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## After Miller v. Alabama: A Content Analysis of Juvenile Sentencing Decisions Across the United States

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**After *Miller v. Alabama*: A Content Analysis of Juvenile Sentencing Decisions Across the United States**

An Honors Thesis submitted in partial fulfillment of the requirements for Honors in  
Criminal Justice and Criminology

By  
Kristen Williams

Under the mentorship of Dr. Caitlin Brady

**ABSTRACT**

In 2012 a Supreme Court ruling (*Miller v. Alabama*) determined that life without parole for juveniles was unconstitutional based on the eighth amendment. However, the Supreme Court decision only applied to ongoing and future cases. The objective of this thesis was to conduct a policy analysis on new sentencing laws (i.e., state level) and subsequent Supreme Court decisions (i.e., federal level) that impacted the juvenile court after *Miller v. Alabama* (2012). Furthermore, it examined differences across states as a result of newly implemented legislative actions. A search of all 50 states and federal actions was conducted to gather information to assess similarities and differences in responses across the United States. Findings showed that while policies regarding life without parole for youth were implemented additional reforms are still needed.

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## **Dedication**

I would like to dedicate my Thesis to my Uncle Delbert Gantt. You shaped me into the person I am today, and I am forever grateful for you teaching me the love of God. Rest in Peace.

## **Acknowledgments**

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## Introduction

The Supreme Court is the highest standing court in the United States, meaning that this Court's verdicts trump lower courts (e.g., district-level trial courts and court of appeals) and states' decisions. This also means that states must follow Supreme Court decisions when conducting their own legal actions, regardless of previous standards. When *Miller v. Alabama* was decided in 2012 it held that juvenile mandatory sentences to life without parole were unconstitutional based on the Eighth Amendment of the United States Constitution. The Eighth Amendment of the constitution states “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” (U.S. Const., amend. VIII). To simplify this, it means that the government cannot issue extremely high bail amounts, fines, or punish using unreasonable and unethical practices. *Miller v. Alabama* (2012) should have ended capital punishment in prison for those under the age of legal minor status but, it did not immediately stop the practice.

Many states have interpreted *Miller v. Alabama* (2012) to mean different things. For instance, some states have completely abandoned capital punishment for minors and now have laws in place officially ending life without the possibility of parole (LWOP) sentences for juveniles no matter the severity of the crime. While other states have implemented life with the possibility for parole after a set amount of time served in order to comply with the Supreme Court ruling. However, several states have yet to pass any policies or bills to change their statutes. Therefore, depending on the circumstances of the crime (i.e., severity), a juvenile could still be sentenced to LWOP depending on how the judge uses his or her discretion. Thus, the focus of the current study is to explore how different states have implemented the Supreme Court

ruling *Miller v. Alabama* (2012) through different laws and how this variation has impacted the juvenile justice system.

## **Literature Review**

### ***History of Juvenile Justice System***

The Juvenile Court Act of 1899 was passed in Illinois, which established the Nation's first juvenile court. The British doctrine of *parens patriae* (the State as a parent) was the rationale for the right of the State to intervene in the lives of children in a manner different from the way it intervenes in the lives of adults. The doctrine has been interpreted to mean that, because children were not of full legal capacity, the State had the inherent power and responsibility to provide protection for children whose natural parents were not providing appropriate care or supervision (Juvenile Justice Reform, 1999). Prior to this time, juveniles as young as seven years old could be tried and convicted for crimes punishable by imprisonment or even death. The development of children needing different sentencing guidelines was a fundamental ideology that started during the progressive era (1890's to the 1920's), with the prevalent idea being that children needed to be nurtured and cared for, not punished and tortured. The idea of rehabilitation, or the act of returning someone to a "normal" life through assistance after imprisonment, was a foundational idea of the progressive movement. Progressive reformers pushed for juveniles to have the ability to re-enter society and become good members after serving their sentence.

Reformers believed that treating children and adolescents as adult criminals was unnecessarily harsh and resulted in their corruption. In the words of one reformer, the main reason for the establishment of the juvenile court was "to prevent children from being treated as criminals" (Van Waters, 1927, p. 217). Historians have noted that the creation of the juvenile

court not only diverted youth from the criminal court, but also expanded the net of social control over juveniles through the incorporation of status jurisdiction into states' juvenile codes (Platt, 1977; Schlossman, 1977). Status offenses are "offenses" that are committed specifically by juveniles that would not be considered a crime if an adult engaged in the same act. Some examples of these offenses would be breaking curfew or drinking under the age of 21. By adding these offenses into the juvenile court system, it allowed the government to have more control over how juveniles acted and behaved because certain behaviors and actions now held criminal liability. By creating a distinct system, youth were now considered to be separate from adults. This means they were now held to a different standard and juvenile criminal conduct had its own place in the criminal justice system.

