



October 24, 2023

Catherine E. Lhamon  
Assistant Secretary, Office for Civil Rights  
Department of Education  
400 Maryland Ave, SW  
Washington, DC 20202

**Re: OCR Ref. No. 06234017, Louisiana Office of Juvenile Justice (“OJJ”);  
Renewed Request for an Investigation of the Provision of General and  
Special Education for the Children in OJJ Custody**

Dear Ms. Lhamon,

Several months ago, we wrote to express our profound concern about the recent decision to move vulnerable students in the custody of Louisiana’s Office of Juvenile Justice (“OJJ”) to the Louisiana State Penitentiary at Angola (“Angola”), and its dire implications for the educational opportunities of these children. Today, while the Angola facility is currently not holding children following a district court preliminary injunction order,<sup>1</sup> OJJ has moved children to a new facility in Jackson Parish, Louisiana (the “Jackson Parish Jail”). The Jackson Parish Jail, although described as a “juvenile justice facility” by OJJ, primarily houses adults accused of crimes and awaiting trial and, according to recent accounts, is subjecting children to near-constant confinement in windowless rooms next to detained adults in cells, exposing children to mace and other punitive practices, and depriving them of access to rehabilitative services and education.

In light of these developments, we write today to renew our request for a federal investigation into the provision of general and special education to children in OJJ’s juvenile prisons, deemed “secure care” by the state, including those children previously housed at the Angola facility. Children held in secure care facilities are the most vulnerable students in the state and in the most need of educational support. There is growing evidence, including from recent information gained about the systemic lack of education at Angola during a seven-day trial, that these children are not receiving necessary educational services in OJJ custody, and recent accounts indicate that this deprivation extends to the Jackson Parish Jail as well. Black children and their families remain the most affected by these systemic failures, and this reflects the alarming disparities within the juvenile justice system and the educational system in Louisiana.

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<sup>1</sup> *Smith v. Edwards*, No. CV 22-573-SDD-RLB, ECF No. 267, at \*1 (M.D. La. Sept. 14, 2023) (“Ruling”). The State’s appeal of this decision is currently pending before the U.S. Court of Appeals for the Fifth Circuit. See *Smith v. Edwards*, 2023-30634 (5<sup>th</sup> Cir. 2023).

## **The Removal of Children from Angola**

Although there is ongoing litigation against the State about Angola, racial disparities in the Louisiana juvenile justice system are not raised as claims and have not been addressed in the litigation. Regardless, those racial disparities, described in our earlier correspondence, bear reemphasis. Of all youth in OJJ custody, approximately 80% are Black in a state where Black people comprise almost 40% of the state population.<sup>2</sup> According to the most recent publicly available data, these disparities were even more pronounced at Angola, where, out of all the children held at Angola, only one has been reported to be white.<sup>3</sup>

This summer, a lengthy bench trial was held in Baton Rouge about the unconstitutional conditions of confinement at the facility. The evidence that emerged in court was staggering. Although the state had promised that it would use the former death row at Angola to temporarily house a small population of boys, evidence emerged at trial that OJJ had already housed between 70 and 80 adolescents there.<sup>4</sup> According to the district court's findings, these boys were housed in highly punitive and harmful conditions; among other things, they were held in solitary confinement with alarming regularity. Meanwhile, the court found that none of the promised rehabilitative treatments, including adequate education and special education services, were delivered.<sup>5</sup> Although Angola promised to provide three teachers, the Court found "there has been one or none most of the time."<sup>6</sup> The Court further found "no evidence" of the provision of any special education services.<sup>7</sup>

After the trial, Chief Judge Shelly Dick found that the children were substantially likely to succeed on their claims under the U.S. Constitution, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973.<sup>8</sup> She ordered the removal of all children from the Angola facility by September 15, 2023.<sup>9</sup> The state appealed to the U.S. Court of Appeals for the Fifth Circuit,<sup>10</sup> and, on September 15, 2023, OJJ removed all children from the Angola facility and placed them at the Jackson Parish Jail.<sup>11</sup>

The state's removal of children from Angola was a major victory for the children of Louisiana, especially those in secure care. Whether children will be sent to Angola in the future, however, remains a subject of live controversy in the Fifth Circuit.<sup>12</sup> The intervention of the federal

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<sup>2</sup> Southern Poverty Law Center, *Only Young Once: The Urgent Need for Reform of Louisiana's Youth Justice System* at 12 (2023) ("Only Young Once"), <https://www.splcenter.org/louisiana-juvenile-justice-system-reform> (Attachment A).

<sup>3</sup> See Response from the Office of Juvenile Justice ("OJJ") to Families and Friends of Louisiana's Incarcerated Children ("FFLIC"), ECF No. 164-13 (July 17, 2023) (Attachment B).

<sup>4</sup> Ruling at \*2.

<sup>5</sup> *Id.* at \*3.

<sup>6</sup> *Id.* at \*8.

<sup>7</sup> *Id.* at \*9.

<sup>8</sup> *Id.* at \*1-10.

<sup>9</sup> *Id.*

<sup>10</sup> To allow more time for consideration of a stay request, the Fifth Circuit initially issued a non-final, administrative stay of the district court's opinion. See Order, *Smith v. Edwards*, No. 2023-30634, Dkt. 15 (Sept. 13, 2023). The Court then denied that stay on the merits. See Order, *Smith v. Edwards*, No. 2023-30634, Dkt. 121 (Oct. 5, 2023).

<sup>11</sup> See Letter, *Smith v. Edwards*, No. 2023-30634, Dkt. 37 (Sept. 15, 2023).

<sup>12</sup> See generally Mot. to Dismiss Appeal in Part as Moot, Dkt. 94 (Sept. 22, 2023); Opp'n to Mot. to Dismiss Appeal in Part as Moot, Dkt. 114 (Oct. 2, 2023).

government therefore remains necessary to ensure that children are not placed again in illegal conditions of confinement at Angola, another adult facility, or elsewhere in the OJJ secure care system in the future. In the meantime, highly disturbing accounts of the conditions at the Jackson Parish Jail, including a complete denial of access to education, have started to emerge.

### **Past as Prologue: St. Martinville, Angola, and the Jackson Parish Jail**

In earlier correspondence, we detailed the tragic history of OJJ's failed attempts to serve its most vulnerable youth amid a reemergence of the youth "superpredator" myth in Louisiana and chronic underinvestment in the state's children. First, the state opened in secret a facility to house the highest-needs youth in OJJ secure care at the Acadiana Center for Youth at St. Martinville, where students were held in solitary confinement and went for months without education, and then announced the ill-advised and unconscionable decision to open a juvenile justice facility at Angola. Now, there is the Jackson Parish Jail.

Two of the youths previously incarcerated at Angola recently made declarations describing the conditions at the Jackson Parish Jail. In their declarations, the youths recount being held in their cells for up to 23 hours per day, for multiple days at a time, in cells that are next to, and within sight of, adults held at the jail. The children see the adults on the rare occasions when they leave their cells, and when the adults pass through the hallways adjoining their cells.<sup>13</sup> The young people report frequent macing of youths in their cells. One youth reports that, after being maced, guards took them outside, making them kneel with their wrists crossed and zip-tied behind their backs; while they were held in this position, a supervisor maced another child in the face.<sup>14</sup> One youth reported that staff patrol the hallways of the jail with dogs.<sup>15</sup>

No youth reports the provision of general or special education services and instruction of any kind. One youth incarcerated in the Jackson Parish Jail for five days did not go to school at all;<sup>16</sup> another youth reports that, in the approximately 19 days he has been held at the facility, he has been to school only once.<sup>17</sup>

These conditions are deplorable from a humanitarian perspective, and unconscionable from the perspective of the Department's obligation to oversee children's educational development. These children, like all children, are entitled to an education and an opportunity for rehabilitation guaranteed under state and federal law. Many of the children in OJJ's custody have disabilities and are entitled to special education and related services as well. It is the responsibility of OJJ to ensure that these crucial services are delivered without interruption, and OJJ has proven that it is incapable of doing so.

