* than their white counterparts. For instance, of those who have not yet been resentenced in Michigan, 74% are Black.

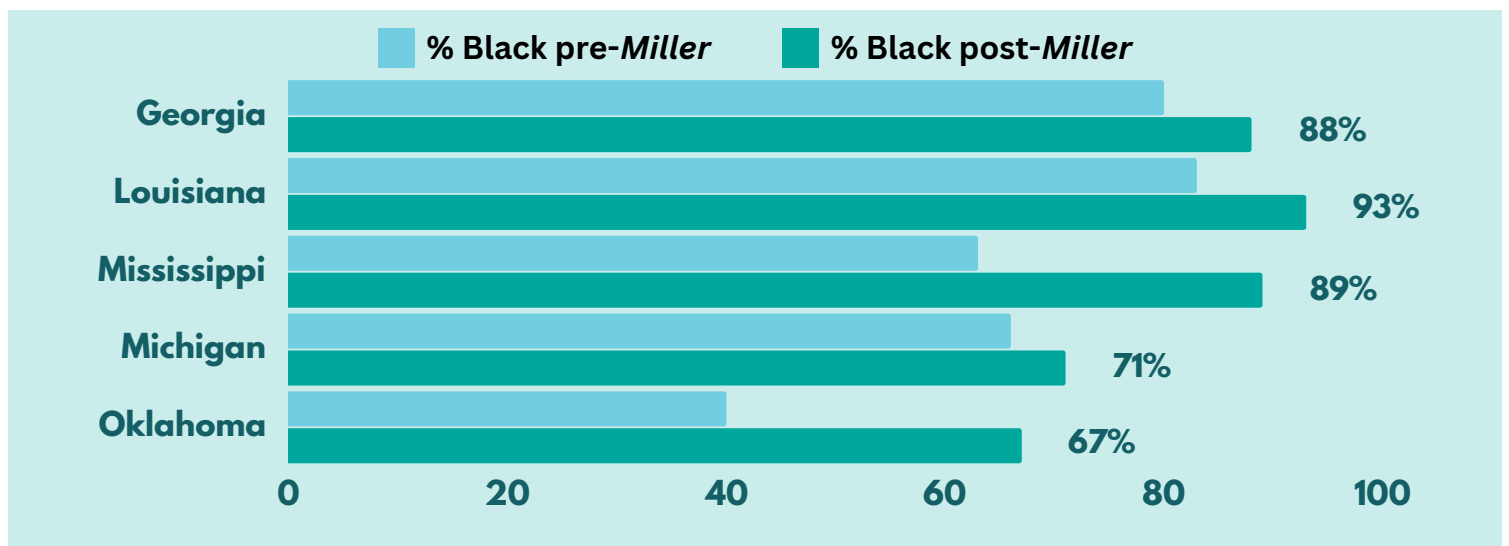
Of all new JLWOP recipients, 77% are Black



Up from 61% pre-*Miller*

*Miller's* framework of increased discretion, affirmed by *Montgomery*, has also led to disproportionately harsher outcomes for Black children in new cases. Of those who have been sentenced to JLWOP since 2012, 77% are Black children, up from 61% pre-*Miller*. This is not reflective of Black children committing more crime, but rather how systems respond more harshly to crime committed by Black children than crime committed by white children. [7]

In states that have yet to ban JLWOP and are home to the highest rates of post-*Miller* JLWOP, racial disparities have particularly worsened. The protections in *Miller* alone have failed to protect Black children from the continuation of this sentence's racist history. [8]



# Arbitrarily deemed incurrigible

Proponents of keeping JLWOP as a sentencing option claim that the sentence should be retained for children qualified as “incurrigible” or “irredeemable” – sometimes referred to as the “worst of the worst.” Not only does adolescent brain science not support such a concept, but moreover, **similarities** between those who continue to face JLWOP and those who do not suggest that the sentence is not reserved for such outlier cases. Supreme Court precedent itself warns about the difficulty of deeming a child “irreparable” and how that process may lead to arbitrary outcomes:

**“It is difficult even for 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.” 542 U.S. at 573 [9]**

For instance, an investigation in Georgia found that 50% of new JLWOP sentences stemmed from circumstances that indicate tragic but impulsive and spontaneous acts of gun violence, rather than premeditation. [10] In Michigan, nearly half of JLWOP reimpositions have been reversed by higher courts, and more have been remanded (sometimes multiple times) for further proceedings. Michigan prosecutors have also sought to flout Supreme Court precedent by pursuing JLWOP extensively and aggressively. [11]

Thus, while *Miller* and *Montgomery* have contributed to the legal trends that have made JLWOP increasingly unusual, it has not been sufficient for states to rely on in guarding against the unequal application of the sentence.

