A statement on the issue of Juvenile Life Without Parole (JLWOP) from the family of James Cotaling - Victim

My name is Jody (Cotaling) Robinson and I am here before you in strong opposition of proposed house bills 4402-4405.

17 years ago I was a 18 year old senior in high school with my entire life in front of me, my big worry was trying to figure out which college to attend. Little did I know that two complete strangers Barbara Hernandez and James Hyde would change the course of my life and that of everyone around me. As I stand here today I have that same terrified, horrible unforgettable feeling that I had 17 years ago waiting and wondering what had happened and where my big brother was. Today my fear is about will these horrible killers get the second chance that their victims, my brother, and I never got. These murderers didn't just take the life of the one whom they killed, but they took a part of everyone whom knew and loved that person. I was suppose to be enjoying graduation instead I was attending my brothers funeral, and instead of going off to college I spent 11 months in and out of the court rooms hearing the most horrifying, traumatizing details of how they stabbed jimmy over 30 times and cut his throat so deeply he was nearly decapitated. After 11 long months of horrific days in court we were giving the decision of the jury **GUILTY**. My mother passed away a few days later. I believe that they not only killed my brother but the played a very inactive role in killing my mother as well. Then months later came the sentencing, they both were sentenced to LWOP. Finally justice for what they had done and now my family and I can work on closer and healing and moving forward without the thought of these vicious killers hurting us or anyone ever again. That wasn't the end I was left with the gruesome details of how the viciously murdered my brother. I spent many years waking up with horrifying nightmares, afraid to go shopping alone, would not take college courses at night in fear of my safety . Then and only after at the age of 21, I put myself into counseling to help me coop with the aftermath & trauma I was left with. I was final able to put these two demons to rest . Now 17 years later we are faced with the traumatic, horrific trauma all over again .

This 16 year old girl, Barbara Hernandez fits no stereotype of the cases that advocates against JLWOP are concerned about. Rather she should be the poster child for those rare few cases where LWOP is the appropriate sentence for an offender under 18, and she is currently serving a LWOP sentences in the Michigan Department of Corrections. My concerns about the discussion about this sentence are not, however, changed by the facts of my case. They are the concerns I have for all of my fellow murder victims' family members.

The primary purpose of the LWOP sentence, no matter the age of the offender, is to protect public safety. It also is the best sentence for victims in terms of the least amount of on-going traumatization caused by constant hearings for parole that re-open the victims' scars constantly, causing a lifetime of never-ending engagement with the

offender.

And the LWOP sentence supports a much more important human rights agenda, that we provide a viable alternative to becoming killers ourselves through the use of the death penalty. It is a reality-based observation that some are so dangerous and have done such awful things that they must be kept forever away from the rest of us, even from a young age, but I stress again, only in the rarest and most extreme cases.

As I work hard to advocate for victims in this discussion, I am reminded that those in Michigan who proposed HB 4402-4405, bills that would eliminate JLWOP or retroactively change those sentences already imposed, ***deliberately chose to leave victims out*** of the most important discussion that they could ever have - what should be the fate of the offender who brought untold agony into their lives? And oh, by the way, you know how the state of Michigan promised you that the killer would never walk free, and all your legal matters that were "permanently resolved" and in many cases discarded from your lives? They didn't really mean it. Now you will have to start dealing with it again every day for the rest of your lives. A life sentence for you, the victim.

The entire field of victimology affirms it -- that victims have a tragic and absolutely indissoluble relationship with the fate of the offender. This is a relationship created *by the offender*, about which the victims have no choice. This, perhaps better than any other definition, defines what it means to be a victim.

The original supporters of HB 4402 -4405 in Michigan have not mentioned the importance of representing victims voices in this discussion . As of now, they have only paid lip service to their concerns for victims - with no action steps or follow though. Many of these advocates have yet to earn their real human rights credentials. *When they begin to care for the victims of these crimes as much as they do the "poor criminals", they will have earned the right to be at the table in this discussion.*

We encourage all advocates opposing JLWOP in Michigan to practice what they preach with regards to Human Rights.

We know that even discussions about the sentences of brutal offenders who caused untold trauma to a victims' family will, in and of itself, be re-traumatizing. Those advocates who propose changing the status quo and retroactively changing sentences already given due process of law are responsible to find and notify the victims of such crimes to be informed about any proposed changes before they happen. Victims families who have gone on in their lives with the understanding that the sentence is permanent and the offender can never be released cannot be given a "bait and switch" without their full informed consent.

Those who wish to propose changes to a sentence retroactively are also ethically obligated to generate appropriate emotional support and counseling for the very

foreseeable emotional consequences such discussions could have on victims' families.

We do not believe that advocates who claim to be concerned only about human rights are being ethically consistent if they are willing to make changes to sentencing law that deeply hurts victims families in the process. You cannot protect the human rights of one group selectively while at the same time hurting another innocent group of people. This is the challenge that we put to that part of the human rights movement, that seem to be so focused on seeing prisoners, not victims, as underdogs and in most need of help. **The measure of their success and credibility will not be in how much they help prisoners' human rights, but how they protect prisoners' human rights while at the same time preserving the rights, dignity and well-being of the innocent victims of those criminals.**

Until the public determines after full discussion that JLWOP should no longer be a sentencing option, advocates should only work to abolish it "prospectively" - for all cases from here on. Such a change would not be a violation of victims' rights, because they would know what to expect from the outset in all cases from here on.