Angola serves as another example, after St. Martinville,<sup>18</sup> of a systemic failure to provide

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<sup>13</sup> Attachment C; Attachment D.

<sup>14</sup> Attachment D.

<sup>15</sup> Attachment C.

<sup>16</sup> *Id.*

<sup>17</sup> Attachment D.

<sup>18</sup> Beth Schwartzapfel, Erin Einhorn, and Annie Waldman, "No Light, No Nothing." *Inside Louisiana's Harsheset Juvenile Lockup*, The Marshall Project, <https://www.themarshallproject.org/2022/03/10/no-light-no-nothing-inside-louisiana-s-harsheset-juvenile-lockup>.

educational services to the most vulnerable youth in OJJ care. The Jackson Parish Jail promises to be the next chapter in this ill-fated tale. While we believe an OCR investigation into educational services across the OJJ system would reveal serious deficiencies that rise to violations of law, the evidence from these three facilities is unequivocal: OJJ routinely fails to provide even minimally adequate education at newly opened facilities, and then only in response to complaints.<sup>19</sup> This is of enormous concern given not only the current conditions at the Jackson Parish Jail, but the impending opening of a new unit at the Swanson-Monroe facility,<sup>20</sup> as well as OJJ's announced intention to move all the girls in secure care to a new unit at the Jetson facility in Baker, Louisiana, which currently houses the entire population of adult women in the custody of the Louisiana Department of Corrections.<sup>21</sup>

Without systemic federal intervention, Louisiana's cycle of disinvestment, neglect, and abuse is bound to repeat itself, to the detriment of youth in our state and the State of Louisiana as a whole.

### **Ongoing Racial Discrimination and Racially Discriminatory Effects**

The vast majority of children affected by the continued, repeated, and systemic failures of OJJ, due to systemic inequities beginning at the school-to-prison pipeline and continuing through the juvenile justice system, are Black. This racial disparity emerges not only at the time of arrest and sentencing but continues throughout a child's involvement in the system.

Recent data shows that Black children are disproportionately represented in every custody and supervision status statewide.<sup>22</sup> Overall, Black children are four times more likely to be incarcerated than white youth.<sup>23</sup> This leads to dramatic overrepresentation of Black youth in secure care in Louisiana, where approximately 80% of the children detained in OJJ juvenile facilities are Black. These racial disparities are, incredibly, even more pronounced and discriminatory at the Angola facility. According to public records requests obtained from OJJ, forty out of forty-nine total children held at Angola as of approximately June 2023, were Black. In

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<sup>19</sup> Following a complaint to the Louisiana Department of Education, OJJ entered into a settlement agreement regarding education and related services at St. Martinville, only to later renege on that agreement, as outlined in our previous correspondence. Testimony elicited at the hearing suggested that the educational services at Angola, to the extent they improved at all, did so only after deposition testimony revealed the extent of deficiencies in the weeks before trial. *See, e.g.*, Tr. Day 1 at 140:24-142:18, *Smith v. Edwards*, No. 22-cv-573, ECF No. 279 (Aug. 15, 2023) (deposition testimony by Dr. Patrick Cooper, former Angola instructor).

<sup>20</sup> The State has long contended its use of Angola, and now the Jackson Parish Jail, are temporary measures while it builds a new "Transitional Treatment Unit" (TTU) at Swanson-Monroe, one of the OJJ secure care facilities. *See* Office of Juvenile Justice, OJJ Removes Youth from West Feliciana Facility (Sept. 15, 2023), <https://ojj.la.gov/news/ojj-removes-youth-from-west-feliciana-facility>; *see also, e.g.*, Tr. at 147:13-23, 212:19-214:19, *Smith v. Edwards*, No. 22-cv-573, ECF No. 152 (Sept. 7, 2022). But the State detained children at Angola for nearly a year and is fighting court action to keep it closed. While Swanson-Monroe is an existing facility, it is not clear how OJJ intends to staff this new unit or deliver educational programs. The indications are that the Swanson TTU will function much as the Angola TTU did: children who are incarcerated in this unit will be sent there for behavioral incidents, will be housed in solitary cells, and will be counseled in accordance with the TTU protocols used at Angola, which included days-long periods of cell confinement that involved suspension of an array of programming, including education. The State projects the Swanson TTU will open later this year. *Id.*

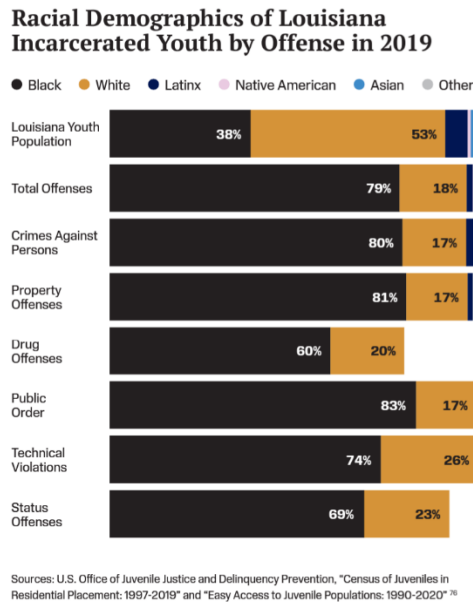
<sup>21</sup> *Advocates Worry About Louisiana's Plans to House Incarcerated Girls Near Adult Prisoners*, Louisiana Illuminator (Oct. 3, 2023), <https://lailuminator.com/2023/10/03/advocates-worry-about-louisianas-plans-to-house-incarcerated-girls-near-adult-prisoners/>.

<sup>22</sup> Only Young Once at 11.

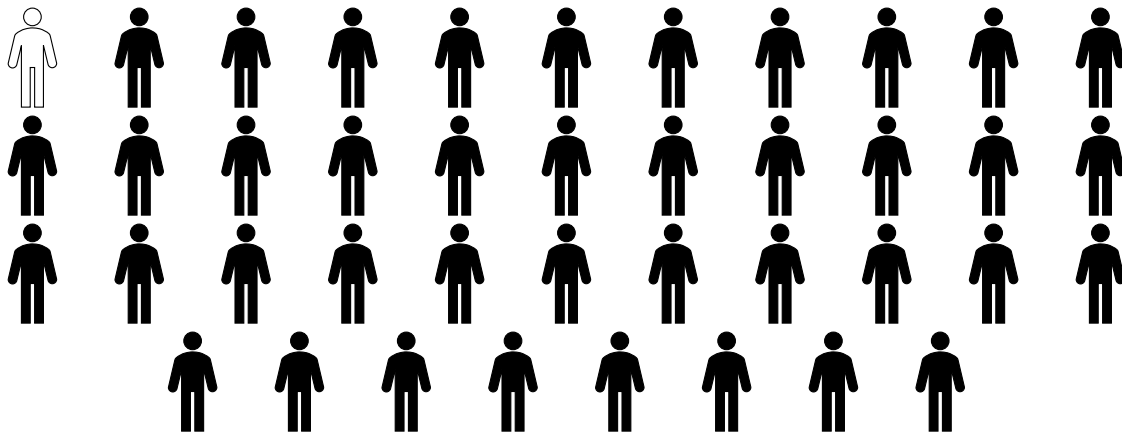
<sup>23</sup> *Id.* at 4.

other words, during the first approximately nine months of Angola’s operation, only one child held at Angola was white.<sup>24</sup>

**Figure 1: Racial Demographics of Youth in OJJ Secure Care<sup>25</sup>**



**Figure 2: Racial Demographics of Youth at Angola (June 2023)<sup>26</sup>**



Where all youth at Angola were transferred to the Jackson Parish Jail following the district court’s order,<sup>27</sup> there is no indication that placement of youth at the Jackson Parish Jail is any less racially discriminatory.

<sup>24</sup> Attachment B.

<sup>25</sup> Only Young Once at 13.

<sup>26</sup> Attachment B.

<sup>27</sup> See Letter, *Smith v. Edwards*, No. 2023-30634, Dkt. 37 (Sept. 15, 2023).

