One Size Does Not Fit All: The Need for a Complete Abolition of Mandatory Minimum Sentences for Juveniles in Response to *Roper*, *Graham*, and *Miller*

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I. Introduction

Juvenile sentencing practices in the United States have seen a tremendous amount of reform in the past decade.[1] The United States Supreme Court created a foundation for such reform with a trilogy of cases: *Miller v. Alabama*, *Graham v. Florida*, and *Roper v. Simmons*.[2] Beginning with *Roper* in 2005, the Supreme Court held that the death penalty is an unconstitutional punishment for juveniles under the Eighth and Fourteenth Amendments.[3] Next, with *Graham* in 2010, the Supreme Court held that the Eighth Amendment also prohibits the imposition of life without parole (LWOP) sentences on juvenile offenders who did not commit homicide.[4] Finally, with *Miller* in 2012, the Court held that the Eighth Amendment prohibits mandatory LWOP sentences for

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1. Shobha L. Mahadev, *Youth Matters:* Roper, Graham, J.D.B., Miller, *and the New Juvenile Jurisprudence*, 38-MAR CHAMPION 14, 14 (2014) ("The last decade has given rise to an unprecedented series of decisions that relies upon common sense, science, and social science to require that youth be considered differently than adults in criminal procedure and sentencing matters.").

2. Miller v. Alabama, 132 S. Ct. 2455 (2012); Graham v. Florida, 560 U.S. 48 (2010); Roper v. Simmons, 543 U.S. 551 (2005).

3. 543 U.S. at 574 ("The age of 18 is the point where society draws the line for many purposes between childhood and adulthood. It is, we conclude, the age at which the line for death eligibility ought to rest.").

4. 560 U.S. at 74 (asserting that this conclusion "is necessary to prevent the possibility that life without parole sentences will be imposed on juvenile nonhomicide offenders who are not sufficiently culpable to merit that punishment").

juvenile homicide offenders.[5] Each case emphasized psychological and cognitive characteristics that separate adult offenders from juvenile ones.[6] The Court determined that children have "a lack of maturity and an underdeveloped sense of responsibility . . . are more vulnerable . . . to negative influences and outside pressures . . . [and] they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings."[7] The Court relied not only on "common sense" to reach this conclusion, but on science and social science as well.[8] *Roper*, *Graham*, and *Miller* built upon each other to ultimately showcase the importance of providing courts with discretionary power to individually assess juvenile offenders during the sentencing process because of the inherent differences between youth and adults.[9] Each holding "flow[ed] from the basic precept of justice that punishment for crime should be graduated and proportioned to both the offender and the offense."[10]

What is the best application of these cases? How do we best take into account the unique characteristics of juvenile offenders? Several courts interpreted the standards set forth in *Roper*, *Graham*, and *Miller*, resulting in divergent applications.[11] It can

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5. 132 S. Ct. at 2469.

6. *Id.* at 2468 (citing *Roper*, 543 U.S. at 569, and *Graham*, 560 U.S. at 67) ("[These cases] teach that in imposing a State's harshest penalties, a sentencer misses too much if he treats every child as an adult. . . . Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences.").

7. *Id.* at 2464 (quoting *Roper*, 543 U.S. at 569).

8. The Court does not define "common sense" beyond reiterating that its findings were "what 'any parent knows.'" *Id.* at 2464. In addition to this "common sense" justification, the Court cites several empirical studies to reinforce their conclusion that children are fundamentally different from adults. *Roper*, 543 U.S. at 570.

9. *Miller*, 132 S. Ct. at 2468 ("[Treating children as adults] prevents taking into account the family and home environment that surrounds him. . . . Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth. . . .").

10. *Id.* at 2463 (quoting *Roper*, 543 U.S. at 560).

11. *See* Goins v. Smith, 556 Fed. Appx. 434, 440 (6th Cir. 2014) (holding that, while the language in *Miller* "certainly counsels in favor of considering juveniles' diminished culpability in imposing consecutive term-of-years sentences, . . . [it] does not clearly require such an approach where a juvenile faces an aggregate term-of-years sentence"); U.S. v. Reingold, 731 F.3d 204, 214 (2d Cir. 2013) ("Much less does a five-year sentence equate to one of 'the law's most serious punishments' so as to raise the constitutional concerns identified in *Miller v. Alabama* about the mandatory application of life without parole to all juveniles.") (internal quotations omitted); Silva v. McDonald, 891 F. Supp. 2d 1116, 1131 (C.D. Cal. 2012) ("Notwithstanding the holdings in *Roper*, *Graham*, or *Miller*, this Court is not aware of any controlling Supreme Court precedent which holds . . . that the

be argued, however, that the most accurate interpretation of this evolving standard is found in the Iowa Supreme Court's decision in *State v. Lyle*.[12] *State v. Lyle* paves the way for complete individualization of juvenile sentencing, a practice essential to preserving the rights of youth.[13] The first decision of its kind,[14] the Court in *Lyle* concluded that any mandatory minimum sentence of imprisonment violates the Eighth Amendment when given to a juvenile defendant.[15] The Court credited its revolutionary decision to a combined interpretation of *Roper*, *Graham*, and *Miller*.[16] The Iowa Court demonstrates an understanding of the harsh realities facing many juveniles in the criminal system, and understands that these realities, coupled with the range in developmental abilities of juvenile offenders, require the court to examine each juvenile on a case-by-case basis.[17]

States' sentencing practices should conform to Iowa's interpretation of the *Roper*, *Graham*, and *Miller* Supreme Court trilogy. A complete individualization of sentencing practices for juveniles is the best way to adequately protect the rights of juveniles in light of the recent Supreme Court jurisprudence, our modern understanding of juvenile culpability, and the struggles faced by juveniles in the criminal justice system. Other states

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sentence at issue here of 40-years-to-life with the possibility of parole, for a juvenile . . . violates the Eighth Amendment."); *cf.* State v. Smoot, 134 So.3d 1, 10 (La. Ct. App. 2014) ("The trial court stated that it had taken into account the youth of defendant as well as his upbringing and previous criminal activity."); Foye v. State, 153 So.3d 854, 863 (Ala. Crim. App. 2013) ("We hold that a sentencing hearing for a juvenile convicted of a capital offense must now include consideration of . . . the juvenile's chronological age at the time of the offense and the hallmark features of youth . . . .").

12. 854 N.W.2d 378 (Iowa 2014).

13. *Id.*

14. *Iowa: Mandatory Minimums for Juveniles Thrown Out*, N.Y. TIMES, July 18, 2014, *available at* http://www.nytimes.com/2014/07/19/us/iowa-mandatory-minimums-for-juveniles-thrown-out.html?_r=0.

15. 854 N.W.2d at 402 ("*Miller* is properly read to support a new sentencing framework that reconsiders mandatory sentencing for all children. Mandatory minimum sentencing results in cruel and unusual punishment due to the differences between children and adults.").

16. *Id.* at 401 ("Overall, no other logical result can be reached under article I, section 17 [of the Iowa Constitution], a result that is also embedded within the most recent cases from the United States Supreme Court."). The Court interprets article I, section 17 of the Iowa Constitution and the Eighth Amendment of the United States Constitution identically, citing precedent interpreting the respective provisions interchangeably. *See id.* at 402.

17. *Id.* at 402–03 ("The keystone of our reasoning is that youth and its attendant circumstances and attributes make a broad statutory declaration denying courts this very discretion categorically repugnant to article I, section 17 of our constitution.").

should follow Iowa's lead, doing away with mandatory minimum sentences for juveniles completely and, in turn, applying the individualization mandate in *Miller* as an alternative.

This Comment begins by providing a brief overview of the evolution of juvenile justice practices in the United States, touching briefly on the creation of juvenile court but focusing mainly on the expanding presence of juveniles in adult criminal court. The next section will provide more detail on the aforementioned United States Supreme Court trilogy and examine the effects these cases have on modern juvenile sentencing practices. Third, this Comment will look specifically at Iowa's implementation of *Roper*, *Graham*, and *Miller* and will analyze the *Lyle* decision in depth. The fourth and final section will explain how the decision in *Lyle* is an appropriate interpretation of *Roper*, *Graham*, and *Miller* based on recent evidence regarding the limited culpability of juveniles, the particular struggles of juvenile offenders in the adult criminal system, and subsequent evolving jurisprudence. This section will also advocate for a complete abolishment of all mandatory sentences for juvenile offenders in light of the *Lyle* decision and provide a recommendation of factors a court should consider when creating an individualized sentence.

