

Ugly Truth: Most U.S. Kids Sentenced to Die In Prison Are Black

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This is the second in a two-part series on juvenile life without parole. Read [Part One here](#).

On Monday the U.S. Supreme Court heard two cases that could have major implications for the way juvenile offenders are treated in our criminal justice system. *Sullivan v. Florida* and *Graham v. Florida* both involve men who are serving life without the possibility of parole for crimes they were convicted of as teenagers — crimes in which no one was killed.

Joe Sullivan was only 13 years old when he was accused of sexually assaulting a 72-year-old woman in her Pensacola, Fla., home, hours after he and a group of older teenagers robbed her house. Sullivan, who reportedly suffers from mental disabilities, insisted that, while he participated in the robbery, he did not commit the rape. But his co-defendants, 15-year-old Michael Gulley and 17-year-old Nathan McCants, 17 pinned the crime on him. Both were tried as juveniles; Sullivan was tried as an adult.

Sullivan is African American, a fact that was stressed repeatedly at trial. The victim, Lena Bruner, testified that her assailant was “a colored boy” with “kinky hair” — “he was quite black, and he was small,” she said. Bruner admitted that she “did not see him full in the face,” but she remembered him saying, “If you can’t identify me, I may not have to kill you.”

According to the *New York Times*, “at his trial, Mr. Sullivan was made to say those words several times.” (“It’s been six months,’ the woman said on the witness stand. ‘It’s hard, but it does sound similar.’ “)

Sullivan had shabby representation — his lawyer didn’t bother making an opening statement and later lost his license to practice in Florida — and his one-day trial should have cast serious doubts about his guilt. “The only physical evidence was a fingerprint lifted from a plaque in the bedroom, which could have been made during the burglary,” [wrote](#) Amy Bach in *Slatelast* week. “The clothing and other evidence have been destroyed and couldn’t be tested for DNA.” Nevertheless, he was found guilty, and at 14, Sullivan became the youngest person in the country to be sentenced to life without parole.

“I’m going to send him away for as long as I can,” the judge said.

Today, Sullivan is one of some 109 prisoners in the country whose non-homicide crimes have condemned them to leave prison only in a coffin. No fewer than 76 of those prisoners are behind bars in Florida. (Until last month there were 77, but 29-year-old [Travis Underhill](#), sentenced to life in 1999 for armed robbery, “collapsed while playing basketball at a Palm Beach County prison on Oct. 8 and died,” according to the *Miami Herald*.) The vast majority — 84 percent, in Florida — are African American. On a national level, according to Human

Rights Watch, African American youths are serving life without parole at a rate of about 10 times that of white youths.

Monday's oral arguments covered a lot of ground, including whether life-without-parole is comparable to the death penalty (which has been banned for juveniles); whether the purpose, ultimately, is about deterrence or retribution — "What is the State's interest in keeping ... the defendant in custody for the rest of his life if he has been rehabilitated and is no longer a real danger?" — whether, for sentencing purposes, there's any practical difference between a 13-year-old or a 10-year-old — or, for that matter, an 18-year-old and a 17-and-11-month-old ("the line has to be drawn somewhere.") At points, it got downright philosophical ("Why does a juvenile have a constitutional right to hope, but an adult does not?" asked Justice Kennedy.) But at the center of the argument was the question of whether children — and their potential for rehabilitation — should be judged by the same standards as that of grown-ups. "To not recognize the difference between a child and an adult is cruel and unusual," defense attorney Bryan Stevenson told Justice Antonin Scalia.

Conspicuously absent from the oral arguments, however, was any discussion of race. The one time Stevenson attempted to mention it, as one of the "arbitrary features" of the distribution of life-without-parole sentences — these prisoners are "disproportionately kids of color," Stevenson said — he was interrupted by Justice Alito, who questioned the reliability of his statistics. ("What is your response to the State's argument that these statistics are not peer-reviewed?" he asked.)

It can be tricky to pin down exact numbers when it comes to specific prison populations from state to state, particularly given the differences between sentencing statutes across the country. And states have not traditionally kept track of how many juveniles are in their adult prisons. But when it comes to juvenile lifers, there are some figures that have been widely accepted (and not contested by the state of Florida.)

"There are 73 children 14 and younger who have been imprisoned for life without parole," Stevenson told the Court. "...For the age of 13 and younger, there are only nine kids, and that's including both kids convicted of homicide and non-homicide. For non-homicide, there are only two. They are both in Florida and Joe Sullivan is one of them."

What he did not get to say is that of the vast majority of kids who are sentenced to die in prison are black.

This is unfortunate. Racism has been central to the policies that led to the rise in life sentences for juveniles in the first place — and not just in Florida. The Supreme Court may rely on legal precedents to make their decisions — but that does not mean it necessarily considers history.

The Myth of the "Superpredator"

The crime that led Joe Sullivan to life in prison took place in 1989. It was the same year that would see notorious serial killer Ted Bundy executed at the Florida state prison in Starke — an exceptional case that would capture the mood of the locals when it came to dealing with would-be-murderers. (The *St. Petersburg Times* reported that year, "Across Florida, radio stations bade 'Bye, Bye, Bundy,' while next door to the Chi Omega sorority, where Bundy killed two young women, a campus bar was offering 'Bundy fries' and 'Bundy fingers' — actually, french fries and strips of alligator meat.")

Florida serial killers aside, 1989 was also the year that a young, blond investment banker from Manhattan brutally assaulted in New York's Central Park, a horrible crime that the cops, the press and even people who lived nowhere near New York City declared solved within days. The rapists, it was decided, were five young black and Latino teenagers from Harlem. All of them would turn out to be innocent (a fact that came out only after each lost years of their lives in prison.) But in the eyes of many commentators at the time, these teenagers were the worst kind of monsters:

"They were coming downtown from a world of crack, welfare, guns, knives, indifference and ignorance," *New York Post* columnist Pete Hamill wrote in the days after the crime. "They were coming from a land with no fathers. ... They were coming from the anarchic province of the poor."

