

TUNE IN TO THE  
SOUND OF DEMOCRACY

## Justice Talking Radio Transcript

**When Kids Commit Crimes: What's a Fair Sentence?—Air Date: 4/3/06**

*There are thousands of juveniles, some as young as 12, serving life sentences with no hope of parole. Others are serving longer sentences in adult facilities or are warehoused in juvenile detention centers with few educational or health care services. Join us on this edition of Justice Talking as we take a look at how teenaged criminals are sentenced. Are kids who commit crimes being rehabilitated or are they returning to the streets in worse shape than ever?*

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**MARGOT ADLER:** From NPR, this is Justice Talking. I'm Margot Adler. Coming up on today's show: juvenile justice in America. Should kids convicted of violent crimes be put in jail for the rest of their lives?

**UNIDENTIFIED FEMALE:** When you have a person who has murdered two or three people, does that victim's family feel that that murder is different because a 13-year-old was behind the trigger than if a 40-year-old was behind the trigger? I think to that victim's family it's just the same.

**UNIDENTIFIED FEMALE:** No one gets to look at the individual kid or what happened, whether they were an aid or abettor, whether they actually did the shooting. It's one-size-fits-all justice without any consideration that these are children.

**MARGOT ADLER:** Sentencing in the juvenile justice system, after the news.

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MARGOT ADLER: This is Justice Talking. I'm Margot Adler. On today's show: Should kids under 18 do adult time if they commit an adult crime? We'll take a look at the nations' juvenile justice system, where over 100,000 juvenile offenders are in the correction system. I'll talk with an expert about how our criminal justice system handles the thousands of cases brought against youth offenders. Also we'll hear from some teenagers who are serving time. Later in the show we'll debate whether life without parole is an appropriate sentence for kids. There are over 2,200 juveniles serving life terms in US prisons. We'll ask whether rehabilitation is possible for teenagers who commit horrendous crimes and finally, I'll talk with a mother whose 10-year-old son was murdered and another mom talks with me about her son who's serving a life sentence for a murder he committed when he was 17.

Most of today's program was taped before an audience at the National Constitution Center in Philadelphia. Let's start by looking at how the juvenile justice system works. Barry Feld is a professor at the University of Minnesota Law School, where he specializes in juvenile justice. He has written a number of books, including "Bad Kids: Race and the Transformation of the Juvenile Court." I began by asking him if the definition a juvenile differs from state to state, or is it just a person who is under 18?

BARRY FELD: Every state has its own definition of who is a juvenile for purposes of criminal responsibility. In most states it's youths under the age of 18, but in some states it's under 17 and in some states it's under 16. So it's purely a matter of legislative definition.

MARGOT ADLER: Give me a brief history of juvenile justice. When did the juvenile court system become separate from the adult justice system?

BARRY FELD: The first juvenile court was created in Cook County, Illinois in 1899 and it was a response to changes that were going on in American society as we shifted from a rural, agricultural society into an urban, industrial society. And there were two ideas behind the creation of the juvenile court. One was the idea that children are different from adults and the progressive reformers who created the juvenile court were appalled that 12-year-olds were being tried and sentenced and sent to the same prisons as adult offenders.

The other idea behind the juvenile court was changes in our thinking about criminal justice and social control and a shift in emphasis from the seriousness of the offense to the needs of the offender. So the juvenile court really reflected these two ideas of changes in social control and our ideas about children as different from adults, and was part of a much larger process of criminal justice reform that gave us indeterminate sentences, probation and parole, and the juvenile court.

MARGOT ADLER: Over the years what kind of legislation has affected the sentencing of juveniles?

BARRY FELD: Well partly in response to the Supreme Court's *Gault* decision, which made juvenile courts more procedurally formal, legislatures began to also increase the severity of sentences in juvenile courts. Because one of the things that *Gault* did was to shift the focus of juvenile courts' attention from the juveniles' needs to their deeds. And it made it clearer that juvenile courts were essentially functioning as scaled-down, second-class criminal courts for young people. And as legislatures in the 1970s began to think of juvenile courts not as social welfare agencies but as scaled-down criminal courts, they became increasingly more punitive. And this was reflected both in changes in sentencing in the 1970s and especially in the 1980s, but also in changes in the laws to transfer juveniles from juvenile court to criminal court for prosecution as adults.

MARGOT ADLER: And I assume that a lot of this happened as the sort of crime rise happened in the United States?

BARRY FELD: Well there were actually two waves that affected the punitiveness of juvenile courts. The first wave in the 1970s was a response to the baby boom crime wave, because as baby boomers were hitting their wonder years of criminality in adolescence, the crime rates were going up throughout the 1970s. And then we saw a dip as the youth population declined in the mid-1980s, and then a very sharp increase, especially in youth homicide, between the late 1980s and the mid-1990s.

MARGOT ADLER: Now give us a picture of who these kids are as far as race, ethnicity, economic background.