II. The Historical Evolution of Juvenile Justice Practices in the United States

In order to recognize the significance of the *Lyle* decision, it is important to provide a historical overview of the treatment of juveniles under the law. As the court in *Lyle* points out: "This history is particularly salient given the categorical nature of Lyle's challenge. It reveals children and juveniles have been viewed as constitutionally different from adults in this country for more than a century."[18] This history, combined with today's psychological and scientific understanding of juvenile culpability, creates a supportive context in which to fit a widespread abolition of mandatory minimum sentences for juveniles.

A. The Development of Juvenile Justice

At common law, young children under the age of seven lacked criminal capacity and children between the ages of seven and fourteen were presumed to lack criminal capacity.[19] Juveniles over the age of fourteen, however, were presumed to have the requisite

18. *Id.* at 390.
19. *Id.*

capacity to commit criminal actions.[20] For more than 100 years after the founding of the United States, prosecuted juveniles were tried in adult criminal court.[21] Prior to the creation of juvenile courts, states tried and sentenced children as adults, and "imprisoned and executed them for crimes committed as young as ten, eleven, or twelve years of age."[22]

As America began to industrialize, a more modern view of juveniles came to fruition.[23] Progressive reformers were "appalled by adult procedures and penalties, and by the fact that children could be given long prison sentences and [be] mixed in jails with hardened criminals."[24] With this disgust, reformers advocated for the creation of a separate criminal system "concerned with determining what was in the child's best interests based upon the child's unique circumstances."[25] The focus of this new juvenile court was to be on rehabilitation and treatment rather than punishment.[26] The court was to act *in parens patriae*, as surrogate parents for children.[27] While, in theory, this meant protection for children, it often meant that juveniles did not receive the rights of criminal defendants in the adult system.[28]

As society's perceptions on the importance of liberty and due process for juveniles began to shift in the middle of the twentieth century, the Court began to require the basic protection provided to adult offenders to be offered in both juvenile courts and in proceedings in which juveniles were waived into adult court.[29]

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20. *Id.*

21. Barry C. Feld, *Unmitigated Punishment: Adolescent Criminal Responsibility and LWOP Sentences*, 10 J.L. & FAM. STUD. 11, 13 (2007).

22. *Id.* at 14.

23. *Id.* at 14–15.

24. *In re* Gault, 387 U.S. 1, 15 (1967).

25. State v. Lyle, 854 N.W.2d 378, 390 (Iowa 2014) (citing *In re Gault*, 387 U.S. at 15–16).

26. *See* Julian W. Mack, *The Juvenile Court*, 23 HARV. L. REV. 104, 108 (1909) ("[T]he protection is accomplished by suspending sentence and releasing the child under probation, or in the case of removal from the home, sending it to a school instead of to a jail or penitentiary.").

27. *Lyle*, 854 N.W.2d at 390–91 (referencing *In re Gault*, 387 U.S. at 15–17); *see* Marvin Ventrell, *From Cause to Profession: The Development of Children's Law and Practice*, 32-JAN COLO. LAW. 65 (2003) ("The courts accepted the logic that society was entitled to take custody of a child without due process of law, . . . because of the state's authority and obligation to save its children from becoming criminal.").

28. The common opinion of the time was that a child had no individual right to liberty, only a right to custody. Thus, it was understood that the state could not deprive a child of any rights because he had none. *Lyle*, 854 N.W.2d at 390 (citing *In re Gault*, 387 U.S. at 15–17).

29. For example, in *Gault*, the Court conceded that the juvenile court had

States did not react to the Court's decision by reforming their juvenile courts; rather, the response was often for state legislatures to prosecute more juveniles as adults and to give more juveniles adult sentences.[30] While transfer from juvenile to adult criminal court has been an option since the inception of the juvenile court, states in the mid- to late-twentieth century began dramatically expanding the offenses for which transfer could be permitted.[31] In the late 1980s and early 1990s, states lowered the age for transfer and narrowed juvenile court jurisdiction, with many states enacting mandatory transfer provisions for serious offenses.[32] This rapid increase in transfer from the juvenile to the adult criminal system and the increase in harsh sentencing statutes led to longer, more intense sentences for juveniles.[33] These policies were propelled by a rhetorical "narrative of a young generation of 'super-predators' and predictions of an impending blood-bath of youth violence."[34]

By the end of the twentieth century, the Court recognized the harsh treatment of juveniles as an issue needing to be addressed.[35] At the crux of this realization was the need to create standards for juvenile sentencing that complied with the Eighth Amendment,[36] specifically the cruel and unusual punishment clause. The U.S. Supreme Court, in several decisions, did recognize substantial differences between juveniles and adults that supported differential treatment.[37]

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benevolent motives; however, the unbridled discretion of the courts to create sentences for juveniles in their so-called "best interest" without a set of fair process and procedure violated the constitutional rights of those juveniles. 387 U.S. at 17–18.

30. *Lyle*, 854 N.W.2d at 391 (citing Kent v. United States, 383 U.S. 541, 556–57 (1966)); Donna M. Bishop, *Juvenile Offenders in the Adult Criminal Justice System*, 27 CRIME & JUST. 81, 84 (2000).

31. Bishop, *supra* note 30, at 84–85; *see also* Shuka Rassouli, *Cruel and Unusual Punishment: Juvenile Offenders Sentenced to Adult Prisons*, 8 WHITTIER J. CHILD. & FAM. ADVOC. 261 (2009) (providing a history of juveniles in the adult court system).

32. Barry C. Feld, *Adolescent Criminal Responsibility, Proportionality, and Sentencing Policy:* Roper, Graham, Miller/Jackson, *and the Youth Discount*, 31 LAW & INEQ. 263, 267 (2013).

33. *Lyle*, 854 N.W.2d at 391.

34. Feld, *supra* note 32, at 266–67 (concluding that the intersection of youth, race, and crime fueled punitive policies).

35. *Lyle*, 854 N.W.2d at 391.

36. U.S. CONST. amend. VIII ("Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.").

37. *Lyle*, 854 N.W.2d at 391; *see* Johnson v. Texas, 509 U.S. 350, 367 (1993); Thompson v. Oklahoma, 487 U.S. 815, 836–38 (1988); Eddings v. Oklahoma, 455 U.S. 104, 115–16 (1982).

III. The Creation of Modern Juvenile Sentencing Reform: The Supreme Court Trilogy

The Supreme Court decided three revolutionary juvenile sentencing cases in relatively quick succession, creating an expanded interpretation of the Eighth Amendment's cruel and unusual punishment clause.[38]

A. Treating Youth Categorically: Roper

Simmons, a 17-year-old junior in high school, planned and committed capital murder.[39] Approximately nine months later, as an 18-year-old, he was tried as an adult.[40] The State sought the death penalty, presenting several aggravating factors.[41] The defense focused on Simmons' lack of prior convictions and his capacity to care for and love his younger brothers and his grandmother.[42] Both the prosecutor and defense counsel addressed Simmons' age.[43] Simmons' counsel argued that someone Simmons' age "cannot drink, serve on juries, or even see certain movies" because states recognize the lack of responsibility of youth.[44] The prosecutor rebutted, emphasizing that it is disturbing for someone that young to commit such a crime and that age should not mitigate the sentence.[45] The trial judge, under the jury's recommendation, sentenced Simmons to death.[46] Simmons obtained new counsel and moved to set aside the conviction and sentence.[47] Simmons' counsel argued that he was "very immature, very impulsive, and very susceptible to being manipulated or influenced" and that these matters should have been established in the sentencing proceeding.[48] The trial court

38. Miller v. Alabama, 132 S. Ct. 2455 (2012); Graham v. Florida, 560 U.S. 48 (2010); Roper v. Simmons, 543 U.S. 551 (2005).