In the beginning, the doctrine of *parens patriae* also gave the government custodial rights over children that were orphans, dependent children, and neglected children alongside delinquents (Juvenile Justice Reform, 1999). When prisons specifically for juveniles were created, initially they were privately owned. However, by the mid-19th/20th century (1850's to 1950's), these facilities were under scrutiny by the Reformers for abuse and exploitation, which resulted in the State taking control of these facilities. When the Illinois Juvenile Court Act was passed, the doctrine of *parens patriae* was interpreted to mean that the state was to hold the best interest of the child's welfare at the forefront, instead of control. By 1910, 32 states had established juvenile courts and/or probation services and by 1925, the number had increased to 48 out of 50. Instead of merely punishing youth for their crimes, juvenile courts sought to turn delinquents into productive citizens through treatment (Juvenile Justice Reform, 1999).

As early as the 1910s, criticisms of the juvenile court's fairness and effectiveness began. Some of the critics called into question the court's informality, which included the lack of

official court hearings and meetings between the judge and juvenile without legal representation. The lack of formal court processes, as well as a lack of legal representation for the accused, resulted in discrimination and a lack of attention to due process. Additionally, the court treated wards of the state (i.e., those who had not committed a crime) the same as those who had committed a criminal act. Unlike adults, juveniles could be detained and incarcerated without a trial, a lawyer, or even being made aware of the charges against them. Another set of critics charged the court with being too lenient on young offenders (Dawson, 1990; Feld, 1997).

When the juvenile justice system was first established, it was very informal. There were no trials or court proceedings, it was usually just the judge and the juvenile in the judge's chambers having a conversation, without legal representation for the accused. The court proceedings were closed to the public and media and as such, little was known about how the system was responding to delinquent behavior (Juvenile Law Center, 2018). This informal approach was ended by the court case, *In re Gault* (1967), when the Supreme Court ruled that juveniles charged with crimes have most of the same due process rights as adults. This means that youth should be given the same protections as adults (e.g., right against self-incrimination, right to counsel). Four years later the Supreme Court ruled that juveniles do not have the right to trial by jury (*McKeiver v. Pennsylvania*, 1971). These two Supreme Court cases ensured the formal proceeding of the juvenile courts and granted specific rights to juveniles as protection from the system. With more public view into the proceedings and more social awareness into the handling of juveniles, judges shifted to become harsher with sentencing to combat increasing crime rates. Throughout the 1980's and 1990's, legislators and policymakers took a "tough on crime" approach that resulted in more youth being sent to the adult court (Juvenile Law Center, 2018). Crimes like murder and armed robbery were now sentenced in adult courts, meaning that

juveniles could receive harsher punishments, such as life without the possibility of parole (LWOP).

Within the last 30 years, the juvenile justice system has steered away from a tough on crime approach and focused more on rehabilitating juveniles (Bernard & Kurlychek, 2010). More recent progressive reforms have led to changes in the dispositions (i.e., sentences) youth receive. Outcomes that youth received focused on providing rehabilitation through services such as mandatory educational programs, therapy, and even residential treatment programs for substance abuse. Dispositions for offenders who have committed serious crimes (e.g., homicide) and are adjudicated in the juvenile court also underwent changes. As the system has progressed and society has become more concerned with the well-being of youth, the focus has become more on nurturing these youth after they are placed in the system. Some of the more recent attempts focused on rehabilitating these juveniles, giving them a chance to re-enter society after serving their sentence. Dispositions that have undergone changes in the last two decades are those that were the harshest youth could receive: capital punishment and life without the possibility of parole. The next section will explore the most important Supreme Court cases as they relate to juvenile punishment.

### **Foundational Cases and Impact**

*Roper v. Simmons* (2005), 543 U.S. 551, was a United States Supreme Court case in which the Court ruled, in a 5-4 vote, that it is unconstitutional for capital punishment to be imposed for a crime committed when the defendant was under the age of 18. Capital punishment for youth under 18 was determined to fall under cruel and unusual punishment. The Supreme Court stated that their decision was justified by the Eighth Amendment of the Constitution. The facts of the case are as follows, Christopher Simmons was a 17-year-old high schooler, who was



charged with burglary, kidnapping, stealing, and murder. He was convicted of burglarizing the home and murdering Shirley Crook, who was a woman who had gotten in an automobile accident with the defendant prior. Mrs. Crook was murdered in a hideous manner that included being tied up with electrical wire, tortured with duct tape, and thrown over a bridge while still alive to cause death by drowning. After a lengthy trial, in which both the prosecutor and defense brought up the defendant's age, the jury convicted Simmons on all counts. It recommended the death penalty because of the gruesome nature of the crime and the judge agreed. After his conviction, Mr. Simmons appealed this sentence, and the case made its way up to the Supreme Court where they ruled that the death penalty for juvenile offenses is unconstitutional.

This case set the precedent for juvenile justice sentencing reform because it was the first Supreme Court ruling that used the Eighth Amendment of the Constitution to protect juveniles. Justice Kenedy, a part of the majority, stated “When a juvenile offender commits a heinous crime, the state can exact forfeiture of some of the most basic liberties, but the state cannot extinguish his life and his potential to attain a mature understanding of his own humanity.” This ruling is significant in part, because it “aligned the United States juvenile justice system with the rest of the world” (Juvenile Law Center, 2015). *Roper v. Simmons* (2005) was the case that set the baseline and brought forth a refined idea that juveniles should not be held entirely responsible for their actions, as their brains are not fully developed. While this case was the first steppingstone, it still left room for some of the harsher punishments, such as life without the possibility of parole to be used for youth.