BARRY FELD: The progressives who created the juvenile court intended it to deal primarily with poor children and the children of the immigrants who were pouring into the cities 100 years ago, and those are the same characteristics of juveniles in the system today. African-American youths are about 16 percent of the population, about 29 percent of the youths referred to the juvenile justice system, and about 38 percent of the youths in confinement.

MARGOT ADLER: What kinds of crimes are most of these kids committing?

BARRY FELD: Shoplifting. Or status offenses. When we look at the kinds of kids who are involved in the juvenile justice system, or about one in seven, they are referred for FBI violent crimes, which are murder, rape, robbery. About 29 percent, 30 percent are in for serious property crime, but serious property crime includes larceny, which is basically shoplifting...

MARGOT ADLER: But more than \$100...

BARRY FELD: More than \$100 or something, but having said that, it's important to emphasize that the majority of juveniles in the juvenile justice system are there for non-felony and non-violent types of offenses.

MARGOT ADLER: Barry, thank you so much for joining me.

BARRY FELD: Thank you.

MARGOT ADLER: That was Barry Feld, a professor at the University of Minnesota Law School.

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MARGOT ADLER: We've just gotten some of the background on the juvenile justice system, but since we're talking about kids who have committed serious crimes, we wanted to hear what they thought about their sentencing process. Kerry Seed, a producer with the Blunt Youth Radio Project, went to a correctional facility for teens in South Portland, Maine. He talked with some of these young offenders about they ended up there.

KERRY SEED: The Long Creek Youth Development Center in South Portland, Maine looks like any modern high school, except for a 20-foot-tall chain link fence that wraps around the entire campus. All the doors are locked; none of the windows open; security cameras dot the ceiling; young people in uniform march through the halls in columns of eight or ten, flanked by corrections officers. They criss-cross the bright linoleum, moving between living quarters, the gymnasium, the visiting area, classrooms and lock down. The reasons why they're here?

UNIDENTIFIED FEMALE: I was 14 and I got sentenced for four years.

UNIDENTIFIED MALE: I have a stronger robbery charge, assault with a lethal weapon and aggravated elevated assault, and a drug charge.

UNIDENTIFIED MALE: I had five assaults.

UNIDENTIFIED MALE: We stole firearms from a gun store, a federally licensed gun dealership. I was 15.

UNIDENTIFIED MALE: I wasn't mature. I just wanted to be part of the crowd.

KERRY SEED: How old were you, like in eighth grade?

UNIDENTIFIED MALE: Exactly eighth grade, no joke.

KERRY SEED: About 150 juvenile offenders, between the ages of 11 and 21, are locked up in the units at Long Creek. They're here for crimes ranging from shoplifting to rape. The lone girls unit is one end of the building. Four units of boys are on the other. The day they were committed to the care of the state is a day none of these kids will ever forget.

UNIDENTIFIED FEMALE: Well when you go to court, they bring you in the downstairs of the courthouse, which is grimy and dingy and there's writing all over the walls, and it's

gross. You just want to stand there. You don't want to sit down. I mean there's bathrooms...I wouldn't even think of going near them. The beds are held up by chains.

UNIDENTIFIED MALE: There were three committed kids with me so I started asking questions about what it's like to committed. I kind of got a feel for what it's like.

KERRY SEED: Many juveniles who end up in a legal system have no idea what to expect. They sit shackled and cuffed in the holding pen beneath the courthouse, waiting to be sentenced. For some, this is when reality hits.

UNIDENTIFIED FEMALE: I started crying 'cause I didn't know what was going on. I was 14 years old. My mom was crying. My brother was crying. I didn't know what I was going to do.

UNIDENTIFIED MALE: I was kind of afraid 'cause I didn't know what the court system was like, I didn't even know they had a jail for juveniles as a matter of fact. My lawyer didn't really tell me anything. I didn't even know what a court-appointed lawyer was when they were reading me my rights.

UNIDENTIFIED MALE: When I was first arrested back when I was 11, I was questioned without a guardian there and it took me a while to figure out that's not supposed to happen, and by then it was too late.

KERRY SEED: Kids who cannot afford private attorneys are appointed public defenders to represent them at their sentencing hearings.

UNIDENTIFIED FEMALE: I think they appointed me a different lawyer that day.

UNIDENTIFIED MALE: My lawyer is court-appointed. She wasn't really there; she just showed up and talked to the judge for me, pretty much said I had no other options and I should just bite the bullet and do it now rather than fight it.

KERRY SEED: Carl was 14 when he took his lawyer's advice and pleaded guilty to the armed robbery, drug and assault charges against him. Like other juveniles who go before the court, he wasn't allowed to consult with his mother, his grandmother or his older brother when he stood before the judge for sentencing. His family was powerless to advise him whether to take the plea or go to trial. Carl says he learned most of what he knows about the law from other Long Creek residents and from television.