39. Because Simmons was seventeen at the time of his crime, he was outside the jurisdiction of Missouri's juvenile court. *Roper*, 543 U.S. at 557 (citing MO. REV. STAT. §§ 211.021 (2000) and 211.031 (Supp. 2003)).

40. *Id.* at 557.

41. The State submitted the following factors: "[The crime] was committed for the purpose of receiving money; was committed for the purpose of avoiding . . . lawful arrest of defendant; and involved depravity of mind . . . ." *Id.*

42. *Id.* at 558.

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.* at 559 (internal quotations omitted).

denied the motion for post-conviction relief and the Missouri Supreme Court affirmed.[49]

In 2002, the Supreme Court held in *Atkins v. Virginia* that the Eighth and Fourteenth Amendments prohibited the death penalty for a mentally retarded person.[50] Simmons filed a new petition, arguing that the reasoning used in *Atkins* established a similar prohibition for juvenile offenders under the age of eighteen.[51] The Missouri Supreme Court agreed with this contention, setting aside Simmons' death sentence and resentencing him to life without parole.[52] The State appealed and the United States Supreme Court then granted certiorari.[53]

The Court recognized the national consensus against the death penalty for juveniles, as the Missouri Supreme Court did.[54] The Court identified three differences between juveniles under eighteen and adults to demonstrate that juvenile offenders cannot be classified among the worst offenders that warrant the death penalty:[55] (1) juveniles do not possess the same sense of responsibility or level of maturity that adults do;[56] (2) juveniles are more susceptible to "negative influences and outside pressures, including peer pressure";[57] and (3) the character and personality of a juvenile is not developed to the same extent as that of an adult.[58] Taking these factors into account, along with both the national consensus and international consensus against the death penalty,[59] the Court affirmed the Missouri Supreme Court and held that the Eighth and Fourteenth Amendments "forbid imposition of the death penalty on offenders who were under the

49. *Id.* (citing State v. Simmons, 944 S.W.2d 165, 169 (en banc)). The federal courts also denied Simmons' petition for a writ of habeas corpus. Simmons v. Bowersox, 235 F.3d 1124, 1127 (8th Cir. 2001).

50. 536 U.S. 304 (2002).

51. *Roper*, 543 U.S. at 559.

52. *Id.*

53. *Id.* at 560 (citing Roper v. Simmons, 540 U.S. 1160 (2004)); *see also* Brief for Petitioner at 41, Roper v. Simmons, 543 U.S. 551 (2005) (No. 03-633), 2004 WL 903158.

54. *Roper*, 543 U.S. at 564 ("30 States prohibit the juvenile death penalty, comprising 12 that have rejected the death penalty altogether and 18 that maintain it but, by express provision or judicial interpretation, exclude juveniles from its reach.").

55. *Id.* at 569.

56. *Id.* (quoting Johnson v. Texas, 509 U.S. 350, 367 (1993)).

57. *Id.* (citing Eddings v. Oklahoma, 455 U.S. 104, 115 (1982)).

58. *Id.* at 570.

59. *Id.* at 578 ("The opinion of the world community, while not controlling our outcome, does provide respected and significant confirmation for our own conclusions.").

age of 18 when their crimes were committed."[60] The Court recognized the reality that there are always exceptions to categorical rules;[61] however, the Court reiterated the necessity of drawing a line between childhood and adulthood for the aforementioned reasons and chose the age most commonly used in society.[62]

B. Extending the Categorical Treatment of Youth: Graham

Graham, a 16-year-old, was arrested for attempted robbery.[63] Under Florida law, a prosecutor has discretion to charge a 16-year-old as an adult or as a juvenile for most felony crimes.[64] Graham's prosecutor elected to charge Graham as an adult.[65] Graham pleaded guilty to both charges under a plea agreement, which the trial court accepted.[66] Graham was to spend the first twelve months of his sentence on probation.[67] He received credit for the time he had served awaiting trial and was released on June 25, 2004.[68]

Less than six months later, Graham was again arrested in connection with a home invasion robbery and admitted to being involved in two or three other previous crimes.[69] The trial court found Graham guilty of the earlier armed burglary and attempted armed robbery charges, sentencing him as an adult to LWOP.[70] Graham challenged his sentence under the Eighth Amendment and the First District Court of Appeal of Florida affirmed the decision of the trial court.[71] After the Florida Supreme Court

60. *Id.*

61. *Id.* at 574 ("The qualities that distinguish juveniles from adults do not disappear when an individual turns 18. By the same token, some under 18 have already attained a level of maturity some adults will never reach.").

62. *Id.* ("The age of 18 is the point where society draws the line for many purposes between childhood and adulthood.").

63. Graham v. Florida, 560 U.S. 48, 53 (2010).

64. *Id.* (citing FLA. STAT. § 985.227(1)(b) (2003) (subsequently renumbered at § 985.557(1)(b) (2007))).

65. *Id.* at 53–54 (citing FLA. STAT. §§ 810.02(1)(b), (2)(a), § 812.13(2)(b), §§ 777.04(1), 4(a), and § 775.082(3)(c) (2003)) (Graham was charged with "armed burglary with assault or battery, a first-degree felony . . . and attempted armed robbery, a second-degree felony . . . .").

66. *Id.* at 54.

67. *Id.*

68. *Id.*

69. *Id.* at 55.

70. *Id.* at 57.

71. *Id.* at 58 (citing Graham v. Florida, 982 So.2d 43 (Fla. Dist. Ct. App. 2008)).

denied review, the United States Supreme Court granted certiorari.[72]

In *Graham*, the Supreme Court utilized reasoning similar to that in *Roper*.[73] While the Court did not find a consensus among state laws, the Court did find a consensus among actual state sentencing practices against using LWOP sentences for juveniles.[74] The Court asserted that the eventual determination must be based upon a reading of the Eighth Amendment and that public consensus, while valid, does not provide the sole criterion.[75]

The Supreme Court decision in *Graham*, as in the *Roper* decision, acknowledged that the differences between juveniles and adults must be taken into account when developing sentencing guidelines for youth.[76] The Court was led to conclude, "[a] juvenile offender who did not kill or intend to kill has a twice diminished moral culpability."[77] Based on this understanding, the Court finally concluded that LWOP sentences are overly harsh for juveniles.[78] None of the established penological justifications, the Court determined, is furthered by sentencing a non-homicide juvenile offender with LWOP.[79]

Like *Roper*, *Graham* observed that categorical rules have flaws, but it confirmed the necessity of a categorical exclusion of youth in these instances.[80] The Court concluded, "[l]ife in prison

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72. *Id.* (citing Graham v. Florida, 990 So.2d 1058 (Fla. 2008) and 556 U.S. 1120 (2008)).

73. The Court looked for both national and international consensus surrounding juveniles sentenced to LWOP. *Id.* at 62, 80–81.

74. *Id.* at 62 ("Here, an examination of actual sentencing practices in jurisdictions where the sentence in question is permitted by statute discloses a consensus against its use.").

75. *Id.*

76. *Id.* at 68–72 (quoting Johnson v. Texas, 509 U.S. 350, 367 (1993)) ("Because juveniles' lack of maturity and undeveloped sense of responsibility . . . often result in impetuous and ill-considered actions and decisions, they are less likely to take a possible punishment into consideration when making decisions." (internal quotations and citations omitted)).

77. *Id.* at 69. The Court, in its reasoning, asserted that "defendants who do not kill, intend to kill, or foresee that life will be taken are categorically less deserving of the most serious forms of punishment than are murderers." *Id.*

78. The Court spent some time analyzing the severity of LWOP sentences and their similarities to death sentences. The Court also recognized that a juvenile will, on average, serve a larger percentage of his life in prison than an adult offender. *Id.* at 69–71.

79. *Id.* at 71 ("A sentence lacking any legitimate penological justification is by nature disproportionate to the offense."). See *id.* at 71–74 for the Court's analysis of penological justifications—retribution, deterrence, incapacitation, and rehabilitation.

