

Juvenile Offenders and the Death Penalty

Is Justice Served?

CHILD WELFARE LEAGUE OF AMERICA

National Center for Program Standards and Development

Juvenile Justice Division

John A. Tuell

Director

CWLA

CWLA Press is an imprint of the Child Welfare League of America. The Child Welfare League of America is the nation's oldest and largest membership-based child welfare organization. We are committed to engaging people everywhere in promoting the well-being of children, youth, and their families, and protecting every child from harm.

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CHILD WELFARE LEAGUE OF AMERICA, INC.

HEADQUARTERS

440 First Street NW, Third Floor

Washington, DC 20001-2085

E-mail: books@cwla.org

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Introduction

The Child Welfare League of America (CWLA) established the Juvenile Justice Division in July 2000, through a grant award from the John D. and Catherine T. MacArthur Foundation. The objective of the award is to support the education of CWLA members on the connections between the child welfare and juvenile justice systems and the need for an integrated approach to programs and services, reducing the incidence of juvenile delinquency nationwide, and reducing the reliance on incarceration for accused or adjudicated youth.

The Juvenile Justice Division has a strong position of national leadership in the integrated work of the child welfare and juvenile justice systems by helping frame the national agenda for the future in behalf of children, youth, families, and communities. As part of CWLA's commitment to address critical issues affecting the juvenile justice system and the well-being of our nation's children, youth, and families, the Juvenile Justice Division, with and through its member agencies, will assume a position of national leadership in supporting efforts to prohibit the imposition of the death penalty on any person for crimes committed while younger than 18 years of age. The Juvenile Justice Division will promote effective alternative sentencing and programming options for juvenile capital offenders through the coordinated and integrated efforts of multiple youth-serving systems.

This issue brief details the values, goals, and background of CWLA and the Juvenile Justice Division that form the foundation for opposing the juvenile death penalty and advancing alternative strategies that focus on rehabilitation and deterrence as more efficacious solutions. This brief discusses the death penalty as applied to juveniles, current statistics regarding capital punishment for juvenile offenders, the status of state legislation, applicable Supreme Court decisions, international law on the execution of juvenile offenders, a profile of a juvenile

offender sentenced to capital punishment, and alternatives to the death penalty for juveniles. This information will educate practitioners, administrators, and policymakers among CWLA member agencies and other juvenile justice agencies about the ramifications of executing juvenile offenders in America. We hope that this issue brief will motivate readers to become active participants in the comprehensive and collaborative effort of the CWLA Juvenile Justice Division to improve the lives of our nation's children, youth, and families through the promotion of just and effective alternative strategies to capital punishment for those committing crimes as juveniles.

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CHAPTER I

Historical Background on Juvenile Offenders and the Death Penalty

Since the first American execution of a juvenile offender in 1692, approximately 362 juvenile offenders have been sentenced to capital punishment by 38 states and the federal government, comprising 1.8% of the total confirmed executions in the United States since 1608 (McCord, Widom, & Crowell, 2001; Streib, 2002). A juvenile justice system separate from the adult criminal justice system was established in the United States in Cook County, Illinois, in 1899. The goal, envisioned by Jane Addams, was to divert young offenders from the destructive punishments of criminal courts and encourage rehabilitation based on the individual's needs (Streib, 2002). This effort recognized that children are different than adults in terms of cognitive development, impulse and emotional control, and judgment capability. The first juvenile court led to a system that held juveniles accountable for delinquent behavior while providing developmentally appropriate rehabilitation and deterrence programs.

After 1970, however, a shift toward more stringent punishment of juvenile offenders occurred. Of the 362 juvenile executions in the United States, 18 have occurred in the “modern death penalty era,” from 1973 to 2001, comprising 2.4% of the 749 total executions during this period (Streib, 2002). Politically popular federal and local measures implemented in the adult criminal justice system, such as the three strikes and sexual predator laws, abolishment of parole, and imposition of mandatory prison sentences, have increasingly been considered for the juvenile system. In addition, in the past decade, a greater percentage of juvenile offenders have been transferred to criminal court jurisdiction. For instance,

between 1992 and 1999, 49 states and the District of Columbia passed laws making it easier for juveniles to be tried as adults through statutory exclusion, mandatory waiver, direct file by prosecutors, or presumptive waiver legislation. In 1999, at age 11, Michigan's Nathaniel Abraham was charged with murder. He became the youngest child in American history to be prosecuted as an adult. The movement toward trying juvenile cases in adult criminal court has occurred despite the number of juvenile arrests declining in every violent crime category from 1993 to 1999. During this period, the juvenile population grew by 8% (Tuell, 2002).