But any retroactive changes to sentencing have to be treated completely differently because of the essential legal foundation of due process rights as well as the emotional and psychological process of the victims families and all the people involved in the prosecution of the cases.

We have been trying to point out, loud and clear, that a remedy already exists in law to address miscarriages of justice. Rather than battle a whole new bill through the state legislature, why not use the system already in place? That system is Clemency. The Constitution prescribes that the checks and balances between the branches of government can correct themselves for error. If there has been an over-sentencing, then clemency can be used to correct those cases retroactively that need correcting.

If these 300 or so cases need to be reviewed, a process that would be horrific for victims families, then it should be limited to a one-time only review -- in courts of law that are subject to the full accountability and due process of our legal system. But this only if all victims families are found, notified, and empowered to participate in the decision to do so. To propose anything more is asking victims to bear the full pain of the worst trauma of their lives over and over again. And would be a fundamental violation of their human, constitutional, legal, and victims rights.

What we object to vehemently is proposals that do not inform victims families of proposed changes before they push them, and take no account to the effect that such changes would have on them. I personally spent the last 3 days of tears, sleeplessness, nightmares and genuine horror for the first time since my brother was killed. I was scared - for the first time in years - of the very thought that this very dangerous convicted murder could possibly walk free. I experienced genuine re-traumatization. Other victims families will go through the same or worse.

And even more serious are concerns that some proposals would require victims families to go through regular parole-review type processes every few years for the rest of their lives, making impossible any life that allows them to heal and move on from the horrific crimes that forever changed their lives. These kinds of proposals are absolutely unacceptable. They would truly cause more harm than good.

The Hippocratic Oath for doctors is a good standard to follow: **First, do no harm.**

I am asking that all advocates against JLWOP take just a small percentage of the significant resources that they have and have invested into documenting the cases of the 300 juveniles lifers and send a simple letter to the victims families informing them of their study, their legislative goals, and invite them into this process.

Their refusal to deal honestly, fairly, and compassionately with victim families is beyond our understanding and is costly to them in terms of credibility.
Victims families may definitely not want to participate, and can refuse absolutely to participate in any such conversations. But it is their right to make that choice themselves. That right is absolutely ensconced in the Constitution of our state.
And it is unconscionable that people who have the ability to care for those in prison, would not have enough concern for the victims of these same crimes to even tell them what they are planning. I would like to ask those advocates for Juvenile Lifers to give as much time to victims as they have to prisoners over the years. That would be a good standard for them to work for.

We believe in the ability of human beings to make sound judgments about which of those cases do need to receive the LWOP sentence. We do not believe that something as arbitrary as an 18th birthday should be the determination point for such decisions. We know that human development varies widely, and some people are fully developed and mature enough to be held accountable at different ages, depending on the person and the individual circumstances of each case. And that is why in Michigan we require a hearing prior to trial to determine such. And from what we know of the 300 or so cases of JLWOP in Michigan, most for whom the brutality, and often repeated and multiple instances of horrific violence, is so dramatic, and their personal maturity adequate to provide for adult levels of culpability, that we have no doubt that almost everyone would concur that their sentences were quite appropriate.

There is an almost impossible to solve legal concern here for those who would contemplate retroactively changing some sentences. If a case is decades old, records are gone, witnesses and court officials long gone, and no viable hope of the Constitutional Right of Due Process being made available to all those involved in a given case, that it will not be possible to fairly re-try or re-sentence a case. Clemency is an option that the system provides that would allow un-doing of grievous miscarriages of justice.

In the end we are sure that when the Michigan public has a hard look, as we have, at the

facts of some of the JLWOP cases in Michigan, they will be assured that they are serving the appropriate sentence in these cases. Some of the facts of these cases are so brutal that it defies description.

If we are not willing to give the LWOP sentence to those who clearly need and deserve it, then they will go on in prison or after release to re-victimize even more innocent people. Such tragic stories abound in the news. We are responsible to use our best judgment to prevent this.

So, I will work to defeat all changes to current JLWOP law until and unless all affected victims families are found and informed and invited to be part of any discussion about possible changes to the law. This is not an extraordinary request - there are only a few hundred people involved here. This task is a finite one -- definitely "do-able". Once they have all been found and informed, a meaningful discussion can begin.

For all the advocates opposing juvenile life sentences to refuse this request renders your motivations and your efforts not credible, even unthinkably cruel and heartless towards innocent and deeply wounded victims of crime. That anyone could care for protecting the interests of guilty violent offenders and not those of their innocent victims . . .well, words just fail me on this point.

When these advocates have found these families, informed them, supported their inevitable re-traumatization, and empowered their voices in this process they have created, then they will have earned their credentials as human rights advocates in this situation and can stand with pride before the Michigan Legislature and Public and can propose the changes they think should happen. And we all will discuss it and decide - together.

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