And driven by a collective fury, brimming with the rippling energies of youth, their minds teeming with the violent images of the streets and the movies, they had only one goal: to smash, hurt, rob, stomp, rape. The enemies were rich. The enemies were white.

So the country was introduced to the new urban "superpredator," as Princeton University Professor John Dilulio would brand this new prototype of youth crime. These twisted teenage thugs — described in New York as traveling in "wolf packs" that hunted innocent people upon whom to inflict their mob violence ("wilding") — were a whole new breed of criminal, he said, and existing laws were no match for their evolving standards of brutality.

Dilulio would spend the next few years spreading the gospel of the superpredator, warning that "Americans are sitting atop a demographic crime bomb."

"On the horizon ... are tens of thousands of morally impoverished juvenile superpredators," [he wrote](#) in *The Weekly Standard* in 1995. "They are perfectly capable of committing the most heinous acts of physical violence for the most trivial reasons."

The difference between teen criminals in decades past, he argued in his book, *Body Count*, amounted to "the difference between the Sharks and the Jets of *West Side Story* and the Bloods and the Crips."

"It is not inconceivable that the demographic surge of the next 10 years will bring with it young criminals who make the Bloods and the Crips look tame."

But how real was this so-called superpredator or the terrifying crime wave to come? Although the country saw a spike in juvenile crime in the early 1990s, it wasn't entirely clear what was behind it.

Some cited crack cocaine, others cited the country's changing demographics (with baby boomers' offspring entering adolescence), and others pointed to high unemployment. But in the years to come, one thing became clear: The teenage crime wave so ominously predicted by Dilulio and his political affiliates was pure fiction.

Owning up to this fact is none other than Dilulio himself, who pulled a fairly stunning 180 a few years ago, when he admitted that his influential theory of urban superpredators was wrong.

"If I knew then what I know now, I would have shouted for prevention of crimes," he [told the *New York Times*](#) in 2001. Indeed, crime among teenagers — particularly violent crime,

hit a historic low in recent years, with arrest rates of juveniles falling a whopping 49 percent between 1994 and 2004.

But the damage was already done: Throughout the 1990s, the country arrested teenagers — many of them first-time offenders — in record numbers, slapping them with long sentences previously reserved for hardened criminals.

Barry Krisberg, president of the National Council on Crime and Delinquency, wrote in 2005 that in the years that followed the hysteria over superpredators, “More than 40 states made it easier to transfer children to adult criminal courts. Educators enacted ‘zero-tolerance’ policies to make it easier to expel youngsters from school, and numerous communities adopted youth curfews. Many jurisdictions turned to metal detectors in public schools, random locker searches, drug tests for athletes and mandatory school uniforms.

The panic was bipartisan. Every crime bill debated by Congress during the Clinton administration included new federal laws against juvenile crime. Paradoxically, as Attorney General Janet Reno advocated for wider and stronger social safety nets for vulnerable families, President Bill Clinton joined congressional leaders demanding tougher treatment of juvenile felons, including more incarceration in both the adult and youth correctional systems.

Paving the way was the Sunshine State. “Florida led the country in transferring juveniles into the adult courts,” says Stephen K. Harper, a University of Miami professor who teaches juvenile law. At the same time, adult sentences were getting longer. In 1983, Florida abolished parole for most crimes, and in 1995, it got rid of parole altogether. “Adolescents were being transferred into the adult system, while simultaneously the adult system was becoming more punitive,” Harper told *AlterNet*.

Today, the results are a bit perverse. According to *Florida State Law Professor Paolo Annino*, “Florida takes the lead in placing the youngest children in the adult prison system.”

“The most recent Florida data shows, there is 1 inmate who was 10, 4 inmates who were 11, 5 inmates who were 12, and 31 inmates who were 13 years old at the time of their offense.”

Annino and Harper both point to what Harper calls the “unintended consequences” of Florida’s rush to incarcerate juveniles. “In 1983 and 1995, the Florida Legislature did not contemplate that hundreds of children would be sent to adult prison in the last two decades,” Annino wrote earlier this year. But before the Court, Florida Solicitor General Scott D. Makar defended Florida’s large juvenile lifer population, suggesting that the state knew exactly what it was doing. “I believe Florida is very balanced,” he told Scalia during oral arguments in *Graham v. Florida*.

Florida Attorney General Bill McCollum agrees. In his brief filed in *Graham*, McCollum argues that it was Florida’s brand of tough-on-crime legislation that led to falling crime rates in the late 1990s — a claim that law professors Jeffrey Fagan and Franklin E. Zimring [call](#) “as phony as last decade’s crime scare.”

“As a member of Congress in the 1990s,” they wrote, “[McCollum] promised the United States a ‘coming storm’ of superpredators as a result of a population surge of kids from fatherless homes.”

This, of course was the claim pushed by John Dilulio, the only difference being that, more

than a decade later, McCollum still seems determined to believe it.

The “superpredator” myth — and the racism that breathed life into it — has been a driving force behind the rush to incarcerate youths of color across the country for years. That the human effects would go undiscussed by the Court may come as no surprise given the justices’ routine upholding of other laws that disproportionately affect people and families of color. But in a country with 2.3 million prisoners, leaving race completely out of the decision would not just be willful ignorance; it would amount to what Bryan Stevenson has called an “appalling silence.”

**The original version of this piece contained a statistical error in the headline, which stated that all 73 juveniles sentenced to life without parole are black. AlterNet regrets the error.*

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