

2011

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### Recommended Citation

Ilona P. Vila (2011) "Supporting the Florida Legal Community's Response to *Graham v. Florida*," *Barry Law Review*: Vol. 17 : Iss. 1 , Article 8.

Available at: <https://lawpublications.barry.edu/barryrev/vol17/iss1/8>

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## SUPPORTING THE FLORIDA LEGAL COMMUNITY'S RESPONSE TO *GRAHAM V. FLORIDA*

*Ilona P. Vila\**

Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope. Maturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation. A young person who knows that he or she has no chance to leave prison before life's end has little incentive to become a responsible individual.

*United States Supreme Court Justice Anthony M. Kennedy*<sup>1</sup>

### I. BACKGROUND

In September 2010, Barry University School of Law and the Florida Bar Foundation embarked on an initiative to support litigation efforts to obtain relief for over 100 inmates in Florida who were sentenced to life without the possibility of parole for non-homicide offenses that were committed while they were “child[ren] in the eyes of the law.”<sup>2</sup>

Now, more than one year later, the Law School, its student volunteers, and an extraordinary network of Florida and national colleagues are preparing for an intensive year of litigation under *Graham v. Florida* to ensure the State of Florida provides a “meaningful opportunity”<sup>3</sup> for review and release as mandated by the United States Supreme Court.

In 1983, Florida abolished its parole system, leaving the state no mechanism to obtain relief from the imposition of a life sentence for any defendant other than

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\* Ilona Prieto Vila, Director, *Juvenile Life Without Parole Defense Resource Center*. Ilona Vila has been an advocate for children and youth in the juvenile and criminal justice system for over thirteen years. Her career began as a front line public defender in Baltimore City. She moved from fighting on the front lines to trying to develop local and regional resources for front line attorneys through the National Juvenile Defender Center's efforts to build capacity and overcome barriers to quality representation as Director of both the Southern Juvenile Defender Center and the Mid-Atlantic Juvenile Defender Center. She worked to develop training materials in Louisiana and assisted in the representation of over 150 youth who were abandoned post-Katrina without access to lawyers. Because of her work, she was recruited to lead juvenile justice recovery efforts in New Orleans through the Annie E Casey Foundation's Juvenile Detention Alternatives Initiative at the Orleans Parish Juvenile Court. Her efforts also supported the introduction to the court of the first ever stand alone juvenile public defender office, Juvenile Regional Services, founded by her colleagues. She later directed the office. Ms. Vila's present position is Director for the Juvenile Life Without Parole Defense Resource Center at Barry University School of Law, working with state wide advocates and the Campaign for the Fair Sentencing of Youth to implement *Graham* in Florida.

1. *Graham v. Florida*, 130 S. Ct. 2011, 2032 (2010).
2. *Id.* at 2033.
3. *Id.* at 2030.

executive clemency.<sup>4</sup> Every year, Florida prosecutors charge, adjudicate, and punish thousands of children as adults.<sup>5</sup> Once a child is charged as an adult, the courts may impose on that child any sentence available to adults other than the death penalty. Until *Graham*, those sentences included life without parole.<sup>6</sup>

On May 17, 2010, the United States Supreme Court abolished life without parole for juvenile nonhomicide offenders in the case of Terrance Graham, a Jacksonville, Florida teenager who was convicted of armed burglary and attempted armed robbery at the age of sixteen<sup>7</sup> in *Graham v. Florida*.<sup>8</sup> The Court held:

Terrance Graham's sentence guarantees that he will die in prison without any meaningful opportunity to obtain release, no matter what he may do to demonstrate that the bad acts he committed as a teenager are not representative of his true character, even if he spends the next half century attempting to atone for his crimes and learn from his mistakes. The State has denied him any chance to later demonstrate that he is fit to rejoin society based solely on a nonhomicide crime that he committed while he was a child in the eyes of the law. This the Eighth Amendment does not permit.<sup>9</sup>

At the time the Court abolished Graham's sentence, more than 100 inmates in Florida were serving life without parole sentences for nonhomicide crimes committed as juveniles.<sup>10</sup> Immediately following the Supreme Court's mandate, many questions abounded for the Florida legal community including: How would eligible individuals obtain relief under *Graham* without a parole system?<sup>11</sup> Would every eligible inmate receive clemency? Would the Florida Legislature enact a new law? Would the parole system be reinstated? Would the Legislature create a juvenile parole system? Would every eligible inmate be resentenced by the courts?