CARL: Now that I look back at it, I think I kind of got screwed because there's a lot of ways that...a lot of things I look at about my...my discovery...things that I could've avoided or things that I could have said that would have helped me.

KERRY SEED: After the judge delivers his sentence, kids are transported to Long Creek in a paddy wagon. Each person is strip-searched by a corrections officer and issued the uniform they will wear for the duration of their sentence.

UNIDENTIFIED MALE: They gave you three sets of tan pants, three sets of white t-shirts, boxers and socks, and brought me down to a different side of the building where I just sat and waited for a program to begin.

KERRY SEED: For some of these young people, despite their challenges dealing with the legal system, their lives at Long Creek have been a mixed blessing.

UNIDENTIFIED FEMALE: I don't know if I'd go back to that day when I got committed; I don't know if I'd change my decision or not. I mean it's a good thing that it happened to me 'cause, it's, you know, kept me alive and clean and sober and stuff. But I mean this place isn't the best place for you to have your last of your teenage years and growing up. I mean you don't experience things that you would, you know, outside. You don't go to prom, you don't go to dances, you don't go out on dates, you know.

KERRY SEED: For Carl, Vanessa, Kelsey, Jeff, Ryan, Justin and Brandon, it'll be at least two years for some and six years for others until they can leave Long Creek behind. At the Long Creek Youth Development Center in South Portland, Maine, I'm Kerry Seed.

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MARGOT ADLER: Coming up, a debate about what should happen to kids who commit rape or murder, and later in the show we'll hear from a mom whose 10-year-old son was murdered. She thinks sentencing for juveniles should be tougher.

UNIDENTIFIED FEMALE: Timothy Buss chose to stab my son 53 times and now he gets to sit in prison with my money paying for him to eat everyday.

MARGOT ADLER: Don't go away.

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MARGOT ADLER: This is Justice Talking. I'm Margot Adler. On today's show: sentencing and the juvenile justice system. In this part of the program, you'll hear a debate between Deborah LaBelle and Linda Collier over whether young people who commit violent felonies should be sentenced to life without parole. Deborah LaBelle is the director of the Juvenile Life Without Parole Initiative for the ACLU of Michigan. She is the author of "Second Chances: Juveniles Serving Life Without Parole in Michigan's Prisons." And Linda Collier is the dean of social science and public services at Delaware County Community College in Media, Pennsylvania. She is a practicing attorney and criminologist. I asked Linda and Deborah if they think a 30-year-old and a 13-year-old who commit the same crime should receive the same sentence. Let's go now to our debate at the National Constitution Center in Philadelphia.

LINDA COLLIER: Well there are certain issues that come into play when we discuss the difference in sentencing between 13-year-olds and 30-year-olds. For instance, if we have

a 13-year-old who has premeditated a crime, a murder, a rape or an arson which results in death, I would think that the punishment should be at least equal in severity to a 30-year-old.

MARGOT ADLER: So for certain crimes like rape and murder...

LINDA COLLIER: For certain crimes where they result in death, I think that it is reasonable to impose a severe punishment so that that offender will not re-offend.

MARGOT ADLER: Deborah, how would you answer that question?

DEBORAH LABELLE: Well first, the life without parole sentence doesn't take into consideration public safety, because you never look at that child again, you never look at the child in 10 years, 20 years, 30 years. You keep your blinders on and you say: you're going to die in prison and we're never going to check to see if we can release you and you won't be a public safety risk. Second, it's not the same sentence, sending a 15-year-old to prison for life as opposed to a 40-year-old. Life is different. A 15-year-old will spend, assuming they both live to 50, just in raw years it's different time. It's much harsher for the juvenile.

MARGOT ADLER: Now, we're going to get into the whole question of sentencing to life without parole. Let's begin with some basic statistics. Deborah, how many juveniles have been sentenced to life without parole?

DEBORAH LABELLE: We know of at least 2,200 that are currently in the United States who are serving the life without any possibility of parole sentence right now.

MARGOT ADLER: And what is the average age of juveniles who receive the sentence?

DEBORAH LABELLE: The average age is 13 through 17. About half of the juveniles are 16 and under and about half are 17.

MARGOT ADLER: And what kinds of crimes mostly?

DEBORAH LABELLE: The crimes range from, you know, from armed robbery to homicide. The majority of the kids that are in prison for life without parole committed some sort of crime that involved a homicide, although half of the kids under the age of 16 neither intended nor killed anybody. They're in for what's called felony murder; they were along.

MARGOT ADLER: Linda, how many of the kids who were sentenced to life without parole are repeat offenders?