*Graham v. Florida* (2010), 560 U.S. 48 was a decision made by the Supreme Court stating that juvenile offenders cannot be sentenced to life without the possibility of parole for non-homicide crimes. Terrance Graham was 16 when he committed armed burglary and another

crime. Under a plea agreement, the Florida trial court sentenced Graham to probation and withheld adjudication of guilt. Subsequently, the trial court found that Graham had violated the terms of his probation by committing additional crimes. The trial court adjudicated Graham guilty of the earlier charges, revoked his probation, and sentenced him to life in prison for the burglary. Because Florida has abolished its parole system, the life sentence left Graham no possibility of release except executive clemency. He challenged his sentence and the Supreme Court held that the Eighth Amendment's Cruel and Unusual Punishments Clause does not permit a juvenile offender to be sentenced to life in prison without parole for a non-homicidal crime. "Justice Anthony M. Kennedy, writing for the majority, reasoned that because this case implicates a particular type of sentence as it applies to an entire class of offenders the categorical analysis under *Roper v. Simmons* governs" (*Graham v. Florida*, 2010).

Before this case, juveniles could be sentenced to life without the possibility of parole for crimes such as robbery and rape. After the precedent set in *Roper v. Simmons* (2005) youth were unable to be sentenced to LWOP for crimes committed other than murder and homicide. This was a great step forward because it limited the crimes that could receive life without parole sentences for juveniles. *Graham v. Florida* (2010) set the precedent that juveniles were not capable of making life-altering decisions at such a young age as their brains were not fully developed, therefore they could not be held accountable for the rest of their lives for crimes committed while they were children. The ability to limit LWOP to crimes that resulted in the death of another person is what led to the next monumental case, *Miller v. Alabama* (2012).

*Miller v. Alabama* (2012), 567 U.S. 460, was a United States Supreme Court case in which the Court held that mandatory sentences of life without the possibility of parole are unconstitutional for juvenile offenders (Scott, 2013). The Court stated that LWOP was

unconstitutional because it went directly against the Eighth Amendment which protects American citizens from unusual and cruel punishment. The case that led to the foundational change was that of Evan Miller. In 2003, Evan Miller aged 14 at the time, alongside Colby Smith, murdered Cole Cannon by beating him to death with a baseball bat and burning down his trailer with him inside to destroy the body and any evidence of their crime. Miller was charged as an adult with murder and arson and in 2006 he was found guilty. He was sentenced to life without the chance of parole; however, his sentence was overturned in 2012 when his case went in front of the Supreme Court on appeal (Stinneford, 2013).

The ruling, in this case, states that life without parole for juveniles who committed homicide crimes was unconstitutional based on previously set precedent and the Eighth Amendment. Therefore, this case officially abolished life without parole for juveniles. The previous cases created the common law of life without parole being unconstitutional because it violates the Eighth Amendment, as well as the idea that juveniles could not be held fully responsible for their actions because their brains were not fully developed. Steinberg (2009) notes that “there is compelling neurobiological evidence for changes in brain structure and function during adolescence and early adulthood that facilitate improvements in self-regulation that permit individuals to modulate their inclinations to seek rewards, although this development is presumed to unfold along a different timetable and to be independent of puberty” (p. 466). It is evidence like this, that shows that adolescents cannot fully understand their actions and that there is a neurological difference between adults and juveniles, which verified the Supreme Court's decision.

*Miller v. Alabama* (2012) was such an impactful Supreme Court case because, for the first time in history, the juvenile justice system acknowledged that juvenile offenders were able

to be rehabilitated. “The Court ruled that juvenile offenders have “diminished culpability and greater prospects for reform,” and that judges and juries must have the opportunity to consider the “mitigating qualities of youth” in sentencing even when juveniles commit heinous crimes” (APA, 2012; quotes from original). Before this ruling, judges were mandated by common law, or unwritten laws, created to sentence juveniles to life without parole based solely on their crimes. This ruling now gave judges the discretion to sentence youth based on various factors (e.g., the severity of the offense, age of youth) and not be forced to automatically sentence youth to LWOP.

A key factor to note about the ruling of *Miller v. Alabama* (2012) is the word mandatory because this means that the legislation did not abolish these sentences altogether, but instead, the States court now had discretion when sentencing and should consider factors like maturity level when making these judicial decisions. While the Miller case was a beneficial development because no new juveniles could be sentenced to life without parole, many juveniles were still serving life sentences because the case was not retroactive (i.e., the ruling did not apply to previous cases). This question of retroactive implementation was the focus of the next influential case related to youth, *Montgomery v. Louisiana*.