4. See FLA. STAT. § 921.002 (1)(e) (2003); see also *Graham*, 130 S. Ct. at 2020.

5. See Florida Department of Juvenile Justice Office of Research & Planning, *A Profile of Florida Delinquency FY 2005/06-FY 2010/11*, available at [http://www.djj.state.fl.us/research/delinquency\\_profile/index.html](http://www.djj.state.fl.us/research/delinquency_profile/index.html). (According to these reports, the State of Florida has direct filed the following numbers of youth into the adult system since 2005: 2,884 in fiscal year 2005–2006; 3,437 in fiscal year 2006–2007; 3,666 in fiscal year 2007–2008; 3,265 in fiscal year 2008–2009; 2,792 in fiscal year 2009–2010; and 2,354 in fiscal year 2010–2011.

6. *Graham*, 130 S. Ct. at 2025–26 (“[U]nder Florida law a child of any age can be prosecuted as an adult for certain crimes and can be sentenced to life without parole. The State acknowledged at oral arguments that even a 5-year-old, theoretically, could receive such a sentence under the letter of the law.”).

7. *Id.* at 2018, 2020.

8. The companion case to *Graham*, *Sullivan v. Florida*, 130 S. Ct. 2059 (2010), was argued on the same day as *Graham* by Attorney Bryan Stevenson of the Equal Justice Initiative and dismissed as improvidently granted in *Graham*. 130 S. Ct. at 2031; see also [eji.org/eji/childrenprison/deathinprison/sullivan.graham](http://eji.org/eji/childrenprison/deathinprison/sullivan.graham) (last visited Mar. 30, 2012) (Joe Sullivan is one of only two thirteen-year-olds in the country sentenced to life without parole for a nonhomicide crime.).

9. *Graham*, 130 S. Ct. at 2033.

10. PAOLO G. ANNINO, DAVID W. RASMUSSEN & CHELSEA BOEHME RICE, *JUVENILE LIFE WITHOUT PAROLE FOR NON-HOMICIDE OFFENSES: FLORIDA COMPARED TO NATION* (Sept. 14, 2009) [hereinafter *Annino*], available at [http://www.law.fsu.edu/faculty/profiles/annino/Report\\_juvenile\\_lwop\\_092009.pdf](http://www.law.fsu.edu/faculty/profiles/annino/Report_juvenile_lwop_092009.pdf).

11. *Graham* 130 S. Ct. at 2020 (“Because Florida has abolished its parole system, the life sentence left Graham no possibility of release except executive clemency.”). For several states with active parole systems, the issue was easily addressed by converting JLWOP sentences to life with parole, thereby providing a meaningful opportunity for review and release.

If so, who would represent them? Do they know they are entitled to relief? How can they access lawyers? How many potential clients are there? What would a resentencing under *Graham* look like? How can experts be used to answer the questions about adolescent development, maturity and rehabilitation? What is a constitutional sentence for a juvenile in the adult system?

In 2010 and 2011, neither the Florida Governor's Office nor the Florida Legislature took action in response to the *Graham* opinion, leaving the courts to resentence each *Graham* individual entitled to relief.<sup>12</sup> Many *Graham*-eligible inmates have been sentenced to lengthy "de facto" life sentences, which have so far been upheld by the First District Court of Appeal. The court found in these two cases that neither a fifty- nor a seventy-year sentence were *Graham*-eligible, were not lengthy sentences under the Eighth Amendment, and that the Legislature must address the *Graham* issue, not the judiciary.<sup>13</sup> The Juvenile Life Without Parole Defense Resource Center<sup>14</sup> at Barry University School of Law was formed to assist *Graham*-eligible inmates, their lawyers, and families with identifying strategies for obtaining relief from the Florida courts and is building a foundation for continued support for inmates who direct filed<sup>15</sup> for relief.<sup>16</sup>