## People v. Quamain Conay Leak

In Michigan, Quamain Leak was resentenced to JLWOP in 2016.

At 17, he was involved in an armed robbery that resulted in a death, although he was not the individual who discharged the firearm.

During his *Miller* hearing, Quamain’s sentencing judge ruled that his age ***weighed against him*** because he was not as young as the defendant in *Miller*. [12]

Meanwhile, many 17-year-olds involved in crimes with similar circumstances have not only been resentenced but released – including in Michigan.

# Conclusion

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A concentration of a few states have unevenly complied with *Miller* and the possibility of resentencing provided by *Montgomery*. Some have refused to comply at all.

This uneven implementation of the *Miller* decision has a particularly profound impact on racial disparities among those serving JLWOP. An analysis of those deemed worth protecting from JLWOP and those deemed fit for the sentence suggests that as long as JLWOP remains a sentencing option, it will be imposed in ways that produce arbitrary and racially discriminatory outcomes. It will also be leveraged to legitimize the extreme sentences of children in other forms, that still fail to consider their unique capacity for positive change.

*Miller* and the ensuing procedures guiding JLWOP imposition have not been sufficient guardrails to combat these risks. States must go further to address these inequalities and recognize what science and common sense have clearly demonstrated: that children are categorically different from adults, less culpable, and should be provided opportunities to demonstrate their tremendous potential for positive growth and change.

# Sources

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**Note on data:** In this report figures are updated as of November 2023. Since 2016, the Campaign for the Fair Sentencing of Youth has collected individual-level data for every person in the United States sentenced to life without parole for a crime committed under the age of 18. This data is collected and updated using information from state partner organizations, state departments of correction, dockets and legal filings, and outreach from those serving these sentences and their families.

- 1** Mauer, Marc and Nellis, Ashley. "The Meaning of Life" *supra* note 24, at 3-4. *The New Press*, (2018). Accessed March 2024.
- 2** *Miller v. Alabama*, 567 U.S. 460 (2012). In *Miller*, the Supreme Court built upon prior precedent in *Roper v. Simmons*, 543 U.S. 551 (2005) banning the death penalty for people under 18, and *Graham v. Florida*, 560 U.S. 48 (2010) banning life without parole sentences for youth who commit non-homicide offenses. In 2016, the Court ruled in *Montgomery v. Louisiana* that *Miller* should be applied retroactively. 577 U.S. 190 (2016). Most recently, *Jones v. Mississippi* affirmed that "youth matters in sentencing" and that *Miller* is still good law, while ruling that factual findings of irreparable corruption are not required under the 8th Amendment, but that states are free to impose additional restrictions as needed to implement the requirements of *Miller*. 141 S. Ct. 1307 (2021).
- 3** *Montgomery v Louisiana*, 577 U.S. 190 (2016).
- 4** Daftary-Kapur, Tarika, and Tina Zottoli. "Resentencing of Juvenile Lifers." *Montclair State University*, (2020). Accessed November 11, 2023.
- 5** Gross, Allie. "Georgia Leading Nation in New Juvenile Lifers." *Atlanta Journal-Constitution*, September 7, 2023. <https://www.ajc.com/news/investigations/juvenile-lifers/>
- 6** Duncan, Hannah. "Youth Always Matters: Replacing Eighth Amendment Pseudoscience with an Age-Based Ban on Juvenile Life Without Parole." *The Yale Law Journal*, September 12, 2023.
- 7** Michaels, Samantha. "Black Kids Are 5 Times Likelier Than White Kids to Be Locked Up." *Mother Jones*, September 13, 2017. <https://www.motherjones.com/politics/2017/09/Black-kids-are-5-times-likelier-than-white-kids-to-be-locked-up/>
- 8** "The Origins of the Superpredator: The Child Study Movement to Today." *Campaign for the Fair Sentencing of Youth*. May 1, 2021. <https://cfsy.org/wp-content/uploads/Superpredator-Origins-CFSY.pdf>
- 9** *Graham v. Florida*, 542 U.S. at 573 (2010).
- 10** *Supra* note 3.
- 11** Editorial. "Michigan Prosecutors Defy the Supreme Court." *New York Times*, September 10, 2016. <https://www.nytimes.com/2016/09/11/opinion/sunday/michigan-prosecutors-defy-the-supreme-court.html>.
- 12** *People v. Quamain Conay Leak*, No. 327336, 2016 Mich. App. LEXIS 2031 (Ct. App. Nov. 8, 2016)