80. *Id.*

without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope."[81] Three factors ultimately drove the Court to its resolution: penological theory, the limited culpability of juvenile nonhomicide offenders, and the severity of the LWOP sentence.[82] While the Court conceded that the State is not required to guarantee eventual freedom for a juvenile, it must provide defendants some meaningful opportunity to obtain release.[83]

C. An Individualized Approach to Sentencing: Miller

On June 25, 2012, the Court ruled on two companion cases, both of which featured a 14-year-old who was convicted of murder and sentenced to mandatory LWOP.[84] In each case, the defendants objected to their punishments on Eighth Amendment grounds, with the state supreme courts affirming each of their convictions.[85] In crafting its decision, the Court examined two lines of precedent: categorical bans on particular sentencing practices for youth,[86] and the requirement of individualized consideration before a death sentence.[87]

Miller acknowledged the conclusion present in both *Roper* and *Graham* that children are "constitutionally different from adults for purposes of sentencing."[88] However, unlike in *Graham* and *Roper*, the Court did not seek to "categorically bar a penalty for a class of offenders or type of crime."[89] Instead, *Miller* sought to create a "certain process—considering an offender's youth and attendant characteristics—before imposing a particular penalty."[90] Justice Kagan explained in the majority opinion that, in both *Miller* and *Jackson*, state law "'mandated that each juvenile die in prison even if a judge or jury thought that [their] youth and its attendant characteristics, along with the nature of [their] crime'"

81. *Id.* at 79.
82. *Id.* at 74.
83. *Id.* at 75.
84. Miller v. Alabama, 132 S. Ct. 2455, 2460 (2012).
85. *Id.* at 2461–62.
86. *Id.* at 2463.
87. *Id.* at 2463–64 (citing Lockett v. Ohio, 438 U.S. 586 (1978) and Woodson v. North Carolina, 428 U.S. 280 (1976)) (plurality opinion) and) ("Here, the confluence of these two lines of precedent leads to the conclusion that mandatory [LWOP] sentences for juveniles violated the Eighth Amendment.").
88. *Id.* at 2464.
89. *Id.* at 2471.
90. *Id.*

called for something other than a LWOP sentence.[91] This observation, combined with the analysis of the two aforementioned lines of precedent, influenced the Court to hold that the Eighth Amendment prevents a state from mandating LWOP sentences for juveniles, and that individualized consideration needs to be given to each juvenile offender before such a sentence.[92] As a result, the Court issued a decision that shows how "youth matters for purposes of meting out the law's most serious punishments."[93] The Court ultimately resolved that "a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles" and that mandatory LWOP sentences for all juveniles violate the Eighth Amendment.[94]

D. Effects of Roper, Graham, *and* Miller

The rulings in *Roper*, *Graham*, and, especially, *Miller* created some confusion among jurisdictions on how best to handle juvenile sentencing practices to comport with these cases.[95] At the time of the *Miller* decision, seven states and the District of Columbia had banned LWOP sentences for juveniles.[96] These seven states have since been joined by five more states, aligning with the "overwhelming international consensus" against such sentencing practices.[97] The decision in *Miller* struck down laws in twenty-eight states that required mandatory LWOP sentences for individuals who were convicted of homicide offenses before the age of eighteen.[98] In the two years since the *Miller* decision, legislative responses have not been consistent.[99] While thirteen of the twenty-eight states have passed compliance laws, "the minimum time that must be served before parole review is still substantial,

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91. Ioana Tchoukleva, *Children Are Different: Bridging the Gap Between Rhetoric and Reality Post* Miller v. Alabama, 4 CALIF. L. REV. CIRCUIT 92, 96 (2013) (quoting *Miller*, 132 S. Ct. at 2460).

92. *Id.* (citing *Miller*, 132 S. Ct. at 2470).

93. *Miller*, 132 S. Ct. at 2464, 2471.

94. *Id.* at 2475.

95. THE SENTENCING PROJECT, *Slow to Act: State Responses to 2012 Supreme Court Mandate on Life Without Parole* 1 (2014), *available at* http://sentencingproject.org/doc/publications/jj_State_Responses_to_Miller.pdf.

96. *Id.* at 2 (these states include Alaska, Colorado, Kansas, Kentucky, Montana, New Mexico, and Oregon).

97. Since 2012, Hawaii, Massachusetts, Texas, West Virginia, and Wyoming have banned LWOP for juveniles. Four other states, Maine, New Jersey, New York, and Vermont, do not ban LWOP sentences but have shown little inclination to use the sentence in practice. *Id.*

98. *Id.* at 1.

99. *Id.*

ranging from [twenty-five] years (Delaware, North Carolina, and Washington) to [forty] years (Nebraska and Texas)."[100] Sentencing consistency across jurisdictions is an important and valued concept in our criminal system, and *State v. Lyle* provides an avenue for each state to comport with the Supreme Court's juvenile sentencing trilogy.

IV. Iowa's Implementation of *Roper*, *Graham*, and *Miller*

In *State v. Lyle*, the majority recognized and celebrated Iowa's tendency to be ahead of the curve in matters "regarding fundamental rights."[101] The Iowa Supreme Court provided an interesting arena for analysis because its cruel and unusual sentencing jurisprudence from the last decade has been so robust.[102]

A. A Juvenile Sentencing Trilogy of Its Own

In the immediate aftermath of *Roper*, *Graham*, and, later, *Miller*, the Iowa Supreme Court decided three juvenile sentencing cases: *State v. Ragland*, *State v. Null*, and *State v. Pearson*.[103] These cases draw similar conclusions to the holdings in *Roper*, *Graham*, and *Miller*, and create a solid framework for the *State v. Lyle* decision.[104]

First, in *Ragland*, a juvenile offender tried as an adult brought a post-conviction relief action claiming that his sentence

100. The other fifteen states have not passed any sort of compliance litigation. *Id.*

101. State v. Lyle, 854 N.W.2d 378, 387 (Iowa 2014) ("We also recognize that we would abdicate our duty to interpret the Iowa Constitution if we relied exclusively on the presence or absence of a national consensus regarding a certain punishment. Iowans have generally enjoyed a greater degree of liberty and equality. . . .").

102. *See* State v. Null, 836 N.W.2d 41 (Iowa 2013); State v. Pearson, 836 N.W.2d 88 (Iowa 2013); State v. Ragland, 812 N.W.2d 654 (Iowa 2012); State v. Oliver, 812 N.W.2d 636 (Iowa 2012) (utilizing the test developed by the Court in *Graham* to evaluate the constitutionality of a term-of-years sentence); State v. Bruegger, 773 N.W.2d 862 (Iowa 2009) (holding a defendant's enhanced sentence was disproportionate to the crime and thus cruel and unusual).

103. 836 N.W.2d 88 (Iowa 2013); 836 N.W.2d 41 (Iowa 2013); 812 N.W.2d 654 (Iowa 2012).

104. *Ragland,* 812 N.W.2d at 659 (holding that "the court should not have dismissed Ragland's post-conviction relief action concerning his claim that his sentence amounted to cruel and unusual punishment because the controlling authority has changed since Ragland challenged his sentence as cruel and unusual punishment in his original appeal"); *Null*, 836 N.W.2d at 71, 74–75 (using a broad interpretation of *Miller* to suggest that taking youth into consideration involves an individualized analysis of culpability); *Pearson*, 836 N.W.2d at 97 (vacating "Pearson's sentence and remand the case to the district court for application of the *Miller* standards as described in *Null* and this opinion").

should be overturned in the wake of *Roper* and *Graham*.[105] The district court dismissed his claim and the court of appeals affirmed, holding that "the law of the case doctrine precludes the court from revisiting [the sentence]."[106] The law of the case doctrine "represents the practice of courts to refuse to reconsider what has once been decided."[107] The Iowa Supreme Court ultimately held that, while the law of the case doctrine precludes the offender from attacking his conviction for first-degree murder, it does not preclude him for attacking his sentence on Eighth Amendment grounds because the controlling law changed with *Roper* and *Graham*.[108]

Fourteen months after the *Miller* decision, the Iowa Supreme Court decided *State v. Null* and *State v. Pearson* on the same day.[109] In *Null*, a juvenile was charged as an adult with first-degree murder.[110] Prior to the hearing, the defendant entered into a plea agreement with the State.[111] Had he not taken the deal, he would have been sentenced to a mandatory LWOP, as his crime took place before the Court's ruling in *Miller*.[112] With the plea deal, the defendant was sentenced to fifty years for second-degree murder and to twenty-five years for first-degree robbery.[113] At the sentencing hearing, the district court concluded that the only discretion it possessed was whether to allow the defendant to serve the sentences concurrently or consecutively.[114] The district court ultimately decided to require that the sentences be served consecutively, stating that "it had considered the nature and circumstances of the offenses, [the defendant's] history and characteristics, including his age and prior court interventions, and the recommendations of both counsel."[115] The defendant appealed the decision in the wake of *Miller*, arguing that his

105. *Ragland*, 812 N.W.2d at 655.

