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## Jailed for Life After Crimes as Teenagers

By [ADAM LIPTAK](#)

OCALA, Fla. - About 9,700 American prisoners are serving life sentences for crimes they committed before they could vote, serve on a jury or gamble in a casino - in short, before they turned 18. More than a fifth have no chance for parole.

Juvenile criminals are serving life terms in at least 48 states, according to a survey by The New York Times, and their numbers have increased sharply over the past decade.

Rebecca Falcon is one of them.

Ms. Falcon, now 23, is living out her days at the Lowell Correctional Institution here. But eight years ago, she was a reckless teenager and running with a thuggish crowd when one night she got drunk on bourbon and ruined her life.

Ms. Falcon faults her choice of friends. "I tried cheerleaders, heavy metal people, a little bit of country and, you know, it never felt right," Ms. Falcon said. "I started listening to rap music and wearing my pants baggy. I was like a magnet for the wrong crowd."

In November 1997 she hailed a cab with an 18-year-old friend named Clifton Gilchrist. He had a gun, and within minutes, the cab driver was shot in the head. The driver, Richard Todd Phillips, 25, took several days to die. Each of the teenagers later said the other had done the shooting.

Ms. Falcon's jury found her guilty of murder, though it never did sort out precisely what happened that night, its foreman said. It was enough that she was there.

"It broke my heart," said Steven Sharp, the foreman. "As tough as it is, based on the crime, I think it's appropriate. It's terrible to put a 15-year-old behind bars forever."

The United States is one of only a handful of countries that does that. Life without parole, the most severe form of life sentence, is theoretically available for juvenile criminals in about a dozen countries. But a report to be issued on Oct. 12 by Human Rights Watch and Amnesty International found juveniles serving such sentences in only three others. [Israel](#) has seven, [South Africa](#) has four and [Tanzania](#) has one.

By contrast, the report counted some 2,200 people in the [United States](#) serving life without parole for crimes they committed before turning 18. More than 350 of them were 15 or younger, according to the report.

The Supreme Court's decision earlier this year to ban the juvenile death penalty, which took into account international attitudes about crime and punishment, has convinced prosecutors and activists that the next legal battleground in the United States will be over life in prison for juveniles.

Society has long maintained age distinctions for things like drinking alcohol and signing contracts, and the highest court has ruled that youths under 18 who commit terrible crimes are less blameworthy than adults. Defense lawyers and human rights advocates say that logic should extend to sentences of life without parole.

Prosecutors and representatives of crime victims say that a sentence of natural life is the minimum fit punishment for a heinous crime, adding that some people are too dangerous ever to walk the streets.

In the Supreme Court's decision, Justice Anthony M. Kennedy said teenagers were different, at least for purposes of the ultimate punishment. They are immature and irresponsible. They are more susceptible to negative influences, including peer pressure. And teenagers' personalities are unformed. "Even a heinous crime committed by a juvenile," Justice Kennedy concluded, is not "evidence of irretrievably depraved character."

Most of those qualities were evident in Ms. Falcon, who had trouble fitting in at her [Kansas](#) high school and had been sent by her mother to live with her grandmother in [Florida](#), where she received little supervision. She liked to smoke marijuana, and ran with a series of cliques. "I was looking for identity," she said.

Like many other lifers, Ms. Falcon is in prison for felony murder, meaning she participated in a serious crime that led to a killing but was not proved to have killed anyone.

In their report, the human rights groups estimate that 26 percent of juvenile offenders sentenced to life without parole for murder were found guilty of felony murder. A separate Human Rights Watch report on [Colorado](#) found that a third of juveniles serving sentences of life without parole there had been convicted of felony murder.

The larger question, advocates for juveniles say, is whether any youths should be locked away forever.

At the argument in the juvenile death penalty case, Justice Antonin Scalia said the reasons offered against execution apply just as forcefully to life without parole. Justice Scalia voted, in dissent, to retain the juvenile death penalty.

"I don't see where there's a logical line," he said at the argument last October.

When it comes to Ms. Falcon, the prosecutor in her case said she does not ever deserve to be free. Indeed, she is lucky to be alive.

The prosecutor, Jim Appleman, is convinced that she shot Mr. Phillips. "If she were a 29-year-old or a 22-year-old," he said, "I have no doubt she would have gotten the death penalty."

Ms. Falcon dressed up, as best one can in prison, to meet two journalists not long ago. There was nothing to be done about the plain blue prison dress, with buttons down the front. But she wore gold earrings, a crucifix on a gold chain and red lipstick. Her dark hair was shoulder length, and her eyes were big and brown.

She said her eight years in prison had changed her.

"A certain amount of time being incarcerated was what I needed," she said. "But the law I fell under is for people who have no hope of being rehabilitated, that are just career criminals and habitually break the law, and there's just no hope for them in society. I'm a completely different case."

"My sentence is unfair," she added. "They put you in, and they forget."

