

Resentencing “Juvenile Lifers”

**How does this affect victims and the
parole process?**



**The information contained in this guide was a collaborative effort
from the Office of Victim Advocate, Department of Corrections and
the Board of Probation and Parole.**

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What do the laws mean?

In June 2012, the United States Supreme Court ruled 5-4 in *Miller v. Alabama* that it is unconstitutional to sentence a juvenile ~ someone who was under the age of 18 at the time the crime was committed ~ to a mandatory life without parole sentence. The *Miller* court decision did not determine if the decision should be applied retroactively and left that question to the states to answer. In 2013, the Pennsylvania Supreme Court decided in *Commonwealth v. Cunningham* that *Miller* was not retroactive.

In January 2016, the United States Supreme Court disagreed. The court ruled in *Montgomery v. Louisiana* that *Miller* should be applied retroactively and should apply to cases decided prior to the 2012 court ruling. The *Montgomery* court ruling means that juvenile offenders previously sentenced to mandatory life without parole **can seek to be resentenced** by the trial court.

The Pennsylvania Supreme Court has issued a ruling on the “juvenile lifer” issue which gives a bit of clarity on the procedural path these types of cases will take. In non-legal language it says:

With the *Montgomery* ruling, every “juvenile lifer” in PA now has the right to file a PCRA (Post Conviction Relief Act) petition. Their case will be heard by the county court that has jurisdiction over their sentence.

The ruling did not provide any clarity on a sentence structure for this process so that determination is up to the discretion of each state or county to determine.

What is Pennsylvania’s status?

Pennsylvania has the largest number of individuals ~ approximately 500 persons ~ who were juveniles at the time they committed their crimes and were later sentenced to life without parole. In Pennsylvania, a life sentence excludes the possibility of parole. However, if a person’s sentence is modified, they may be considered for parole as is required by state law.

It must be noted the term “juvenile lifer” is often misunderstood or misused. This phrase applies only to the age of the offender at the time of the crime. It does NOT apply to the offender’s current age. The age range for these offenders now is 40-80 years old. Most have been incarcerated for the past 30 years or more. And, if paroled, these individuals are facing a society that has changed greatly during their incarceration. Others may need geriatric care.

In response to the issues surrounding “juvenile lifers”, the Pennsylvania General Assembly enacted legislation for convictions **AFTER** June 24, 2012. The law now states:

For a 1 st degree murder conviction		For a 2 nd degree murder conviction	
Age 15 to 17	Minimum of 35 years to life	Age 15 to 17	Minimum of 30 years to life
Age 15 or younger	Minimum of 25 years to life	Age 15 or younger	Minimum of 20 years to life

Life without parole remains a discretionary option for both charges of murder.

What could happen next?

“Juvenile lifers” must apply for a PCRA in their committing county. If the PCRA is granted, the offender will have a resentencing hearing. Victims are granted the opportunity to provide a victim impact statement. **IF** the “juvenile lifer” is re-sentenced, they may now be eligible for a parole interview.

IF offenders are resentenced:

- The Department of Corrections (DOC) ensures the juvenile offender has an opportunity to complete necessary programming.
- The Pennsylvania Board of Probation and Parole (PBPP) will interview the offender for parole consideration.
- The Office of Victim Advocate (OVA) will reach out to registered victims to review their legal rights to address the decision makers regarding their thoughts on parole.
- The PBPP would render a decision, and the OVA would inform registered victims of that decision immediately.

Additionally, a judge could order a new sentence for the offender of “time served” and require an extended probation period for the offender in the community.

DOC’s Role



- Since 2015, the DOC has prioritized programs for juvenile offenders so that those offenders were prepared for a favorable decision from the United States Supreme Court in *Montgomery*.
- The DOC has no formal or legal role in any sentencing or paroling decisions. Sentencing and paroling determinations are independently made by the courts and the PBPP, respectively. The *Montgomery* decision does not constitute a “get out of jail free” program.

PBPP’s Role



- Any eligible offenders will be added to the docket for consideration for release onto parole
- Work with OVA to ensure a seamless process for victims to provide in-person testimony or any other comments they choose to provide.
- Make paroling decision and supervise offenders if they are released.

OVA’s Role



- Will continue to engage registered victims whose cases are impacted by the recent ruling.
- Actively seek unregistered victims to ensure they fully understand the impact of this ruling on their respective cases.
- Work with district attorneys to understand how the cases will be handled at the local level.
- Work with DOC to encourage “juvenile lifers” participation in Victim Awareness and Impact of Crime classes
- Meet with the PBPP to ensure that interested victims have the ability to provide input (including in-person testimony) to the PBPP should “juvenile lifers” become parole-eligible.

Local Advocates’ Role



- Contact all affected victims about impact.
- Work with OVA to ensure all agencies have the same and correct information.
- Provide notification, accompaniment and assistance if resentencing occurs.
- Provide OVA’s information to victims who aren’t registered and/or register the victims with our office.

Understanding parole basics

Parole is the release of an inmate from prison prior to his or her sentence's maximum date, but after the minimum sentence date, to continue serving the balance of the sentence under supervision in the community. Parole is a conditional release that requires parolees to abide by rules that do not apply to other members of society. In Pennsylvania, parole is a privilege, not a right; it is not automatic or guaranteed.

Inmates who have served their minimum sentence are eligible for parole consideration. As a discretionary parole state, offenders are given a minimum and maximum sentence date by the judge. State sentenced offenders must serve the minimum amount of time in prison before they can be considered for parole and - if granted parole - will remain on parole supervision until their maximum sentence date.

If a "juvenile lifer" is re-sentenced, how does the parole process work?

After an offender is re-sentenced, the DOC will receive the court paperwork and a new sentence status summary will be created and sent to PBPP. PBPP staff will place the offender on the appropriate interview schedule. If the time is served, it will be the next available docket. PBPP will request an official version of the offense, as required by law, if one is not available. PBPP staff prepares the offender for their parole interview.

PBPP has specialized agents ~ ASCRA (Assessment, Sanctioning and Community Resource Agents) ~ trained to conduct educational and cognitive behavioral group sessions. ASCRAs will conduct sessions with "juvenile lifers" at each institution on topics such as parole education and living under supervision. ASCRAs will assist on making offenders aware of services available upon release

PBPP has reentry parole agents who specialize in issues related to the transition from prison to the community. Reentry agents conduct classes for living under supervision, employment, cognitive interventions, financial issues, victim awareness, healthy living, relations and mental health.

"Juvenile lifers" will receive a photo ID from PennDOT and a birth certificate.

For the parole interview:

1. Victims will be given the opportunity to provide in-person testimony prior to the parole interview.
2. A pre-parole interview will be conducted by staff with the offender to help prepare the offender for the parole interview.
3. The offender is interviewed by the PBPP. The PBPP will consider the same factors required by law for adults.
4. If paroled, the offender will be placed in a community corrections center and then transitioned to an approved home plan. This process could take up to one year.

VICTIM REGISTRATION (Registrations are voluntary and confidential)

Who is eligible?

- Adult victims (18 years of age or older)
- Parents/legal guardians of minor victims (until the minor reaches 18 years of age)
- Parents/legal guardians with power of attorney for incapacitated adult victims
- Family members of homicide victims

How can victims register?

- Call 1.800.563.6399 during regular business hours: Monday-Friday, 8 am-5 pm
- Register thru the online form on OVA's website at www.o.va.pa.gov and mail in the form or email to ra-ovainfo@pa.gov