



# YOUNG LIVES

## The juvenile death penalty

Victor L Streib

While the sentencing to death of juvenile offenders has remained fairly consistent over the past two decades, the actual execution of such offenders has been much more sporadic. For example, the early 1990s experienced an increase in actual executions of juvenile offenders. One juvenile offender was executed in 1990, another in 1992, and four during the last six months of 1993. These six executions of juvenile offenders comprise two-thirds of all juvenile offender executions in the entire period following resumption of capital punishment in 1973. In contrast, and perhaps reflecting the sporadic nature of such execution patterns, no juvenile offenders have been executed since 1993. During this same recent period, Florida made national and international headlines with high profile homicide arrests of juveniles, some as young as thirteen. In the past decade, homicide arrests of adults have risen about 25%. In that same period, homicide arrests of juveniles have risen about 170%.

### The ultimate punishment

More than a few observers of this recent wave of juvenile homicide have announced that the death penalty for

juvenile offenders is or should be the American people's solution of choice for this criminal justice nightmare. The spate of early 1990s executions of juvenile offenders seemed to suggest that they were right. However, my research suggests these prognosticators are not correct as to death sentencing of juvenile offenders, at least not yet. In fact, a juvenile arrested for homicide today is apparently less likely to be sentenced to death than in the past.

Actual execution of such condemned juveniles began in 1642. In the three and one half centuries since that time, a total of 346 persons have been executed for juvenile crimes. While these 346 juvenile executions were imposed by thirty-eight states in the federal government, they constitute only 1.8% of the total of about 18,922 confirmed American executions since 1608.

Nine of these executions have been imposed during the current era (1973-present). These nine recent executions of juvenile offenders are less than 3% of the total of about 330 executions, a somewhat higher rate than had been experienced prior to 1973.

Currently, thirty-eight states and the federal government have statutes authorising the death penalty for certain forms of murder. Of those thirty-nine death penalty jurisdictions, fourteen (36%) have expressly chosen age eighteen at the time of the crime as the minimum age for eligibility for that ultimate punishment. Another four (10%) have chosen age seventeen as the minimum. The other twenty-one (54%) of the death penalty jurisdictions use age sixteen as the minimum age, either through an express age in the statute (nine states) or by court ruling (twelve states).

### Death wait

The rate of juvenile death sentencing fluctuated considerably in the early years of this current era but then settled into a consistent annual rate of about 2% of total death sentences in the mid-1980s. A change occurred from 1987 to 1989 when the juvenile death sentencing rate dropped considerably, presumably deterred by the cases then pending before

the United States Supreme Court. In the 1990s, the rate appears to have returned to the previous pattern - an annual rate of about 2% or 3% of all death sentences.

## The paradigm case of the juvenile offender on death row is that of the 17 year old African-American or Hispanic male whose victim is a white adult.

Of these 144 juvenile death sentences imposed in the current era, only forty-seven (33%) remain currently in force. Nine (6%) have resulted in execution, and eighty eight (62%) have been reversed. Thus, for the ninety-seven juvenile death sentences finally resolved (excluding the forty-seven row inmates remaining under juvenile death sentences but still litigating them), the reversal rate is 91% (88/97). As of June 30, 1996, forty-seven persons were on death row under death sentences received for juvenile crimes. These forty-seven condemned juveniles constitute just over 1% of the total death row population of about 3,212. Although all were aged sixteen or seventeen at the time of their crimes, their current ages range from seventeen to thirty-seven. They were under death sentences in twelve different states and had been on death row from five months to over seventeen years. Texas has by far the largest death row for juvenile offenders now holding seventeen (36%) of the national total of forty-seven offenders. The paradigm case of the juvenile offender on death row is that of the 17 year old African-American or Hispanic male whose victim is a white adult. ■

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