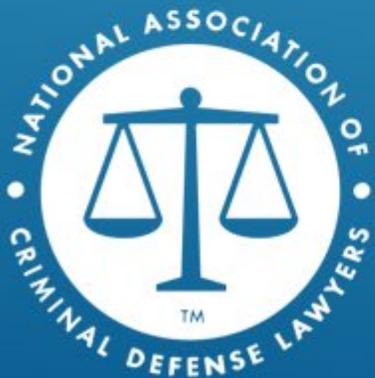


The Case for Second Look Sentencing



STATE
CRIMINAL
JUSTICE
NETWORK

Presented by:
JaneAnne Murray, Nicole D. Porter,
James Dold & David L. Garlock



Advocating for a Second Look

Nicole Porter
*Director of Advocacy,
The Sentencing Project*

No End in Sight: Growth in Life Imprisonment

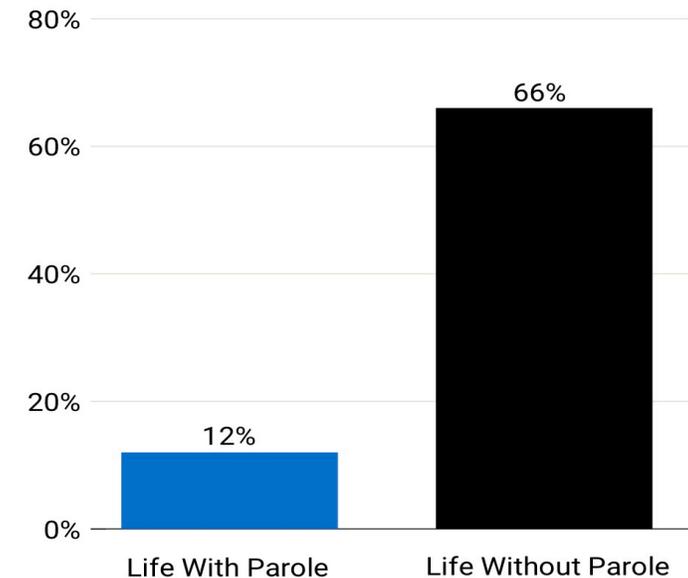
- One in 7 people in U.S. prisons is serving a life sentence, either life without parole (LWOP), life with parole (LWP) or virtual life (50 years or more), totaling 203,865 people
- The number of people serving life without parole — the most extreme type of life sentence — is higher than ever before, a 66% increase since our first census in 2003
- More than two-thirds of those serving life sentences are people of color;
- One in 5 Black men in prison is serving a life sentence;
- Latinx individuals comprise 16% of those serving life sentence