The United States leads the world in state-sanctioned juvenile executions. This indicates a shift away from the historical purposes of the separate juvenile justice system. Focusing primarily on the seriousness of the crime, without meaningful examination of the juvenile's age as a mitigating factor, is contrary to the research-supported understanding that adolescence is a transitional period, when cognitive abilities, emotions, judgment, impulse control, identity, and the brain are still developing, and are developing in the context of families, kinship systems, and communities.

CHAPTER 2

Current Trends and Research

Arguments Supporting and Opposing Capital Punishment for Juvenile Offenders

Since the beginning of the modern American death penalty era in 1973, the re-emergence of capital punishment for people who commit crimes while younger than 18 years of age has derived from two trends: (1) the increase in juvenile waiver or transfer statutes to criminal court jurisdiction, and (2) the expansion of capital punishment in the adult criminal justice system. Proponents of the death penalty for people who commit crimes while younger than 18 make the following claims:

- The rate of violent juvenile crime is higher in the United States than in other developed countries.
- Until the 1990s, juvenile homicide was escalating, whereas adult homicide was declining.
- Juvenile capital offenders appear, through media portrayal, to lack a conscience and to be incapable of responding to rehabilitation efforts.
- Political leaders often advocate for more severe punishments for juvenile offenders, which can be popular with their electorate.
- The public can see an immediate retributive result when a death penalty sentence is given to a juvenile offender, whereas improving social conditions that generate youth crime is an expensive, lengthy process that proceeds by trial and error.

A nationwide poll, however, found that only 26% of Americans who otherwise believe in capital punishment support executing people who were juveniles at the times of their offenses (Brewer, 2001).

Opponents of the death penalty for juveniles have developed responses that counter these arguments:

- Almost all juvenile offenders have experienced severe physical and/or emotional abuse and trauma; these minors deserve an opportunity to contribute as productive members of society through professional treatment and counseling interventions.
- Homicides committed by youth declined 74% from 1994 to 2000.
- The deterrent purpose that capital punishment purportedly serves does not effectively apply to juvenile offenders, who generally have a skewed perception of death and perceive themselves as immortal.
- The retributive purpose of the death penalty should be critically questioned when the offender committed a crime as a minor, while supposedly under society's protection.
- Applying the death penalty to juvenile crimes is a solution with limited efficacy. A more effective, preventive, and large-scale solution must be derived by concentrating resources and building partnerships to strengthen the family, school, and community resources available to every youth.

Advocates for the abolishment of the juvenile death penalty point to several additional factors as indicators of an imminent ban on the juvenile death penalty in the United States. These include:

- The recent moratorium on the death penalty by some U.S. governors while commissions re-examine the capital punishment system,
- The declining death sentencing rates for juveniles,
- Increased state legislative interest in banning the death penalty for crimes committed when the offenders were younger than 18 years old, and
- The continuing international pressure for the United States to conform to international law.

No discussion of this issue is complete without recognition of the significant scientific advances in the study of early brain development and childhood and adolescent behavioral development that have been made over the past 20 years. Research now confirms that from the time of conception to the first day of kindergarten, development proceeds at a pace exceeding that of any subsequent stage of life. This research has revealed the myriad and remarkable accomplish-

