8th Amendment

No Cruel and Unusual Punishments
Juvenile Death Penalty

- **1988**: *Thompson v. Oklahoma* – UNDER 16

- **1989**: *Stanford v. Kentucky* – 16 + ☑️

- **2005**: *Roper v. Simmons* – 17
Death Penalty = Most Serious Punishment

Most Serious Crime + Most Blameworthy Offender

Death Penalty Allowed
Roper v. Simmons

Most Serious Crime: MURDER

Most Blameworthy Offender: UNDER 18

Death Penalty Allowed: ✗
Roper v. Simmons (2005)
How Are Kids Different?
Roper v. Simmons (2005)
Juvenile Life Without Parole (JLWOP)

- **2005**: *Roper v. Simmons* – juvenile death penalty unconstitutional
- **2010**: *Graham v. Florida* – juvenile life without parole for non-homicide offenses
<table>
<thead>
<tr>
<th>Death Penalty &amp; JLWOP</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Death Penalty</strong></td>
</tr>
<tr>
<td>Most Serious Crime (Murder)</td>
</tr>
<tr>
<td>Most Blameworthy Offender</td>
</tr>
<tr>
<td>Death Penalty Allowed</td>
</tr>
</tbody>
</table>
Life Without Parole = Second Most Serious Punishment

Most Serious Crime: DID NOT KILL OR INTEND TO KILL

Most Blameworthy Offender: KIDS ARE DIFFERENT

Life Without Parole: MUST HAVE MEANINGFUL OPPORTUNITY FOR RELEASE
Juvenile Life Without Parole

- **2005**: *Roper v. Simmons* – juvenile death penalty unconstitutional
- **2010**: *Graham v. Florida* – juvenile life without parole for non-homicide offenses unconstitutional
- **2012**: *Miller v. Alabama/Jackson v. Hobbs* – juvenile life without parole for homicide offenses
JLWOP

- 2,500+ Nationwide

Pennsylvania leads the country in the number of children who have been sentenced to die in prison. Call and write your senator and urge them to VOTE NO on SB 850.

For more information, visit: www.fairsentencingofyouth.org  @theCFSY
Background on Miller & Jackson
Life Without Parole = Second Most Serious Punishment

Most Serious Crime ✓

Most Blameworthy Offender ✗

Life Without Parole ❓
(Second Most Most Serious Penalty)

- Mandatory JLWOP
  - JLWOP still allowed, but should be uncommon
  - Need individualized sentencing
    - Kids are not as blameworthy as adults
    - Need to take their youth into account
Miller Factors
You have the right to remain silent...
J.D.B.
J.D.B.

- If in “custody” → must give *Miranda* warnings
  - J.D.B.: did NOT get *Miranda* warnings
- *Was he in custody?*
- *Would a reasonable person feel free to leave?*
- *Is his age relevant?*
AGE MATTERS!!!

- Child may feel pressure to talk to police even when adult may feel free to walk away
  - Overwhelmed, vulnerable to pressure
  - May not understand the consequences
  - Compelled to be in school
What Is Next?

- Constitutional right → does age matter?
- Mandatory minimums/individualized sentencing for other crimes
  - Age-appropriate sentencing
  - Transfer
- Conditions of confinement
- Consent to searches and seizures
Contact Information

Emily Keller, Esq.
Juvenile Law Center

215-625-0551
ekeller@jlc.org
www.jlc.org