Policies that Advance a Second Look

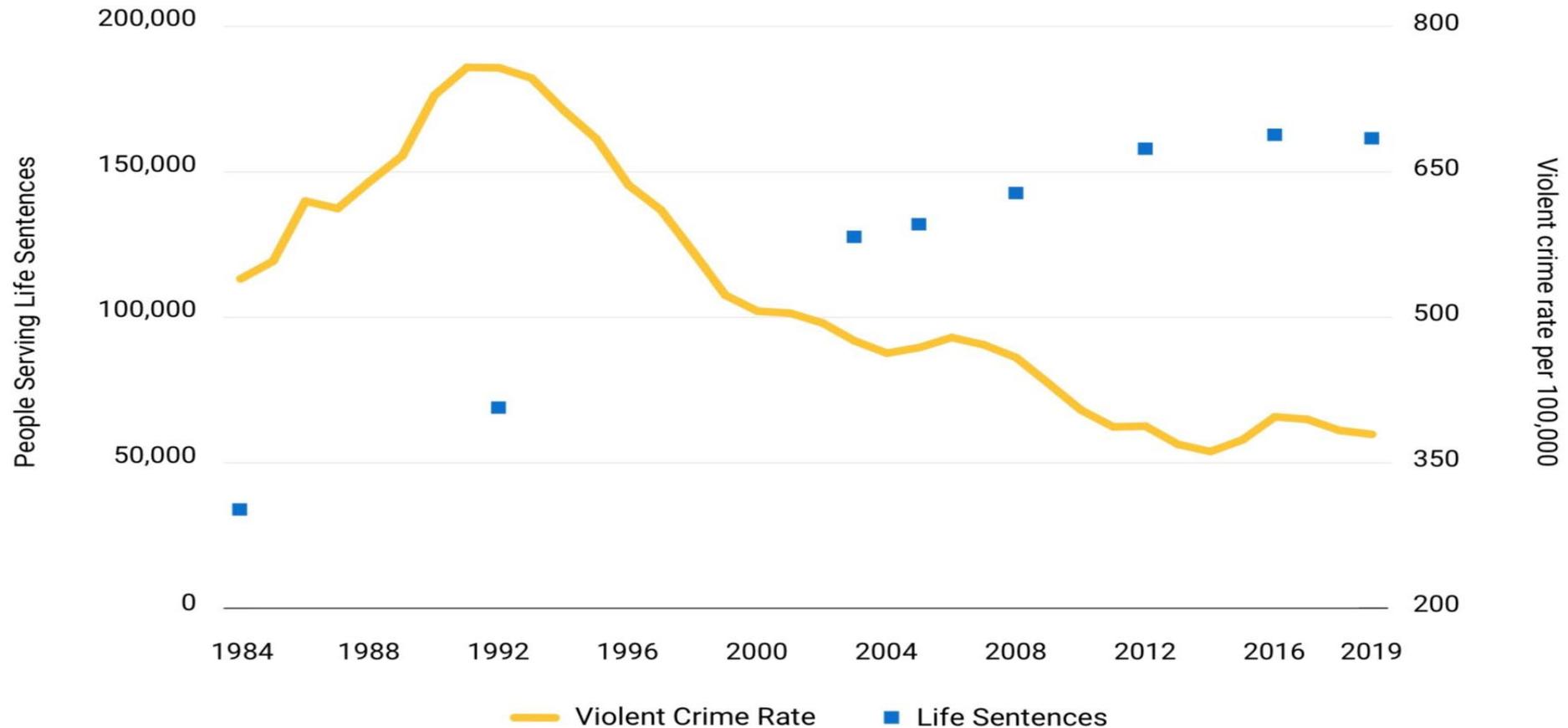
- Underlying causes lengthening prison terms demand expansions of post-conviction remedies
- Statutory expansions: DC, California, and Connecticut
- Sentence Review Units: Baltimore, Los Angeles
- Post sentence review efforts: Ohio and Wisconsin

Figure 3. Change Over Time in Life Without Parole and Life with Parole, 2003-2020



Public Safety and Life Imprisonment

Figure 1. Trends in Violent Crime and Life Imprisonment



Strategizing to Advance Second Look Reforms

- Litigation and case advocacy
- Campaign to End Life Imprisonment: Building momentum jurisdiction by jurisdiction – endlifeimprisonment.org
- Long-term strategies to recalibrate extreme sentences and create space for mid term adjustments in the short term



Expanding Second Looks at Reforms

- Organizing a discussion
- Developing a local and state narrative
- Showing need and possibility for reforms

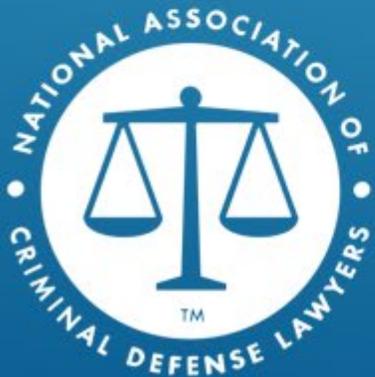




HUMAN RIGHTS
for **KIDS**

Second Look and Kids: A Human Rights Necessity

James Dold
CEO & Founder,
Human Rights for Kids



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Reframing Who These Kids Are

“The vast majority of children involved in the juvenile justice system have survived exposure to violence and are living with the trauma of that experience.”

-OJJDP’s CEV Report (children exposed to violence)

Over 92% of youth in a detention center have lived through a traumatic event with over half reporting exposure to six or more traumatic events. The most common trauma was witnessing violence.

Adverse Childhood Experiences

- Physical Abuse
- Sexual Abuse
- Emotional Abuse
- Physical Neglect
- Emotional Neglect
- Family Violence
- Household Substance Abuse
- Household Mental Illness
- Separated Parents
- Incarcerated Household Member

Severity of Offense is Correlated to Increased Trauma Exposure

The ACEs of Children Sentenced to Life Without Parole:

- 80% witnessed violence in their homes;
- 54% witnessed violence in their neighborhoods;
- 80% of girls and 50% of all children were physically abused;
- 77% of girls and 20% of boys were sexually abused.