OJJ’s policies and practices clearly operate to produce these racially discriminatory outcomes. OJJ purported to follow policies designed to ensure the transfers of children to its so-called “Transitional Treatment Unit” (“TTU”) at Angola were warranted and effectuated for standardized reasons.<sup>28</sup> However, even after trial, there is no evidence that OJJ’s criteria are followed or reported in any consistent way. Now, at the Jackson Parish Jail, no publicly available standards indicate what children may be removed from their current educational setting and placed in that adult facility. The lack of standard policies to govern which children should be transferred to the highest-security facilities in OJJ secure care results in unfettered opportunities for explicit and implicit racial bias, resulting in more Black students being transferred to and held in the harshest and least-resourced OJJ facilities.

**Lack of Alternative Methods of Recourse**

In earlier correspondence with the Department, we referenced a state complaint filed with the Louisiana Department of Education (“LDOE”) about the St. Martinville facility. Like Angola, the facility at St. Martinville was created as a “temporary” solution to systemic OJJ problems. Nonetheless, youth continue to be housed at St. Martinville to date, and OJJ has breached an agreement to provide education services there. Since breaching the agreement, advocates have sent correspondence to the LDOE seeking enforcement measures.<sup>29</sup> To date, no action has been taken by LDOE to enforce this agreement, and, moreover, OJJ has not come back into compliance. In the absence of an administrative remedy at the state level, relief is not available to the students held in OJJ secure care except through federal intervention.

Accordingly, we continue to urge you to open an investigation into the educational services provided to the youth in OJJ secure care as soon as possible. Federal intervention by the Department of Education is the only action that may ensure children at the deepest end of the juvenile legal system, those in state custody, have the opportunity to succeed in their communities and gain productive and meaningful employment upon release.

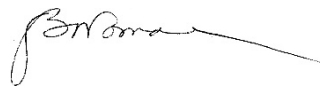
If you have any questions or would like more information, please contact LaShawn Warren, Chief Policy Officer at the Southern Poverty Law Center, at LaShawn.Warren@splcenter.org.

Sincerely,



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LaShawn Warren, Chief Policy Officer  
Terry C. Landry, Jr., Louisiana Policy  
Director



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Gina B. Womack, Co-Founder, Executive  
Director  
Family and Friends of Louisiana’s

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<sup>28</sup> See Office of Juvenile Justice, Youth Services Policy B.2.8 (Transitional Treatment Unit) (Aug. 23, 2022), <https://ojj.la.gov/assets/docs/policies/classification-sentencing-service-functions/B.2.8-Transitional-Treatment-Unit-TTU-08-23-22.pdf>.

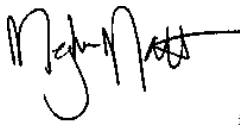
<sup>29</sup> See Letter from Louisiana Center for Children’s Rights and Loyola University to LDOE, Request to Enforce Resolution Agreement or Alternatively to Resume Investigation and Issue Findings (Sept. 15, 2023) (Attachment E).

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Enclosures: Attachments A-E

# ATTACHMENT

A



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# Only Young Once

The Urgent Need for Reform of Louisiana's Youth Justice System

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# Executive Summary

On July 19, 2022, Louisiana Gov. John Bel Edwards announced his decision to transfer dozens of incarcerated youth from the Bridge City juvenile facility to the Louisiana State Penitentiary, also known as Angola. Built on a former slave plantation, Angola has become notorious for human rights abuses and harsh labor, making the decision to hold youth there considerably controversial. Incarcerating young people in the nation’s largest maximum security prison underscores the deficiencies within Louisiana’s youth justice system – a system that all too often prioritizes youth punishment over rehabilitation. This report explores how the state got to this point and recommends policy changes to address the harm caused.

## **Louisiana has a youth justice system that is geared toward youth incarceration, even while youth crime has decreased for decades.**

- Contrary to the “superpredator” myth that predicted an increase in youth violent crime, youth arrest rates declined 80% in the U.S. and 67% in Louisiana from 2000 to 2020.
- Despite decreasing youth arrest rates, Louisiana’s approach to youth justice has produced the nation’s third-highest school suspension rate, second-highest school expulsion rate, and state youth incarceration at a five-year high.

## **The harms of youth incarceration disproportionately impact Black youth.**

- In Louisiana, Black youth are four times more likely to be incarcerated than their white counterparts.
- Black youth are the least likely to benefit from leniency in juvenile court, regardless of the type of offense – evidenced by the disparate treatment of Louisiana’s “Jena Six.”

## **Choosing incarceration over rehabilitation is harmful to youth and expensive for taxpayers.**

- Youth incarcerated in adult facilities are more likely to experience extensive solitary confinement, greater recidivism, and higher suicide rates.
- Incarcerating a young person in Louisiana for one year (\$156,570) is more expensive than the annual costs of enrollment in Louisiana public schools, Tulane University and Louisiana State University combined (\$118,571).



**Policy reforms that recommit to Louisiana's Juvenile Justice Reform Act of 2003, emphasizing therapy and community involvement over punitive methods, would be safer and more humane for Louisiana youth, and more cost-productive for Louisiana taxpayers.**

**The Southern Poverty Law Center's recommendations:**

1. Louisiana should raise the minimum age of juvenile incarceration and prosecution in the state.
2. Louisiana should make nonviolent offenses, especially technical violations, status offenses and nonviolent drug offenses, non-jailable for juveniles.
3. Louisiana should invest in community-based alternatives to youth incarceration that prioritize rehabilitation.
4. Louisiana should completely ban the practice of incarcerating youth in adult facilities like Angola.

# Only Young Once

## The Urgent Need for Reform of Louisiana's Youth Justice System

By Delvin Davis,  
Southern Poverty  
Law Center

At 18 years old, Albert Woodfox was incarcerated in Louisiana State Penitentiary,<sup>1</sup> also known as Angola, for car theft.<sup>2</sup> For Woodfox, who arrived at Angola in 1965, the prison must have resembled an antebellum landscape from over a hundred years prior. Built on a former slave plantation named for a part of southwestern Africa where many enslaved people were once captured for labor, Angola had armed white men on horseback known as “free men” who oversaw Black men picking cotton on the prison grounds – a scene that persists to present day.<sup>3</sup>

Woodfox's journey at Angola would last off and on for over 40 years, long enough to see and feel the full arc of why this prison was called the “Alcatraz of the South.”<sup>4</sup> By the time Woodfox arrived, Angola had been labeled “the bloodiest prison in the South” because of the number of stabbings that took place there.<sup>5</sup> The violence would continue for decades, with a recorded 1,346 assaults in 1992 alone,<sup>6</sup> and a hostage situation in 1999 where two people lost their lives.<sup>7</sup> Burl Cain, Angola's warden at the time, declared, “I think that there has been more human suffering in this place than in any place in the world.”<sup>8</sup>

More recently, four former Angola correctional officers were sentenced in federal court in 2020 for beating an incarcerated person while they were shackled and conspiring to cover up the event by falsifying reports and lying under oath.<sup>9</sup> The following year, several people in Angola started a hunger strike protesting the excessive use of solitary confinement as a disciplinary measure.<sup>10</sup>

Albert Woodfox would become all too familiar with the use of solitary confinement during his time in Angola. Woodfox became well known as a member of the “Angola 3” – three Black men that

were each held for decades in isolation. Of the three, Woodfox would spend the longest amount of time in solitary – over 40 years – thought to be the longest term of solitary confinement in American history.<sup>11</sup> While spending the majority of his life stripped of human interaction 23 hours a day in a 6-by-9-foot cell, a federal judge would refer to the Angola 3's treatment as “so far beyond the pale” that there was not “anything even remotely comparable in the annals of American jurisprudence.”<sup>12</sup>

Even after Woodfox's release in 2016, he would struggle with claustrophobic episodes, recalling the feeling of how “the atmosphere is closing in on you ... like you're smothering.”<sup>13</sup> Woodfox's experience in Angola was designed to slowly destroy him over the course of a lifetime – all starting with his incarceration as a teenager.