ments of youth in the early childhood period, as well as the serious problems that confront some young children and their families long before school entry. Specifically, from birth to age 5, children rapidly develop foundational capabilities on which subsequent adolescent development builds. In addition to remarkable linguistic and cognitive gains, children exhibit dramatic progress in their emotional, social, regulatory, and moral capacities (National Research Council, 2000). This early development can be seriously compromised by many factors, such as poor nutrition, drug exposure, environmental toxin exposure, and chronic stress stemming from abuse or neglect. In fact, young children are capable of deep and lasting sadness, grief, and disorganization in response to trauma, loss, and early personal rejection. These factors affect how a young child subsequently interacts with the environment. What occurs during a child's early years matters more significantly than was previously understood not because this period of development provides an indelible blueprint for adult well-being, but because it sets either a sturdy or fragile stage for adolescence and adulthood. The actual course of development can be altered in early childhood by effective interventions that change the balance between risk and protection, thereby shifting the odds in favor of more adaptive outcomes (National Research Council, 2000).

This research has important implications in considering the death penalty for offenders whose crimes were committed before age 18. It establishes and reaffirms the notion that a person younger than 18 is still experiencing a significant level of physiological and emotional development that affects his or her cognitive abilities, emotions, judgment, impulse control, identity. This immaturity is the reason that Americans do not allow people younger than 18 to assume the major responsibilities of adulthood such as voting, serving in military combat, drinking alcohol, or sitting on a jury. It also establishes that a significant number of variables affect a youth's development and subsequent responses to social and environmental stimuli that were beyond the control of that youth. When noted criminologist Dorothy Lewis examined this premise in a study of medical histories of violent juvenile offenders, she found a significantly higher incidence of neuropsychiatric and cognitive impairments among the most aggressive offenders, including hyperactivity, impulsivity, attention deficits, and learning disabilities. The parts of the brain responsible for judgment, impulse control, and reality test-

ing are disproportionately impaired in this population, along with the capacity for empathy and the ability to accurately interpret other people's actions and intentions (Karr-Morse & Wiley, 1997). Without positive interventions to redirect the youth's development, an absence common to so many of the youth who subsequently become involved in serious delinquent or criminal activity, these youth are inappropriately subjected to the ultimate sanction without adequate regard for these mitigating circumstances.

Demographics of Juvenile Capital Offenders in the United States

As of August 2002, 80 of the current death row inmates in the United States were sentenced as adults for crimes committed while they were younger than 18 (*Focus on Capital Punishment*, 2002). These inmates are males who were convicted of murder. They constitute approximately 2.2% of the total death row population in the United States. More than two-thirds of these offenders are minorities, exemplifying the stark racial disparity in our juvenile justice system (Drizin & Harper, 2000). The inmates have been on death row for between 2 months and more than 22 years (Streib, 2002).

Although the federal government, 27 states, and the District of Columbia bar the execution of offenders who commit crimes as juveniles, 23 states permit capital punishment for juveniles. More than half the executions of juvenile offenders since 1973 have occurred in Texas, Florida, and Alabama (Cothorn, 2000). Texas is currently holding 28 juvenile offenders sentenced to capital punishment (*Focus on Capital Punishment*, 2002).

Between 1973 and 2001, courts imposed 213 juvenile death sentences, which is less than 3% of the 6,900 capital punishment sentences imposed in the United States during this era. An estimated two-thirds of the juvenile death sentences since 1973 have been imposed on 17-year-olds. One-third have been imposed on 15- and 16-year-olds (Cothorn, 2000). There have been 209 juvenile death sentence cases involving males and 4 cases involving female offenders. Although 81 of these sentences are currently being litigated, 132 sentences have been finalized, with 18 (14%) resulting in execution and 114 (86%) being reversed or commuted to life imprisonment (Streib, 2002).

The annual death sentencing rate in the United States for juvenile offenders has been declining. In 1994, the courts imposed a peak of 17 juvenile death sentences (5.3% of all U.S. death sentences in 1994), whereas they imposed only 6 in 2000 (2.0% of all U.S. death sentences in 2000) (Streib, 2000). In addition, the increase in juvenile death penalty cases since 1973 has been slower than the rise in adult death penalty cases (Streib, 2000). Despite the notorious U.S. media coverage of violent juvenile crime in 1990s, only 1/3 of 1% of juveniles aged 10 to 17 were arrested for a violent crime in 1999 (Tuell, 2002).