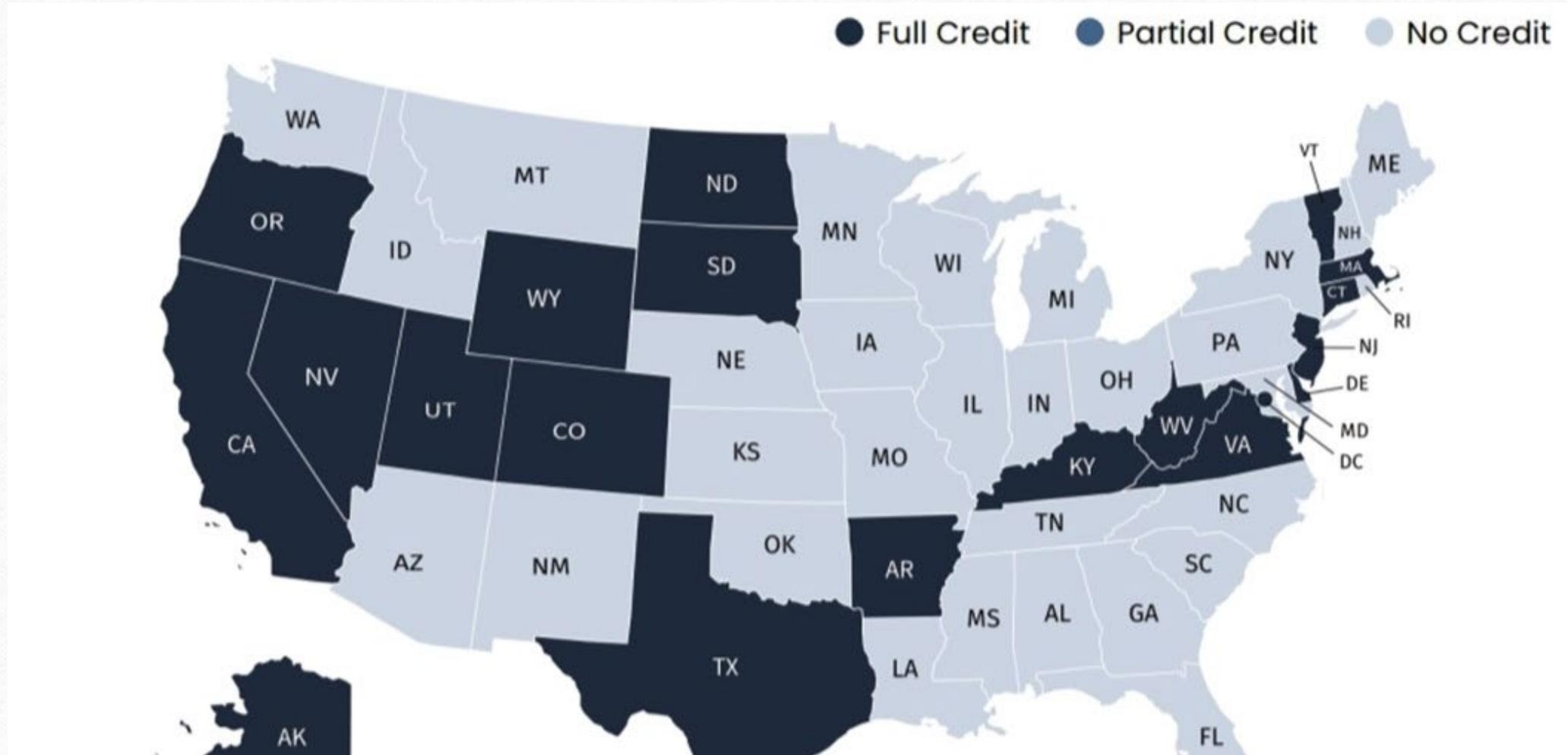
A GLOBAL OUTLIER

- At the time *Miller v. Alabama* was decided, more than 2,500 children had been sentenced to die in prison. Roughly 25% of these children had been convicted under the felony murder rule, meaning they did not kill the victim in their case.
- This does not include children serving de facto life sentences or lengthy mandatory minimums

Racial Disparities

- Black children represent nearly 70% of all children sentenced to JLWOP since *Miller v. Alabama* was announced.
- Prior to *Miller*, Black youth were already grossly over-represented making up approximately 60% of the entire JLWOP population.

