

Rethinking juvenile sentencing: Embracing reforms and second chances

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Washington state's Supreme Court barred the state from sentencing 16- and 17-year-old murder defendants to life in prison without the possibility of parole, saying the sentence violates the state Constitution's ban on cruel punishment. It is the latest in a growing number of states to rethink juvenile sentences. Photo by Ted S. Warren/AP Photo

Marshan Allen says he faced a tough choice as a teen in Chicago, Illinois. He could go to class or help his older brother. The problem was that his brother was selling drugs, as were many people on the South Side of Chicago in the 1990s.

"I was surrounded by cocaine," he says, adding that his mother, his uncle and his neighborhood were involved with the drug. "My older brother James began selling drugs, and I was doing chores for him to make extra money."

One day in March 1992, he stole a van. Two of his brother's friends drove it during a drug deal in which they killed two teenagers. Allen stayed in the van during the killing, court documents say, but he was still convicted on two counts of murder. That's because of a legal theory that said someone helping in a crime could be sentenced to the same crime as the main offender.

Youths Who Commit "Adult Crime" Deserve "Adult Time"

The judge sentenced Allen to life in prison without the possibility of parole. Parole is when a prisoner is released before their sentence in prison is finished. However, they are let out with the expectation that they will behave well. Allen was 15 years old when he was sentenced. At the time, with crime rates surging, lawmakers said that youths who committed "adult crime" deserve "adult time."

"I was crying like a baby," Allen says. "I should be held accountable for my crime, but I didn't think that specific sentence was fair."

Ultimately, neither did the United States Supreme Court. In 2012, the court ruled in *Miller v. Alabama* that the required sentencing of youths to life without parole was unconstitutional. The youngest offenders have less responsibility and greater prospects for turning their lives around, Justice Elena Kagan wrote. To require those sentences without considering features of youth is cruel and unusual punishment, she wrote.

Thousands Of Inmates Suddenly Up For Resentencing

This ruling was followed by a 2016 decision that applied the *Miller* case to all prisoners given required sentences of life without parole as youths. Thousands of inmates were suddenly up for resentencing. Justice experts say it helped begin nationwide changes in youth sentencing in states.

"In so many ways, states are rolling back the mistakes of the 1980s and 1990s," says Joshua Rovner of The Sentencing Project in Washington, D.C. They are realizing that when young people make mistakes, they are still capable of changing, he says. "Young people in general are entitled to fairness and opportunities to reform."

Before 2012, most states used guidelines for required life sentences without parole. Today, 21 states and the District of Columbia prevent judges from sentencing any youths to life without parole. The most recent is Washington state, whose Supreme Court found in October that the sentence went against the state's constitution.

Restorative Justice

The shift comes as part of a movement that pushes away from incarceration in the juvenile system. It focuses instead on second chances, as more is learned about how young minds develop until age 25. Some states are moving toward newer forms of accountability. They are offering more opportunities for meetings between a victim and an offender. This is called restorative justice.

Marc Schindler is executive director of the Justice Policy Institute in Washington, D.C. He says we've made prison such a normal thing that sending a young person away, especially kids of color, wasn't considered unusual. Recently, youth courts have gone from an approach of punishment to more treatment, he says.

One state that made changes was Missouri. About 30 years ago, the state started replacing youth prisons with options from treatment centers to secure residential facilities in Missouri's state parks. Since 2013, it has reported a declining rate of commitments to prison. Missouri has one of the lowest rates of youths returning to prison in the country.

More Access To Therapy

There's also a push for young adults to have more access to therapy. Connecticut, South Carolina and the District of Columbia are pioneering forms of treatment for those between the ages of 18 and 24 in adult prisons.

Broad changes are coming to the youth justice system. Congress and the Senate approved the first real criminal justice reform in a generation with the First Step Act. It will give federal judges discretion to skirt mandatory minimum sentencing guidelines for more people. However, many states that once required life sentences for youth are now using similar sentences of 40 to 60 years. The courts have yet to take up the constitutionality of those sentences.

"There are people who think that the criminal justice system can solve problems that it isn't able to. That you can just lock people up, but that doesn't work," said Rovner.

In Illinois, Allen spent 24 years, eight months and two days behind bars before the Supreme Court ruling enabled him to earn his release. He was freed in 2017. While being held, he got his high school certificate, a business management certificate and an associate college degree.

"It wasn't always easy to do something positive in a very negative environment. There's a lot of misery there," says Allen. Now, he works as a project manager for the Restore Justice Foundation in Chicago. He is pushing to pass a bill to restore parole opportunities for children facing sentences longer than 10 years. "It was a great feeling to come home and be out of that place and know I was able to start my life over again, to start anew."