



I24 Life Without Parole for Adolescents: Controversies and Current U.S. Supreme Court Cases

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After attending this presentation, attendees will be able to distinguish special characteristics of adolescents relevant to their culpability and punishment.

This presentation will impact the forensic science community by calling attention to the U.S. Supreme Court cases involving adolescent punishment and heightening awareness of adolescent developmental considerations in future cases.

The U.S. Supreme Court, in its *Roper v. Simmons* (2005) decision, recognized that juveniles are not as culpable as adults because of their developmental immaturity and should therefore not be eligible for the death penalty. Their personality characteristics are not fully formed and are subject to change as adolescents mature. Similar issues arise in the context of sentencing juveniles to life without parole. In its 2009-2010 term, the U.S. Supreme Court is considering whether sentences of life without parole (meted out to juveniles as young as 13 in some states, sometimes for crimes short of murder) violate the 8th Amendment's prohibition of cruel and unusual punishment. The United States may be the only country in the world to have sentences this severe for adolescents. The American Psychiatric Association and American Psychological Association have submitted a joint amicus brief in the case at hand.

There is some question regarding the level of proof needed for professional organizations to cite evidence in amicus briefs. For example, in the area of neurobiological development, there is evidence of developmental immaturity in particular areas of the brain. These areas have some role in planning and decreasing impulsivity. Neuroimaging data support other types of evidence of adolescent immaturity, which are reflected in psychological studies showing limitations in their thinking and a decreased ability to control impulses and behavior. However, neuroimaging data do not provide any direct evidence regarding blameworthiness. There are few studies correlating brain maturity directly to traits such as impulsivity and "behavior control," subjects in which the law is most interested. Existing studies also do not examine the extent to which brain development has occurred in any particular adolescent and correlate that with other psychological measures of maturity or behaviors relevant to legal issues. Therefore, the possibility cannot be dismissed that these are unrelated, concurrent processes.

Nonetheless, the evidence lends support to other common-sense understandings of adolescent immaturity, illustrated by society's denying privileges such as drinking, driving, and voting to adolescents under age 18. If adolescents continue to be given sentences of life without parole for actions committed at an age at which their personalities are still fluid and their brains still developing, questions of due process and fundamental fairness would certainly persist. "Brain science" still is relevant, so long as its implications are not overstated and its limitations made clear. Although relevant legal questions may not be fully answered by neuroimaging studies, they do lend support to the conclusions of other extant data. Also, psychological studies of adolescents provide important relevant data.

There is also a debate as to whether psychopathy can be validly and reliably identified in a subgroup of adolescents. If such identification were possible, it may be reasonable to sentence such adolescent offenders to life without parole. Although there are certainly adolescents who will become adult psychopaths, current instruments, including the PCL:Youth Version, are not yet capable of long-term predictions regarding recidivism or institutional infractions, particularly in girls and ethnic minorities. Additionally, to date, any predictive power that has been demonstrated by these instruments has been related to Factor 2 traits (i.e., behavior) and not Factor 1 traits (i.e., affective/interpersonal traits thought to be central to the concept of psychopathy). Obviously, we are far from being able to utilize these instruments as effectively in adolescents as we do in adults. Therefore, current jurisprudence needs to recognize the limitations in our knowledge base, the implications of adolescent immaturity, and the "changeability" of juveniles as a group, including repeat offenders.

Adolescent, Parole, Punishment