LEGISLATIVE BANS ON JLWOP AS OF 2020

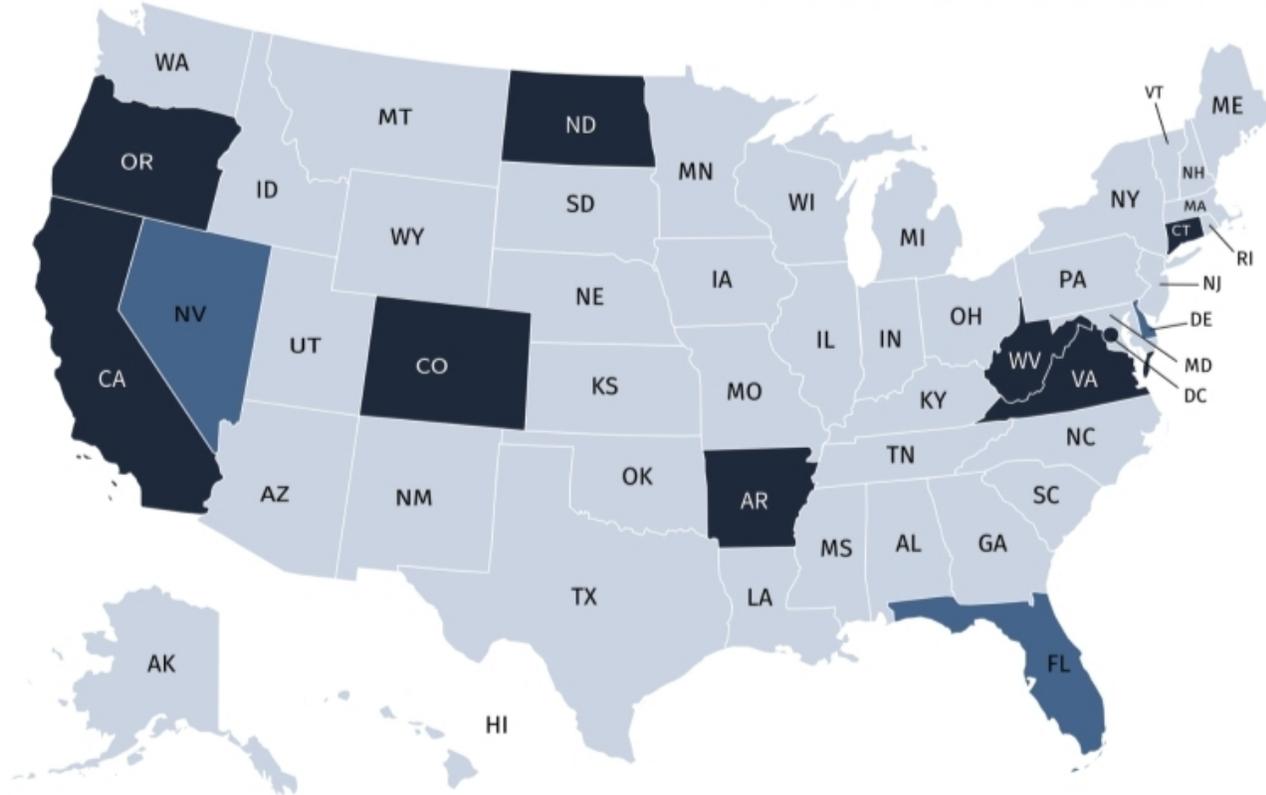


TRUE SECOND LOOK: LEAVE NO CHILD BEHIND



Release Safety Valve

● Full Credit ● Partial Credit ● No Credit



PAROLE OR JUDICIAL REVIEW?

