

March 17, 2009
2650 Pierce Street
San Francisco, CA 94123

The Honorable Mark Leno
California State Senator
Chair, Public Safety Committee
State Capitol, Room 4061
Sacramento, CA 95814

Via facsimile: (916) 445-4722

RE: Support for SB 399 – The Fair Sentencing for Youth Act

Dear Senator Leno:

I am a former Assistant United States Attorney and current Adjunct Professor in Criminal Procedure at the University of California Hastings College of the Law. As a federal prosecutor from 1986-1990, my practice long focused on violent criminal organizations and perpetrators, and I am strongly committed to the functions of personal accountability and deterrence in our criminal justice system. That said, I strongly support passage of SB 399, the Fair Sentencing for Youth Act.

For almost 20 years, California law has permitted children as young as 14 years of age to be sentenced to life in prison without the possibility of parole. This sanction is extraordinary and draconian, and has been disallowed by a number of state legislatures. Indeed, the United States is the only country in the world that countenances the imposition of life without sentences parole on children under the age of 18 years. I object to the sentencing option for many reasons. First and foremost, the option unconscionably forfeits the state's larger responsibilities towards its juvenile offenders. Second, as enforced in California, the option produces stunning racial disparities; black youth are sentenced to life without parole at a per capita rate of 18 times that for white youth. Finally, the option results in approximate gross incarceration expenditures of \$40,000 annually for every juvenile sentenced; a staggering amount when projected over the life expectancy of an individual first sentenced as a child.

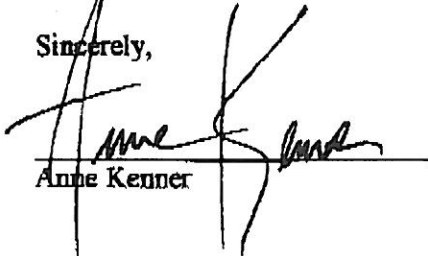
My greatest concern about Juvenile Life Without Parole (JLWOP) sentencing is its failure to acknowledge scientific verities about adolescent development. Recent medical findings conclude that the adolescent brain is not fully formed until well into early adulthood, and that young people do not have adult levels of judgment, impulse control, or ability to assess risks. For this reason, the U.S. Supreme Court recently stated that "it

would be misguided to equate the failings of a minor with those of an adult." In fact, the vast majority of youth "age out" of the type of behavior that leads to crime. California's JLWOP sentencing allowances simply ignore this reality, and our obligation as a community to offer young people a chance at redemption and rehabilitation.

I believe that SB 399 properly allows California to begin to redress the fallout from JLWOP sentences while simultaneously ensuring that dangerous juvenile offenders are held accountable for their criminal behavior. Senate Bill 399 provides for review and adjustment of a JWLOP sentence only after the inmate has served a substantial portion of a life sentence, and only after a stringent review procedure discloses that the inmate has satisfied rigorous behavioral and rehabilitative criteria. These reviews occur periodically during the course of a juvenile life sentence, and fully involve the Department of Correction and Rehabilitation, the Board of Parole Hearings, the sentencing courts, and victim representatives. The bill is carefully drawn and appropriately specific, providing a necessary balance between the state's goals of deterrence, incapacitation and rehabilitation of its inmate population.

I urge you to support this important piece of legislation, and thank you for your time and attention.

Sincerely,



Anne Kenner

cc: Senator Leland Yee via facsimile: (916) 327-2186
Human Rights Watch via facsimile: (310) 477-4622

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