Few researchers have characterized the nation's juvenile capital offender population beyond basic demographics. In *Gregg v. Georgia* (1976), the U.S. Supreme Court mandated that courts must examine mitigating circumstances when issuing the death penalty. However, most juvenile capital offenders are represented by appointed counsel without the time or resources to sufficiently investigate such mitigating factors as psychiatric history, abuse, or mental capacity. A study of 14 juvenile offenders on death row found that only 2 had I.Q. scores higher than 90, all had incurred significant mental trauma during childhood and had serious psychiatric problems, and 12 suffered extreme physical and/or sexual abuse as children (Templeton, 2000). Only five of these death row inmates, however, received psychological evaluations before standing trial.

State Legislation

Since 1992, 49 states have passed or amended legislation making it easier to prosecute juveniles as adults (Cothorn, 2000). Several factors induced this "get tough" response. In the late 1980s and early 1990s, the United States experienced a significant increase in the number of juvenile capital offenders charged with murder. Adult gang leaders and drug dealers used youth to distribute crack cocaine in inner cities. The media and many politicians adopted the term *super-predators*, coined by academics to describe "morally bankrupt" juvenile offenders. The widespread media attention to specific tragic incidents of violent youth crime masked the decrease in violent juvenile crime after 1993.

By the late 1990s, U.S. public opinion appeared to have shifted in relation to punishment for juvenile capital crimes. Many states introduced legislation to end the juvenile death penalty between 1999 and 2002, including Arkansas,

Indiana, Kentucky, Pennsylvania, Mississippi, South Carolina, South Dakota, and Texas. Montana passed such legislation (Cothorn, 2000). Lawmakers rejected bills aimed at lowering the minimum age for receiving the death penalty to 16 or 17 in several states, including California. States can raise the minimum age for death penalty sentencing to 18 by adding legislative amendments to their death penalty statutes. There are 23 state death penalty statutes that specifically cite juvenile offenders' ages as a mitigating factor when determining sentencing.

Some states, using their state constitution as mandating authority, have imposed a higher minimum age for capital punishment than is designated by the federal constitution. The federal government (including both civil and military law) and 38 states authorize the death penalty for capital crimes, primarily for certain forms of murder. Out of these 40 jurisdictions, 17 have set the age of 18 at the time a crime is committed as the minimum age for death penalty eligibility, 5 states have chosen the age of 17 as the minimum, and 18 have chosen 16 as the minimum age, either through an express designation in their death penalty statute (7 states) or through a court decision (12 states) (Streib, 2002). Currently, 13 U.S. jurisdictions prohibit the death penalty.

The Case of Alexander Williams

The state of Georgia was scheduled to execute Alexander Williams on August 24, 2000. Williams was 17 years old at the time of his crime, the rape and murder of a 16-year-old girl. His court-appointed attorney did not request a psychiatric evaluation of his client, who was subsequently diagnosed with paranoid schizophrenia and a schizoaffective disorder with bipolar features and hallucinations. Furthermore, Williams' lawyer did not interview Williams' family or school officials; did not, per *Eddings v. Oklahoma* (1982), present an argument that Williams' age should be a mitigating factor in his sentencing; and did not present any compelling evidence of the chronic childhood abuse that Williams endured. These abuses included being hit with barbells and being locked outside the house without clothing on. After pleas for clemency from a variety of sources, including the United Nations Commission on Human Rights, the European Union, the American Bar Association, and CWLA, the Georgia Board of Pardons and Paroles granted Alexander Williams clemency on February 25, 2002. The board members stated that Williams' mental illness, his age at the time of the crime, and his his-

tory of abuse were the primary factors inducing them to commute his sentence to life without parole. Although it is encouraging that the board took this action, it is of grave concern that the case progressed to this stage in view of the compelling evidence concerning Alexander Williams' childhood history and current mental health condition. Unfortunately, too many cases with similar characteristics have occurred that have not resulted in the commutation of the death penalty.