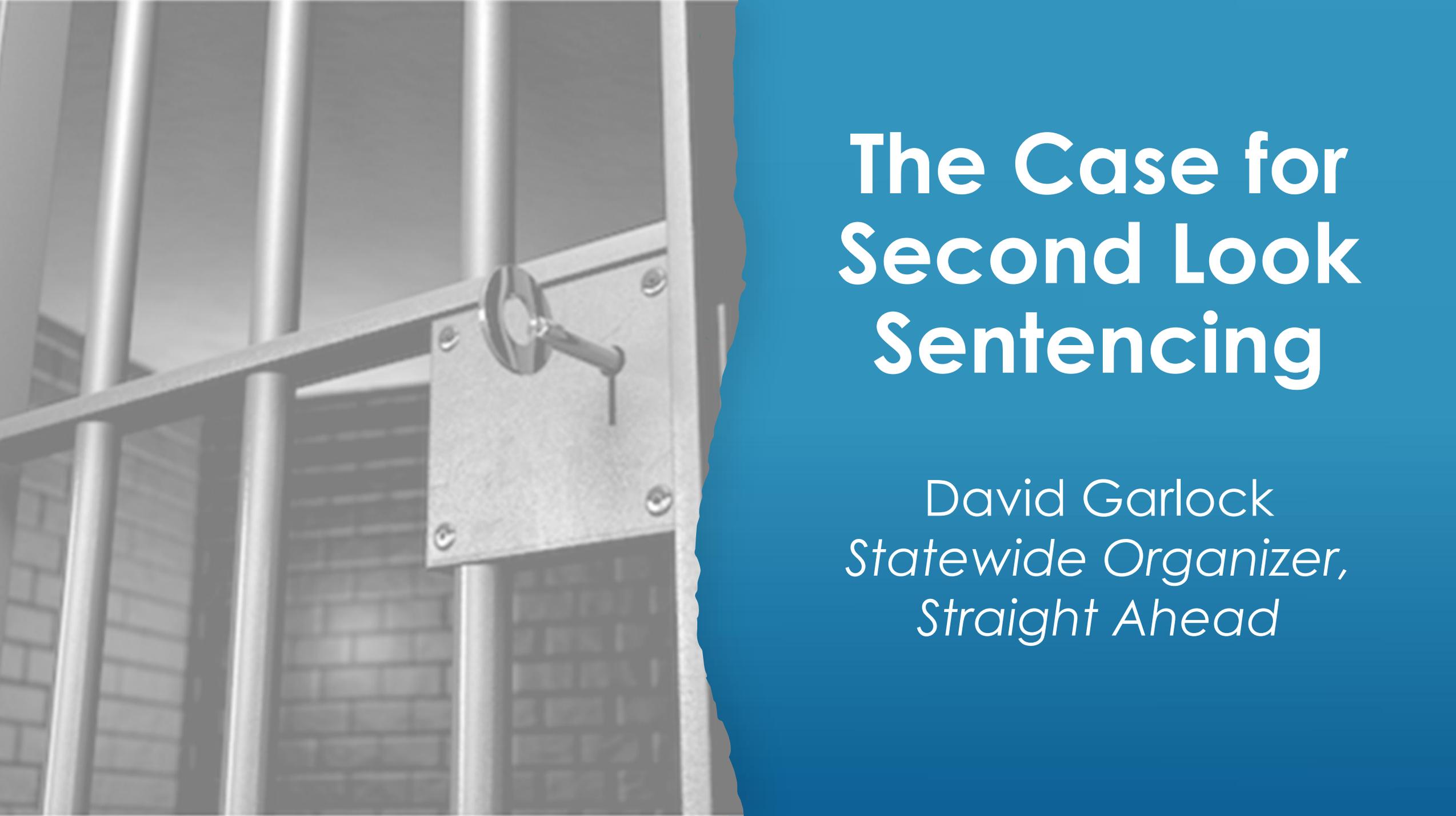
- Biggest Factor: Political Climate/Will
- Big Picture: Which System is Best?
 - How is the Parole Board in your state?
 - Are judges elected in your state?