Woodfox passed away on Aug. 4, 2022. On July 19, 2022, less than three weeks earlier, Louisiana Gov. John Bel Edwards announced his decision to transfer dozens of teenagers under the custody of the Office of Juvenile Justice from the Bridge City juvenile facility to the same Angola that Woodfox somehow survived.<sup>14</sup> The controversial decision was made in response to recent escapes from Bridge City and concerns about community

“I don’t think I ever felt that I would die in prison, [but as] the years passed, it became more difficult to feel that way.”



**Albert Woodfox,  
who was formerly  
incarcerated  
in Angola as  
a teenager<sup>1</sup>**

safety. Despite pressure from litigation to release the youth from Angola, state leaders still appear committed to detaining teenagers there indefinitely.<sup>15</sup>

The movement of children to an adult prison with a historic track record of violence and other harms is illustrative of the larger systemic issues within Louisiana’s youth justice system. This action reinforces what youth justice advocates have said for years:<sup>16</sup> Louisiana’s entire youth justice system is in dire need of reform and replete with overcrowded youth facilities,<sup>17</sup> woeful understaffing,<sup>18</sup> and conditions that are unsafe both physically and psychologically.<sup>19</sup>

For example, reports show that youth in state juvenile facilities have been locked in solitary confinement for 23 hours a day, shackled for the brief periods they are not in lockdown, and have slung their own urine and feces across their cells.<sup>20</sup> In Ware Youth Center, two young people took their own lives within a week of each other,<sup>21</sup> with the facility being the subject of at least two state investigations.<sup>22</sup> With 80% of incarcerated young people in Louisiana being Black,<sup>23</sup> it is Black young people who bear the primary brunt of this broken system.

This report highlights the need for urgent reform of Louisiana’s youth justice system – a system that has largely harmed the state’s Black youth in staggering numbers – and why it must move from an overreliance on youth incarceration to providing rehabilitative services for youth in their communities.<sup>24</sup>

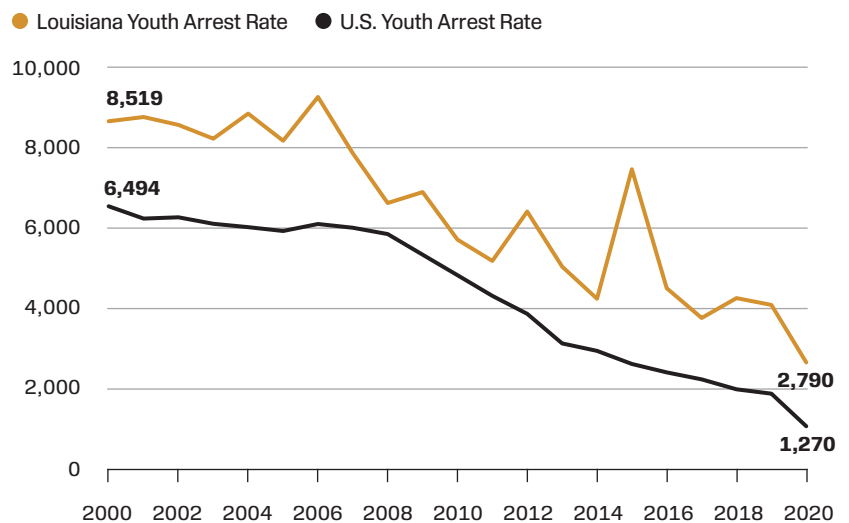
First, it explores how the “superpredator” myth of the 1990s led to the dehumanization of Louisiana’s Black youth as a purported justification for their incarceration. Second, it outlines how Louisiana’s school-to-prison pipeline has turned schools into a springboard for youth justice system involvement. Third, it expands upon how racial disparities are prevalent throughout the state’s youth justice system. Fourth, it outlines how Louisiana has over-relied on youth incarceration over rehabilitative options for youth. Fifth, it dives into the myriad harmful results of youth incarceration. Sixth, it features potential opportunities for policy reform. And lastly, the report outlines policy proposals Louisiana can and must advance to reform its youth justice system.

## The “Superpredator” Myth and the Dehumanization of Louisiana’s Black Youth

According to Louisiana state Sen. Patrick Connick, whose district includes Bridge City, the young people moved to Angola are “the worst of the worst.”<sup>25</sup> This rhetoric is a direct echo of the myth of the “superpredator,” a racist relic that dates back to when former Princeton professor John DiIulio first coined the phrase in the mid-1990s in response to rising youth crime. According to DiIulio, the reason for this crime increase was because “a new generation of street criminals is upon us – the youngest, biggest and baddest generation any society has ever known.”<sup>26</sup> Under his debunked theory, certain youth – mainly Black youth – had a “moral poverty” that led them to “do what comes ‘naturally’: murder, rape, rob, assault, burglarize, deal deadly drugs, and get high.”<sup>27</sup>

Rather than being children in need of rehabilitation, services and treatment, DiIulio’s “superpredators” were portrayed as subhuman entities who engaged in “homicidal violence in ‘wolf packs’.”<sup>28</sup> Animalistic descriptors were also used to describe the Exonerated Five, five Black and Latinx teens who were wrongfully convicted of an act of violence in New York’s Central Park in 1989, who were described as “wilding” in their behavior.<sup>29</sup> As a result, the dehumanizing connection between animal hunters and race

### U.S. and Louisiana Youth Arrest Rates, 2000-2020



Sources: Arrest figures are from the FBI Crime Data Explorer, calculating rates according to youth population estimates from the U.S. Office of Juvenile Justice and Delinquency Prevention. Figures presented as arrests of youth ages 10-17 per 100,000 youth ages 10-17.<sup>33</sup>



created the notion that Black youth should be captured, controlled and punished – justifying their incarceration – rather than children who should be cared for and could be redeemed.

DiIulio predicted that the rise of the superpredator – specifically, “super-crime prone young males”<sup>30</sup> – would lead to a parallel rise in violent crime and thus the need for a rise in the use of incarceration. In DiIulio’s own words, “No one in academia is a bigger fan of incarceration than I am. ... By my estimate, we will probably need to incarcerate at least 150,000 juvenile criminals in the years just ahead. In deference to public safety, we will have little choice but to pursue genuine get-tough law-enforcement strategies against the superpredators.”<sup>31</sup> However, DiIulio’s prediction that waves of violent teenagers would flood the country’s streets never materialized.<sup>32</sup> In fact, youth arrest rates declined by 80% in the U.S., and 67% in Louisiana, from 2000 to 2020.

Beyond the failure of DiIulio’s prediction, additional facts have proved the myth of the superpredator false. Research has shown that due to their brain development and natural maturation, young people are more prone to risky activity and lawbreaking during adolescence, and most youth will naturally age out of this behavior as their brains develop.<sup>34</sup> This research has served as the foundation for several U.S. Supreme Court cases that have struck down overly punitive sanctions for children – including *Montgomery v. Louisiana*, in which the court held that its previous prohibition against mandatory sentencing schemes that required children convicted of homicide to be sentenced to life imprisonment without parole applied retroactively.<sup>35</sup> However, even with the superpredator theory debunked, the narrative of dangerous Black youth has still held firm as fodder for political debate and as justification for harsh criminal penalties, an increasing investment in law enforcement and carceral facilities, and the proliferation of “get tough” policies targeting youth crime.

As evidenced by Connick’s words, this superpredator perception persists to the present day. For example, former Jefferson Parish Sheriff Newell Normand, referring to a carjacking spree committed by several 16-year-olds in 2017, said that “[t]hese children need to be put away. These are predators and they’re acting like predators and we need to treat them like predators.”<sup>36</sup> In condemning Louisiana’s harsh response to youth crime earlier this year, Antonio Travis, youth

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organizer at Families and Friends of Louisiana’s Incarcerated Children, stated that the “recent public discourse surrounding Louisiana’s children mirrors trends of the 1990s, when a ‘superpredator’ myth resulted in the arrests of untold numbers of innocent youth of color.”<sup>37</sup>

In short, both Louisiana’s and our nation’s failure to see Black kids as kids has served as a racist justification for their overinvolvement in the youth justice system – setting the stage for harmful actions like incarcerating children in a dangerous adult prison. Notably, Louisiana has gone even further on this point than DiIulio would have. According to him, “housing juvenile criminals with adult felons will not help decrease the rate of violent crime” and “[j]ailing youths with adult felons under Spartan conditions will merely produce more street gladiators.”<sup>38</sup> It is telling that Louisiana has gone beyond where the individual whose rhetoric launched an overcriminalization of Black youth movement dares to tread.