U.S. Supreme Court Decisions

The primary standard for interpreting the constitutionality of death penalty cases in the United States is the cruel and unusual punishment clause in the 8th Amendment to the Constitution. A series of U.S. Supreme Court decisions have provided guidance for state appellate courts when deciding whether and how to apply capital punishment to juvenile cases. The Supreme Court decided its first juvenile case, *Kent v. United States*, in 1966. In this case, the Court limited the waiver discretion of state juvenile courts, due to the inconsistent application of waiver decisions across states. *Kent* held that juveniles involved in a waiver decision were entitled to a hearing, representation by counsel, access to the information on which the waiver decision was based, and a statement justifying the decision to transfer the case to adult criminal court. In 1967, the Court decided *Furman v. Georgia* (1972) and held that the death penalty, as imposed under existing law, was arbitrarily applied based on the discretion accorded to sentencing authorities in capital trials, in violation of the 8th (cruel and unusual punishment clause) and 14th (due process clause) Amendments.

By 1975, the modern era of the death penalty was begun, when 33 states introduced revised death penalty statutes (Cothorn, 2000). In *Gregg v. Georgia* (1976), the Court found that the death penalty did not violate the 8th Amendment per se. Thus, *Gregg* allowed states to establish the death penalty, so long as state guidelines eliminated arbitrariness in capital sentencing. *Eddings v. Oklahoma* (1982) was the first case in which the Court granted certiorari based on the defendant's age when committing a capital crime. The *Eddings* decision held that the chronological age of a juvenile is a relevant mitigating factor that courts must consider when sentencing the defendant. The mitigating factor of youth may be overcome by other factors, resulting in the application of the death penalty. *Eddings* left state courts struggling to balance justice and childhood.

In the 1980s, the Court further delineated the application of capital punishment to juveniles by deciding *Thompson v. Oklahoma* (1988) and *Stanford v. Kentucky* (1989). In *Thompson*, the Court held that the 8th Amendment prohibits the execution of offenders aged 15 or younger at the time they commit their crimes, regardless of state statutory provisions. In *Stanford*, the Court decided that the 8th Amendment does not bar states from sentencing people who were 16 or older when they committed their crimes to death. The Court found that capital punishment of 16- or 17-year-old juveniles did not offend contemporary standards of decency.

In June 2002, the Supreme Court handed down a decision on a tangentially related case, *Atkins v. Virginia*. In *Atkins*, the Court held that the 8th Amendment prohibits the execution of mentally retarded criminals as cruel and unusual punishment. Juvenile offenders may be affected by the *Atkins* ruling in the future, if the Court decides to overrule *Stanford* and finds that juveniles, analogous to the mentally retarded, are a population that require special legal protection due to contemporary standards of decency. As a result of *Atkins*, the Missouri Supreme Court temporarily stayed the June 5, 2002, execution of juvenile offender Christopher Simmons.

Justice Stevens, writing the majority opinion for *Atkins*, noted that although mentally retarded people frequently understand the difference between right and wrong and are competent to stand trial, because of their intellectual impairments they maintain a decreased capacity to process information, to communicate, to learn from mistakes, to logically reason, to control impulses, and to understand others' reactions. Many of these characteristics can frequently be attributed to youth. Juvenile offenders, similar to mentally retarded offenders, therefore, should not be exempt from criminal sanctions, but rather should be punished accorded to their diminished personal culpability. Justice Stevens cited *Gregg v. Georgia* (1976) as identifying the social and penological purposes served by the death penalty: retribution and deterrence of capital crimes. The Court found that the application of the death penalty as a form of retribution in light of the decreased culpability of mentally retarded offenders is inappropriate. Similarly, the death penalty may not be an appropriate form of retribution given the dimin-

ished culpability of juvenile offenders. The *Atkins* Court noted that the deterrence interest in capital punishment is only served when a crime is the result of premeditation and deliberation. Not all juvenile offenders apply this type of forethought and planning to their crimes. The Court also observed that mentally retarded offenders, due to their limitations, may face an increased risk of false confession, may be less able to provide meaningful assistance to their counsel, and are often poor witnesses. Juvenile offenders may face similar challenges, compared with the adult criminal population, which could make the Court militate toward banning the death penalty as applied to juvenile crimes.