Compelling Arguments

- Child Status - juvenile brain and behavioral development science
- Trauma as a significant mitigating factor (reframe the discussion)
- Supreme Court Jurisprudence – Roper, Graham, Miller, & Montgomery
- Human Rights Standards – Article 37 of the CRC
- Religion & Redemption – Lessons from various faiths
- Common Sense: Balance Public Safety With Treating Kids Differently
- The Least Compelling Argument: Saves Money

Pending Bipartisan Reforms in Congress

- Senator Durbin & Grassley – S. 1014 (Sec. 201)
- Congressman Westerman – H.R. 2858 - Sara's Law and the Unfair Sentencing Act

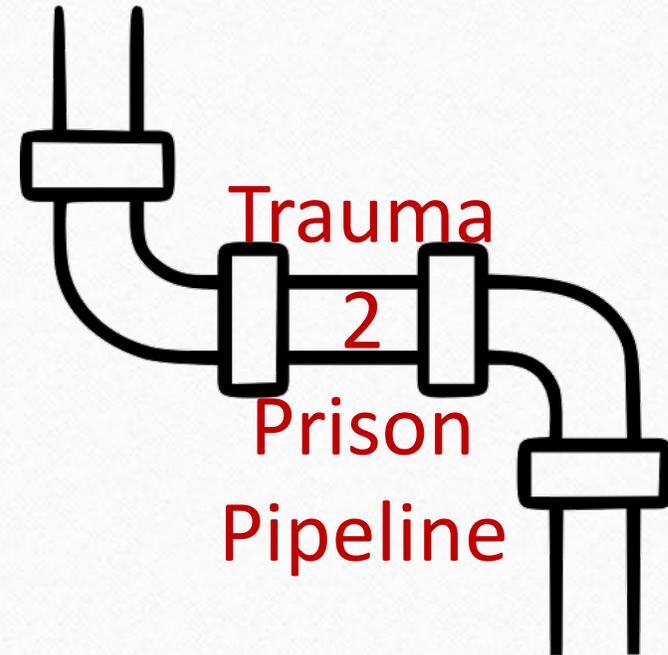


The Case for Second Look Sentencing

David Garlock
*Statewide Organizer,
Straight Ahead*

Adverse Childhood Experiences (ACE's)

- The quiz score is based on ten types of childhood trauma measured in the ACE Study.
- Five are Personal and Five relate to other family members.
- The Higher the score the higher your risk for health and social problems



Instructions: Below is a list of 10 categories of Adverse Childhood Experiences (ACEs). From the list below, please place a checkmark next to each ACE category that you experienced prior to your 18th birthday. Then, please add up the number of categories of ACEs you experienced and put the *total number* at the bottom.

Did you feel that you didn't have enough to eat, had to wear dirty clothes, or had no one to protect or take care of you?	<input type="checkbox"/>
Did you lose a parent through divorce, abandonment, death, or other reason?	<input type="checkbox"/>
Did you live with anyone who was depressed, mentally ill, or attempted suicide?	<input type="checkbox"/>
Did you live with anyone who had a problem with drinking or using drugs, including prescription drugs?	<input type="checkbox"/>
Did your parents or adults in your home ever hit, punch, beat, or threaten to harm each other?	<input type="checkbox"/>
Did you live with anyone who went to jail or prison?	<input type="checkbox"/>
Did a parent or adult in your home ever swear at you, insult you, or put you down?	<input type="checkbox"/>
Did a parent or adult in your home ever hit, beat, kick, or physically hurt you in any way?	<input type="checkbox"/>
Did you feel that no one in your family loved you or thought you were special?	<input type="checkbox"/>
Did you experience unwanted sexual contact (such as fondling or oral/anal/vaginal intercourse/penetration)?	<input type="checkbox"/>
Your ACE score is the total number of checked responses	<input type="checkbox"/>

Prison Is Not about Healing

Prison adds upon existing trauma

Prison tries to deal with MH issues and Trauma with drugs

Seeing a Counselor/Psychiatrist is difficult isn't always helpful

Dual Victims

- They have a family member serving a sentence for Murder
- Have lost a family member to gun violence
- They are not an Anomaly