### **Tagging Along on a Horrific Night**

The case of another Florida teenager, Timothy Kane, demonstrates how youths can be sent away for life, even when the evidence shows they were not central figures in a crime.

Then 14, Timothy was at a friend's house, playing video games on Jan. 26, 1992, Super Bowl Sunday, when some older youths hatched a plan to burglarize a neighbor's home. He did not want to stay behind alone, he said, so he tagged along.

There were five of them, and they rode their bikes over, stashing them in the bushes. On the way, they stopped to feed some ducks.

Two of the boys took off at the last moment, but Timothy followed Alvin Morton, 19, and Bobby Garner, 17, into the house. He did not want to be called a scaredy-cat, he said.

"This is," he said in a prison interview, "the decision that shaped my life since."

The youths had expected the house to be empty, but they were wrong. Madeline Weisser, 75, and her son, John Bowers, 55, were home.

While Timothy hid behind a dining room table, according to court records, the other two youths went berserk.

Mr. Morton, whom prosecutors described as a sociopath, shot Mr. Bowers in the back of the neck while he pleaded for his life, killing him. Mr. Morton then tried to shoot Ms. Weisser, but his gun jammed. Using a blunt knife, Mr. Morton stabbed her in the neck, and Mr. Garner stepped on the knife to push it in, almost decapitating her.

"I firmly believe what they were trying to do was take the head as a kind of souvenir," said Robert W. Attridge, who prosecuted the case.

Mr. Morton and Mr. Garner did succeed in cutting off Mr. Bowers's pinkie. They later showed it to friends.

Mr. Morton was sentenced to death. Mr. Garner, a juvenile offender like Mr. Kane, was given a life sentence with no possibility of parole for 50 years.

Mr. Kane was also sentenced to life, but he will become eligible for parole after 25 years, when he will be 39. However, he is not optimistic that the parole board will ever let him out. Had he committed his crime after 1995, when Florida changed its law to eliminate the possibility of parole for people sentenced to life, he would not have even that hope.

Florida is now one of the states with the most juveniles serving life. It has 600 juvenile offenders serving life sentences; about 270 of them, including Ms. Falcon, who committed her crime in 1997, are serving life without parole.

Data supplied by the states on juveniles serving life is incomplete. But a detailed analysis of data from another state with a particularly large number of juvenile lifers, [Michigan](#), shows that the mix of the life sentences - those with the possibility of parole and those without - is changing fast.

In Michigan, the percentage of all lifers who are serving sentences without parole rose to 64 percent from 51 percent in the 24 years ended in 2004. But the percentage of juvenile lifers serving such sentences rose to 68 percent from 41 percent in the period. Now two out of three juvenile lifers there have no shot at parole.

The Times's survey and analysis considered juvenile lifers generally, while the human rights report examined juveniles serving life sentences without parole. Both studies defined a juvenile as anyone younger than 18 at the time of the offense or arrest. For some states that could not provide a count based on such ages, the studies counted as a juvenile anyone under the age of 20 at sentencing or admission to prison.

Juvenile lifers are overwhelmingly male and mostly black. Ninety-five percent of those admitted in 2001 were male and 55 percent were black.

Forty-two states and the federal government allow offenders under 18 to be put away forever. Ten states set no minimum age, and 13 set a minimum of 10 to 13. Seven states, including Florida and Michigan, have more than 100 juvenile offenders serving such sentences, the report found. Those sending the largest percentages of their youths to prison for life without parole are [Virginia](#) and [Louisiana](#).

### **Some Dismay Over Sentences**

Juvenile lifers are much more likely to be in for murder than are their adult counterparts, suggesting that prosecutors and juries embrace the punishment only for the most serious crime.

While 40 percent of adults sent away for life between 1988 and 2001 committed crimes other than murder, like drug offenses, rape and armed robbery, the Times analysis found, only 16 percent of juvenile lifers were sentenced for anything other than murder.

In those same years, the number of juveniles sentenced to life peaked in 1994, at about 790, or 15 percent of all adults and youths admitted as lifers that year. The number dropped to about 390, or 9 percent, in 2001, the most recent year for which national data is available.

Similarly, the number of juveniles sentenced to life without parole peaked in 1996, at 152. It has dropped sharply since then, to 54 last year. That may reflect a growing discomfort with the punishment and the drop in the crime rate.

It is unclear how many juveniles or adults are serving life sentences under three-strikes and similar habitual-offender laws.

Human rights advocates say that the use of juvenile life without parole, or LWOP, is by one measure rising. "Even with murder rates going down," said Alison Parker, the author of the new report, "the proportion of juvenile murder offenders entering prison with LWOP sentences is going up."

The courts that consider the cases of juvenile offenders look at individuals, not trends. But sometimes, as in Mr. Kane's case, they express dismay over the sentences that are required.