*Montgomery v. Louisiana* (2016), 577 U.S. \_\_\_, was a United States Supreme Court case that addressed whether *Miller v. Alabama* (2012) should be applied retroactively. Henry Montgomery was a 17-year-old in November of 1963 when he murdered Charles Hurt, who was a sheriff's deputy. Montgomery was convicted of murder and sentenced to death in 1964. In 1969, Montgomery's conviction was reversed by the Louisiana Supreme Court on the basis of an unfair trial due to public prejudice and a new trial was ordered. While awaiting trial in jail, he escaped but was rearrested two hours later. He was convicted of murder in a new trial in 1969

and sentenced to life without the possibility of parole. In 2014 he filed a petition for a writ of certiorari from the U.S. Supreme Court, which was granted. This meant that Montgomery's case would be re-reviewed by the Supreme Court. On January 25, 2016, with a vote of 6-3, the Supreme Court delivered judgment in favor of Montgomery. The Court decided that *Miller v. Alabama* (2012) applied retroactively, holding that those previously given life sentences with no chance of parole for crimes committed as juveniles must have their cases reviewed for resentencing or be considered for parole (*Montgomery v. Louisiana*, 2016). "States have been given wide latitude in implementing the rulings ... this includes how individuals are eligible to be resentenced and what must be considered in a resentencing hearing" (Komp, 2020, p.314).

Now that life without parole for juveniles has been ruled unconstitutional and many states have started passing new bills, it requires the juvenile justice system to re-evaluate previous cases to which this applied. These decisions left around 2,000 juveniles across the United States serving LWOP sentences that needed to be addressed (Ghandnoosh, 2019). As this was a Supreme Court ruling, it allowed states to have the authority to interpret the ruling and make their own decisions on how to retroactively implement this decision into their own systems. Some states have now added clauses into their own LWOP bills, allowing previously convicted juveniles the right to parole after a certain amount of time, while other states have gone case by case reviewing the circumstances. While *Miller v. Alabama* allowed previously sentenced juveniles to have their cases reviewed for resentencing and parole, it is up to the discretion of the judge and parole board to decide if they are to receive parole or if they should be resentenced. "Accordingly, in almost all such cases, the district attorney's office makes an offer for a new sentence to the defendant, who is free to accept the offer or to have his new sentence decided by the judge" (Daftary-Kapur, 2020, p.1). Evan Miller himself, who was the defendant in the

monumental Miller case, was recently resentenced to life without parole “after a hearing on the particulars of his background and circumstances” (Sarat, 2022, para.18).

### **States’ Implementation and Long-Term Impacts**

Although the Federal Supreme Court is the highest standing court in the United States, this does not necessarily mean that they write the laws. The role of this court is to ensure the American people the promise of equal justice under the law and interpret the constitution (Supreme Court of The United States). The Supreme Court fulfills this role by reviewing previous court rulings and then voting on the issue at hand and issuing its decisions. However, even if the court decides to grant certiorari and hear the case, “it often does not decide final outcomes [and] ...instead, the Court remands cases to lower courts for their ultimate resolution” (Borochoff, 2013, p.1). To put this in context, the United States Federal Supreme Court issues its interpretation of the Constitution and sets the precedent, and then taking this ruling, the higher courts within each state, usually the state's Supreme Court, will change their policies and statutes accordingly. As states are able to determine state laws, sanctioned by the tenth amendment, not every state is going to have the same laws and regulations. Put simply, laws will vary from state to state.

The variance from state to state is important to consider when determining the impact of *Miller v. Alabama* (2012) because the degree of implementation is not the same across the United States. Think about the implementation within different states as being similar to a spectrum, with one end being completely abolishing LWOP for juveniles and the other end being no change in LWOP sentences that juveniles are receiving. This is important as it suggests that not every juvenile in the United States is receiving the same sentences (i.e., outcomes) for similar crimes, and some juveniles are being sentenced harsher than others. The Supreme Court case

gave judges the discretion to sentence youth to life without parole for: (1) juveniles who were determined to be unable to be reformed (i.e., rehabilitated) and (2) in extreme cases. However, this interpretation is problematic because both of these leave room are highly subjective and leave much room for interpretation. What one judge deems extreme, another judge might not, and a lot of this has to do with past experiences and personal mindset determined by upbringing and social norms of the society they are living in (Ponizovskiy et al., 2018). Judges are the voice of sentencing, but their freedom of choice is limited by the statutes and sentencing structures existing in a particular state (Ostrom, Kleiman, 2003). This can lead to arbitrary and potentially discriminatory outcomes, as one juvenile may be given a life sentence for a crime, whereas another similarly situated juvenile may not.

Looking at things from a larger standpoint, these differences are harming the juvenile justice system as a whole. While most states have abolished the LWOP sentence, some states (e.g., Mississippi, Missouri, and Oklahoma) continue to sentence youth using this harsh outcome. As a mechanism to continue sentencing youth to LWOP, states have increased the transfer of youth to adult courts so that they can be given this maximum sentence. Moreover, with the differences in policies across states, children are not treated equally. In general, sentencing youth to LWOP does not align with a system that focuses on rehabilitation and returning youth to communities. Furthermore, incarceration of juveniles for long periods of time is not only detrimental to the juvenile and their health but the cost associated with detaining these individuals is extremely expensive. This should be a concern to the public particularly, as the cost of sentencing youth to out-of-home placements comes from taxpayers. According to the Justice Policy Institute, it costs an average of \$408 dollars nationally to detain a juvenile per day. Annually this is roughly \$149,000 a year per juvenile (Petteruti, Schindler, Ziedenberg, 2014).

This is a lot of money considering how many juveniles are actually in the system, and the fact that this money comes from taxpayers means that taxpayer money is not being spent on rehabilitative services and programs outside of detention centers or on programs that help reintegrate youth back into the community after release.