12. In 2010, *Graham*-eligible inmate Kenneth Young applied for and was denied clemency from Governor Charlie Crist's office (prior to the *Graham* decision) leaving the avenue of clemency chilled for advocates. Young was later resentenced to a thirty-year prison term in 2011. See [http://www.abcactionnews.com/dpp/news/region\\_tampa/kenneth-young-to-serve-another-19-years](http://www.abcactionnews.com/dpp/news/region_tampa/kenneth-young-to-serve-another-19-years). Additionally, both Senate Bill 160 and House Bill 29 entitled "The *Graham* Compliance Act," requiring a minimum mandatory sentence of twenty-five years and certain criteria for rehabilitation before becoming parole eligible, did not make it out of the Criminal Justice subcommittee during the 2011 legislative session. S. 160 (Fla. 2011); H.R. 29 (Fla. 2011). Although inconsistent with the recommended policy of the American Academy of Child & Adolescent Psychiatry (AACAP, *infra* note 28), the same legislation has been filed for the 2012 session. See House Bill 5, filed on May 25, 2011, available at [www.flsenate.gov/Session/Bill/2012/0005](http://www.flsenate.gov/Session/Bill/2012/0005) and Senate Bill 92 filed on August 29, 2011, available at <http://www.flsenate.gov/Session/Bill/2012/92>.

13. *Thomas v. State*, No. 1D10-1613, 2011 Fla. App. LEXIS 20831, at \*1, 5 (Fla. Dist. Ct. App. Dec. 30, 2011) (affirming a juvenile's two concurrent fifty-year sentences for armed robbery and aggravated battery); *Gridine v. State*, No. 1D10-2517, 2011 Fla. App. LEXIS 20908, at \*2, 5 (Fla. Dist. Ct. App. Dec. 30, 2011) (affirming a juvenile's seventy-year sentence for attempted first degree murder and a concurrent twenty-five year mandatory minimum sentence for attempted armed robbery). Both the per curiam opinion of *Thomas* and the dissent in *Gridine* encouraged the Florida Legislature to craft a solution to the term-of-years issue. *Id.* at \*6; *Id.* at \*6 (Wolf, J., dissenting).

14. Hereinafter referred to as the "JLWOP Defense Resource Center" or "the Center."

15. The State of Florida has two options when it comes to direct filing or essentially sending a case from juvenile court to adult court. First the State has discretionary authority to direct file a juvenile case to adult court if the crime committed falls within the statutory guidelines. Second, the State has to direct file a case mandatorily if the juvenile is sixteen or seventeen years of age and has been previously adjudicated as delinquent or there is a forcible felony involved. FLA. STAT. § 985.557 (2012). Furthermore, once the case has been direct filed to adult court, the juvenile is treated in every respect as an adult. FLA. STAT. § 985.557(3) (2012).

16. In *Graham*, Justice Kennedy discussed the special difficulties encountered in juvenile representation:

As some *amici* note, the features that distinguish juveniles from adults also put them at significant disadvantage in criminal proceedings. Juveniles mistrust adults and have limited understandings of the criminal justice system and the roles of the institutional actors within it. They are less likely than adults to work effectively with their lawyers to aid in their defense. . . . Difficulty in weighing long-term consequences; a corresponding impulsiveness; and reluctance to trust defense counsel seen as part of the adult world a rebellious youth rejects, all can lead to poor decisions by one charged with a juvenile offense. . . . These factors are likely to impair the quality of a juvenile defendant's representation.

130 S. Ct. at 2032 (internal citations omitted).

## II. COORDINATING A RESPONSE TO *GRAHAM*

The JLWOP Defense Resource Center was developed to bring practitioners and experts, from across the state, and the nation, together to address resentencing questions the *Graham* opinion raised for Florida advocates. National colleagues approached Barry University School of Law with the idea of coordinating the response to *Graham* because of its longstanding commitment to children's advocacy and its dedication to bringing social justice and the law together. Barry Law School's Children and Families Clinic provides direct representation by students to children in delinquency, abuse, and neglect. Barry's Juvenile Justice Center supports indigent defense representation for children in delinquency proceedings across the state with each Elected Public Defender in Florida's twenty judicial circuits.<sup>17</sup> Because of its exemplary work on behalf of children and the support it garnered following the *Graham* opinion, from local, state, and national allies, Barry Law School received funding from the Florida Bar Foundation to create the JLWOP Defense Resource Center.

