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AS THOUSANDS SERVE LIFE WITHOUT PAROLE FOR KILLING WHEN THEY WERE TEENS, FRONTLINE PROBES POLICY OF CRIME AND PUNISHMENT

FRONTLINE presents
When Kids Get Life
Tuesday, May 8, 2007, from 9 to 10:30 P.M. ET on PBS

www.pbs.org/frontline/whenkidsgetlife

The United States is one of the only countries in the world that allows children under 18 to be sentenced to life without parole. Human Rights Watch reports that more than 2,200 inmates are currently serving life without parole in the U.S. for having committed murder when in their teens, with only 12 serving the same sentence in the rest of the world. FRONTLINE producer Ofra Bikel (*The O.J. Verdict*, *Innocence Lost*) travels to Colorado to profile five cases of juveniles sentenced to life without parole in *When Kids Get Life*, airing Tuesday, May 8, from 9 to 10:30 P.M. ET on PBS (check local listings).

Colorado was an early pioneer in juvenile justice, focusing on the rehabilitation of the child rather than punishment. But in the late 1980s and 1990s, when a sharp increase in violent crimes by young offenders attracted enormous press, legislators nationwide found it easy to clamp down. "Crime has always been a big political issue, and so it's very easy for politicians to say, 'Let's punish; let's make the sentences longer; let's not let people get out,'" says Norm Mueller, a veteran defense attorney in Denver. In Colorado, the Legislature changed the definition of a life sentence from 40 years before parole eligibility to natural life and expanded the power of district attorneys to treat juveniles as adults, bypassing the discretion of juvenile court judges.

In 1992 the U.S. ratified the International Covenant on Civil and Political Rights, which requires that juvenile imprisonment focus on rehabilitation, but reserved the right to sentence juveniles to life without parole in extreme cases, involving the most hardened of criminals, the worst of the worst.

JACOB IND

The crime scene was gruesome. In December of 1992, 15-year-old Jacob Ind murdered his mother and stepfather. The troubled family life that led to such a heinous crime slowly unfolded over the course of his trial. Jacob's defense claimed that he had endured years of sexual abuse at the hands of his stepfather, who repeatedly raped him and his brother. But prosecutors argued that what happened at home was exaggerated as an excuse to kill. Jacob is now 29. "All I wanted was something to end," he says. "I didn't really grasp the

permanency of their deaths. I definitely didn't understand the gravity of what it means to kill somebody." But the law for first-degree murder does not allow exceptions, regardless of age. Judge Jane Looney declared at sentencing that her "hands were tied": She was required by law to sentence Jacob to life without parole.

NATHAN YBANEZ AND ERIK JENSEN

In 1998, Nathan Ybanez and Erik Jensen were high school students in a wealthy suburb of Denver and members of a local band aptly called Troublebound. Erik came from a secure, affluent household; Nathan came from an abusive one. Within a year and a half of their meeting, Nathan had killed his mother, and Erik was implicated in the crime by another friend involved in the cover-up. Both Nathan and Erik were sentenced to life without parole. How did two boys with no criminal records end up involved in murder and penalized with a sentence the U.S. claims to reserve for "hardened criminals" who constitute "an extreme danger to society"? Erik is now serving his ninth year. "In 10 years I'll either be on the streets or dead," he says. "I'm not going to keep doing this."

TREVOR JONES

Trevor Jones was trying to scam \$100 from a classmate, but the plan went awry when his gun discharged and killed Matt Foley, who was attempting to purchase the weapon.

At the trial, the jury determined that Trevor had no intention of shooting anyone and what had happened was reckless manslaughter—basically a very bad accident. But because the accident occurred in the commission of armed robbery, Trevor was found guilty of felony murder and sentenced to life without parole. He is now spending his 10th year in prison and will never be free again.

Felony murder is a controversial law that charges criminals with murder, regardless of intent, if a death occurs in the commission of another felony. In Colorado it is a form of first-degree murder that carries a mandatory life sentence. As defense attorney Tom Carberry explains, in a felony murder situation, "You don't have to be the murderer, but if you're involved in certain crimes and somebody dies, then you're guilty of first-degree murder, life without parole."

Kathleen Byrne is an independent appellate attorney who often works for the state to uphold felony murder convictions. But she finds herself doubting the justice of the law she is paid to defend. "It's a very harsh rule," she says. "And I think a lot of people question whether it's an appropriate rule to maintain. It may be time for it to go."

Nationwide, it is estimated that a quarter of the juvenile offenders sentenced to life without parole were convicted of felony murder, which assigns the same culpability to everyone involved in the felony, even if the actual murder is committed by only one person in a group, unbeknownst to the others.

ANDREW MEDINA

Andrew Medina was also charged and sentenced for felony murder. He was only 15 when he and two acquaintances attempted a carjacking. Someone fired a gun, and the driver, 17-year-old Kristopher Lohrmeyer, died. There were three suspects, and no one knew for sure who fired the fatal shot. But two of the

suspects made deals with the prosecutor, pleading guilty and naming Andy as the triggerman. Andy, however, was not tried and sentenced for pulling the trigger, but for being party to the carjacking at the time of Lohrmeyer's murder. He was convicted of felony murder and sentenced to life without parole.

Andy is currently in the Colorado State Penitentiary, the state's notorious supermax, where he has served more than four years with virtually no human contact.

In spite of the dire predictions of the '80s and '90s, teenage crime rates have gone down. Fear of young offenders seems to have subsided. In 2005, the U.S. Supreme Court abolished the death penalty for juveniles, and there were some discussions across the country about re-examining the harsh punishments meted out to juvenile offenders.

In 2006, Colorado was the first state to pass a reform bill changing juvenile life without parole to 40 years before parole eligibility. Watered down to ensure passage, the bill was not retroactive. The 45 former juveniles now serving life without parole in Colorado—including Jacob, Erik, Nathan, Trevor and Andy—will die in prison.

"The decision to not make it retroactive was probably a compromise, perhaps a political deal," says Columbia University law professor Jeffrey Fagan. "The families of victims are very powerful advocates." Gail Palone, the mother of Trevor's victim, is unforgiving: "At least their family gets to go to the prison system and spend Thanksgiving with them. We never got that. We have to go to the cemetery. When Trevor was found guilty, they promised us that he would get life in prison with no chance of parole. The state promised us that, and the state should see to it that that's what happens."

The opponents of juvenile life without parole, a growing movement, vow to continue their effort. Curt Jensen, Erik's father and co-founder of the Pendulum Foundation, explains: "It's been an ongoing battle now for six years basically, for educating the public and working with the state Legislature. It's a battle that only ends when this state Legislature and the next governor agree that juveniles have to be treated differently than adults and that they have to be given a second chance."

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