106. *Id.* at 656.

107. *Id.* at 658 (quoting State v. Grosvenor, 402 N.W.2d, 402, 405 (Iowa 1987)).

108. *Id.* at 656. See *id.* at 656–58 for a detailed explanation of the facts.

109. *Pearson*, 836 N.W.2d at 88; *Null*, 836 N.W.2d at 41.

110. The defendant was sixteen years and ten months old at the time, which meant that he was required to be charged as an adult. *Null*, 836 N.W.2d at 45. *See* IOWA CODE § 232.8(1)(c) and § 707.2 (2009).

111. *Id.* The reason the defendant took the plea deal is "readily apparent—by taking it he gained the opportunity to be released from prison on parole . . . ." *Id.* at 46.

112. *Id. See* IOWA CODE § 702.2 and § 902.1.

113. *Null*, 836 N.W.2d at 45–46.

114. *Id.* at 46–47.

115. *Id.* at 47.

sentence amounted to a de facto life sentence in violation of the Eighth Amendment.[116]

The Iowa Supreme Court first conceded that neither *Roper*, *Graham*, nor *Miller* "involved a sentence for a lengthy term of years" that was not a LWOP sentence.[117] Also, at the time, the court recognized that "there ha[d] been little development of state constitutional law [in response to *Miller*]."[118] In the court's own interpretation of *Roper*, *Graham*, and *Miller*, it concluded that a lengthy sentence imposed on a juvenile is sufficient to "trigger *Miller*-type protections" even thought it is not technically a LWOP sentence.[119] The court draws this conclusion through a broad interpretation of *Miller*,[120] determining that taking youth into consideration means more than "a generalized notion of taking age into consideration as a factor in sentencing"[121] and that it requires a detailed and individualized analysis of culpability and the juvenile's ability to change.[122] The court finally determined that the individualized assessment outlined in *Miller* should, indeed, apply to consecutive sentences and, as such, remanded the case back to the trial court for appropriate sentencing.[123]

Finally, in *Pearson*, a seventeen year old was convicted by a jury of two counts of first-degree robbery and two counts of first-degree burglary.[124] The district court sentenced the defendant to serve concurrent sentences "for the convictions arising from each transaction—one count of first-degree robbery and one count of first-degree burglary—but ordered those two sentences to be served consecutively."[125] The defendant received a total sentence of fifty years and was ineligible for parole until she served thirty-

116. The defendant reached this conclusion by citing a National Vital Statistics Report indicating that the life expectancy of a twenty-year-old black male is 51.7 years. *Id.* at 50–51.

117. *Id.* at 67.

118. *Id.* at 69.

119. *Id.* at 71 ("Even if lesser sentences than life without parole might be less problematic, we do not regard the juvenile's potential future release in his or her late sixties after a half century of incarceration sufficient to escape the rationales of *Graham* or *Miller*.").

120. *Id.* at 72 ("We recognize that some courts have viewed *Miller* more narrowly, holding that it applies only to mandatory sentences of life without parole.").

121. *Id.* at 74.

122. *Id.* at 74–75.

123. *Id.* at 76 ("[T]his case must be remanded to the district court for resentencing in light of the requirement of *Miller* that the district court consider all that was said in *Roper* and its progeny about the distinctive qualities of youth.").

124. State v. Pearson, 836 N.W.2d 88, 89 (Iowa 2013).

125. *Id.*

five years.[126] The defendant appealed and argued her sentence was cruel and unusual.[127] The court of appeals affirmed the decision of the trial court and the Iowa Supreme Court granted review.[128]

The court utilized the same analysis as it did in *Null* to determine whether *Miller* was applicable to the sentence in *Pearson*.[129] The *Pearson* court determined that, in light of both *Miller* and *Null*, "it should be relatively rare or uncommon that a juvenile be sentenced to a lengthy prison term without the possibility of parole for offenses like those involved in this case."[130] The court concluded that the Eighth Amendment, and its companion provision in the Iowa Constitution, requires "an individualized sentencing hearing where . . . [a juvenile] is effectively deprived of any chance of an earlier release and the possibility of leading a more normal adult life."[131] The court vacated the district court's sentence and remanded the case for further proceedings consistent with *Miller* and *Null*.[132]

B. State v. Lyle*: Paving the Way for Complete Individualization of Sentencing*

On June 29, 2011, Andre Lyle, Jr. was convicted of robbery in the second degree.[133] He was a seventeen-year-old high school student when he committed the crime in 2010.[134] Prior to the trial, Lyle attempted to transfer jurisdiction to the juvenile court but was unsuccessful.[135]

Lyle grew up in Des Moines with little family support; he was raised by his grandmother after his father was put in prison and his mother threatened him with a knife.[136] His grandmother permitted Lyle to smoke marijuana and he was frequently tardy or

126. *Id.*
127. *Id.*
128. *Id.* at 94.
129. *Id.* at 95 ("[In *Null*] we explored in detail the contours of *Miller*, as well as the Supreme Court's decisions in [*Roper*] and [*Graham*]. We need not repeat the analysis here." (internal citations omitted)).
130. *Id.* at 96.
131. *Id.* at 96.
132. *Id.* at 97.
133. State v. Lyle, 854 N.W.2d 378, 381 (Iowa 2014) (citing IOWA CODE §§ 711.1–.3 (2011)).
134. *Id.*
135. *Id.*
136. *Id.*

absent from school.[137] Lyle was sentenced before the district court on his eighteenth birthday.[138] After appearing in court for sentencing, he received a term of incarceration in the state corrections system not to exceed ten years.[139] Pursuant to statute, the sentence was mandatory with a requirement for him to serve seventy percent of the term before he was eligible for parole.[140] Lyle objected to the mandatory minimum sentence on the grounds that it violated both the U.S. Constitution's Eighth Amendment and the Iowa Constitution's cruel and unusual punishment clauses.[141] The district court overruled Lyle's objection and the court of appeals affirmed.[142] Lyle sought further review and the Iowa Supreme Court granted certiorari, provided that the State "submit additional briefing regarding whether the seventy percent mandatory minimum of [Lyle's] ten-year sentence . . . was constitutional in light of [*Ragland*, *Pearson*, and *Null*]."[143] Chief Justice Mark Cady wrote the opinion of the court with three other justices concurring.[144]

The Iowa Supreme Court recognized that the "concept of cruel and unusual punishment is 'not static.'"[145] The court considered Lyle's challenge because "the prohibition against cruel and unusual punishment 'is nothing less than the dignity' of humankind . . . [and] [t]his prohibition 'must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.'"[146] In turning to Lyle's contention that mandatory minimums cannot be constitutionally applied to juveniles, the court utilized a two-step inquiry:

> [(1) Considering the] objective indicia of society's standards, as expressed in legislative enactments and state practice to determine whether there is a national consensus against the sentencing practice at issue [. . . and (2) Exercising the

137. Lyle had frequent contact with the police and first entered the juvenile justice system at age twelve. *Id.* He was also involved in many criminal acts as a teenager. *Id.*

138. *Id.*

139. *Id.* *See* IOWA CODE § 711.3 (2011) ("Robbery in the second degree is a class 'C' felony."); *Id.* § 902.9(4) ("A class 'C' felon, not an habitual offender, shall be confined no more than ten years . . . .").