LINDA COLLIER: I believe the recidivism rate is about 30 to 40 percent, so that way if we incapacitate somebody, put someone in jail for life or in prison for life, then that person will not re-offend because he won't have the opportunity. And Deborah's right, we don't

go back and revisit those issues with those children who have been incapacitated. However, you don't need to go back and revisit it when you have a person who has murdered two or three people. Does that victim's family feel that that murder is different because a 13-year-old was behind the trigger than if a 40-year-old was behind the trigger? I think to that victim's family it's just the same. I think if I lost my mother, my sister, my brother, my husband to a 13-year-old, I would be just as angry as if that person was 30.

MARGOT ADLER: Now there's a very powerful statistic that Human Rights Watch came up with that said that 59 percent of juveniles serving life terms have had no prior conviction. Linda, what do you say to that?

LINDA COLLIER: I think that in those instances where children are caught up in the criminal justice system and this is their first offense, I think there were some underlying problems there and perhaps they just hadn't been exposed. Maybe they were lucky; maybe they hadn't received punishment before; maybe they just didn't get caught.

MARGOT ADLER: Some states don't sentence juveniles to life without parole. Some states have several hundred juveniles serving life terms. Have we learned anything from these disparate sentencing policies, Deborah?

DEBORAH LABELLE: Well I think a couple of things we've learned...it doesn't impact the crime rate whatsoever or the juvenile homicide rate. There's no evidence, you know, most people don't even know about this. In Michigan we did polling and focus groups, and the majority of the people had no idea that a juvenile under the age of 16 could be sent for the rest of their life, for their first crime, to prison. They don't know about it, so to think that the majority of people don't know—it's not a deterrent to kids. This is not what motivates them or stops them from committing very passion-oriented types of crime.

MARGOT ADLER: Linda, do you think it matters if states have this sentence or not?

LINDA COLLIER: I don't believe it matters. Deborah is from Michigan and I was looking at some information before I got here and Michigan actually has 306 juveniles in prison for life without parole. Pennsylvania, which is not a blended sentencing state, has 336, so there's a very negligible difference there as far as I'm concerned. So I don't think that the law on the books makes that much of a difference. It's all in the way the law's applied by the courts once the juvenile gets there.

MARGOT ADLER: Deborah, you wanted to respond?

DEBORAH LABELLE: Yeah, I think that's one of the things that's so crucial about and bizarre about this law, is that it's mandatory in many states, most of the states, and non-discretionary. So nobody gets to consider the child's status or what happened. It goes direct-file into the adult court, and if they get convicted, the judge has a mandatory duty to give life without possibility of parole. No one gets to look at the individual kid or

what happened, whether they were an aid or abettor, whether they actually did the shooting. It's one-size-fits-all justice without any consideration that these are children.

MARGOT ADLER: We're looking at the juvenile justice system here on Justice Talking and we'd like to go into our audience now for a couple questions.

AUDIENCE MEMBER: Hello, my name is Valerie Glauser. I'm from Philadelphia and I work in the treatment end of at-risk children and children who have already started delinquent behavior, and I'm talking about mental health treatment. The one thing that I'm hearing nothing about is what kind of treatment, if any, is happening within any kind of restrictive setting for these children.

MARGOT ADLER: Who would like to take this? Linda?

LINDA COLLIER: I'd just like to say that that type of treatment has to occur at a very early age and when that treatment does not occur, if for instance counselors in elementary schools see different types of abuse being heaped on children, and unfortunately they don't address it or they don't bring it to the attention of the authorities, I think that those children are failed. I think that we can't wait until a very heinous, very egregious crime like murder or rape or arson happens to say okay, well now we need to get this child treatment. By that time it's too late.

MARGOT ADLER: Deborah, aren't there some kids who are just so damaged that they can't be rehabilitated, that the safest thing in society is to keep them locked up for life?

DEBORAH LABELLE: No, I don't know, I'm certainly not that kind of prophet and I don't know any psychiatrist, doctor or religious oracle that's the kind of prophet that can say, I'm going to look at this 14-year-old kid and say you are unredeemable—no matter what happens to you, you are unredeemable. It says something very disturbing about us. I agree we have failed a number of these children, but to say not only did we fail you but we're going to give up on you entirely? And all we're saying with abolish this type of sentence is, look again. Use our skills, our knowledge, our science, our psychology, our, you know, compassion to look again and say, are you that damaged? It doesn't require that you let a child out, but it does say you can't forget them forever.

LINDA COLLIER: I like that word oracle, I really do, but I don't think that you have to lead me to the edge of a cliff to let me know that you're going to push me off. I think that I can tell by the glint in your eye and the tug on my shoulder that you're probably going to push me off and children are the same way. You can look a child and his past practices and his past behavior to know exactly what that child is capable of.

MARGOT ADLER: Now who should decide if a juvenile can be rehabilitated or conversely if a juvenile is mature enough to be tried as an adult?

