



**TESTIMONY OF THE AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT
FOR THE SENTENCING COMMISSION
NOVEMBER 29, 2012
Regarding
SENTENCE MODIFICATION FOR JUVENILES**

Good afternoon members of the Sentencing Commission. My name is David McGuire, and as Staff Attorney for the ACLU of Connecticut, I am here to support the Commission's proposal to allow sentence modification for adolescents who are serving long adult prison sentences for offenses committed when they were less than 18 years old.

We are pleased that the Commission is recognizing that the developmental differences of adolescents should be reflected in the Connecticut's parole eligibility rules for juvenile offenders. The Commission's proposal acknowledges the great potential for adolescents to be rehabilitated and reintegrated into society. Additionally, recent U.S. Supreme Court jurisprudence necessitates changes to the juvenile justice sentencing scheme in Connecticut.

In June, the U.S. Supreme Court in *Miller v. Alabama* held that mandatory life sentences without the possibility of parole for those under age of 18 at the time of their crime violate the Eight Amendment's prohibition on cruel and unusual punishments. The Court specifically noted the juveniles' "diminished culpability and greater prospects for reform." The Commission's proposal is important because it will encourage the Connecticut General Assembly to pass legislation that will bring Connecticut into compliance with the law and give all juvenile offenders serving lengthy sentences the chance to show they have matured, repented and changed their.

Criminal sentences are meant to serve four purposes: retribution, deterrence, rehabilitation and incapacitation. Giving lengthy sentences to adolescents without providing for the possibility of earlier parole for appropriate candidates serves none of these purposes. Punitively, sentences are meant to discipline based on the severity of the crime. Studies show that adolescents' brains are less fully developed than adults. This makes them more likely to be swayed into crime by peer pressure, or to be influenced by an adult. Additionally, adolescents are less capable of realizing the consequences of their actions, and thus are less culpable for their actions than adults. A mechanism allowing for parole hearings will allow the state to reassess which individuals are truly culpable and adjust the sentences, if appropriate.

The state pays thousands of dollars every year for each person in prison with the intention of protecting society from truly dangerous people by keeping them separate from

everyone else. Because their brains are not yet fully developed, however, it is next to impossible to tell whether adolescents who commit crimes are inherently bad and dangerous, are simply children acting on impulse or are swayed by other people into criminal behavior. The ability of adolescents to grow and reform means they do not represent the same threat to society as adult criminals. Every time the state chooses to incarcerate an adolescent for decades, it is choosing to pay hundreds of thousands of dollars rather than allow that adolescent to grow up to become a productive, tax-paying member of society. Such a choice is not only harmful, it is fiscally irresponsible.

Additionally, the ethnic composition of children serving prison sentences raises serious concerns about ethnic and racial disparities in sentencing. Although Caucasians make up 71 percent of the state population, they only make up 12 percent of the juveniles serving sentences of more than 10 years and 8 percent of those serving more than 50 years. The remainder of each group is made up of African American and Latino children. Such a dramatic disparity raises serious concerns about the role race plays in sentencing and enforcement. Taking steps to protect all children from permanent and lengthy sentences will also help to eliminate some of these racial disparities, ensuring that adolescents of every race will have the same opportunities.

Thank you for your time and hard work.