140. *Lyle*, 854 N.W.2d at 381 (citing IOWA CODE § 902.12(5)).

141. *Id.* at 382.

142. After the appeal, Lyle "sought further review and asserted the decision of the court of appeals was contrary to *Miller*." *Id.*

143. *Id.*

144. *Id.* at 380, 404. The case also had two written dissenting opinions. *Id.* at 404, 408.

145. *Id.* at 384 (quoting *Trop v. Dulles*, 356 U.S. 86, 101 (1958)).

146. *Id.* (quoting *Trop*, 356 U.S. at 100–01).

> Court's] own independent judgment guided by the standards elaborated by controlling precedents and by our own understanding and interpretation of the Iowa Constitution's text, history, meaning, and purpose.[147]

As to the first prong, the court first recognized that no other court in the nation has come to the conclusion that banning mandatory minimum sentencing is consistent with *Roper*, *Graham*, and *Miller*.[148] However, the court did not take this as a dispositive reason to uphold Lyle's conviction.[149] The court also realized that "the statutory recognition of the need for some discretion when sentencing juveniles is consistent with [its] overall approach in the past in dealing with juveniles."[150] Finally, the court declared that, even if a consensus among states does not currently exist, one to eliminate mandatory minimum sentences is certainly building in Iowa.[151]

Finding the first prong of analysis sufficiently satisfied, the court continued to its second prong.[152] With regards to the second prong of analysis, the court outlined the history of juvenile sentencing practices.[153] From their timeline, the court concluded, "[t]his history is particularly salient given the categorical nature of Lyle's challenge. It reveals children and juveniles have been viewed as constitutionally different from adults in this country for more than a century."[154] The court also acknowledged that the holdings in *Roper*, *Graham*, and *Miller* kept several questions open, including the determination of to what extent a mandatory

147. *Id.* at 386 (quoting Kennedy v. Louisiana, 554 U.S. 407, 421 (2008) and *Roper*, 543 U.S. 551, 563 (2005)) (internal quotations omitted).

148. *Id.* at 386–87. *See* Alex Dutton, *The Next Frontier of Juvenile Sentencing Reform: Enforcing* Miller's *Individualized Sentencing Requirement Beyond the JLWOP Context*, 23 TEMP. POL. & CIV. RTS. L. REV. 173, 195 (2013); Martin Guggenheim, Graham v. Florida *and a Juvenile's Right to Age-Appropriate Sentencing*, 47 HARV. C.R.-C.L. L. REV. 457, 494 & n.267 (2012) (arguing that adult mandatory sentencing schemes cannot automatically be imposed on juveniles without prosecutors providing that the juvenile deserves the sentence).

149. *Lyle*, 854 N.W.2d at 387. The court looks also to the Iowa legislature, acknowledging that it had already taken steps toward removing mandatory sentences for juveniles in most cases and that deference must be given when they give sentencing guidance. *Id.* at 387–88 (citing 2013 Iowa Acts ch. 42, §14 (codified at IOWA CODE ANN. § 901.5(14) (2014).

150. *Id.* at 388. The case provides a substantial list of provisions in the juvenile justice chapter of the Iowa Code that gives courts such discretion.

151. *Id.* at 389.

152. *Id.* at 390 ("We must decide if the mandatory minimum sentence for a youthful offender violates the Cruel and Unusual Punishment Clause in light of its text, meaning, purpose, and history.").

153. *Id. See id.* at 390–97.

154. *Id.* at 390.

minimum sentence can automatically be imposed on a juvenile in adult court.[155] Recognizing, again, that the United States Supreme Court considers the age of a child as relevant to an Eighth Amendment determination, the court concluded "that the sentencing of juveniles according to statutorily required mandatory minimums does not adequately serve the legitimate penological objectives in light of the child's categorically diminished culpability."[156] As an alternative to mandatory minimum sentences, the court advocated for the lower courts to make an individualized judgment, "consider[ing] youth and its attendant circumstances as a mitigating factor . . . ."[157] The court cites to *Miller* to provide specific factors the lower courts should consider to make such individualized judgments.[158] Ultimately, the court vacated Lyle's sentence and remanded his case back to the district court for further proceedings.[159]

V. The Need for Further Reform: Stopping Mandatory Minimum Sentences for Juveniles

A. The Case for Abolishing Mandatory Minimum Sentences for All Juveniles

The Iowa Supreme Court was correct in determining that the abolishment of mandatory minimum sentences is a correct application of *Roper*, *Graham*, and *Miller*, and that they offend our understanding of juveniles in light of that jurisprudence. As the Court in *Roper*, *Graham*, and *Miller* repeatedly affirms, children are constitutionally different from adults.[160] The Court emphasized that children have diminished culpability, have a "lack of maturity and an underdeveloped sense of responsibility,"[161] and possess an underdeveloped character (meaning his or her actions are "less likely to be evidence of irretrievable depravity),"[162]

155. *Id.* at 386 (quoting State v. Null, 836 N.W.2d 41, 66–67 (Iowa 2013)).

156. *Id.* at 398.

157. *Id.* at 404 ("[J]udges will do what they have taken an oath to do. They will apply the law fairly and impartially, without fear. They will sentence those juvenile offenders to the maximum sentence if warranted and to a lesser sentence . . . if warranted.").

158. *Id.* at n.10.

159. *Id.* at 404.

160. *Miller*, 132 S. Ct. 2455, 2464 (2012) ("*Roper* and *Graham* establish that children are constitutionally different from adults for purposes of sentencing.").

161. Roper v. Simmons, 543 U.S. 551, 569 (2005).

162. *Miller*, 132 S. Ct. at 2464 (quoting *Roper*, 543 U.S. at 570) (internal quotations omitted).

which make it imperative for courts to consider them differently for criminal sentencing purposes.[163] Mandatory minimum sentences do not require the courts to take this "youth difference" into account, instead providing automatic punishment starting points for both adult *and* juvenile offenders. Abolishing mandatory minimum sentences is an appropriate extension of *Roper*, *Graham*, and *Miller*: it combines the categorical treatment of youth that is present in *Roper* and *Graham* with the individualized sentencing mandate of *Miller* to create a system that takes into account the specific story of each juvenile, regardless of the offense. A completely individualized scheme forces the sentencer to " . . . look[] behind the label of the crime into the details of the particular offense and the individual circumstances of the child."[164] Based on what we currently know about juvenile brain development[165] and the challenges for many juveniles in the adult criminal system (prevalence of mental illness, lack of access to educational resources, diminished family support),[166] sentencing practices need to conform to those laid out in *State v. Lyle*.

The Court relied both on self-proclaimed "common sense" and actual science to substantiate its "children are different" conclusion.[167] Scientists and psychologists are able to demonstrate that children and adolescents are less mature and rational than their adult counterparts.[168] One of the last parts of the brain to

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163. *Id.* at 2466 ("[T]he mandatory penalty schemes at issue here prevent the sentencer from taking account of these central considerations."). *See also* Tamera Wong, *Adolescent Minds, Adult Crimes: Assessing a Juvenile's Mental Health and Capacity to Stand Trial*, 6 U.C. DAVIS J. JUV. L. & POL'Y 163, 165 (2002) ("In an increasingly penal environment, the unique characteristics of young offenders . . . must be recognized to determine if the criminal justice environment can successfully solve the problem of juvenile crime.").

164. *Lyle*, 854 N.W.2d at 400–01.

165. *See Adolescence, Brain Development and Legal Culpability*, ABA (2004), *available at* http://www.abanet.org/crimjust/juvjus/Adolescence.pdf ("The evidence now is strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable.") [hereinafter *Brain Development and Legal Culpability*].

166. *See* Wong, *supra* note 163, at 171–72.

167. Miller v. Alabama, 132 S. Ct. 2455, 2464–65 (2012) (citing Graham v. Florida, 560 U.S. 48, 67 (2010); Roper v. Simmons, 543 U.S. 551, 569, 570 (2005)); *see also* Feld, *supra* note 32, at 277 (citing Deborah W. Denno, *The Scientific Shortcomings of* Roper v. Simmons, 3 OHIO ST. J. CRIM. L. 379, 396 (2006)).