There are also additional concerns as to why LWOP is detrimental to youthful offenders. Research shows that nearly 70 percent of juvenile offenders in detention centers have one or more mental health disorders, compared to 18-20 percent in the general population (Teplin et al., 2002; Wasserman et al., 2002). These mental health disorders range from depression and anxiety to addiction and substance abuse. “Disruptive disorders (46.5%) such as conduct disorder are most common, followed by substance use disorders (46.2%) such as alcohol abuse, anxiety disorders (34.4%) like obsessive-compulsive disorder, and mood disorders (18.3%) such as depression” (Shufelt & Coccozza, 2006, p. 2). There are many different factors that can be found throughout juvenile detention centers known to induce these disorders such as, being confined to small spaces and the lack of family and community engagement (Zavlek, 2005). Being away from friends and family (e.g., missing their loved ones and wanting to go home) during important emotional development stages can cause severe mental and emotional damage (e.g., conduct disorder; Bowlby, 1980; Harlow & Suomi, 1974).

Outside of mental health disorders, studies show that approximately 93% of incarcerated juveniles have experienced one or more serious traumas (e.g., beatings, rape, suicide attempt; CDFOhio, 2012). Barnert and colleagues (2017) found that cumulative incarceration duration during adolescence and early adulthood is independently associated with deteriorated physical health and mental health later in adulthood. These data and studies reaffirm that long-term commitment in secure facilities (i.e., detention, prison) are detrimental to a juvenile's mental and



physical health. Being in a setting in which a juvenile is exposed to traumatic events, dehumanized by the system, and confined in small spaces results in the offender's mental health diminishing.

### **Current Study**

Historically, the juvenile justice system has had a tough on crime approach as if they are unsavable or unredeemable. However, in this modern era there has been a restorative shift focused on rehabilitation for youthful offenders. With scientific advancements showing that young brains (up to the age of 25; Steinberg, 2009) are not developed enough to fully comprehend their actions and research concluding the long-term detrimental effects that secure confinement has on the juvenile brain (Barnert et al., 2017; Zavlek, 2005), the system is now acknowledging that change needs to occur. The Supreme Court has ushered in this change by putting policies in place, through different court rulings, in order to protect the special population that juveniles hold in the juvenile justice system.

One reformatory change is a shift in sentencing guidelines such as the abolishment of mandatory LWOP sentences. Before the *Miller v. Alabama* (2012) ruling, juveniles who committed certain crimes were mandated to LWOP but as society has progressed, there is a new mindset that juveniles can be rehabilitated and re-enter society, even after committing horrendous crimes. For the purpose of this paper, I am researching how states are implementing this ruling. Specifically, the goal is to examine the extent of LWOP throughout the juvenile justice system following the *Miller v. Alabama* (2012) decision. I am exploring not only how this abolishment has improved the system, but also the setbacks and backlash that has come with these changes. The Supreme Court is the highest court in the United States, but different states have the right to interpret and write their own laws to abide by this, causing variance across the

nation. My research explores these differences in state laws and analyzes how this impacts juveniles within the system.

### **Methodology**

Data were collected from August 2022 to January 2023 for all 50 states for information concerning LWOP sentences. Multiple sources (e.g., state reports, court rulings, specific bills) were used to complete the information for each state. Additional sources such as non-profit organization websites (e.g., The Sentencing Project, The Juvenile Law Center) were also utilized. The data sources were used to gain information on how guidelines are being implemented and the retroactive of these new bills following *Miller v. Alabama* (2012). Seven pieces of information, or variables, were collected from each state and compiled in a spreadsheet.

First, the name of the state and its region in the United States was collected. The states were separated into five *regions* classified by the National Geographic Society. These regions were the West, Midwest, Southwest, Northeast, and Southeast. The breakdown of states within the regions is represented in Table 1.

**Table 1**  
*Regions of the United States*

| West       | Midwest      | Southwest  | Northeast     | Southeast     |
|------------|--------------|------------|---------------|---------------|
| Alaska     | North Dakota | Arizona    | Pennsylvania  | Alabama       |
| California | South Dakota | New Mexico | New York      | Arkansas      |
| Oregon     | Nebraska     | Oklahoma   | Vermont       | Louisiana     |
| Washington | Kansas       | Texas      | Maine         | Mississippi   |
| Montana    | Minnesota    |            | New Hampshire | Georgia       |
| Idaho      | Iowa         |            | Massachusetts | Tennessee     |
| Nevada     | Missouri     |            | Connecticut   | Kentucky      |
| Utah       | Wisconsin    |            | Rhode Island  | West Virginia |

|          |          |            |                |
|----------|----------|------------|----------------|
| Colorado | Illinois | New Jersey | Virginia       |
| Wyoming  | Michigan | Delaware   | North Carolina |
| Hawaii   | Ohio     | Maryland   | South Carolina |
|          | Indiana  |            | Florida        |

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*Note: United States regions. National Geographic Society. October 5, 2022*

The fourth variable collected was whether the new sentencing guideline was retroactive (*retroactive*), and this was coded as ‘yes’ for states that implemented it retroactively and ‘no’ for states that did not (Table 2). There are 27 states where the new sentencing guidelines are retroactive, 18 states where they are not, and 5 states where the information could not be found (Unknown).