## **Louisiana’s School-to-Prison Pipeline Has Disproportionately Impacted the State’s Black Children**

The dehumanization of Black youth has permeated into one of the environments where these children should feel safest – our nation’s schools. While their white counterparts have historically been free to engage in youthful student misbehavior and learn from their mistakes, Black youth nationwide and in Louisiana have, by contrast, been met with overpunishment and condemnation. As a point of fact, according to the Louisiana School Board Association, Louisiana is one of only 15 states that allow corporal punishment in schools,<sup>39</sup> and of the students subjected to this punishment in 2017-2018, 61.4% were Black.<sup>40</sup>

Louisiana’s Black students have been subject to school pushout at alarming rates, making them increasingly vulnerable to ending up in the youth justice system and having other negative outcomes.<sup>41</sup> From 2017-2018, Louisiana had the third-highest out-of-school suspension rate (8.98%) and second-highest expulsion rate (0.81%) in the country, according to U.S. Department of Education figures – with its expulsion rate being over four times the national average.<sup>42</sup> During that same period, more than one in eight Black students (13.2%) in Louisiana were suspended from Louisiana’s public schools;



almost triple the percentage of Black students (1.22%) as compared to white students (0.44%) were expelled.<sup>43</sup>

School pushout even reaches Louisiana's youngest students. During the 2018-2019 school year, over 1,000 students in preschool, pre-K and kindergarten were suspended in the state.<sup>44</sup> Tellingly, half of the 17,000 preschool students suspended or expelled in the U.S. in 2021 were Black boys,<sup>45</sup> and a 2021 Northwestern University study indicates that preschool teachers are more prone to label Black students' behavior as problematic even where there is no discernible difference between their behavior and that of their white counterparts.<sup>46</sup>

This perception of Black students as criminal has also led to the increasing presence of law enforcement in the school environment. Over the past two decades, security and police officers have proliferated across the nation's schools, jumping from 54.4% of students aged 12-18 reporting their school had these actors in 1999 to 75.4% of students reporting the same in 2019.<sup>47</sup> Their presence is disproportionately impacting Black students: Studies show that secondary schools that are majority-Black are more likely to have police and security officers than majority-white schools.<sup>48</sup> This overpolicing of Black students has also taken hold in Louisiana: 34% of Louisiana's students are in a school with a police officer, but have no psychologist, nurse, social worker or school counselor.<sup>49</sup> Black students make up 67.9% of school arrests in Louisiana compared to 25.8% for whites,<sup>50</sup> even though Black and white youth comprise 43.5% and 44.7% of Louisiana's students, respectively.<sup>51</sup>

The increased deployment of law enforcement in schools has also created a greater expectation for the criminalization of minor incidents, particularly for Black students. In Louisiana's Jefferson Parish, a Black eighth grader was placed under arrest for throwing Skittles on the school bus,<sup>52</sup> which resulted in charges of "interference with an educational facility" and battery, plus six days in a juvenile detention facility.<sup>53</sup> As the Southern Poverty Law Center previously exposed, this incident was not isolated, but rather spoke to a larger culture within Jefferson Parish public schools that fostered the disproportionate overpolicing of Black students.<sup>54</sup> Other trivial arrests include a seventh grader charged with interference with an educational facility after yelling outside of her school, and an autistic fourth grader who was handcuffed following a classroom outburst.<sup>55</sup> The increasing presence of punitive criminal measures within the school environment has likely contributed to the overrepresentation of students of color in Louisiana's youth justice system.



# 67%

**Black students make up 67.9% of school arrests in Louisiana compared to 25.8% for whites, even though Black and white youth comprise 43.5% and 44.7% of Louisiana's students, respectively.**

## Racial Disparities Remain Persistent in the Youth Justice System

Once pushed out of the school environment, Louisiana’s Black children often find themselves moving further into youth justice system involvement. An important contributor to this funnel is the courts and which children are afforded leniency before them versus harsher sanctions. Judges and prosecutors have discretion with how to proceed with legal matters concerning youth and can opt for more diversionary and restorative means to resolution that do not require carceral punishment. Nationwide, however, Black youth are least likely to benefit from diversion options provided in the community, even when compared to other races committing similar offenses.<sup>56</sup> Thus, Black children, rather than being met with opportunities for restorative justice or nonpunitive measures to atone for any harms caused, have instead been met nationwide in disproportionate numbers with punishment and incarceration.

This disproportionate failure of courts to treat Black kids as kids is very evident in Louisiana. Research in 2019 found that although Black

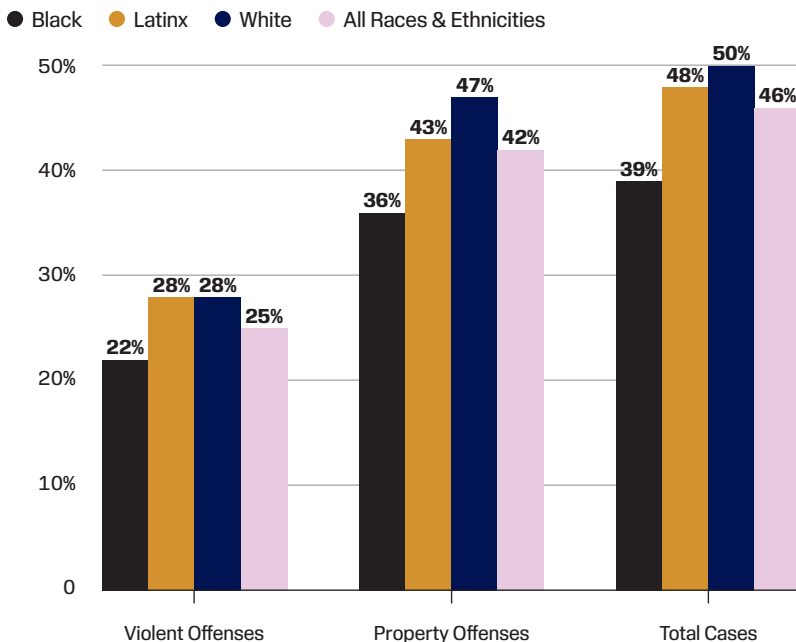
youth accounted for only 34% of the total youth population in Jefferson Parish, one of the state’s most populous parishes, they were overrepresented at every point of contact in the youth justice system.<sup>58</sup> Recent data also shows that Black youth are disproportionately represented in every custody and supervision status statewide.<sup>59</sup>

Disparate treatment in court was on full display when six Black teenagers in Jena, Louisiana, were arrested for fighting a white classmate in 2006.<sup>60</sup> The arrests came months after racial tensions escalated when several nooses were found hanging on school grounds. Then LaSalle Parish District Attorney J. Reed Walters boasted to defendants as young as 14 at the time that he could “end [their] lives with the stroke of a pen” and would “seek the maximum penalty allowed by law” after he convicted them.<sup>61</sup> He sought charges of attempted second-degree murder and conspiracy for the fight – charges that could bring up to 100 years in prison.<sup>62</sup> However, Walters declined to pursue hate crime charges for any white student that allegedly hung nooses on school grounds, claiming that “it broke no law,”<sup>63</sup> even though the FBI concluded it “had all the markings of a hate crime.”<sup>64</sup> In this case, it was easier for the legal system to draw a connection between a school fight to murder, than nooses to a hate crime.

One of the boys, Mychal Bell, was initially charged as an adult and convicted by an all-white jury of aggravated battery, which could have resulted in 15 years in prison.<sup>65</sup> After already serving 10 months, Bell won an appeal on grounds he should have been tried in juvenile court, and pleaded guilty to a juvenile charge of second-degree battery, receiving an 18-month sentence in a juvenile facility.<sup>66</sup> The other five teens accepted plea deals that gave them seven days’ probation, a \$500 fine, and court costs.<sup>67</sup>

After his release, Bell would speak of the psychological toll the situation placed on him even after he returned to his community – ultimately resulting in a failed 2008 suicide attempt after he was accused of shoplifting.<sup>68</sup> The account of these six boys, collectively referred to as the Jena Six, could easily happen today. The Jena Six story draws direct parallels to the current youth transfers to Angola. In both cases, despite protests from demonstrators and national media scrutiny, Louisiana’s youth justice system still chose to pursue severe carceral punishment over rehabilitation and community care.