168. *See* Nick Straley, Miller*'s Promise: Re-Evaluating Extreme Criminal Sentences for Children*, 89 WASH L. REV. 963, 970–71 (2014) ("Adolescents' behavioral immaturity mirrors the anatomical immaturity of their brains . . . the prefrontal cortex remains structurally immature until early adulthood, around the mid-twenties."). *See, e.g.*, Jay D. Aronson, *Brain Imaging, Culpability and the*

develop is the pre-frontal cortex, the portion of the brain that controls advanced functions, including prioritizing thoughts, anticipating consequences, and controlling impulses.[169] Because the juvenile mind is not yet fully developed, there is a greater potential for rehabilitation and change.[170] Mandatory minimums do not take the brain development of juveniles into account, rather they are legislative constructs designed for punishing adult offenders.

Apart from brain development and culpability, juvenile offenders face challenges that further complicate the question of their culpability.[171] First, there is evidence to show that a high percentage of juvenile offenders suffer from some type of emotional, behavioral, or mental disorder.[172] There is also evidence to support the contention that many juveniles in the criminal system who need treatment for some type of behavioral, emotional, or mental illness do not receive it.[173] Both society and the courts recognize that those with mental illness "may be incapable of making rational choices, rendering them less culpable and therefore less deserving of punishment than other offenders."[174] Second, many juvenile offenders are products of a

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Juvenile Death Penalty, 13 PSYCHOL. PUB. POL'Y & L. 115, 119 (2007); Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 AM. PSYCHOLOGIST 1009 (2003).

169. *Brain Development and Legal Culpability*, *supra* note 165.

170. *Roper*, 543 U.S. at 570 ("From a moral standpoint, it would be misguided to equate the failings of a minor with those of an adult, for greater possibility exists that minor's character deficiencies will be reformed.").

171. *See* Jennifer A. Rosenblatt et al., *Criminal Behavior and Emotional Disorder: Comparing Youth Served by the Mental Health and Juvenile Justice Systems*, 27 J. BEHAV. HEALTH SERVICES & RES. 227 (2000); Linda A. Teplin et al., *Detecting Mental Disorder in Juvenile Detainees: Who Receives Services*, 95 AM. J. PUB. HEALTH 1173 (2005); Wong, *supra* note 163, at 165–66.

172. *See* Rosenblatt, *supra* note 171, at 228 (concluding that a high percentage of juvenile offenders exhibit symptoms commonly associated with emotional difficulties); Teplin, *supra* note 171, at 1173 ("Epidemiological studies estimate that between two thirds and three quarters of detained youths have 1 or more psychiatric disorders."); Wong, *supra* note 163, at 165–66.

173. Teplin, *supra* note 171, at 1176.

174. Vanessa L. Kolbe, *A Proposed Bar to Transferring Juveniles with Mental Illness to Criminal Court: Let the Punishment Fit the Culpability*, 14 VA. J. SOC. POL'Y & L. 418, 434 (2007); *see also* Atkins v. Virginia, 536 U.S. 305, 321 (2002) (holding that the death penalty is unconstitutional for a "mentally retarded" defendant). While the Supreme Court noted that "[m]entally retarded persons frequently know the difference between right and wrong," it also held in *Atkins* that, "by definition they have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience . . . ." *Id.* at 318. Similar characteristics exist in those suffering from mental illness.

tempestuous home life.[175] Negative parental involvement or parental noninvolvement directly impacts a youth's development and is a possible contributing factor to juvenile delinquency.[176] Because youths' brains are so impressionable, the existence of "a turbulent family history, of beatings by a harsh father, [or] of severe emotional disturbance is particularly relevant."[177]

Mandatory minimums force the courts to apply a standardized sentence to juveniles based on the crime, not based on their culpability or other outside factors that have a disproportionate effect on juveniles. Even within the juvenile population, mandatory minimum sentences do not take into account the vast differences between each offender in the criminal system.[178] The Court recognized the issue with mandatory sentences in its holding in *Miller*:

> Such mandatory penalties, by their nature, preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it. Under these schemes, every juvenile will receive the same sentence as every other—the 17-year-old and the 14-year-old, the shooter and the accomplice, the child from a stable household and the child from a chaotic and abusive one. And still worse, each juvenile . . . will receive the same sentences as the vast majority of adults committing similar . . . offenses—but really, as *Graham* noted, a *greater* sentence than those adults will serve.[179]

The Court also notes in *Miller* that "none of what [*Graham*] said about children—about their distinctive (and transitory) mental traits and environmental vulnerabilities—is crime-

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175. Ashley Nellis, *The Lives of Juvenile Lifers: Findings from a National Survey*, SENT'G PROJECT (2012), *available at* http://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf.

176. U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, FAMILY LIFE AND DELINQUENCE AND CRIME: A POLICYMAKERS' GUIDE TO THE LITERATURE (1993), *available at* https://www.ncjrs.gov/pdffiles1/Digitization/140517NCJRS.pdf.

177. Eddings v. Oklahoma, 455 U.S. 104, 115 (1982). The Court in *Eddings* also recognized that youth "is a time and condition of life when a person may be most susceptible to influence and to psychological damage." *Id.* (citing THE PRESIDENT'S COMM'N ON LAW ENFORCEMENT AND ADMIN. OF JUSTICE, TASK FORCE REPORT: JUVENILE DELINQUENCE AND YOUTH CRIME (1967)).

178. *See* Hon. J. Harvie Wilkinson III, *In Defense of American Criminal Justice*, 67 VAND. L. REV. 1099, 1156 (2014) ("While such sentences may help to achieve the goal of equal punishment for those who commit identical offenses, they do so at the sacrifice of the individualization that ought also to be part of so personal a proceeding as sentencing.").

179. Miller v. Alabama, 132 S. Ct. 2455, 2467–68 (2012) (citing Graham v. Florida, 560 U.S. 48 (2010)).

specific."[180] While *Roper*, *Graham*, and *Miller* all focus on the most severe punishments available to courts, mandatory minimums offend the same principles that these cases sought to protect. The key term, in light of the analysis in *Roper*, *Graham*, and *Miller*, is "mandatory:"[181] these types of sentences do not allow courts to consider the characteristics of youth, a consideration deemed crucial by the Supreme Court. As concluded in *Graham* and reiterated in *Miller*, juvenile sentences should be shaped by "demonstrated maturity and rehabilitation" of the defendant.[182] These mandatory minimum sentences do not allow for this type of consideration.

The prevalence of juveniles in the adult criminal system is a serious problem, only exacerbated by mandatory minimum sentences. "On any given day, nearly 7500 young people are locked up in adult jails."[183] Youth in adult prison facilities are at a high risk for sexual victimization and violence.[184] Mandatory minimum sentences place juveniles in a potentially precarious situation without fully examining the mitigating factors of youth. These sentences attempt to fit juveniles into adult boxes, sending them off to a dangerous environment without allowing for the considerations mandated by the Court.[185]

B. Without Mandatory Minimum Sentences, How Do Courts Determine Juvenile Sentences?

Without a mandatory minimum sentence-specific guideline to follow, courts should conduct an individualized analysis for each

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180. State v. Lyle, 854 N.W.2d 378, 395 (2014) (quoting *Miller*, 132 S. Ct. at 2465) (internal citations omitted).

181. Dutton, *supra* note 148, at 195 ("When challenging mandatory minimums for juveniles, it is not the sentence itself that is at issue, rather, how it is imposed.").

182. *Graham*, 560 U.S. at 75 ("A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. What the State must do, however, is give defendants like Graham some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.").

183. Liz Ryan, *Youth in the Adult Criminal Justice System*, 35 CARDOZO L. REV. 1167, 1170 (2014).

184. *Id.* at 1171 (citing Allen J. Beck, Paige M. Harrison & Devon B. Adams, U.S. DEP'T OF JUSTICE, SEXUAL VIOLENCE REPORTED BY CORRECTIONAL AUTHORITIES, 2006, at 35 (Carolyn Williams ed., 2007), *available at* http://www.bjs.gov/content/pub/pdf/svrca06.pdf) ("According to . . . the Bureau of Justice Statistics, youth under the age of eighteen represented 21% of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005, and 13% in 2006—surprisingly high considering that only 1% of jail inmates are juveniles.").