The JLWOP Defense Resource Center's main objective is to ensure access to counsel and quality representation in resentencing hearings across the state, for *Graham*-eligible youths tried as adults in criminal courts, with a long-term goal of becoming a resource for defenders across the state who represent children direct filed in the adult system.<sup>18</sup>

### A. Identifying *Graham*-Eligible People across the State

Florida was propelled into the national spotlight because it has the highest number of people impacted by the *Graham* decision.<sup>19</sup> In the Supreme Court opinion, the majority relied upon a study published by Professor Paolo Annino and his colleagues at Florida State University's College of Law and College of Social Sciences.<sup>20</sup> The study identified 129 nonhomicide juvenile offenders serving life without parole sentences across the country, with seventy-seven of those inmates in Florida.<sup>21</sup> The study revealed that Florida imposed life sentences on nonhomicide juvenile offenders at nineteen times the national average.<sup>22</sup> The study did not include the number of juveniles convicted of attempted homicide because attempted homicide was not the issue before the court. Subsequent litigation in *Manuel v. State*, by the Equal Justice Initiative of Alabama,<sup>23</sup> brought the issue to

17. Since 2007, Barry University Law School has demonstrated success in working statewide as a resource for lawyers representing children and youth in the justice system through its Juvenile Justice Center (JJC).

18. The Center's goal is modeled on the national movement to improve access to counsel and quality of representation in delinquency proceedings across the country. See website of National Juvenile Defender Center at [http://www.njdc.info/about\\_us.php](http://www.njdc.info/about_us.php).

19. *Graham*, 130 S. Ct. at 2024.

20. Annino, *supra* note 10; *Graham*, 130 S. Ct. at 2023.

21. Annino, *supra* note 10, at 2; *Graham*, 130 S. Ct. at 2024.

22. Annino, *supra* note 10, at 2.

23. Attorney Bryan Stevenson and his colleagues at the Equal Justice Initiative argued the companion case Sullivan, *supra* note 8, and are leading national litigation efforts to end the practice of sentencing children to die in the adult system. See [www.eji.org](http://www.eji.org).

the First District Court of Appeal in Florida, which held that *Graham* does apply to attempted homicide cases and vacated Manuel's sentence with instructions to the trial court on remand to "impose any *legal* sentence available to it."<sup>24</sup> The JLWOP Defense Resource Center subsequently identified an additional thirty-eight people who were *Graham*-eligible under *Manuel* through coordination with the Florida Department of Corrections, Elected Public Defender offices, and inmate and family correspondence.<sup>25</sup>

### **B. Accessing Counsel**

Since the JWLOP Defense Resource Center received its initial funding, it has worked with students and its statewide partners to ensure that over 100 of the 115 inmates are represented through either the Elected Public Defender's offices, pro bono solo practitioners who volunteered through the Florida Association of Criminal Defense Lawyers, private law firms such as Holland & Knight, Baker & McKenzie, and Foley & Lardner, or a combination thereof, depending on the complexity of the case and the resources of the office. Some *Graham* inmates and their families obtained private counsel. Some requests for counsel came directly from *Graham*-eligible individuals.

### **C. Preparing for Resentencing: A Meaningful Opportunity for Review and Release**

Once the JLWOP Defense Resource Center identifies counsel for an inmate eligible under *Graham*, it continues to work at the direction of the attorney to assist in resentencing. The Center serves as a litigation clearinghouse for *Graham* lawyers across the state who are working diligently to present information to the courts that their clients have demonstrated growth, maturity, and rehabilitation as required by the Supreme Court.<sup>26</sup> *Graham* attorneys working with the Center are connected to one another through a listserv, conference calls, training, and individual case conferences. This coordination is critical to assist the attorneys in preparing for resentencing because each case presents unique legal challenges and mitigation issues. Moreover, many *Graham* attorneys are pro bono solo practitioners, and the support of Barry's law students is critical to their ability to volunteer and effectively represent their clients.