## U.S. Juvenile Cases Resolved Informally Outside of Court, 2020



Source: U.S. Office of Juvenile Justice and Delinquency Prevention, “Easy Access to Juvenile Court Statistics: 1985-2020”<sup>57</sup>

## Moving to the Deep End: Louisiana's Overreliance on Youth Incarceration

In the 1990s, Louisiana had the highest youth incarceration rate in the country.<sup>69</sup> As of 2019, the state has the 16th highest youth placement rate (for detention and commitment) nationwide.<sup>70</sup> Over the past five years, the number of young people in secure care (the most restrictive form of detention involving 24-hour supervision and confinement) with Louisiana's Office of Juvenile Justice has outpaced the use of non-secure care and referrals for nonviolent offenses, especially compared to pre-pandemic levels.<sup>71</sup> Stated plainly, Louisiana has increased its incarceration of young people over the last five years, even while youth arrests have declined.

Higher youth incarceration rates have contributed to overcrowded juvenile facilities to the extent that officials from the state's Office of Juvenile Justice issued a letter to judges advocating for the release of more low-risk teens back into the community to free up space.<sup>73</sup> Still, for youth who remain in these crowded spaces, Black youth find themselves disproportionately incarcerated. Although Black youth account for only 38% of youth statewide,<sup>74</sup> as of 2019, they account for 79% of all youth incarcerated in the state.<sup>75</sup>

Troublingly, there are many cases where the use of out-of-home placement is used for status offenses, technical violations and drug offenses – mostly nonviolent offenses for which custody should not be an option.

“Status offenses” are offenses that are generally only an issue when committed by a minor – including underage drinking, truancy, curfew

**Confinement for these offenses again disproportionately harms Black kids. For drug offenses, status offenses and technical violations, Black incarcerated youth comprised 60%, 69% and 74% of youth confined for drug offenses, status offenses and technical violations, respectively.**

violations, running away from home, and incorrigibility.<sup>77</sup> In Louisiana, these are often categorized as “Families in Need of Services” (FINS) cases where the juvenile court is called to intervene for the youth or family “in an effort to prevent delinquency and family disintegration,” usually at the behest of law enforcement, schools or family.<sup>78</sup>

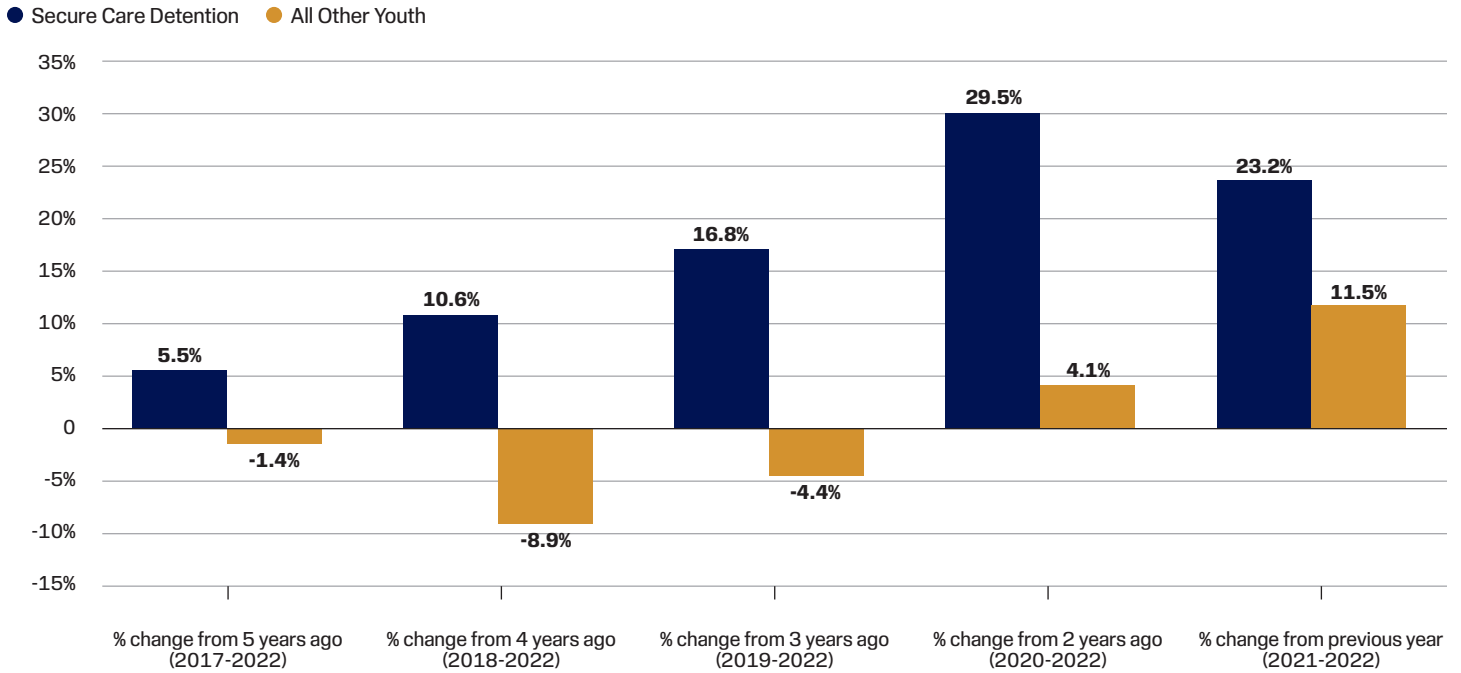
While status offenses are typically nonviolent and have protections in the Juvenile Justice Delinquency and Prevention Act against secure confinement, they can still land a young person in secure or non-secure custody through the use of “valid court order” (VCO) exceptions that give judges discretion to incarcerate.<sup>79</sup> Louisiana used VCO exceptions for 129 cases in FY 2016 and FY 2021 combined.<sup>80</sup> The average FINS case for Louisiana youth in 2017 stayed in custody for eight months (243.9 days).<sup>81</sup> According to data from the Louisiana Supreme Court, informal FINS referrals were most commonly from schools (68%), with truancy as the most common offense (55%).<sup>82</sup>

Technical violations for not strictly adhering to probation terms, like failing to report to a probation officer or not paying court fines, can also land a young person in incarceration. A judge may also issue a VCO as a condition for probation on a status offense – such as requiring school attendance as a probation condition for a truant youth – which creates a more carceral penalty for otherwise nonviolent cases.<sup>83</sup>

Likewise, drug offenses often represent more of a public health concern than a criminal issue, and could be more appropriately addressed through diversionary community resources that provide counseling.<sup>84</sup> Addressing the core issue of substance abuse with access to community-based treatment has shown positive results in lowering crime rates.<sup>85</sup> Altogether, there were 111 young people held in Louisiana juvenile facilities for drug offenses, status offenses and technical violations in 2019, representing 16% (nearly 1 in 6) of youths in residential custody.

