

HUMAN RIGHTS WATCH

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December 13, 2006

The Honorable Christine Gregoire
Washington State Governor
Legislative Building
302 – 14th Avenue S.W.
Olympia, Washington 98504

Re: Clemency Petition for
Barry C. Massey, Jr.
Institution Number 942583

Dear Governor Gregoire:

Human Rights Watch urges you to follow the recommendation of the Washington State Clemency and Pardons Board to reduce Barry C. Massey Jr.'s sentence from life imprisonment without the possibility of parole to twenty-five years in prison. Mr. Massey was 13 years-old at the time of his offense, and his sentence to life without the possibility of parole violates international law and nearly universally-accepted sentencing norms.¹

In the October 2005 report, *The Rest of their Lives: Life without Parole for Child Offenders in the United States* Human Rights Watch and Amnesty International found that at least 132 countries have rejected life without parole as a sentence for child offenders. Only 13 countries outside of the United States have laws permitting children to be sentenced to life without parole and in practice the sentence is rarely used. Outside of the

¹ Article 37(a) of the Convention on the Rights of the Child states, "Neither capital punishment nor life without the possibility of release shall be imposed for offences committed by persons below eighteen years of age." The United State signed this convention, the world's most universally ratified treaty, in 1995 and is therefore obligated to refrain from acts that would defeat its object and purpose.

United States, there are only approximately *twelve* individuals serving life without parole for crimes committed as children. In the U.S. there are at least 2225.² There is a growing movement in this country and internationally to abolish this practice.³

An important point of comparison in Mr. Massey's case is that even in the United States the sentence is rarely used for children who are just thirteen years old. Only .05 percent of children sentenced to life without parole were thirteen years old at the time of the offense. Just 2.2 percent nationally were age 14, and 13.3 percent were fifteen years old. Of the U.S. states that still impose life without parole on children, the vast majority reserves the sentence for older youth. Eighty-four percent of those serving this sentence as a child offender were either sixteen or seventeen years old at the time of the crime.

Children can and do commit horrible crimes. When they do, they should be held accountable but in a manner that reflects their special capacity for rehabilitation. The Pierce County Prosecuting Attorney argues that Mr. Massey's age at the time of the crime and his mental age of 9.9 years old are factors only relevant at the declination hearing and the decision of whether to try Mr. Massey as an adult. This argument ignores not only the significant body of knowledge on brain science and adolescent development that has emerged since Mr. Massey's conviction, but the fact that the issue of age is not simply a question of jurisdiction. The age of the offender directly bears on amenability to rehabilitation, and thus is relevant to the length of sentence. Young people are more likely to respond to rehabilitative efforts. The Clemency and Pardons Board has reviewed and accepted evidence demonstrating that Mr. Massey has been rehabilitated.

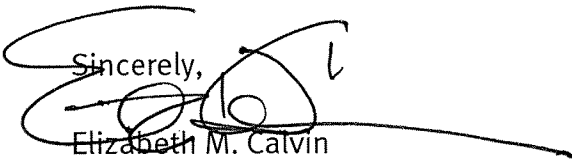
The United States is far out of step with international norms in its use of life without parole for child offenders. Washington State is out of step even with those jurisdictions that impose the sentence on juveniles: 97.8 percent of cases in the U.S. are for youth older than Barry Massey. Before you is the case of a 13 year old with developmental delays. It is a case where the facts of the crime, scientific knowledge

² *For the rest of Their Lives: Life without Parole for Child Offenders in the United States*, Human Rights Watch and Amnesty International (October 2005). <http://hrw.org/reports/2005/us1005/>

³ In the spring and summer of 2006 the United Nations Committee against Torture and the Human Rights Committee adopted Concluding Observations that criticized the United States for sentencing child offenders to life without parole. This fall the United Nations General Assembly adopted a resolution calling for abolishment of LWOP. In November the UN Study on Violence against Children was released and LWOP is discussed in a section on "violence as a sentence." The report outlines recommendations for legal reform. In the U.S., Colorado, Illinois, Iowa, Michigan, and Mississippi are some of the U.S. states in which there are growing legislative and legal efforts to end the use of LWOP for juveniles.

about adolescent culpability, and Mr. Massey's efforts at rehabilitation have been carefully considered by the Clemency and Parole Board. We urge you to follow the recommendation of the Board and lead Washington State into compliance with international law.

Sincerely,



Elizabeth M. Calvin
Children's Rights Advocate