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***For Immediate Release***

## **Wayne County Prosecutor's Office Files on Juvenile Life Without Parole Cases**

### **Statement of Prosecutor Kym L. Worthy**

In light of the decisions in *Miller* and *Montgomery*, we spent a significant amount of time analyzing each case. Although we had a short amount of time under the statute, we gave a considered and thoughtful review. We combed trial transcripts, prison records, and numerous other documents. We sought input from victims' families, when they could be located during this short window of time. Without commenting on my personal opinion, we have fulfilled our obligation to protect the public and to follow the spirit and intent of the Supreme Court decisions.

Our work on these cases is far from over, and we have a monumental task before us. In many of the 81 cases where there is a term of years, we will be seeking more time than the minimum sentence of 25 years. The public should rest assured that we will aggressively pursue life without possibility of parole in 60 other cases.

### **Legal Background**

In January of this year, the United States Supreme Court held in *Montgomery v Louisiana*, 136 S Ct 718 (2016), that *Miller v Alabama*, 132 S Ct 2455 (2012) retroactively applies to juvenile defendants whose convictions were final prior to *Miller* being decided. (See Appendix A) *Montgomery* reiterated that life sentences should be rare: "*Miller* did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes

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reflect permanent incorrigibility.” The Court also shifted the focus in these cases to a defendant’s post-crime conduct: “Those prisoners who have shown an inability to reform will continue to serve life sentences. The opportunity for release will be afforded to those who demonstrate the truth of *Miller’s* central intuition—that children who commit even heinous crimes are capable of change.”

The Michigan Legislature enacted MCL 769.25a, which provides that in the event *Miller* was held fully retroactive, prosecutors in Michigan would have 180 days to decide whether to seek life-without-parole sentences. If the prosecutor chooses not to seek life without parole, the defendant would receive a term of years sentence with a minimum between 25 years and 40 years, and a maximum of 60 years.

*Montgomery* triggered the application of MCL 769.25a for 145 cases prosecuted by the Wayne County Prosecutor’s Office. There were 144 defendants prosecuted by WCPO, however, one had two murder cases bringing the cases to 145. It should be noted that there were a total of 147 cases, however, one defendant died, and one defendant was prosecuted by the Michigan Attorney General.

### **Wayne County Prosecutor’s Office Motion Filings**

Today the Wayne County Prosecutor’s Office has completed the review of 145 Juvenile Life Without Parole Cases. In the state of Michigan, WCPO had the largest amount of cases to review within the required timeframe. Oakland County reviewed 49 cases and had second largest amount to review. The following motions have been filed with the Wayne County Third Circuit Court Criminal Division.

**60** PEOPLE’S MOTIONS TO IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER MCL 769.25a (4)(b)

**3** PEOPLE’S CONDITIONAL MOTIONS TO IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER MCL 769.25a (4)(b)

**81** PEOPLE’S NOTICE OF INTENT TO SEEK A TERM-OF-YEARS SENTENCE UNDER MCL 769.25a (4)(c)

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## Location and Notifications of Crime Victims Affected by *Montgomery v Alabama*

WCPO has diligently attempted to locate and notify as many family members of homicide victims as they could during the brief period allotted. At this time, WCPO is not releasing the names of the cases filed with the court today because we are continuing our attempts to notify families of crime victims. If you are a family member of a homicide victim where the defendant was convicted in adult court at 17 years of age, or younger please contact:

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1441 St. Antoine 12<sup>th</sup> Floor  
Detroit, MI 48226  
313-224-5781  
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### Appendix A *Miller, Montgomery and MCL 769.25/25a*

In *Miller v Alabama*, 132 S Ct 2455 (2012), the United States Supreme Court held unconstitutional a *mandatory* sentence of life without parole for a defendant who was convicted of murder for a crime committed before his or her eighteenth birthday. *Miller* did not hold that a life-without-parole sentence may never be imposed. *Miller* requires individualized sentencing for juveniles convicted of murder. The court must consider the offender's youth and factors associated with youth to determine whether a lesser sentence is more appropriate.

*Miller* characterized a life-without-parole sentence as "uncommon," "rare," and for the offender who reflects "irreparable corruption." "[W]e think appropriate occasions for sentencing juveniles to this harshest possible penalty will be **uncommon**. That is especially so because of the great difficulty we noted in *Roper* and *Graham* of distinguishing at this early age between "the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the **rare** juvenile offender whose crime reflects **irreparable corruption**." [132 S. Ct. at 2469.]

*Miller* also identified several factors for consideration in determining the appropriate sentence:

[1] [offender's] chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences[;]

[2] the family and home environment that surrounds [the offender]—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional[;]

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[3] the circumstances of the homicide offense[;]

[4] including the extent of his participation in the conduct[;]

[5] the way familial and peer pressures may have affected him[;]

[6] [how] he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including a plea agreement) or his incapacity to assist his own attorneys.

In the wake of *Miller*, the Michigan Legislature enacted MCL 769.25 to address the sentencing of those convicted of first-degree murder for crimes committed when under the age of eighteen. The court may sentence a defendant to either life without parole or a term of years with a minimum between 25 and 40 years and a maximum of not less than 60 years. In selecting a sentence, a court must consider the *Miller* factors and “any other criteria relevant to its decision, including the individual’s record while incarcerated.”

Recognizing that the *Miller* holding might be extended to all prisoners serving life-without-parole sentences, not just those convicted after *Miller* or whose appeals were pending when *Miller* was decided, the Legislature enacted MCL 769.25a. That statute provides that in the event *Miller* was held fully retroactive, prosecutors in Michigan would have 180 days to decide whether to seek life-without-parole sentences. If the prosecutor chooses not to seek life without parole, the defendant would receive a term of years sentence with a minimum between 25 years and 40 years and a maximum of 60 years.

In January, the United States Supreme Court held in *Montgomery v Louisiana*, 136 S Ct 718 (2016), that *Miller* retroactively applies to juvenile defendants whose convictions were final prior to *Miller* being decided. *Montgomery* reiterated that life sentences should be rare: “*Miller* did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility.” The Court also shifted the focus in these cases to a defendant’s post-crime conduct: “Those prisoners who have shown an inability to reform will continue to serve life sentences. The opportunity for release will be afforded to those who demonstrate the truth of *Miller’s* central intuition—that children who commit even heinous crimes are capable of change.”

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