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May 5, 2009

Chairman Mark S. Meadows
House Judiciary Committee
Michigan State House of Representatives
S 1088 House Office Building
P.O. Box 30014
Lansing, MI 48909-7514

Re: LDF Support for House Bills Nos. 4594, 4595, and 4596

Dear Chairman Meadows:

The NAACP Legal Defense and Educational Fund, Inc. ("LDF") writes to support House Bills Nos. 4594, 4595, and 4596, which seek to end life without parole sentencing for teenagers. This important legislation prohibits the sentencing of children under eighteen to life without the possibility of parole, and, instead, offers such offenders the possibility of parole after ten years of incarceration and after an individualized assessment, by the Parole Board, of the appropriateness of release. This landmark legislation represents a necessary commitment to the future of all of Michigan's children, regardless of their mistakes.

LDF is a non-profit civil rights law firm founded in 1940 by the late U.S. Supreme Court Justice Thurgood Marshall. Since its inception, LDF has fought to make this country's constitutional and statutory guarantees of equal treatment and civil rights a reality for African Americans and other communities of color. As the nation's first civil rights and public interest law firm, LDF is recognized for its pioneering and long-standing advocacy for racial justice in areas including the criminal justice system.

LDF is troubled by juvenile life without parole sentencing in Michigan (and other states) due to the severe racial disparities consistently found in such sentencing, the sentence's disregard of recent scientific discoveries about childhood development, and the enormous moral, political, and economic costs associated with sentencing children to die in prison. Indeed, LDF's concern about this issue led to its careful investigation and report on juvenile life without parole sentences in Mississippi, "No Chance To Make It Right: Life Without Parole for Juvenile Offenders in Mississippi." In that study, LDF

found that 76% of the teenagers sentenced to life without parole in Mississippi were black even though African Americans comprise only 36% of Mississippi's population.[1]

Nationwide, black teenagers are 10 times more likely to receive life without parole sentences than their white counterparts.[2] Michigan is no different: the percentage of young African Americans with life without parole sentences (69%) is grossly disproportionate to the percentage of African Americans in Michigan's general population (15%).[3] Indeed in 2004, there were 307 children serving life without parole in Michigan, and 221 of them were youth of color.[4] It is important to note that these disparities are not driven by a greater propensity among minority youth to commit crimes subject to life without parole sentences. Rather, in Michigan's "juvenile justice system, minority youth are more likely to be arrested, detained, committed to residential placements, and waived to the adult criminal justice system than their white peers. Class bias intersects with race and results in harsher treatment of children of single parents, low income, and working families in the intake and disposition system. Along with perceptions of African-American and Hispanic youth as 'dangerous' or 'gang-involved,' the lack of resources and access to counsel all contribute to the resulting inequities in the treatment of juveniles."[5]

Indeed, racial disparity is not the only problem with juvenile life without parole sentencing. Recent scientific developments demonstrate that the adolescent brain is not fully formed until well into early adulthood, and children have diminished abilities to exercise judgment, impulse control, and risk assessment. Such findings influenced the United States Supreme Court to declare the execution of juveniles unconstitutional. *See* *Roper v. Simmons*, 543 U.S. 551 (2005). In that case, Justice Kennedy stated, "[t]he reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character. From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed."[6]

The similarities between the execution of juvenile offenders and the sentencing of juveniles to life without parole are abundantly clear: both are cruel forms of punishment that ignore a child's incomplete biological and psychological development and improperly extinguish any hope for a child's rehabilitation. In fact, sentencing children to die in prison is universally recognized as a violation of fundamental human rights, and

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[1] NAACP Legal Defense and Educational Fund, Inc., "No Chance To Make It Right: Life Without Parole for Juvenile Offenders in Mississippi" (2008), *available at* http://naacpldf.org/content/pdf/No_Chance_to_Make_it_Right.pdf.

[2] Human Rights Watch, "The Rest of Their Lives: Life Without Parole for Youth Offenders in the United States in 2008" (May 2008).

[3] ACLU of Michigan, "Second Chances: Juveniles Serving Life Without Parole in Michigan Prisons" (2004).

[4] *Id.*

[5] *Id.*

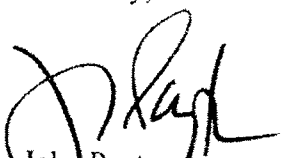
[6] *Roper v. Simmons*, 543 U.S. 551, 570 (2005).

the United States is the *only* country in the world that engages in this practice.[7] Given the serious human rights implications of imposing juvenile life without parole sentences, Michigan should take immediate action to eliminate this egregiously unjust sentencing practice.

Finally, forcing children with potential for rehabilitation to spend the rest of their lives in prison is a remarkably wasteful use of public resources in light of Michigan's current economic crisis. In 2002, the cost of housing one juvenile in Michigan prisons for fifty years was more than one million dollars.[8] Providing parole eligibility for inmates with juvenile life without parole sentences would result in a savings of approximately $5.6 million per year for the Department of Corrections.[9] As Michigan faces a budget crisis of historic proportions, legislation that would give the Parole Board the authority to conduct an individualized assessment of a juvenile's sentence after a minimum of ten years in prison is not only a necessary civil and human rights reform, it is also as an act of fiscal responsibility.

The passage of House Bills Nos. 4594, 4595, and 4596 is an important step toward reinforcing Michigan's commitment to all of its children and remedying a gross civil and human rights violation that leaves the United States significantly out of touch with the international community. For these reasons, LDF urges the House to pass Bills Nos. 4594, 4595, and 4596.

Sincerely,



John Payton
President and Director-Counsel

cc: Members of the Michigan House Judiciary Committee

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[7] Human Rights Watch, "The Rest of Their Lives: Life Without Parole for Youth Offenders in the United States in 2008" (May 2008).

[8] ACLU of Michigan, "Second Chances: Juveniles Serving Life Without Parole in Michigan Prisons" (2004).

[9] *Id.*