DEBORAH LABELLE: Well I think that there should be hearings in which there is testimony as to who the child is, whether there's trauma in the past, and you have a whole judicial

system set up to do that, to make a decision to let... Say, you know, did you kill your father, for example, because there had been years of abuse that you were afraid to tell anyone? And I can't tell you how many kids are in that situation. But it never came out, did you go along with your older cousin because he told you if you didn't he would do something else to you and were you just there? And yes, I mean, you need to look at the individual circumstances of what happened in order to determine whether this is even a kid with... Even if you can look at a glint in the eye and determine it—I don't think you can—but nobody even looks.

LINDA COLLIER: Well, I think that, you know, that's all well and good, and I guess liberal-leaning people would like that kind of inquiry with every single situation. Unfortunately, our criminal justice situation is not set up as such. What we have done is we have entrusted our legislators to make sure that we have laws on the books so that these kinds of inquiries are unnecessary. They have decided to lower the age for waivers into adult criminal court. We have elected prosecutors who have decided whether or not a child should be waived into adult criminal court. I mean, I trust our system.

MARGOT ADLER: Let's go on to another question here on Justice Talking.

AUDIENCE MEMBER: I'm Bill from Toledo, Iowa. Do you believe it's the federal government's responsibility to set a standard age where you can hold a child culpable of committing a crime and sentencing them as an adult, or is that the states' responsibility?

LINDA COLLIER: No, I believe in federalism. I believe that the states, each individual state, should take on their own responsibility for insuring the public safety.

MARGOT ADLER: Deborah?

DEBORAH LABELLE: Well if you left it to the feds, the feds have, you know, put only one child in prison for life without possibility of parole. The states vary all over depending on what state you live in. In Michigan, for example, there's no age at which you can't be sentenced as an adult. I mean, five, six, seven—there's no age. I mean, it's sort of an absurd concept to leave it totally, I think, to each state to make a determination without setting a lower bar.

MARGOT ADLER: Linda, most scientists say that teenagers' brains are not fully developed, that they're impulsive, they don't understand the consequences of their actions sometimes. Are they young enough to change and therefore be rehabilitated?

LINDA COLLIER: I'm fearful of putting someone in prison for life, I really am. However, once you put someone in prison and they have no methods of rehabilitation in prison, you bring someone out, say someone who was housed in prison from the 1970s, and they haven't been exposed to our new technology, they haven't been exposed to a lot of different things that exist today. What are they going to do? You haven't given them another avenue to be able to develop themselves and become a contributing member of

society. I think it's wrong to expect someone who has committed a heinous crime to come out in 20 years and be a fully participating member of society.

DEBORAH LABELLE: Well that's easy to fix. I mean, you're going to send somebody to prison for life because we don't have programming that tells them about modern technology? Get the rehabilitative programs in there to help them come out.

LINDA COLLIER: It's easier said than done.

DEBORAH LABELLE: It's true, but we're talking about the life of an entire child and you don't say you're going to stay inside because you may have problems adapting to getting back into the swing of things.

MARGOT ADLER: Deborah, what's the racial makeup of juvenile offenders who are sentenced to life without parole?

DEBORAH LABELLE: Around the country it's about 62 percent minority. In Michigan it's higher than that, it's 70-some percent. And, you know, the question people often ask is well how does that relate to the homicides? And the data isn't there except that in Michigan we were able to look at county by county, and in many counties 100 percent of the juveniles who got life without parole were African-American and clearly 100 percent of the juveniles that committed homicide were not African-Americans. So we know that many of the kids who were white, who committed very similar crimes, were able to go into the psychiatric or the juvenile system. Those are issues of class and race which permeate our justice system.

MARGOT ADLER: Linda, why do you think there are a disproportionate number of black teens receiving life without parole?

LINDA COLLIER: Because I think that there are a disproportionate number of arrests. I don't think we can lay it all on the shoulders of the court system or the sentencing agents. I think that it begins at the arrest mode.

MARGOT ADLER: Now, prisons have cut back on educational programs of all kinds and prisoners serving life terms have been given limited access to educational and vocational opportunities. I'll start with you, Deborah. Some people would say, you know, why waste taxpayers' money? These people are never going to reenter society.

DEBORAH LABELLE: I think that's what the prisons have said and in fact, you know, many of the juveniles serve very, very hard time. They go into adult systems, and Michigan is not unique in this, and you have to get a high school diploma to get a prison job. They don't give them high school education because they're not going to get out, so they do time in their cells, 23/7.

MARGOT ADLER: Linda, here's an excerpt from a letter given to Human Rights Watch by an Arkansas prisoner serving a life term for murdering his father when he was 15. It was

his first offense. He wrote: "I would go to the most dangerous parts of Afghanistan or Israel or jump on the first manned mission to Mars if the state were to offer me some opportunity to end my life doing some good, rather than a slow wasting plague, to the world. It would be a great mercy to me." Linda, does it serve any purpose to just let this guy sit in jail doing nothing?