Prison – The New 55+ Community

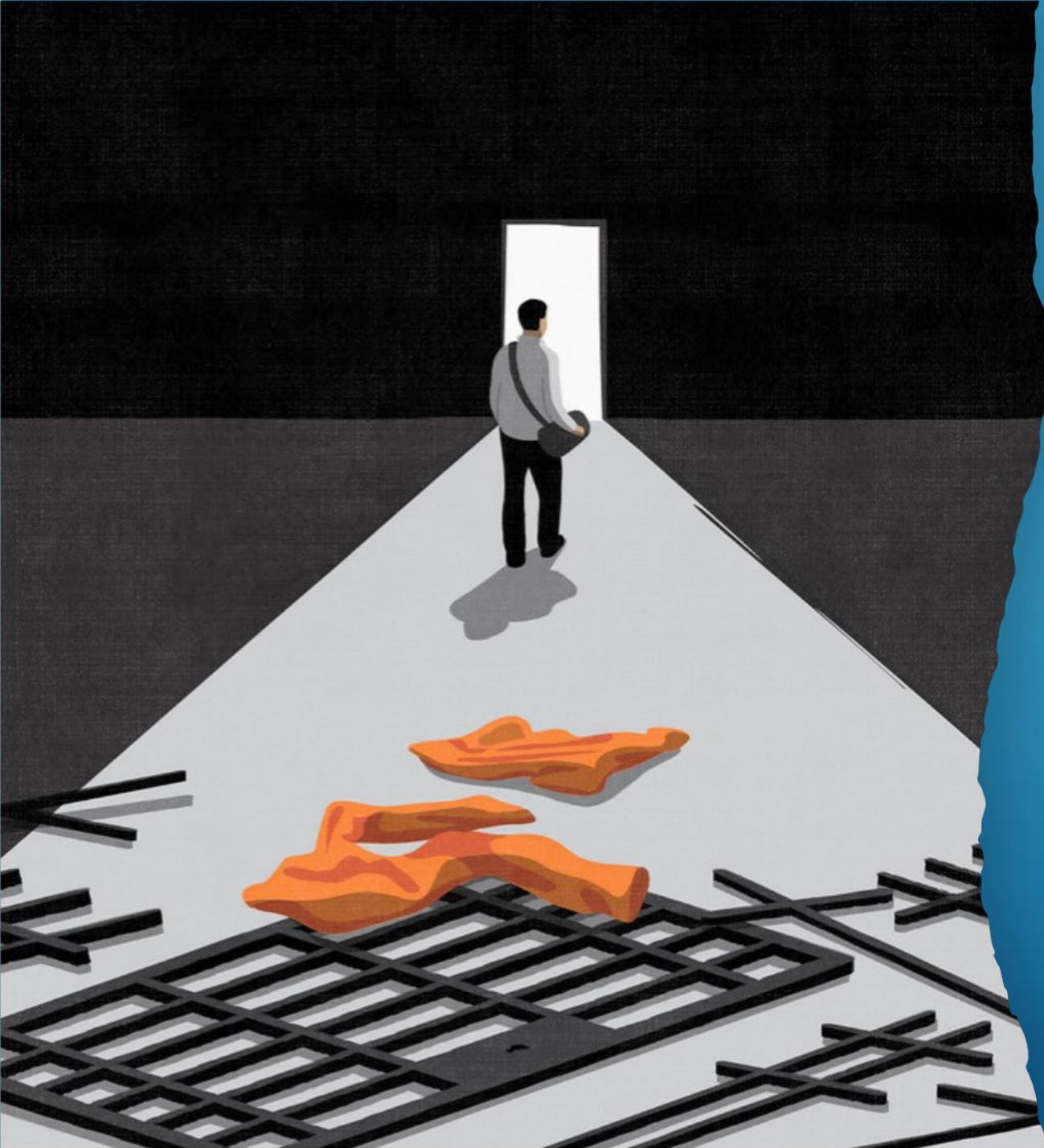
- Prison is not a place where Hospice should be
- Over 30% of those incarcerated are over 55
- Costs at least Double at age 50 (ACLU)
- I saw people die in prison who couldn't commit another crime if they wanted to



LWOP & Geriatric/Medical Parole

- SB 135 would allow Parole eligibility at 35 yrs 1st Degree and 25 yrs 2nd Degree
- Geriatric/Medical- 55 years of age and served 25 yrs or 1/2 of sentence





NACDL's Model Second Look Legislation

JaneAnne Murray
*Co-Chair, NACDL's
Second Look Task Force
& Professor, University of
Minnesota School of Law*

NACDL's Model Second Look Legislation: Key Components

- Judicial “second look” after 10 years served
- Review at no more than 5-year intervals thereafter
- Harnesses DOC to commence process
- Petitioner has right to appointed counsel
- Requires a face-to-face hearing
- Sets forth factors that must be considered
- Ensures and cabins victim participation
- Petitioner has right to appellate review
- Animated by principles of humility and humanity

Learn more: <https://nacdl.org/secondlook>