*Graham* attorneys convened regularly through conference calls from September through November, 2010, and one of the biggest requests for assistance was to provide training and support to the lawyers in their efforts to prepare.

24. 48 So. 3d 94, 95, 98 (Fla. Dist. Ct. App. 2010). The Second District Court of Appeal agreed in *McCullum v. State*, 60 So. 3d 502, 504 (Fla. Dist. Ct. App. 2011). The State appealed *Manuel* to the Florida Supreme Court, which declined to hear the case. 63 So. 3d 750 (2011).

25. The Florida Department of Corrections initially provided the Center with data. We also receive letters from inmates who were direct filed and calls from loved ones and at times through their correspondence, we identify additional inmates.

26. *Graham*, 130 S. Ct. at 2029.

## 1. Preparing and Litigating a *Graham* case: Training at Barry

In December 2010, the JLWOP Defense Resource Center offered its first training at Barry Law School entitled *Litigating Graham*. The experts who litigated *Sullivan* and *Graham*, Bryan Stevenson and Bryan S. Gowdy, were joined by a faculty of trial and appellate lawyers from across the state to train almost fifty lawyers on the legal remedies available and the practicalities of preparing a case. All the faculty members donated their time to the sessions and Barry University School of Law provided the venue. Student volunteers assisted in the preparation and staffing of the training.<sup>27</sup>

## 2. Demonstrated Maturity: Collecting Records and Providing Training

“A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. What the State must do, however, is give defendants like Terrance Graham *some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.*”<sup>28</sup> One of the most challenging issues is how to present that a client has demonstrated maturity to the court—in other words, that he<sup>29</sup> is no longer the child who committed a crime, but a person capable of considered reflection that comes with maturity. The American Academy of Child & Adolescent Psychiatry (AACAP) issued a policy on juvenile life without parole in April 2011, one year after the *Graham* opinion and in direct response to the issue at hand:

There are currently over 2500 people serving life without parole for crimes committed as juveniles. In 2010, the United States Supreme Court declared such sentences to be unconstitutional for crimes other than homicide. As a result, at least 125 of these individuals will soon have their sentences reviewed. . . . Any sentence review must include a review of educational and court documents, as well as a comprehensive mental health evaluation, conducted by a child mental health professional . . .<sup>30</sup>

Because many of the lawyers representing clients are adult defenders with limited juvenile justice experience, the JLWOP Defense Resource Center develops, collects, and disseminates educational and legal materials in the relevant area of adolescent brain development. *Graham* attorneys also expressed the need for a

27. The Center received assistance from a combination of Barry Law students and Boone High School students in Boone’s Government and Law Magnet Program.

28. *Id.* (emphasis added).

29. At present, all JLWOP Defense Resource Center clients are male.

30. See Juvenile Justice Reform Committee of the American Academy of Child & Adolescent Psychiatry, *Policy Statement: Juvenile Life Without Parole: A Review of Sentences*, [hereinafter AACAP], available at [www.aacap.org/cs/root/policy\\_statements/juvenile\\_life\\_without\\_parole\\_review\\_of\\_sentence](http://www.aacap.org/cs/root/policy_statements/juvenile_life_without_parole_review_of_sentence) (last visited Jan. 3, 2011). This policy is due to be reviewed again in 2015.

second training focused on how to use the records and experts in the presentation of developmentally relevant information.

No recent data provide reason to reconsider the Court's observations in *Roper* about the nature of juveniles. As petitioner's *amici* point out, developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence. Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of "irretrievably depraved character" than are the actions of adults. It remains true that "[f]rom a moral standpoint it would be misguided to equate failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed."<sup>31</sup>

The JLWOP Defense Resource Center turned to the experts at the University of South Florida's Mental Health Law and Policy Department to develop materials and training for lawyers and mental health professionals on adolescent brain development.<sup>32</sup> The faculty generously donated their time to train over fifty mental health professionals and lawyers in April 2011 at *Litigating Graham II—Experts, Evaluations, and Evidence* at Barry University School of Law. The experience brought an additional layer of collaboration to the project from across disciplines and among universities.