**Table 2**  
*Retroactive*

---

| Yes           | No          | Unknown    |
|---------------|-------------|------------|
| Arizona       | Alaska      | Alabama    |
| Arkansas      | California  | New Jersey |
| Colorado      | Connecticut | New York   |
| Delaware      | Idaho       | Nebraska   |
| Florida       | Illinois    | Oklahoma   |
| Georgia       | Indiana     |            |
| Hawaii        | Iowa        |            |
| Massachusetts | Kansas      |            |
| Michigan      | Kentucky    |            |
| Minnesota     | Louisiana   |            |
| Mississippi   | Maine       |            |
| Montana       | Maryland    |            |
| Nevada        | Missouri    |            |

|                |              |
|----------------|--------------|
| New Hampshire  | Oregon       |
| New Mexico     | Rhode Island |
| North Carolina | South Dakota |
| North Dakota   | Texas        |
| Ohio           | Vermont      |
| South Carolina |              |
| Tennessee      |              |
| Utah           |              |
| Virginia       |              |
| Washington     |              |
| West Virginia  |              |
| Wisconsin      |              |
| Wyoming        |              |
| Pennsylvania   |              |

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Fifth, the *number of youth still serving life without parole sentences* within that particular state was noted. This information included approximations and specific numbers based on the sources (i.e., state reports and organization websites). Sixth, which is represented in Table 3, noted if LWOP sentences are still legal in the state (*legality*). For states where life without parole sentences is still legal, it was labeled as ‘yes’, and states where it is not legal were labeled as ‘no’. The United States is split evenly down the middle, with 25 states still having LWOP for juveniles as a “legal” sentencing option, and 25 states abolishing the practice.

**Table 3**  
*Legality*

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| Yes            | No            |
|----------------|---------------|
| Alabama        | Alaska        |
| Arizona        | Arkansas      |
| Florida        | California    |
| Georgia        | Colorado      |
| Idaho          | Connecticut   |
| Illinois       | Delaware      |
| Indiana        | Hawaii        |
| Louisiana      | Iowa          |
| Maine          | Kansas        |
| Michigan       | Kentucky      |
| Minnesota      | Maryland      |
| Mississippi    | Massachusetts |
| Missouri       | Nevada        |
| Montana        | New Jersey    |
| Nebraska       | North Dakota  |
| New Hampshire  | Ohio          |
| New Mexico     | Oregon        |
| New York       | South Dakota  |
| North Carolina | Texas         |
| Oklahoma       | Utah          |
| Pennsylvania   | Vermont       |
| Rhode Island   | Virginia      |
| South Carolina | Washington    |
| Tennessee      | West Virginia |
| Wisconsin      | Wyoming       |

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Finally, the number of years youth must serve until they are eligible for parole based on new sentencing guidelines was included. As of 2016, there were 2,310 people serving LWOP sentences for crimes committed as juveniles. Virginia had the highest number of life without parole juvenile sentences with roughly 700 cases followed by Florida with 600 and California with 300. There were 12 states that had no open cases, and 18 states with less than 15 cases.

### *Data Plan*

First, themes across the states related to sentencing decisions after *Miller v. Alabama* (2012) are noted, with information largely coming from transcripts and quotes from the court cases. Next, in order to examine the relationship between measures, chi-square tests and analysis of variance (ANOVA) were performed to compare states and regions. These tests were used based on the type of measures included. For example, *legality* and *retroactive* are categorical measures. Categorical measures are data that represent categories, such as a dichotomous, or two categories. For this specific study, the two categories were yes or no. The number of youth still serving LWOP sentences is a continuous measure. A continuous measurement is one that is defined in terms of “real” numbers, and in this study the number of youth still serving is continuous because there is a specific number of juveniles. SPSS 27 was used for all statistical analyses.

### **Results**

The compiled research on the United States implementation of *Miller v. Alabama* (2012), shows that 25 out of the 50 states have laws banning LWOP sentences no matter what the circumstances of the crime for offenders under the age of 17. When analyzing the United States by region, the majority of the states that have banned LWOP are located in the West region, with nine out of eleven states in the region having banned these sentences. The Southeast region has

the most states where life without parole sentences are still available, with eight out of twelve states in the region retaining this sentencing option for juveniles. Seven out of the twelve states in the Midwest have LWOP sentences for juveniles as an option. In the Southwest region, three out of the four states do not have laws banning LWOP sentences. Lastly, six out of the eleven states in the Northeast Region have banned LWOP sentences.

Another element of information that was found in the research process, were the clauses implemented by different states regarding the number of years needing to be served before being eligible for parole (*minimum time served*). 18 states have specific time limits, with most ranging from 20 to 30 years, while five other states have general clauses indicating that the judge has discretion when deciding minimum time served as long as a specific limit is implemented. Mississippi has the lowest minimum time served clause with ten years, while Pennsylvania has the highest minimum of 35 years. These clauses serve as automatic parole opportunities because the offender is automatically guaranteed a chance at reassessment and release after they serve the minimum.

