

# How young is too young for life in prison?

March 21 2012, By Greg St.Martin

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The U.S. Supreme Court will begin hearing arguments on Tuesday in two murder cases that Northeastern law professor Mary O'Connell (above) says could have a far-reaching impact on legislation. Credit: David Leifer

On Tuesday, the U.S. Supreme Court will hear oral arguments related to two separate murder cases in which 14-year-olds were sentenced to life without parole. The court will take up the constitutionality of such a sentence for juveniles. Northeastern University news office asked Mary O'Connell — a professor in Northeastern's School of Law with expertise in youth and family law — to examine the impact of the court's ultimate ruling and explain how juvenile cases are handled differently than adult cases.

**What is the significance of this case and how much of an impact could the court's decision ultimately be?**

It could be extremely far-reaching. The 1980s spawned a great deal of “tough on crime” legislation and practices in reaction to issues such as an uptick in juvenile crime and the crack epidemic. This, in turn, led many states to adopt legislation making it easier for courts to try juveniles as adults. While all 50 states have different laws, the states are bound to U.S. [Supreme Court](#) rulings. Since the “tough on crime” era, we’ve been slowly backing away from it. In 2005, the Supreme Court outlawed the death penalty for juveniles (*Roper v. Simmons*), which was a huge step in this direction. I suspect that the oral arguments starting this week will have the same tenor as those that proved successful in the 2005 case.

Over time, an ethic of accountability and responsibility has emerged that is imposed on everybody. There is a belief that if you’re old enough to look like an adult, then you should be held as accountable as anybody else. I think *Roper v. Simmons* has veered us away from this perception, and I hope this case does so even more.

**It’s been suggested that the defendants’ lawyers will argue that adolescent brains aren’t as fully developed as adults, and therefore adolescents shouldn’t be held to the same standard. Is this a valid argument?**

There is a lot of literature now suggesting that people under a certain age don’t have the same judgment as adults. That doesn’t mean a murder committed by an adolescent should be condoned, but it does mean that an adolescent is just not the same as someone who commits the same act at 35 or even 25 years of age.

This argument was used in the 2005 case, and I would expect it to be used again here because it was successful — and there is even more brain science now than seven years ago. There’s also been a change in the country in how we feel about crime. Generally speaking, juvenile crime

has been on the decline since the mid-1990s, and there's been greater pushback on the death penalty. The 2005 decision shocked me, given the conservative makeup of the court. I have a relatively strong feeling that it will be same result here as in 2005.

## **Do recidivism rates and defendants' remorsefulness play a role in how courts punish juveniles convicted of violent crimes?**

Given that many laws impose mandatory sentences for certain crimes, judges sometimes don't have much leeway. An offender's remorsefulness, however, can play a factor in sentencing and more so in parole hearings.

This year, our law students have been working on a project to track recidivism rates in states that had different systems for sealing or expunging juveniles' records. Generally, recidivism research isn't happening on a large scale nationwide because it is expensive to track someone's path over a long period of time. We found, however, that a few states investigated how quickly juveniles reoffend in cases of lower-level crimes. Interestingly, we found that if a juvenile doesn't commit another crime for 18 months, he or she is unlikely to recommit at all.

My law students and I also worked for about 10 years with kids in foster care, which had led us to believe that if kids can get through the treacherous passage between the ages of 13 and 16, they're likely to stay on a good path. Teenagers tend to get themselves into trouble before they're old enough to perceive the consequences. I believe that if most kids can be guided through these years, they'll continue to develop their judgment.

Provided by Northeastern University

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