### 3. Demonstrated Rehabilitation: What is Available through the Florida Department of Corrections?

In the *Graham* case, the Sentencing Project filed an amicus brief citing the barriers to rehabilitation faced by juveniles in serving life without parole, which Justice Kennedy referenced: "[a]s one *amicus* notes, defendants serving life without parole sentences are often denied access to vocational training and other rehabilitative services that are available to other inmates."<sup>33</sup>

To help lawyers navigate the rehabilitation prong of the resentencing, the JLWOP Defense Resource Center partnered with the Boone High School Government and Law Magnet Program to help collect information from the Florida Department of Corrections. Four high school students spent an entire semester contacting every Florida Department of Corrections facility with a *Graham* inmate to obtain information about vocational, educational, and counseling programs available to inmates serving life without parole. They interviewed staff, collected documents, and reported their findings. What they discovered was that the

31. *Graham*, 130 S. Ct. at 2030 (internal citations omitted).

32. Including Dr. Randy Otto, Dr. Eva Kimonis, and Dr. Amanda Fanning.

33. *Graham*, 130 S. Ct. at 2030.



Department of Corrections policy, generally, is to enroll inmates in vocational and educational programs within three years of their release date to conserve resources. Some facilities allowed *Graham* clients to attend classes, but the policy varied from facility to facility. Most *Graham*-eligible clients are not permitted to enroll in such classes, presenting a challenge to their efforts to demonstrate rehabilitation to the Florida courts.

The addition of high school students to the project helped sustain the administrative capacity of the project, allowed law students to focus on litigation preparation and expanded the capacity of the Center through creative partnering.

#### 4. Litigation and Legal Research Support: Law Student Involvement

Barry Law students support attorneys, who volunteer their time by providing litigation support and collecting records from various agencies to support litigation for resentencing based on the AACAP policy.<sup>34</sup> Over forty students from Barry School of Law donated their time during the 2010-2011 academic year, several volunteering above and beyond the forty hours of community service time required by the Law School. Students earned practical experience working to obtain educational, medical, mental health, and other records to assist lawyers in developing information about who the client was when he committed his crime versus who he has become during his incarceration. The records they have collected are critical to the mental health professionals conducting exams for resentencing hearings.<sup>35</sup> Student volunteers routinely interviewed family members to obtain additional mitigation information guided by principles of mitigation preparation most commonly found in both the death penalty and juvenile delinquency specialty practices of law. While students did not directly represent *Graham* clients in court through a traditional clinical experience, they were able to become active participants in preparation for litigation which hopefully they will carry with them to their future practice of law.<sup>36</sup>

Not all Barry Law students are full-time students or have the time to physically come to the office and work on litigation preparation. Some of the Center's volunteers supported our *Graham* casework as legal researchers. Students researched various legal issues for the network, both generally and also in specific cases. Similarly, not all law firms have the capacity to take cases and so in addition to students, associates at Holland & Knight also prepared in-depth legal memos for our teams of attorneys.

34. AACAP, *supra* note 29 ("The mental health evaluation must include a family interview, prenatal history, developmental history, medical history, academic history, legal history, history of mental health interventions, history of treatment for substance use, social history and a psychological evaluation.")

35. *Id.*

36. The Barry Law Children and Families Clinic is currently representing an Orange County *Graham* client and students "employed" at the Clinic are actively engaged in direct representation.

### III. *GRAHAM* APPELLATE WORK

The United States Supreme Court rejected the notion that a judge or jury could determine a youth's character at the outset based only on the nature of the offense.<sup>37</sup> The juvenile offender "should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential"<sup>38</sup> while acknowledging the particular challenges judges face when sentencing.