A chi-square test was conducted to assess the relationship between states who have passed new laws banning LWOP sentences (*legality*) and states with retroactive sentences (*retroactive*). There was no significant relationship between the two measures  $\chi^2 = .73$ ,  $p = .39$  (see Table 4). The p-value is greater than a .05, meaning that there was no significant relationship.

**Table 4**  
*Chi-Square Test for Legality and Retroactive*

| Legality | Retroactive |     | Total |
|----------|-------------|-----|-------|
|          | No          | Yes |       |
| No       | 11          | 13  | 24    |
| Yes      | 7           | 14  | 21    |
| Total    | 18          | 27  | 45    |

$$\chi^2(1) = .73, p = .39$$

Using a chi-square test the relationship between states who have passed new laws banning LWOP sentences (*legality*) and the geographical location of those states (*regions*) was examined. As shown in Table 5, there was no significant relationship between the two measures  $\chi^2 = 8.79, p = .07$ . The p-value is greater than a .05, meaning that there was no significant relationship. Using ANOVA test the relationship between the *number of youth still serving life without parole sentences* and the geographical location of those states (*regions*) was examined. There was no statistically significant difference between groups as determined by one-way ANOVA  $F(4) = 1.34, p = .27$ ). Additionally, the original intention was to run analyses examining the relationship between region and year initiated however there were 20 missing states data. A crosstab was run to look for any patterns between *regions* and the impact it had on the juvenile justice system in the sense of newly established regulations and laws. The table showed that 26 of the 30 new laws were established in the first 5 years after the Supreme Court ruling.



**Table 5**  
*Chi-Square Test for Regions and Legality*

| Regions   | Legality |     | Total |
|-----------|----------|-----|-------|
|           | No       | Yes |       |
| Midwest   | 5        | 8   | 13    |
| Northeast | 5        | 5   | 10    |
| Southeast | 5        | 8   | 13    |
| Southwest | 1        | 3   | 4     |
| West      | 9        | 1   | 10    |
| Total     | 25       | 25  | 50    |

$\chi^2(4) = 8.79, p = .07$

### Discussion

The focus of the study was to analyze the impact of *Miller v. Alabama* (2012) in the juvenile justice system, and whether this impact has been reformative or not. When analyzing the data, it became apparent that even a decade later, half of the United States has not made significant reformative measures to eliminate LWOP sentences for youth. While 30 states have established laws in compliance with *Miller v. Alabama* (2012), only 25 states have officially abolished the practice. When looking at this from a statistical point of view 25 out of 50 might seem like a lot, but when looking at it from a larger perspective that's still half of the country that is still sentencing juveniles unconstitutionally. Looking at the chi-square and ANOVA tests, all measures were greater than .05, meaning that even after over a decade has passed the United States, as a whole, has not taken significant actions to reform this issue. There have been reforms made by some states such as California, Ohio, and New Jersey to abolish LWOP sentences for youth, however some states across regions, largely in the West and Southeast, have implemented other LWOP reforms aside from abolishing LWOP. These states implemented a reformative practice by mandating that after serving the minimum sentence youth were put in front of a

parole board. Thus, there was a set amount of time that must be served, which after being served allows the youth the chance at parole. These sentences suggest that the juvenile can be rehabilitated while incarcerated and can re-enter society after serving their sentence, changing their sentence from LWOP to life with the possibility of parole.

In the introduction portion of this thesis, it was stated that even though the United States Supreme Court makes a ruling it is still up to the state level of government to implement these changes. A key component of the Supreme Court ruling was that it abolished mandatory sentences, but not the sentence altogether. This has allowed states to keep the practice, provided it is not mandated, and gives judges the discretion to use this sentence as they see fit. Twenty-five states have abolished the practice altogether, with the majority of these states being in the Midwest and the Southeast, but the other 25 states have allowed this practice to continue, even after the Supreme Court ruled that it was cruel and unusual punishment, hence why it cannot be mandated. This means that in the states that still allow life without parole sentences for youth, they are still subject to sentences that are cruel and unusual forms of punishment.

In the case of *Miller v. Alabama* (2012) and ending LWOP sentences for juveniles, half of the country has not done this and the other half that has abolished the practice seems to be at a standstill. After the Supreme Court decision, there was a rush of reform as evidenced by the passing of 26 laws within the first 5 years (2012-2017), but since then there was a decline in action with only four laws being passed in the last five years (2018-March 2023). In 2021 the Supreme Court ruled in *Jones v. Mississippi* (2021) that LWOP sentences were still acceptable “for the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility.” This is almost a step backwards as it allows for juveniles who are deemed to be the most serious offenders and unable to be reformed to be sentenced to LWOP. More concerning is that there is

no clear explanation of what comprises the “rarest of juvenile offenders” and those who have “permanent incorrigibility.”

Some cases, such as *Roper v. Simmons* (2005) and *Graham v. Florida* (2010), were reformatory for juveniles before *Miller v. Alabama* (2012) and others, such as *Montgomery v. Louisiana* (2016), were reformatory after 2012. *Roper v. Simmons* (2005) was reformatory because it ended the use of capital punishment (i.e., death penalty) for any offender under the age of 18 no matter the crime committed. *Graham v. Florida* (2010) was reformatory because it ended LWOP sentences for crimes committed other than homicide crimes. When *Miller v. Alabama* (2012) was decided the case was not able to be applied to previously sentenced youth, but *Montgomery v. Louisiana* (2016) gave the opportunity of a resentencing to previously convicted offenders. This was overall a reformatory measure for the juvenile justice system because it now allowed for the juveniles who committed crimes before they could fully comprehend their actions the chance to be released after being rehabilitated while in jail.