185. *Lyle*, 854 N.W.2d at 401 ("There is no other area of the law in which our laws write off children based only on a category of conduct without considering all background facts and circumstances.").

defendant, similar to that in *Miller* and *Lyle*.[186] This suggested list of factors should not be construed as exhaustive, with courts recognizing that "[t]he broad ways in which a juvenile offender's culpability can be reduced favor the admission of an equally broad range of mitigating evidence."[187] Factors that courts should implement include:

> (1) the age of the offender and the features of youthful behavior, such as 'immaturity, impetuosity, and failure to appreciate risks and consequences'; (2) the particular 'family and home environment' that surround the youth; (3) the circumstances of the particular crime and all circumstances relating to youth that may have played a role in the commission of the crime; (4) the challenges for youthful offenders in navigating through the criminal process; and (5) the possibility of rehabilitation and the capacity for change.[188]

Such factors "carr[y] with [them] the advantage of simultaneously being more flexible and responsive to the demands of juveniles than outright prohibition of a particular penalty while also providing real and substantial protection for the offender's right to be sentenced accurately according to their culpability . . . ."[189]

An individualized sentence does not necessarily mean a short sentence.[190] The holding in *Lyle* allows judges to "sentence those juvenile offenders to the maximum sentence if warranted and to a lesser sentence providing for parole if warranted."[191] The only requirement is that "states must adopt sentencing schemes that allow for the consideration of age and the mitigating circumstances that accompany it."[192]

C. Addressing Critiques to State v. Lyle

In evaluating the use of a completely individualized sentencing scheme for juvenile offenders, some critics are skeptical of the heavy reliance on the "children are different" principle.[193] In

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186. *See id.* at 404 n.10 (citing Miller v. Alabama, 132 S. Ct. 2455, 2468 (2012)).

187. Sara E. Fiorillo, *Mitigating After* Miller*: Legislative Considerations and Remedies for the Future of Juvenile Sentencing*, 93 B.U. L. REV. 2095, 2123 (2013).

188. *Lyle*, 854 N.W.2d at 404 n.10 (citing *Miller*, 132 S. Ct. at 2468); *see also* State v. Null, 835 N.W.2d 41, 74–75 (Iowa 2013); State v. Pearson, 836 N.W.2d 88, 95–96 (Iowa 2013); State v. Ragland, 836 N.W.2d 654, 654 (Iowa 2012).

189. *Lyle*, 854 N.W.2d at 386.

190. *Id.* at 403 ("It is important to be mindful that the holding in this case does not prohibit judges from sentencing juveniles to prison for the length of time identified by the legislature for the crime committed . . . .").

191. *Id.*

192. Fiorillo, *supra* note 187, at 2123.

193. Sara L. Ochs, Miller v. Alabama: *The Supreme Court's Lenient Approach to Our Nation's Juvenile Murderers*, 58 LOY. L. REV. 1073, 1091 (2012) ("Despite [the

State v. Lyle, Justice Waterman, in his dissent, explicitly criticized the court for using juvenile brain development research in crafting its decision, arguing that it does not clearly justify the bright-line rule abolishing mandatory minimum sentences for all offenders under the age of eighteen.[194]

Both Justice Waterman and Justice Zager's dissents condemn the majority's decision for producing "dramatic real-world consequences."[195] First, they explain that the individualized sentencing hearings advocated for by the majority will both create an undue burden on the courts and will "reopen the wounds of the victims and their families."[196] Second, the dissenting justices express concern that some violent offenders will be released earlier than they would have been under a mandatory minimum sentence, creating the possibility that "[s]ome of these violent felons will commit new crimes."[197] The justices, instead, stress the importance of giving deference to the legislature.[198]

Another major critique of an individualized sentencing scheme for juveniles is "the substantial resources it would require and the strain it would place on an already overworked court system."[199] While it is true that implementing any new policy in the courts will be a heavy investment of time and resources, creating an individualized sentencing policy now will "prevent costs from later challenges down the road . . . [as] the future landscape of [the] Eighth Amendment [in the wake of *Miller*] is far from certain."[200] Scholars, too, recognize this uncertainty.[201] As

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Court's argument], there is significant evidence to show that adolescents that commit savage murders possess the same culpability as their adult criminal counterparts.") (citing Roper v. Simmons, 543 U.S. 551, 618 (2005) (Scalia, J., dissenting)).

194. *Lyle*, 854 N.W.2d at 405 ("Will the majority stop here? Under the majority's reasoning, if the teen brain is still evolving, what about nineteen-year olds? If the brain is still maturing into the mid-20s, why not prohibit mandatory minimum sentences for any offender under age twenty-six?") (Waterman, J., dissenting). *But see Roper*, 543 U.S. at 574 ("The age of 18 is the point where society draws the line for many purposes between childhood and adulthood. It is, we conclude, the age at which death eligibility ought to rest.").

195. *Lyle*, 854 N.W.2d at 406.

196. *Id.*

197. *Id.*

198. *Id.* at 405 ("As judges, we do not have a monopoly on wisdom. Our legislators raise teenagers too. Courts traditionally give broad deference to legislative sentencing policy judgments.") (citing State v. Oliver, 812 N.W.2d 636, 650 (Iowa 2012)) (Waterman, J., dissenting).

199. Fiorillo, *supra* note 187, at 2127 (citing People v. Carp, 828 N.W.2d 685, 715 (Mich. App. 2012); Geter v. State, 115 So.3d 375, 378 (Fla. Dist. Ct. App. 2012)).

200. *Id.* at 2127 (citing Douglas A. Berman, Graham *and* Miller *and the Eighth Amendment's Uncertain Future*, 27 CRIM. JUST. 19, 19–20 (2013)).

Douglas A. Berman[202] writes, "[p]ut simply, due to distinct interpretive difficulties, unique institutional pressures, high stakes for states and individuals, and the always looming reality that any rulings in favor of a defendant will engender a flood of follow-up litigation, the Eighth Amendment presents a perfect storm of challenges for constitutional adjudication."[203] Adopting an across-the-board individualization of juvenile sentencing will insulate the courts from further challenges under *Miller*.

VI. Conclusion

The Iowa Supreme Court correctly abolished mandatory minimum sentences for juveniles in Iowa following the U.S. Supreme Court's decisions in *Roper*, *Graham*, and *Miller*. Mandatory minimum sentences are an inappropriate way to sentence juveniles in light of these three decisions because they fail to take into account the differences between youth and adults, something the Court in *Roper*, *Graham*, and *Miller* determined was necessary. Instead of legislatively created mandatory sentencing schemes, the courts should perform an individualized assessment of each juvenile, as advocated for in *Miller* and implicated in *Lyle*. By replacing mandatory minimum sentences with an individualized sentencing hearing for each juvenile offender, *Lyle* adequately allows the court to consider a juvenile's age, culpability, and other factors to determine an appropriate sentence.

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201. *See* Berman, *supra* note 200; William W. Berry III, *Eighth Amendment Differentness*, 78 MO. L. REV. 1053 (2013) (explaining that the Court's holding in *Miller* opens up discussions about the appropriate application of the Eighth Amendment to other groups of individuals); Richard S. Frase, *What's "Different" (Enough) in Eighth Amendment Law?*, 11 OHIO ST. J. CRIM. L. 9, 35 (2013) ("Perhaps the *Graham* and *Miller* decisions have little or no implications for adult sentencing because 'children are constitutionally different.' Then again, perhaps these cases mark the beginning of a pendulum swing back toward at least some degree of Eighth Amendment regulation of extreme adult prison sentences.").

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203. Berman, *supra* note 200, at 24 ("Moreover, if and whenever the Supreme Court even suggests that a particular punishment may be suspect under the Eighth Amendment, many defendants will be quick to flock to the courts with claims that their punishments are comparable and thus also constitutionally problematic."). By creating this type of all-encompassing standard, the Iowa court is creating a buffer from these types of potential challenges.