

# Supreme Court to consider juvenile 'lifers'

Does life without parole for minors who didn't kill constitute cruel and unusual punishment?

By David G. Savage

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Reporting from Washington - Joe Sullivan was 13 years old when he and two older boys broke into a home, where they robbed and raped an elderly woman. After a one-day trial in 1989, Sullivan was sentenced to life in prison with no chance for parole.

Terrance Graham was 16 when he and two others robbed a restaurant. When he was arrested again a year later for a home break-in, a Florida judge said he was incorrigible. In 2005, Graham received a life term with no parole.

The two young convicts represent an American phenomenon, one the Supreme Court is set to reconsider in the fall term that opens Oct. 5. At issue is whether it is cruel and unusual punishment to imprison a minor until he or she dies when the crime does not involve murder.

[According to Amnesty International](#), "The United States is the only country in the world that does not comply with the norm against imposing life-without-parole sentences on juveniles."

Nearly all of the estimated 2,500 U.S. prisoners serving life terms for juvenile crimes, the group said, were guilty either of murder or of participating in a crime that led to a homicide. But 109 inmates are serving life sentences for other crimes committed when they were younger than 18.

Sullivan's and Graham's lawyers do not claim the young men deserve to go free.

"We are not asking for Mr. Graham to be released any time soon," attorney Bryan Gowdy said. "We are asking the court to declare unconstitutional a sentence of life without parole for these crimes. It would be entirely different if Mr. Graham had a meaningful opportunity for parole."

The question will be an early test of whether Justice Sonia Sotomayor, a former prosecutor, will align herself with the court's tough-on-crime conservatives or join with its liberals to strike down prison policies perceived as going too far.

[Sullivan's](#) and [Graham's](#) cases will be heard in November. Many lawyers and prosecutors said that until the Supreme Court agreed this year to take up the issue, they were unaware of juveniles receiving such sentences.

Sullivan, now 33, has been in prison for 20 years. The Florida appeals court and the state Supreme Court refused to review his sentence. When his case reached the U.S. Supreme Court, Florida Atty. Gen. Bill McCollum [said the appeal should be dismissed](#) on the grounds that it was too late to raise the issue of cruel and unusual punishment.

A lawyer for Graham has called his client's life sentence freakish and unfair. A second youth who participated in the restaurant robbery hit an employee with a club. He was later arrested for robbing a gas station and sentenced to three years in prison. He has since been released.

Florida leads the nation in sending teenagers to prison for life with no possible parole for

crimes such as burglary, assault or rape. It has at least 77 such inmates. California and six other states also have at least one.

"This is a hidden group. They don't get a lot of attention because there was no homicide," said Paolo Annino, a law professor at Florida State University who has compiled [national data on these prisoners](#).

California officials said they were unaware of having four such inmates until they checked their database at Annino's request. Two years ago, California joined many other states in prohibiting the sentencing of young offenders to life in prison.

But that measure did not affect inmates who had already been sentenced.

Annino and others point to two trends in the 1980s that led to juveniles serving life terms. First was the national move to abolish parole, reflecting fears that violent criminals could not be safely released. Second was the increased prosecution of young criminals as adults.

In defense of its life-in-prison policy, Florida's lawyers have pointed to several deadly attacks on European visitors carried out by young criminals.

These violent incidents were "threatening the state's bedrock tourism industry," Florida's lawyers said in the opening paragraph of their [brief to the Supreme Court in the Graham case](#).

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