

MICHIGAN LIFE EXPECTANCY DATA FOR YOUTH SERVING NATURAL LIFE SENTENCES

Miller and Graham stand for the proposition that punishment of youth should not result in natural life sentences, except in the case of a rare youth whose crimes reflect “irreparable corruption.” The Supreme Court was clear that due to their lesser culpability and unique capacity for rehabilitation, “children are constitutionally different from adults for sentencing purposes” and must be given a meaningful and realistic opportunity for release. *Miller v Alabama*, 132 S Ct 2455, 2464 (2012). Despite these rulings and their logic, some legislative bodies have proposed post-*Miller* sentencing schemes for youth, with high minimums, creating de facto life sentences without realistic opportunity for release. This note is intended to address the impact and conflict with the Supreme Court’s recent holdings, resulting from such schemes.

Life Expectancy for Incarcerated Individuals

It is not disputed that life expectancy for incarcerated individuals lag behind the general population. While the average life expectancy for children born today is 77.8 years, it is lower for men, minorities, and significantly lower for prison inmates. www.efmoody.com/estate/lifeexpectancy.html.

It is generally accepted that life in prison, with its stressors, violence and disease in and of itself significantly shortens one’s life expectancy. See *United States v. Taveras*, 436 F. Supp. 2d 493, 500 (E.D.N.Y. 2006) (Life expectancy within federal prison is considerably shortened) II EOR 72, Feld, Symposium on Youth and the Law, 22 ND J L Ethic Pub Pol 9, 63, fn. 231 (2008). See also, Elizabeth Arias, Ctr. for Disease Control, U.S. Life Tables, 2003, Nat’l Vital Statistics Rep., April 19, 2006, at 3, available at: http://www.cdc.gov/nchs/data/nvsr/nvsr54/nvsr54_14.pdf.

The actual extent of the diminished life expectancy resulting from imprisonment was addressed by the United States Sentencing Commission which defines a life sentence as 470 months (or just over 39 years). This is based on average life expectancy and median age of individuals at time of sentencing. Based on the median age at sentencing (25 years) the life expectancy for a person in general prison population is 64 years of age. U.S. Sentencing Commission Preliminary Quarterly Data Report (through June 30, 2012) at A-8, available at [http://www.ussc.gov/Data and Statistics/Federal Sentencing Statistics/Quarterly Sentencing Updates/USSC 2012 3rd Quarter Report.pdf](http://www.ussc.gov/Data_and_Statistics/Federal_Sentencing_Statistics/Quarterly_Sentencing_Updates/USSC_2012_3rd_Quarter_Report.pdf).

Life Expectancy for Those Serving Natural Life

Based on our review of Michigan data, there appears to be a strong correlation between the number of years spent in prison and life expectancy resulting in further diminished life

expectancy for those serving a natural life sentence. While the Sentencing Commission posits an average life expectancy, for all prisoners, at 64 years, adjusting for length of sentence and race, results in a significant diminishment of life expectancy. *See also U.S. v. Nelson*, 491 F 3d 344, 349-50 (7th Cir 2012) (acknowledging the decreased life expectancy for incarcerated individuals based on United States Sentencing Commission data).

When we looked at life expectancy for Michigan adults incarcerated for natural life sentences in Michigan, the average life expectancy decreased to 58.1 years.¹ When adjusted for race, the average life expectancy for African-American adults, sentenced to natural life, is 56.0 years, and for whites, 60.1 years.²

The life expectancy averages drop even lower for those who began their natural life sentences as children, therefore, serving longer years in prison than adults with the same sentence.³ Looking at Michigan youth who were punished with a natural life sentence, the average life expectancy is 50.6 years. The number of the cohort is too small to establish an average based on race, although 72% of youth serving natural life sentences in Michigan, are children of color.

This one state data analysis demonstrates that high minimum sentences, as a remedy to *Miller* and *Graham*'s findings of constitutional infirmity for natural life sentences, are non-compliant with *Miller* and *Graham* dictates. Minimum terms of thirty-five years or longer will not provide a meaningful opportunity for release for these youth who have an average life expectancy of 50 years.

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¹ This is based on analysis of all individuals 18 and older sentenced to natural life in Michigan who have died in prison, in excess of 400 individuals.

² The average life expectancy for an African-American male born today is 71.1 years.

³ In addition to pure number of years in prison, there is data that youth in prison are 5 times more likely to be victims of sexual and physical assaults. This abuse is a recognized contributing factor to the significant decreased life expectancy due to incarceration. *See Gibbons & Katzenbach, Confronting Confinement*, 11 (June 2006).