International Law on Juvenile Justice and the Death Penalty

America's legal sanctioning of capital sentencing for juveniles age 16 and older violates the two main tenets of international law: international treaties and customary international law. There is an international consensus against applying the death penalty for juvenile capital crimes. Defying such a consensus prevents America from being seen as a leader in implementing human rights standards.

The application of the death penalty to juvenile offenders is directly prohibited by multilateral international treaties such as the International Covenant on Civil and Political Rights (ICCPR), the United Nations (UN) Convention on the Rights of the Child, and the American Convention on Human Rights. Although the United States signed and ratified ICCPR, it reserved its right to ignore the covenant's ban on executing juveniles. The United States is the only country of the 144 signatories with such a reservation. Eleven countries objected to the United States' reservation. In 1995, the UN Human Rights Committee, which monitors members' compliance with ICCPR, formally requested that the United States withdraw its reservation, but the United States declined. In 1998, the UN Special Rapporteur on extrajudicial, summary, and arbitrary executions requested that the United States withdraw its reservation, but it again declined to do so. Many countries view the U.S. reservation as a significant international human rights violation.

Of 154 UN member countries, only America and Somalia have not yet ratified the UN Convention on the Rights of the Child. The convention provides

that neither capital punishment nor life imprisonment without possibility of release should be imposed on people who committed crimes while younger than 18. The United States signed the convention in 1995 with a renewed reservation exempting itself from adherence to the juvenile death penalty ban.

In August 2000, the UN Sub-Commission on the Promotion and Protection of Human Rights reiterated that the execution of juveniles violates customary international law. For a practice to become part of customary international law, it must be widespread, and nation-states must follow the practice out of legal obligation. The only countries that still execute minors are Iran, the Democratic Republic of Congo, and the United States. China, Yemen, and Pakistan recently abolished the use of capital punishment for juveniles. Other countries are increasingly exerting diplomatic and economic pressure on the United States to ban the death penalty for people who committed capital offenses while they were younger than 18 years old.

An internationally accepted minimum age of 18 for imposition of the death penalty was established in 1949. Article 68 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War states that a protected person who was younger than 18 years old at the time of their offense cannot receive the death penalty. The United States ratified this convention in 1955 and did not make a reservation to the convention's juvenile death penalty clause. Thus, for more than half a century, America has agreed not to apply the death penalty to any civilian juvenile offenders in occupied territories in a time of war. Yet it refuses to provide the same protection to youth on its own territory during peacetime.

Alternatives to the Death Penalty for Juveniles

The development of effective sentencing and programming opportunities for juvenile capital offenders is challenging due to a lack of knowledge about this small population. Researchers need to devote greater resources to assessment of the population of juvenile capital offenders. With such information, correctional facilities could more appropriately focus their funding on effective, multifaceted rehabilitation programs while still affording maximum protection to society.

Nationally standardized sentencing guidelines are also needed. Juvenile capital offenders are subject to a variety of sentencing options, contingent on state statutory provisions, the regional and national political climate, and the caliber of the offender's attorney. Some juvenile capital offenders are allowed to have their cases heard in juvenile court, whereas other cases are transferred to adult criminal court, where the death penalty is more likely to be applied. The American Bar Association (1983) advocates for states to include the condition in their juvenile waiver statutes that transferred offenders may not receive capital punishment in criminal court.

Promising program options need to be thoroughly evaluated and brought to scale. For example, Texas' Capital Offender Program, established in 1988, sponsors an intensive, 16-week empathy-training curriculum that assists juvenile capital offenders with rehabilitation through role-playing in small groups. The program specifically targets the juveniles' emotional detachment and inability to accept responsibility for their crimes. Both external qualitative evaluation and an internal survey of the youth participants found the program to be effective. However, empathy training may only work for juvenile capital offenders with certain characteristics. In addition, a quantitative study would yield more information about the long-term effectiveness of the program. Additional program options should include behavioral health (mental health and substance abuse) assistance, educational and vocational training, and employment and other social skill building exercises. A range of program interventions exist that have demonstrated promising outcomes that should be applied to this population of offenders.