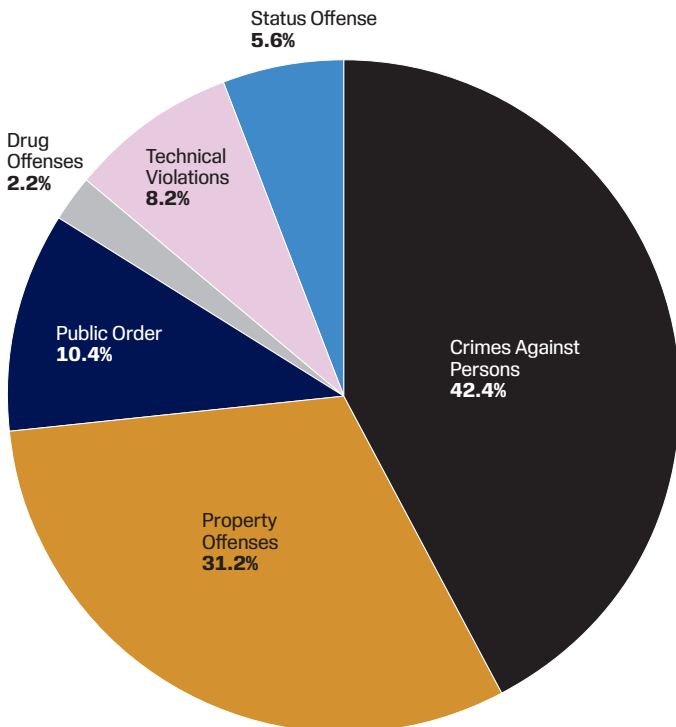
Confinement for these offenses again disproportionately harms Black kids. For drug offenses, status offenses and technical violations, Black incarcerated youth comprised 60%, 69% and 74% of youth confined for drug offenses, status offenses and technical violations, respectively. Thus, at every touchpoint of the system, and across myriad offense types, Black youth are directly harmed by Louisiana's overreliance on incarceration.

## Change in Louisiana Youth Secure Care Usage Rates as of 2022



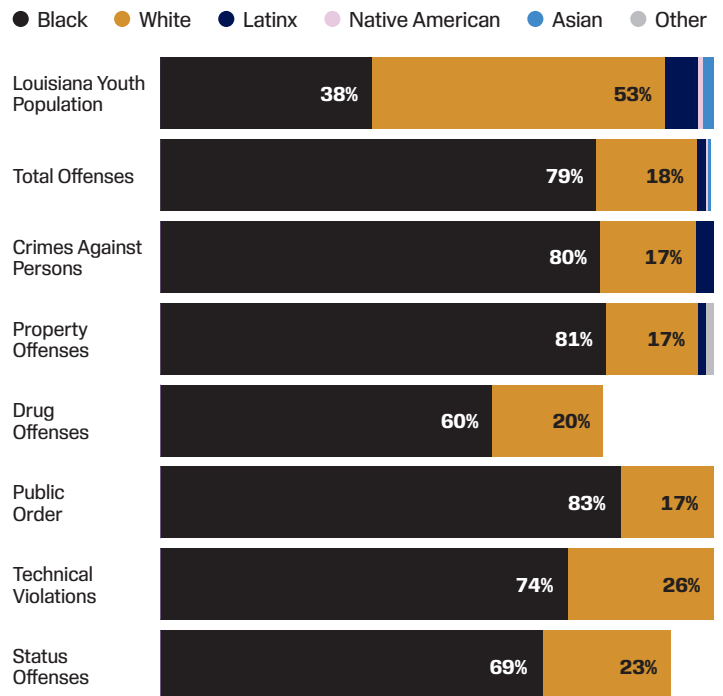
Source: Louisiana Office of Juvenile Justice, Quarterly Juvenile Justice Indicator reports. "All other youth" includes youth in non-secure care and youth designated as "families in need of services."<sup>72</sup>

## Louisiana Youth Incarceration by Offense Type, 2019



Source: U.S. Office of Juvenile Justice and Delinquency Prevention, "Census of Juveniles in Residential Placement: 1997-2019"<sup>86</sup>

## Racial Demographics of Louisiana Incarcerated Youth by Offense in 2019



Sources: U.S. Office of Juvenile Justice and Delinquency Prevention, "Census of Juveniles in Residential Placement: 1997-2019" and "Easy Access to Juvenile Populations: 1990-2020"<sup>76</sup>

“Think about yourself inside of a four-wall box. You go days without showering, you barely eat the food they give you. ...  
Once you see yourself, you don’t even look like yourself. You’re a whole different person. ... It deteriorates you.”

**D’Angelo  
Davis, formerly  
incarcerated  
at Louisiana’s  
Swanson Center  
for Youth** <sup>87</sup>

## “It Deteriorates You”: The Harms and Costs of Youth Incarceration

“Think about yourself inside of a four-wall box. You go days without showering, you barely eat the food they give you. ... Once you see yourself, you don’t even look like yourself. You’re a whole different person. ... It deteriorates you.”

**D’Angelo Davis**, formerly incarcerated at Louisiana’s Swanson Center for Youth <sup>87</sup>

“Solitary confinement don’t do nothing but make you deteriorate. ... If you’re in solitary confinement, you can’t learn nothing but the way the bricks look around you. And that’ll either turn you into a demon or an anti-social person.”

**Therrin Dew**, formerly incarcerated at Louisiana’s Swanson Center for Youth <sup>88</sup>

These are the words of two young Black men once incarcerated in Louisiana’s juvenile system. It is probably no coincidence that both would describe their experiences as “deteriorating,” given the destructive effects of incarceration. In this section, we outline the numerous harms of incarceration on Louisiana’s young people – including the use of solitary confinement, physical and sexual abuse, education disruption, recidivism, and financial waste.

### Use of Solitary Confinement

Albert Woodfox’s story illustrates the devastating impact of the use of solitary confinement. Among other ills, solitary confinement has been shown to cause severe psychological damage, correlate to premature death after release,<sup>89</sup> and is considered torture by United Nations officials when done excessively.<sup>90</sup> A 2022 investigation by NBC News, the Marshall Project and ProPublica highlighted the shocking use of solitary confinement at Louisiana’s Acadiana Center for Youth at St. Martinville, where children were held in “round-the-clock solitary confinement” and shackled with leg irons.<sup>91</sup> The report was so damning that it helped lead to the state passing restrictions on the use of solitary confinement in youth facilities.<sup>92</sup> Outside of its use as a disciplinary measure in youth facilities, however, concerns have arisen around the use of solitary confinement for youth in adult facilities. Human Rights Watch asserts that youth incarcerated in adult facilities like Angola “are held in solitary confinement to protect them from adults or from one another; they are held in solitary confinement because

officials do not know how else to manage them.”<sup>93</sup>

### Physical and Sexual Abuse

Another harm associated with youth incarceration is the risk of exposure to physical and sexual abuse. A 2022 U.S. Department of Justice report found that sexual victimization is more likely in overcrowded and understaffed facilities like Louisiana’s, due to the higher likelihood of youth sharing confined living spaces with poor supervision.<sup>94</sup> *The New York Times* has also exposed multiple acts of physical violence and rampant sexual abuse from security staff at Louisiana’s Ware Youth Center, even while audits from the state’s Office of Juvenile Justice rated it “highly effective” and in “full compliance” with state standards.<sup>95</sup> Ware has also been the site of multiple suicide attempts. Nationally, the highest cause of death for youth in adult jails has been by suicide,<sup>96</sup> while youth held in adult prisons have the highest suicide rate of any age group.<sup>97</sup>

### Educational Disruption

Youth incarceration can easily disrupt educational progress. State law mandates that all schools provide at least 360 minutes of instructional time per day and 177 days of instruction per year<sup>98</sup> to all youth up to age 19,<sup>99</sup> even if they are incarcerated.<sup>100</sup> However, children’s advocates are deeply concerned with the state’s ability to fulfill its educational requirements, even prompting a letter to the U.S. Department of Education asking for their intervention.<sup>101</sup> As one attorney put it, “We’ve seen OJJ struggle to provide education and fulfill its obligations now with the facilities it currently has. ... If they’re not getting those services they would be getting in the community, then they’re going to return home behind.”<sup>102</sup> These concerns appear warranted. For example, according to the state, the Acadiana Center for Youth at St. Martinville did not initially provide education, and as of 2022 one student there said they only had 45 minutes of daily online instruction.<sup>103</sup> Further, this educational disruption has a lasting impact that can lead to recidivism after students return home from incarceration, as only a third of formerly incarcerated youth re-enroll in school.<sup>104</sup>

### Recidivism

Once a young person is incarcerated, they are often trapped in a continuous cycle of recidivism that returns them to the justice system throughout their lifetime. Research shows that incarcerated youth have higher rates



# 45 MINUTES

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of recidivism compared to those who receive probation and community alternatives.<sup>105</sup>

In Louisiana, community supervision dispositions, which include keeping youth with their families where possible, consistently have the lowest recidivism rates for youth in the state youth justice system; secure confinement has higher rates.<sup>106</sup> Incarceration is thus not an effective way to steer young people away from future crime.

