



March 18, 2009

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

Via facsimile: (916) 445-4722

Post Conviction
Justice Project

Supervising Attorneys

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

Dear Senator Leno:

The Post-Conviction Justice Project at the University of Southern California's Gould School of Law, a clinical program providing the opportunity for supervised law students to represent life term inmates in parole and habeas matters, strongly supports passage of SB 399, the Fair Sentencing for Youth Act.

In our work with life term inmates, we witness firsthand the successful rehabilitation of those who commit the most serious crimes. Many of our clients committed their life term crime at a young age as the result of rash and impulsive choices made in times of extreme emotional stress or after years of abuse. The possibility of parole offers them hope and the incentive to examine their failings and truly reinvent themselves. All of us -- the prison system, the people of California, and those wronged by their actions -- are better for each inmate who does the hard work of rehabilitation and is able to give back to society. This opportunity should be afforded to all juvenile offenders for all the reasons below.

In California, youth as young as 14 years old are sentenced to life in prison without the possibility of parole. It is, in essence, a sentence to die in prison. Senate Bill 399 provides review of these cases after a youth offender (someone below the age of 18 at the time of the offense) has served a substantial amount of time in prison. It is an important piece of legislation because it protects public safety while at the same time recognizing that youth commit crimes for different reasons than adults and have a much greater capacity for rehabilitation. SB 399 holds youth accountable but also provides a chance for young offenders to prove they have changed.

Nearly 20 years ago California enacted a law allowing youth to be sentenced to life in prison without parole. We need to reexamine our goals in enacting that sentence in light of our current understanding of adolescent development. Recent scientific 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 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. Our laws should reflect these scientific findings, recognize that young people are especially capable of redemption, and incentivize these offenders to work towards rehabilitation.

Senate Bill 399 is fiscally-wise legislation. Every youth life-without-parole case costs the state around \$40,000 per year of incarceration. For someone sentenced to life in prison at age 14, 15, 16 or 17 years old, that means decades of increasing incarceration costs for our state. Almost everyone agrees that not all of the youth offenders sentenced to life without parole in California should remain in prison. There are cases in which the youth was not the primary offender, was acting in a situation of severe duress, or committed the crime under the direction of an abusive adult. Senate Bill 399 would require careful examination of these cases. By focusing our resources on the cases that are a threat to public safety, SB 399 would save millions of dollars for California.

Senate Bill 399 holds youth offenders responsible for their actions. Youth offenders to have a chance to prove they deserve a resentencing hearing only after serving 10, 15, 20, or 25 years. The bill requires the offender to prove that he or she has chosen a different path in life and is worthy of parole consideration. It creates a strong system of checks and balances, as well: not only will an offender have to prove rehabilitation to a judge, but he or she will still face the careful scrutiny of a parole board.

Sentencing adolescents to life without parole is out of step with the rest of the world and applied unfairly here in California. The United States is the only country in the world that imposes life without parole on youth under the age of 18 years old. This extreme punishment is a violation of international law and fundamental human rights. In addition, in California racial disparities in the use of this sentence are among the worst in the country: black youth are sentenced to life without parole at a per capita rate that is 18 times that for white youth. Finally, adult codefendants charged in the same cases are getting *lower* sentences and the opportunity for parole. In 56 percent of the cases in

which a youth sentenced to life without parole had an adult codefendant, the adult got a lesser sentence than the youth. California should lead the nation in changing these inequities.

We urge your support for this important legislation.

Sincerely,



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