Most important, a national focus on prevention and early intervention is the most effective alternative to the death penalty in deterring violent youth crime. Promising measures include research-based early intervention programs for children at risk of abuse, long-term tutoring and mentoring programs, nurse home visitation programs, and effectively implemented, comprehensive, graduated sanctions. This focus must be coordinated and integrated across all youth-serving systems, with emphasis on the child welfare and juvenile justice systems, because the highest risk youth often come from these systems. The resources invested in effective preventive measures have demonstrated results in cost-effectiveness.

CHAPTER 3

Summary and Position

The practice of executing juvenile offenders has disturbing implications for our society's vision of morality, notions of crime and punishment, conformance to international law, and understanding of childhood and adolescent development. Our society has historically accepted responsibility for the moral, emotional, intellectual, and physical development of our youth. Although CWLA readily supports holding juveniles responsible for committing capital crimes, their behavior must also be examined in the context of failed family, school, and community support structures. This is particularly true in light of a research-based understanding of child and adolescent development. Drizin and Harper (2000) asserted that teenagers who commit capital crimes often suffer from serious psychological and family disturbances. It is precisely these circumstances that mitigate against normal adolescent development.

Executing juvenile offenders does not logically comport with our society's traditional justifications for applying the death penalty. Retribution through capital punishment is incongruent with the view that minors are unable to assume a full measure of accountability for their actions and are therefore prohibited from certain privileges of adult status, such as entering into legally binding contracts. In addition, little research supports the assertion that fear of the death penalty effectively deters youth from committing violent crime. In fact, most available research contradicts the deterrent effect of capital punishment. Finally, it costs society more to execute a person than to imprison them for life, a fact that is significantly attributable to the elaborate appeals process that capital cases entail, particularly for youth. On average, it costs approximately \$2.5 million to prosecute, maintain on death row, and execute a single individual (*On the Wrong Side*, 1998).

The most promising legal argument for states to use in prohibiting the juvenile death penalty is that such a sentence violates the state's constitutional provisions and international law. In fact, given the Supreme Court's recent decision in *Atkins v. Virginia*, the Court may revisit the constitutionality of applying the death penalty for any juvenile capital offenses. The Court may examine state legislatures' trend in banning the death penalty for people younger than 18 at the time of commission of the offense, juries' decreasing use of the death penalty as a sentence for juveniles, international law proscribing the death penalty for juvenile crime, and public opinion polls supporting such a prohibition. Banning the death penalty for people who committed capital crimes when less than 18 years old would reaffirm the rehabilitative purpose of the juvenile justice system while allowing the nation's leadership to assume a position in the realm of international human rights.

It is CWLA's position that abolishing the death penalty applied to minors would recognize the research that children are developmentally different from adults, and thus are more amenable to treatment and rehabilitation. The Juvenile Justice Division believes that it is inhumane to impose the ultimate sanction, the deliberate taking of a human life, on a population of offenders who are still developing emotionally and mentally. CWLA's Juvenile Justice Division challenges everyone to actively engage in the effort to ban the death penalty for capital offenders who committed crimes when they were younger than 18 years old.

APPENDIX

CWLA Juvenile Justice Division

Mission and Vision

CWLA is the nation's oldest and largest membership-based child welfare organization. We are committed to engaging people everywhere in promoting the well being of children, youth, and their families, and protecting every child from harm. We envision a future in which families, neighborhoods, communities, organizations, and governments ensure that all children and youth are provided with the resources necessary to develop into healthy, contributing members of society.

The Juvenile Justice Division serves the overall mission of CWLA in behalf of children and families involved in the juvenile justice and child welfare systems by:

- Providing national leadership in promoting juvenile justice and child welfare systems coordination and integration.
- Collecting, analyzing, and disseminating information on practices and policies that promote positive youth development.
- Advocating for implementation of sound legislation, policies, and procedures that contribute to juvenile justice system reform and improvement and to the development of effective delinquency prevention and intervention programs.
- Promoting the development and implementation of effective, community-based intervention and treatment alternatives to reduce the reliance on incarceration for delinquent youth.
- Providing consultation, training, and technical assistance resources to implement systems integration and reform and to implement appropriate and effective responses to reduce juvenile delinquency and juvenile victimization.