LINDA COLLIER: I don't think it serves anyone's purpose, including our own society, but I'd like to ask this particular person what he has done to improve his life. There are things he can do. Even though the Pell Grant was abolished for prison systems, for education of prisoners in college in 1994 with the Violent Crime Control Act, I think that this person could donate an organ, he could help a child, he could write a letter, he can have children come to the prison and read him books. So, I mean, there are ways that he can contribute to society from within.

MARGOT ADLER: But on the larger question of educational programs for juveniles who have been sentenced to life without parole, should we have them if we can?

LINDA COLLIER: Oh we certainly should. I like the idea of having blended sentences, I really do.

MARGOT ADLER: Blended sentences?

LINDA COLLIER: Blended sentences.

MARGOT ADLER: What does that mean?

LINDA COLLIER: Blended sentences means that when a child commits a crime, then that child is given a sentence up until he reaches the age of maturity, which is usually 21, and then after that he is reevaluated, reassessed, to see how long he should spend in the adult criminal justice system.

DEBORAH LABELLE: There are ways to deal with this out there that we just don't... We don't have the worst kids in the world; we have 2,000 in life without parole and the rest of the world has 12.

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MARGOT ADLER: Coming up, more of our debate with Linda Collier and Deborah LaBelle, and a mother tells us about her son, who she says was in the wrong place at the wrong time and is now serving life without parole.

UNIDENTIFIED FEMALE: Damon just never had a chance. He was 16-and-a-half years old with a lifetime sentence, not given a chance and made out to be a bad child, which he was not.

MARGOT ADLER: Stay with us.

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MARGOT ADLER: This is Justice Talking. I'm Margot Adler. On today's show we've been talking about sentencing for juveniles. Should teens who commit violent crimes be locked up in adult prisons? Should they be sentenced like adults? In a moment we'll continue our debate between attorneys Deborah LaBelle from the ACLU of Michigan and Linda Collier of Delaware County Community College in Pennsylvania. They disagree about whether juvenile offenders should be sentenced to life without parole. Let's return now to the National Constitution Center in Philadelphia where we recorded this debate before an audience of high school students and people who work in the field of juvenile justice.

AUDIENCE MEMBER: Good afternoon. My name is Marcus. I'm from Philadelphia. With the case of the young man recently in the news, Lionel Tate, the case where he was to serve life in prison and then he was released and then he, you know, commits a robbery, what are the programs, the remedies and servicing for this young man after he was released? Was there proper after-care upon his release?

LINDA COLLIER: I do believe that that is really a case in point for my side, for my argument, my debate. Unfortunately this young man was let out of prison. He received life imprisonment and a lot of people went to bat for him and they appealed his sentence and he was released. He went back to commit another violent crime. Unfortunately we didn't have a program in place; we didn't repair this broken, broken child. I mean, I think the best thing that we can do for any juvenile or any child is to give him an education. That way he has choices, he has options, he can assess for himself; he can get out into the world and become a contributing member of society.

MARGOT ADLER: So you would agree. I bet you're both on the same page on this one.

DEBORAH LABELLE: I would agree, and you know there are billions of dollars out there that we're now using to keep kids in prison 'til they die that could be available for much better preventive uses.

LINDA COLLIER: Sure.

MARGOT ADLER: The Supreme Court found in *Roper vs. Simmons* in 2005 that children are categorically less culpable than adults and therefore juveniles cannot receive the death penalty. Do you think that this should apply to life without parole? Linda?

LINDA COLLIER: I don't think the inquiry's the same. I don't think we can equate the Roper case with the current cases that we have for life without parole because I think that there were other issues that were involved in that case that have not come to bear with these children. So no, I don't, I don't equate the two as being the same.

MARGOT ADLER: And you Deborah?

DEBORAH LABELLE: Sure. I mean, Roper makes the decision that says kids are different so they shouldn't get the same punishment as an adult. They're not as culpable and they're more capable of rehabilitation. The same applies to the ultimate sentence of life without possibility of parole or dying in prison.

MARGOT ADLER: We've been talking about sentencing mostly, but let's talk a little bit more about prevention. Do either of you think that there's anyway to affectively reduce juvenile crime in our society? Deborah?

DEBORAH LABELLE: I think there are some programs out there. I agree on the issues of treatment and education. The crime rate is quite down right now, juvenile crime is down, but certainly we need a lot more programs for substance abuse issues, and the majority of these kids, not all of them, but a large proportion, have a history of being abused as kids. That kind of treatment and intervention I think will go a long way toward diverting people from acting out.

MARGOT ADLER: Linda?

LINDA COLLIER: I do agree with Deborah, another point we agree on. My one thing is, though, I do think that we can get with the families. I don't think we've done enough to encourage proper parenting. And I think if we took those steps, perhaps we could eliminate some of the juvenile crime also.