Few, perhaps no, judicial responsibilities are more difficult than sentencing. The task is usually undertaken by trial judges who seek with diligence and professionalism to take account of the human existence of the offender and the just demands of a wronged society.<sup>39</sup>

Some Florida courts have been unresponsive to the mandate in *Graham* and continue to make subjective determinations that the crime demonstrates an "irretrievably depraved character"<sup>40</sup> with little deference to the moral culpability of the defendant and his demonstrated maturity and rehabilitation. Some Florida circuit courts have resentenced *Graham*-eligible inmates to 170, 107, 99, 90, 80, and 50 years.<sup>41</sup> The Center's volunteers and colleagues continue to work after resentencing by coordinating with appellate lawyers in Elected Public Defender Offices, as well as pro bono appellate counsel, to assist with appeals after resentencing. While we will continue to seek better outcomes for those clients sentenced to "virtual life,"<sup>42</sup> we also hope that the courts will turn again to the experts, upon whom the Supreme Court relied, in both *Roper* and *Graham*, for a developmentally appropriate response. The policy statement from the AACAP recommends an age-based developmental response to the *Graham* issue:<sup>43</sup>

Juvenile offenders serving life without parole should have an initial review of their sentences within five years of sentencing or by age 25, whichever comes first. As maturation and rehabilitation are ongoing processes, subsequent reviews should occur no less than every three years. Research demonstrates that brain

37. *Graham*, 130 S. Ct. at 2027.

38. *Id.* at 2032.

39. *Id.* at 2031.

40. *Id.* at 2026 (citing *Roper v. Simmons*, 543 U.S. 551, 570 (2005)).

41. The JLWOP Defense Resource Center does not release the names of *Graham* clients but the sentences mentioned are actual resentencing outcomes within the past year.

42. Based on the life expectancy of a juvenile and their sentence, while a judge may have given a 100-year sentence and the juvenile is seventeen years old at the time of sentencing, this means that they could be released at age 117, which would exceed the U.S. projected guidelines for life expectancy. Most importantly, this signifies that even though the juvenile was not sentenced to life, the number of years handed down by the judge combined with reasonable life expectancy measures means that the juvenile would likely serve their entire life in prison. Under *Graham*, the juvenile should be afforded with a meaningful opportunity to obtain release. 130 S. Ct. at 2057. A virtual life sentence guarantees that no meaningful opportunity to obtain release will be had.

43. AACAP, *supra* note 29.

development continues through adolescence and into early adulthood. The frontal lobes which are critical for mature reasoning and impulse control, are among the last areas of the brain to mature. They are not fully developed until the early to mid-20's.

#### IV. FAMILIES AND GENERAL OUTREACH

The JWLOP Defense Resource Center is available as a resource for families. Law students assist in fielding calls and collecting information for families whose loved ones are currently serving life without parole. Students also correspond, under supervision, with inmates on non-legal issues such as updates on legislative activity, media articles, and other national JLWOP activity. The goal is to empower families and loved ones to actively participate in the resentencing process.

#### V. THE REAL HEROES

Although the JLWOP Defense Resource Center has funds from the Florida Bar Foundation and the Open Society Institute to support litigation efforts, it is staffed by one person—myself. The in-kind contributions of time to support our colleagues in this endeavor include: Barry University School of Law, Barry Law student volunteers, Barry's Children and Families Clinic, the Juvenile Justice Center, Boone High School students, countless local attorneys across the state, mitigation specialists, the Florida Association of Criminal Defense Lawyers, Creed & Gowdy, Holland & Knight, Baker & McKenzie, Foley & Lardner, the Public Interest Law Center at Florida State University, the Mental Health and Law Department at the University of South Florida, the Equal Justice Initiative, the Campaign for the Fair Sentencing of Youth, and the Sentencing Project. Their contribution, when converted to monetary terms, is at least four times greater than the actual funding we receive. But for the extraordinary efforts of public defender offices in handling the majority of the cases, and all the volunteers mentioned above, the work of the Center would not be possible. It is our extreme privilege to work with such an outstanding group of advocates for children in Florida and across the country.

Before I go any further I would like to thank you for all that you've done and [are] doing. Thank you so much for caring. Thanks for finding a lawyer for me. I have also thanked . . . for taking my case pro bono. I am forever grateful to you and the JLWOPDRC, for granting me the opportunity to prove remorse and rehabilitation, and to be a productive, positive, influential force within society. May God continue to bless you and grant you strength to make powerful productive moves.

*Letter from J.W.*