The impact of *Miller v. Alabama* (2012) is so important, not only for the juvenile justice system in terms of sentencing changes, but also for the youth within the system and what this changes for them. Life without parole sentences for juveniles are considered cruel and unusual punishment because of the lasting impacts that it has on their mental health, and the fact that juveniles’ brains are not developed enough to rationally make informed decisions (Teplin et al., 2002; Wasserman et al., 2002). In the 25 states that still use this practice, they are sentencing juveniles to life imprisonment for crimes they committed before they could even fully understand what they were doing. LWOP sentences are harmful to juveniles because incarceration impacts them not only socially, but mentally and physically. Understanding that juveniles committed crimes and experienced consequences (e.g., incarceration) is important for

punishment but being detained for long periods of time, such as life in prison, has been shown to do more harm than good (Zavlek, 2005). Life without the possibility of parole is a sentence that does not allow for an offender to be reintegrated into society, deeming them unable to be rehabilitated. Studies have shown that youth are more likely than adults to commit crimes as they are “unable to modulate their inclinations to seek rewards” (Steinberg, 2009, p. 466). Thus, their brain is not developed enough to control their impulses, so they seek immediate gratification without fully understanding the consequences of their actions. Sentencing juveniles to LWOP is sending youth to serve a life sentence when they might not have understood the full consequences and weight of their decision.

### **Limitations**

In the United States, the youthful offender population is a protected class under the United States Constitution making it difficult to find information and data on them. A difference between the juvenile justice system and the criminal justice system is that because the offenders are minors, their criminal records are sealed and not available to the public. Juvenile court cases and statistics surrounding juveniles are often very condensed or sparse because juvenile court records are kept confidential for the safety of the minor. With this granted protection, it created a limitation of determining accurate data on juveniles currently serving LWOP sentences. This also affected determining statistical data of juveniles that have been resentenced after the ruling of *Montgomery v. Louisiana* (2016) even if they are adults now because their crimes were committed as juveniles.

Another limitation that affected this study was missing data. States are not required to report their data to federal agencies, and with this being voluntary most states opt out of this making it unable to use in statistical analysis. Some states (i.e., Florida, Michigan) have not

officially passed laws or released specific bills, so this data was missing when determining the statistics of states that have and have not legally abolished the practice. Other states (i.e., Arizona and Idaho) have left sentencing decisions up to the discretion of judges which leaves missing data. This is a limitation because there are data gaps that cannot be accounted for, and when running tests like chi-square and ANOVA, it can skew the results and effect if that data is significant or not. Or the missing data means that analyses cannot be run to assess relationships between variables of interest.

One explanation for the missing data in the past five years is the COVID-19 pandemic. Social distancing and the shutting down of the United States forced a halt in legal processes like the passing of bills through the states House of Representatives and Senate. Lawmakers were not meeting to vote so there was a standstill in forward momentum of reforms as practices were not able to be granted and laws were not able to be passed.

## **Conclusion**

Evan Miller is still to this day the youngest person to be sentenced to LWOP in Alabama and as of 2021 this sentence still stands. In Alabama, 73 inmates alongside Mr. Miller qualified for resentencing because of Miller's Supreme Court ruling and per *Jones v. Mississippi* (2021) for those previously sentenced (Hall, 2021). Evan Miller was granted a resentence after his Supreme Court ruling in 2012 but, in 2021 Mr. Miller was resented to LWOP again by Judge Mark Craig. "Hundreds of other prisoners serving life without parole sentences for murders committed when they were juveniles have been resented to get a chance at parole (some already released) thanks to Miller's earlier appeal to the U.S. Supreme Court. Something that Evan Miller himself will not receive" (Faulk, 2021).

The crimes are all illegal no matter what state they are committed in, but the sentencing for juveniles varies from state to state, something that is in need of reform for the juvenile justice system. In some states, depending on the judges' discretion, a juvenile can be sentenced to LWOP and in others, juveniles can eventually be eligible for parole. Findings from the current study reveal that there is a wide spectrum of sentencing guidelines, with each state having its own procedures, creating a large variance across the United States. Looking at this from a regional aspect, sentencing guidelines vary based upon the state, causing a disproportionate influx of LWOP sentences across the U.S. This is because judges are given discretion when sentencing youthful offenders which can be harmful in some circumstances as discretion is based upon the judges past historical experiences and other social influences.

To address these disparities, it is recommended that sentencing guidelines be uniform across states according to a sentencing guideline based upon the crime committed, not the offender. The uniform sentencing guideline is recommended to be based upon the crime committed and not the offender, as it has been shown that youthful offenders' brains are not fully developed enough as a child to make informed decisions and they are not able to fully understand the full consequences of their actions. It is recommended that LWOP be abolished altogether, and youth have a chance at parole after a minimum time served to address whether rehabilitation is occurring while incarcerated.

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