



September 11, 2008

The Honorable Robert C. Scott
Chair, Subcommittee on Crime, Terrorism, and Homeland Security
Judiciary Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Louie Gohmert
Ranking Member, Subcommittee on Crime, Terrorism, and Homeland
Security
Judiciary Committee
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Washington, D.C. 20515

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RICHARD ZACKS
TREASURER

Re: ACLU Supports H.R. 4300, the Juvenile Justice Accountability and Improvement Act of 2007

Dear Chairman Scott and Ranking Member Gohmert,

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with hundreds of thousands of activists and members and 53 affiliates nationwide, we applaud the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security for holding a hearing on H.R. 4300, the Juvenile Justice Accountability and Improvement Act of 2007. This important legislation would help to end the practice of sentencing children to life in prison without the possibility of parole and would provide grants to states to improve the quality of legal representation for youths charged with offenses that could lead to life sentences.

This legislation is both welcome and overdue. The practice of sentencing children who have yet to reach the age of 18, even those convicted of the most serious of crimes, to life imprisonment with no possibility of parole is both a violation of our Constitution, as well as a stain on our country's human rights record and international standing. Indeed, since 2006, three different international human rights treaty bodies that have examined the U.S. government's compliance with its treaty obligations have expressed grave concerns with the practice of sentencing children to life without the possibility of parole¹. Passage of the Juvenile Justice Accountability an

¹ Committee against Torture (May 2006), UN Human Rights Committee (July 2006) and Committee on the Elimination of Racial Discrimination (March 2008)

Improvement Act would bring the U.S. into compliance with its international treaty obligations, as well as our guiding constitutional principles.

At least 2,381 people in the U.S. are currently incarcerated for life without the possibility of parole for crimes they committed as children². The staggeringly high number of people serving life without parole sentences for crimes committed before age 18 was noted with deep concern by the Committee against Torture, which monitors compliance with the Convention against Torture, in May of 2006. In July 2006, the UN Human Rights Committee, which oversees compliance with the International Covenant on Civil and Political Rights, expressed its alarm at this practice and recommended that the U.S. discontinue its use.

In March 2008, the Committee on the Elimination of Racial Discrimination recommended that the U.S. end the practice of sentencing children to life without parole based on the disproportionate impact it has had on racial, ethnic and national minorities. According to a report by the University of San Francisco School of Law's Center for Law and Global Justice, children of color in the U.S. are ten times more likely to receive sentences of life without parole than white child offenders. In some states, including California, the rate is a shocking 20 to 1. Nationwide, "the estimated rate at which black youths receive life without parole sentences (6.6 per 10,000) is ten times greater than the rate for white youths (0.6 per 10,000)"³. In the state of Michigan, the majority (221) of juveniles serving life sentences are minority youths, 211 of whom are African American⁴.

In an attempt to address this violation of fundamental human rights, the ACLU and its Michigan affiliate filed a petition with the Inter-American Commission on Human Rights in 2006 on behalf of 32 juveniles who were tried and convicted as adults and given mandatory life sentences for crimes committed when they were under the age of 18 without consideration of their age⁵. The petition urged the commission to rule that sentencing children to mandatory life without the possibility of parole violates the Declaration of the Rights of Man and other universal human rights principles. The petition remains pending before the commission.

Ending the practice of sentencing children to life without parole is the next step our country must take following the Supreme Court's landmark 2005 ruling in the case of *Roper v. Simmons*⁶, in which the court ruled the imposition of a capital sentence for crimes committed before the age of 18 unconstitutional⁷. Justice Kennedy, in the majority opinion, recognized the critical distinction

² ACLU of Michigan, *Second Chances: Juveniles Serving Life Without Parole in Michigan Prisons* 3 (2004) available at <http://www.aclumich.org/pubs/juvenilelifefers.pdf>. See also University of San Francisco School of Law, Center for Global Law and Practice, *Sentencing Our Children to Die in Prison: Global Law and Practice*, (Nov. 2007), available at http://www.usfca.edu/law/home/CenterforLawandGlobalJustice/LWOP_Final_Nov_30_Web.pdf.

³ Human Rights Watch and Amnesty International, *The Rest of Their Lives: Life Without Parole for Child Offenders* 2 (2005), available at <http://hrw.org/reports/2005/us1005/TheRestofTheirLives.pdf>.

⁴ ACLU of Michigan, *Second Chances*, supra note 243, at 6.

⁵ ACLU and ACLU of Michigan Petition to the IACHR Alleging Violations of the Human Rights of Juveniles Sentenced to Life Without Parole in the United States (2006), available at http://www.aclu.org/images/asset_upload_file326_24232.pdf.

⁶ 543 U.S. 551 (2005).

⁷ Id.

in culpability and potential for rehabilitation that the law must recognize when comparing offenses committed by adults with those committed by children⁸. But reform still stands as one of the core goals of a successful correctional system – and Justice Kennedy’s opinion serves as encouragement to hold out hope as a society that children are not beyond rehabilitation.

This legislation will help restore discretion to judges and juries during sentencing and to parole boards by encouraging states not to bar consideration of a defendant’s status as a child. Many states mandate life without parole sentences for certain offenses, thereby depriving judges and juries of considering the defendant’s age. By withholding funds to states that refuse to provide a parole option to child offenders, this legislation encourages modification of these most stringent punitive frameworks.

In providing additional support for child legal defense, this legislation also helps to diminish the potential for critical deficiencies in the quality of legal representation for children facing potential life sentences. This element of the legislation is especially important considering the racially disparate impact shown to be associated with juvenile life sentences.

The ACLU commends the Committee for holding a hearing to explore these issues. Confronting the sentencing of children to life without possibility of parole is a pressing human rights and constitutional challenge facing our criminal justice system. The ACLU encourages members to sign-on as co-sponsors to H.R. 4300 and to move the legislation forward.

Thank you for taking our views into consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caroline', with a long horizontal flourish extending to the right.

Caroline Fredrickson
Director, Washington Legislative Office

A handwritten signature in black ink, appearing to read 'Michael W. Macleod-Ball', with a long horizontal flourish extending to the right.

Michael W. Macleod-Ball
Chief Legislative and Policy Counsel

cc: House Judiciary Subcommittee on Crime, Terrorism and Homeland Security

⁸ Id. at 572-573.