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MARGOT ADLER: That was Linda Collier and Deborah LaBelle. Linda Collier is a dean at Delaware County Community College in Pennsylvania and Deborah LaBelle is the director of the Juvenile Life Without Parole Initiative for the ACLU of Michigan. They joined me at the National Constitution Center in Philadelphia.

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MARGOT ADLER: As we just heard, my guests have strong opinions about juvenile sentencing, particularly when it comes to sending a teenager to prison for the rest of his or her life. It may be that your opinion about juvenile sentencing is informed by your experience of crime or the correction system. That's true of my next two guests. I spoke with two moms who in a way have both lost their sons: one was the victim of a horrific murder, and the other got a life sentence for a crime he says was an accident. Pamela Todd's son Damian was convicted in 1986 of murder in the first degree, assault with intent to commit murder and a firearms felony. He was 17 at the time of the crime and received life without parole. Pamela joins me from Detroit. Pamela, tell me a little bit about your son Damian and what he was like when he was growing up.

PAMELA TODD: Damian was my pride and joy. He was a happy, jolly young boy.

MARGOT ADLER: And I gather that in school, in high school, he was a model student?

PAMELA TODD: Oh Damian had never been in any trouble. He was very active in the community and very active in the church. He played a lot of sports and was very popular in the community and school. Everywhere he would go, he would touch...it was like he would touch gold.

MARGOT ADLER: Now tell me what happened to Damian the night of the party. First of all, how old was he at the time?

PAMELA TODD: He was 16.

MARGOT ADLER: And what happened that night?

PAMELA TODD: Damian was invited to a party that evening. It was a neighborhood party, like a back-to-school party. There was a fight going on and some shooting, so Damian, he immediately got back in the car and started heading towards home. This car came behind him and had their lights flashing on so Damian said why are these people following us, this car with these males in it? Once they got ahead of them, they slowed down and started hanging out the window and started shooting at them. Damian had this attitude like this is my senior year, I'm not getting involved in anything, let's go home.

MARGOT ADLER: And as I understand it from the story that I heard, Damian was in the front seat and someone handed him the gun.

PAMELA TODD: The guy said, "Here, Damian." Damian said: "Man, I don't know how to use that and I don't want to shoot nobody. I didn't come back here to kill anyone." When Damian went to reach for the gun, the gun went off.

MARGOT ADLER: I gathered one person got wounded and one person died.

PAMELA TODD: Yes. The guy who started the whole incident, he got wounded. What Damian didn't know until the next day was that the young lady—someone had gotten shot.

MARGOT ADLER: Now you attended the trial?

PAMELA TODD: Yes I did.

MARGOT ADLER: And what was that like?

PAMELA TODD: A nightmare. A very biased judge, who ignored everything—he played judge and jury.

MARGOT ADLER: Let me ask you what sentence Damian received.

PAMELA TODD: Life without parole.

MARGOT ADLER: Well, tell me Pamela, tell me what Damian is doing nowadays in jail.

PAMELA TODD: Trying to get a second chance together, trying to get himself out so he can go on with his life.

MARGOT ADLER: Do you visit him and if so, how often?

PAMELA TODD: Yes, I try to visit him at least once a week.

MARGOT ADLER: And what's that like?

PAMELA TODD: Heartbreaking. Every time I'm in... I come there... It's very depressing because I know Damian don't belong there. If he was a bad child I could see some of this happening to him, you know, everybody needs to pay or get punished for what they do wrong. But Damian just never had a chance. He was 16-and-a-half years old with a lifetime sentence, not given a chance and made out to be a bad child, which he was not a bad child.

MARGOT ADLER: Do you think that the sentence of life without parole should be banned for juveniles?

PAMELA TODD: Yes I do, because when you're young, your mind is not mature enough. I've been young. I've done some crazy stupid things. You know, crazy things. Give them a chance to come out. He went in as a boy and now he's a man. He has been in there 19-and-a-half years. Give my child a chance. Give some of these young men a chance. Give them a chance to show that they have matured, that they've learned a lesson, although some are hard.

MARGOT ADLER: What would you say to the mom of the girl who was killed or to the mother of any victim who thinks that somehow by putting young men behind bars for life that the world will be safer?

PAMELA TODD: Well my heart goes out to Miss Rucker. Every day I pray for her and her child because it could have been one of my girls. You know, Damian wasn't a bad boy. A lot of these young boys were bad. They just do stupid things. Young boys do things for attention and then some, because they're young black boys, they get labeled before they even make a move.

MARGOT ADLER: One last question. Tell me a little bit about Damian, what his future looks like.

PAMELA TODD: I just leave that in God's hand because they're trying to make it that he has no future. They gave him life without parole. I'm glad that my son believes in prayer and he knows God will make a way out of no way because he was raised that way and

this is something that has been instilled in him. Keep on hoping. Never let go of hope 'cause hope will open the doors for you along with prayers, and it'll make a way. As long as he keep his faith and keep a clear head and keep a stable mind, a positive attitude, and continues doing positive things, he'll be home.