Values

CWLA's Juvenile Justice Division, with and through its member agencies, supports these core values:

- Every youth and family has value to society.
- Every youth is entitled to nurturance, protection, the chance to develop to his or her full human potential, and opportunities to contribute to the common good.
- The family, child welfare system, and the juvenile justice system have specific responsibilities, but society at large shares the responsibility for promoting healthy human development.
- The agencies and organizations that compose CWLA have come together because we share a common mission and value interdependence. The integration of the child welfare and juvenile justice systems will serve the interests of both systems, the youth and families we serve, and society at large.
- System integration and reform is best accomplished through a comprehensive, strategic process that values inclusion of youth, families, and youth-serving organizations, which uses the best available information, research, and practices to guide the process.
- The shared values that bind this learning organization include openness, trust, accountability, and a commitment to continuous quality improvement.

Goals

The Juvenile Justice Division is committed to working on activities to reduce the incidence of juvenile delinquency nationwide and to reduce reliance on incarceration for accused or adjudicated youth through the following:

- Developing and promoting community-based alternatives that support positive youth development while ensuring protection of the public safety.
- Developing and disseminating standards of practice as benchmarks for high-quality services that enhance positive youth development, strengthen families and neighborhoods, and improve integration and coordination of the juvenile justice and child welfare systems.
- Advocating for sound legislation and forming and supporting public policies in the child welfare and juvenile justice systems at the national, state, and local levels that contribute to the well-being of youth, families, and communities.

- Promoting effective strategies that enhance systems integration and collaboration through training, consultation, conferences, publications, and other services.
- Ensuring that all juvenile justice and child welfare services are provided in a manner that demonstrates respect for the diversity of our nation.
- Promoting open exchange of data, resources, and ideas across all systems that serve children, youth, and families and serving as a conduit and repository for that information.
- Serving children, youth, families, and the child welfare and juvenile justice systems by continually strengthening our member agencies and this, their national organization.

Historical Background

CWLA traces its beginnings to the 1909 White House Conference on the Care of Dependent Children, which resulted in recommendations to establish the U.S. Children's Bureau and a national organization of child-helping agencies and institutions. Eventually, proposals to develop a national organization were put forth, which led to the birth of CWLA, a nonpartisan, nonprofit organization that opened its doors in New York City on January 2, 1921. Throughout its history, CWLA has demonstrated its leadership in developing standards of excellence in the full range of services in the child welfare system.

Currently, CWLA is an association of more than 1,175 public and nonprofit agencies devoted to improving life for more than 3.5 million at-risk children and their families. CWLA maintains revised standards of excellence for 13 service areas and operates a number of related initiatives reflecting the changing world of child welfare. CWLA member agencies are involved with prevention and treatment of child abuse and neglect and also provide various services in addition to child protection. These areas include adoption, family foster care, kinship care, juvenile justice system services, positive youth development programs, residential group care, child care, family-centered practice, and programs for pregnant and parenting teenagers.

With the arrival of Shay Bilchik in 2000 as CWLA's ninth Executive Director, the League has renewed its commitment to and continued its advocacy and leadership in behalf of children and families. CWLA launched an ambitious 10-year strategic plan, *Making Children a National Priority*, to guide its efforts

throughout the first decade of the 21st century and help the League realize its vision. The strategy has three interrelated elements that will assist in accomplishing this effort. These elements are (1) establishing a national framework, (2) strengthening and promoting methods that move research to practice, and (3) building strategic partnerships.

CWLA's national framework reflects the essential components of a comprehensive system for reducing the victimization and enhancing the well-being of America's children and youth. CWLA will develop an integrated capacity to provide our members with access to knowledge about proven practices and programs that enhance the well-being of children and youth. The League will then advocate for the widespread implementation of that knowledge at the community level. Finally, CWLA will develop and deepen strategic relationships with traditional and nontraditional partners to strengthen the national voice for children, youth, and families. This effort will include issues such as child welfare, positive child and youth development, child care, health care, adolescent pregnancy and parenting, managed care, education, employment, housing, community development, homelessness, juvenile justice, and public safety.

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