"Tim Kane was 14 years and 3 months old, a junior high student with an I.Q. of 137 and no prior association with the criminal justice system," Judge John R. Blue wrote for the three-judge panel that upheld Mr. Kane's sentence. "Tim did not participate in the killing of the two victims."

These days, Mr. Kane, 27, looks and talks like a marine. He is fit, serious and polite. He held a questioner's

gaze and called him sir, and he grew emotional when he talked about what he saw that January night.

"I witnessed two people die," he said. "I regret that every day of my life, being any part of that and seeing that."

He does not dispute that he deserved punishment.

"Did I know right from wrong?" he asked. "I can say, yes, I did know right from wrong."

Still, his sentence is harsh, Mr. Kane said, spent in the prison print shop making 55 cents an hour and playing sports in the evenings.

"You have no hope of getting out," he said. "You have no family. You have no moral support here. This can be hard."

Mr. Attridge, the prosecutor, who is now in private practice, said he felt sorry for Mr. Kane. "But he had options," Mr. Attridge said. "He had a way out. The other boys decided to leave."

In the end, the prosecutor said, "I do think he was more curious than an evil perpetrator."

"Could Tim Kane be your kid, being in the wrong place at the wrong time?" he asked. "I think he could. It takes one night of bad judgment and, man, your life can be ruined."

### **Different Accounts of a Crime**

Visitors to the women's prison here are issued a little transmitter with an alarm button on it when they enter, in case of emergency. But Ms. Falcon is small and slim and not particularly threatening.

She sat and talked, in a flat Midwest tone married to an urban rhythm, on a concrete bench in an outdoor visiting area. It was pleasant in the shade.

Her mother, Karen Kaneer, said in a telephone interview that her daughter's troubles began in Kansas when she started to hang around with black youths.

"It wasn't the good black boys," Ms. Kaneer said. "It was the ones who get in trouble. She started trying marijuana."

Not pleased with where things were heading, Ms. Kaneer agreed to send Rebecca away, to Panama City, Fla., to Rebecca's grandmother. "It was my husband's idea," Ms. Kaneer said ruefully, referring to Ms. Falcon's stepfather. "Her and my husband didn't have the best of relations."

Ms. Falcon received a piece of unwelcome news about an old boyfriend on the evening of Nov. 18, 1997, and she hit her grandparents' liquor cabinet, hard, drinking a big tumbler of whiskey. Later on, when she joined up with her 18-year-old friend, Mr. Gilchrist, she said, she did not suspect that anything unusual was going to happen. She thought they were taking the cab to a party.

"I didn't know there was going to be a robbery at that time," she said. "I mean, Cliff said things like he was going to try out his gun eventually, but as far as right then that night in that situation I didn't know."

Asked if she played any role in the killing, Ms. Falcon said, "No, sir, I did not."

In a letter from prison, where he is serving a life term, Mr. Gilchrist declined to comment. At his trial, both his lawyer and the prosecutor told the jury that Ms. Falcon was the killer.

The medical evidence suggested that the passenger who sat behind Mr. Phillips killed him. But eyewitnesses differed about whether that was Ms. Falcon or Mr. Gilchrist.

Several witnesses did say that Ms. Falcon had talked about violence before the shooting and bragged about it afterward.

"On numerous occasions she said she wanted to see someone die," Mr. Appleman, the prosecutor, said. Ms. Falcon said the evidence against her was "basically, that I was always talking crazy."

The testimony grew so confused that at one point Mr. Appleman asked for a mistrial, though he later withdrew the request.

Though their verdict form suggested that they concluded that Mr. Gilchrist was the gunman, the jurors remain split about what was proved. "There was no evidence presented to confirm who was the actual shooter," said Mr. Sharp, the jury's foreman.

But Barney Jones, another juror, said he believed Ms. Falcon shot the gun. "She was confused," he said. "She was probably a typical teenager. She was trying to fit in by being a violent person. The people she hung out with listened to gangster rap, and this was a sort of initiation."

Whoever was to blame, Mr. Phillips's death left a terrible void. "Each day we see a cab, the memories of our son and the tragic way he died surfaces," his father and stepmother, Roger and Karen Phillips, wrote at the time of the trial in a letter to Mr. Gilchrist, according to an article in The News-Herald, a newspaper in Panama City.

At the prison here, as Ms. Falcon talked, a photographer started shooting, and she seemed to enjoy the attention, flashing a big smile at odds with the grim surroundings.

It was a break, she explained, from the grinding monotony that is the only life she may ever know. She reads to kill time and to prepare herself in case a Florida governor one day decides to pardon her.

She had just finished a book on parenting.

"If God lets me go and have a kid," she said, "I want to know these things so I can be a good mother."

Janet Roberts contributed reporting for this series. She was assisted by Linda Amster, Jack Styczynski, Donna Anderson, Jack Begg, Alain Delaquérière, Sandra Jamison, Toby Lyles and Carolyn Wilder.