MARGOT ADLER: Thank you so much.

PAMELA TODD: Oh it's been a pleasure, as always.

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MARGOT ADLER: That was Pamela Todd, whose son Damian has been in prison for 19 years and is serving a life sentence with no chance for parole. Mika Moulton's son Chris was murdered when he was 10 years old. He was killed by a man who was out on parole for a murder he committed when he was 13. Mika says that a sentence of life without parole for her son's killer would have saved her son's life. She joins me from Arlington, Virginia. Mika, why don't you start by just telling me about the day your son Chris went missing.

MIKA MOULTON: It was a Monday, a typical hot summer, humid day in Illinois and we had just been doing the usual things and he and his brother and sister wanted to go down to the river which was about two blocks from our house. This is a small town, about 700 people, a little village outside of another community. Then Chris had told the other kids that he was going to go and he got on his bike to leave, and apparently this guy followed him out of the parking lot, down by the river there. Chris didn't come home and I proceeded to call the police because that wasn't like him at all. And we did a search. The police searched, and the dogs, and the fire department, and it just escalated from that point.

MARGOT ADLER: And finally he was found?

MIKA MOULTON: Eight days later two police officers in a neighboring county in the middle of the night were doing their regular beat. Everybody was on... There were thousands of people involved in searching. I mean this has been eight days, the media's been...

MARGOT ADLER: And we should say that he was 10 years old.

MIKA MOULTON: Yes, 10-and-a-half at the time.

MARGOT ADLER: Did you know about Timothy Buss, the man who killed your son? Did you know about him or his previous conviction?

MIKA MOULTON: I was like, who's Timothy Buss? And nobody would tell me who he was. After a lot of teeth-pulling, practically, I finally got it out of my mom, who he was and what he had done before.

MARGOT ADLER: That he had murdered a five year old girl when he was 13-years-old?

MIKA MOULTON: Yes. He was 13 and he brutally, brutally murdered a little neighbor girl.

MARGOT ADLER: So at that point he was arrested and you attended the trial.

MIKA MOULTON: Oh yes, I didn't miss anything. I was there for every pre-trial hearing, motion, everything.

MARGOT ADLER: And what sentence did Buss end up with?

MIKA MOULTON: The jury, after a very short deliberation, found him guilty and then during the sentencing...after again a short deliberation during the sentencing, he was given the death penalty.

MARGOT ADLER: But then, as I understand it, Governor George Ryan, when he overturned the death penalty in Illinois, Timothy Buss was one of the people affected by that decision?

MIKA MOULTON: Yeah, because the Governor chose to do a blanket commutation of all of the death penalty cases and although Timothy Buss chose to stab my son 53 times and castrate him and brutally mutilate his body and bury him in a shallow grave, apparently that doesn't warrant a death penalty because the Governor decided to commute all of the sentences. And now he gets to sit in prison with my money paying for him to eat everyday.

MARGOT ADLER: We're doing a show on juvenile justice here and we're doing part of that show on the whole question of the sentence of life without parole for teenagers. What's your own feeling about that?

MIKA MOULTON: Well, a teenager that would commit as heinous a crime as what Timothy Buss did, that's not an accident, that was a thought-out process, and there were lots of situations that showed that he was a bad seed from the beginning, that Buss was just not a regular kid. I have a 13-year-old son and my biggest dilemma with him is making sure he gets to bed on time, you know, and Buss was strangling kids at school, you know, and trying to choke them and so much that led up to it, and like I said, he was a bad seed. And he should not have been let out. If he were in prison like he should have stayed in prison for killing Tara Sue, the little girl, five years old—she was just a five year old little girl. If he was, you know, my son would still be alive, if he had spent his life in prison like he should have.

MARGOT ADLER: What would you say to Timothy Buss' mother or the mother of any child who has committed a serious crime such as murder?

MIKA MOULTON: There's really nothing to say to them. They know what they've done or haven't done, and I guess I would just hope and pray that they could find some peace within themselves for not doing what they were supposed to do.

MARGOT ADLER: I guess also in some sense, living with losing a son in a different way?

MIKA MOULTON: You know, after the trial, you know, it was very sad because I thought about that. His family also had a loss. They didn't live up to their responsibilities. They continued, and apparently still to this day, continue to think he is innocent. And that's their right, but it was, it is, it's a loss for them as well.

MARGOT ADLER: Thank you so much, Mika, for talking with me.

MIKA MOULTON: Okay, thank you.

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MARGOT ADLER: That was Mika Moulton whose son was murdered by a convicted felon out on parole.

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MARGOT ADLER: We've heard several different points of view today on the issue of juvenile sentencing. Now let's hear yours. Go to our website, [justicetalking.org](http://justicetalking.org), where you can tell us what you think about life without parole for juveniles. Until next week, I'm Margot Adler.

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