### Fiscal Waste

In addition to high recidivism rates, youth incarceration is also a waste of precious taxpayer money. An audit of Louisiana’s Office of Juvenile Justice found that it costs \$428.96 per day to pay for one bed in secure care – an annual expenditure of \$156,570 to detain one child.<sup>108</sup> Given the additional needs of incarcerated youth, such as individualized education and health services, the cost to lock up a young person is a much more expensive way to educate and care for young people – especially for them to receive poorer-quality educational and health care services. Altogether, incarceration in a juvenile facility is over five times more than the cost of locking up an adult in Angola (\$31,025 per year).<sup>109</sup>

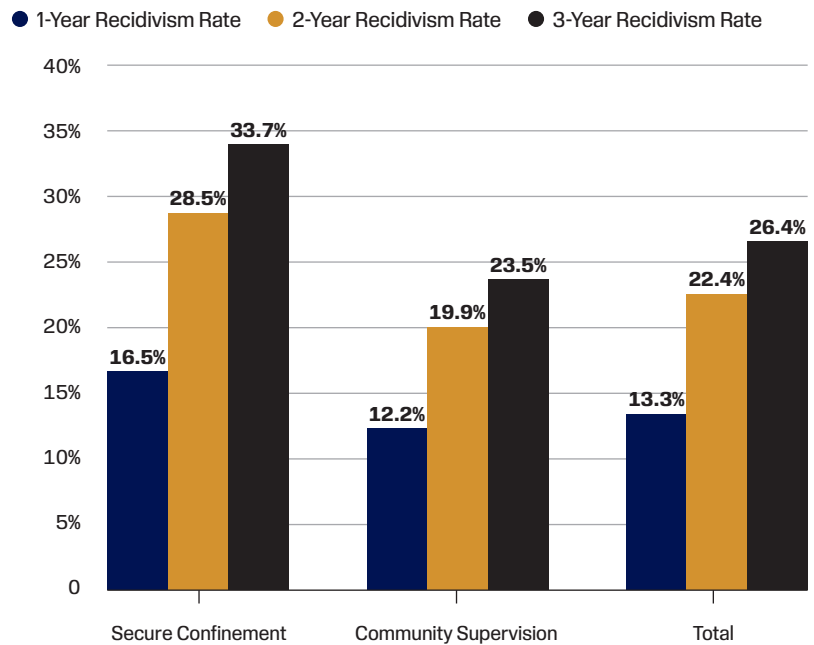
Comparatively, it costs 13 times more in taxpayer money to incarcerate a young person in Louisiana than to educate that same person in Louisiana’s public schools (\$11,722 per year)<sup>110</sup> and more than the full-time tuition, housing and books for Tulane and Louisiana State University combined (\$106,849 per year).<sup>111</sup>

Despite this already high expenditure on the state’s youth justice system, Louisiana plans to funnel even more money into its youth prisons. In 2022, Gov. Edwards submitted a budget of over \$70 million to the Louisiana Legislature to “construct one or more new facilities that are modern, that are small, that are secure, and that can be properly administered by a reasonable number of people.”<sup>115</sup> This investment – which includes \$26 million for a 72-bed facility in Monroe, Louisiana – demonstrates misplaced priorities that do not align with what is best for the state’s young people.

### Potential for Policy Reform

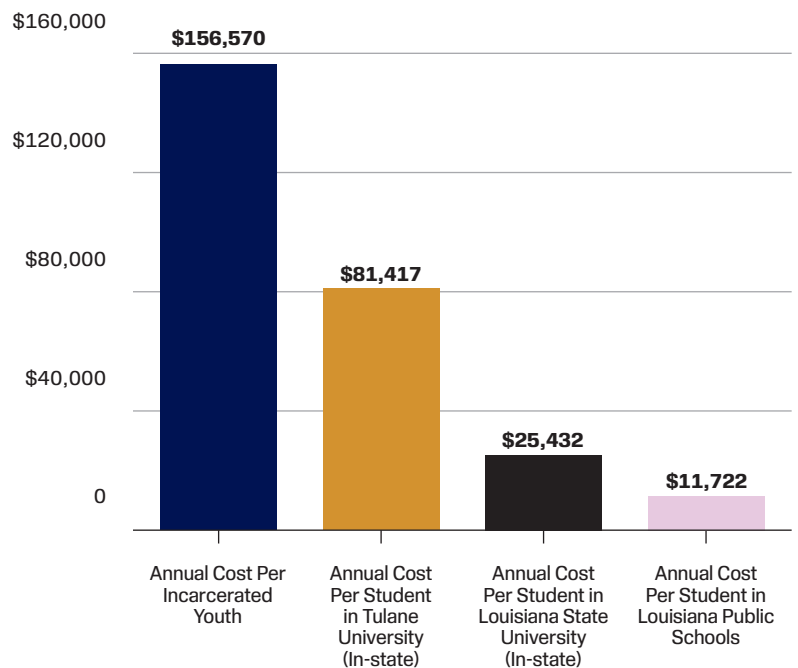
Amid Louisiana’s overreliance on incarceration, there is hope for reform. In response to a damning investigation<sup>114</sup> and subsequent federal lawsuit<sup>115</sup> from the U.S. Department of Justice in the 1990s, the state passed the Juvenile Justice Reform Act of 2003 (Act 1225). This legislation

## Louisiana Recidivism Rates by Custody Method



Source: Louisiana Office of Juvenile Justice, 2021 Recidivism Report <sup>107</sup>

## Annual Cost Comparisons Between Youth Incarceration and Education



Sources: Louisiana Office of Juvenile Justice (incarceration costs); Tulane and LSU websites (college costs); U.S. News & World Report (public school costs) <sup>112</sup>



“Solitary confinement don’t do nothing but make you deteriorate. ... If you’re in solitary confinement, you can’t learn nothing but the way the bricks look around you. And that’ll either turn you into a demon or an anti-social person.”

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for Youth <sup>88</sup>**

emphasized funding for the “creation and maintenance of a continuum of community-based treatment and supervision programs for youth within the Louisiana juvenile justice system.”<sup>116</sup> The state also ordered the closure of Tallulah Correctional Center for Youth, one of Louisiana’s worst actors.<sup>117</sup>

However, over the last 20 years advocates now largely view the measure as an “unfulfilled promise” where “state leaders abandoned the implementation and evaluation of the law, [and] failed to coordinate services.”<sup>118</sup> Critically, advocates argued that cost savings from the reforms did not get invested in community-based programming,<sup>119</sup> leading to a continued imbalance of youth dispositions toward secure care.

Importantly, reform success is contingent on the development of a continuum of care for Louisiana’s young people that pours critical funding into a variety of community-based services and programming and leaves secure care as the absolute last option available after all others are considered. As outlined in the Families and Friends of Louisiana’s Incarcerated Children-commissioned report *Promoting Justice for Youth in Louisiana*, it is critical that the state meaningfully invest in rehabilitative services that, as often as possible, support youth in their home communities. Such programs can include credible messenger mentoring programs and services focused on crime prevention, intervention and treatment.<sup>120</sup> Federal monies are also available through the U.S. Office of Juvenile Justice and Delinquency Prevention that are designed to support prevention and intervention programs and improve youth justice systems.<sup>121</sup> Thus, rather than continuing to place emphasis on youth incarceration as a solution, it is incumbent upon Louisiana to seize this moment in time to truly provide a system of support and transformation for its young people.

### **Louisiana Residents Support Youth Justice Transformation**

Louisianans understand the need for change in their state’s youth justice system. A 2021 poll of Louisianans shows that they “overwhelmingly favor a youth justice system that focuses on prevention and rehabilitation (73%), with only 26% favoring a system focusing on punishment and incarceration.”<sup>122</sup> The same poll strongly supports initiatives that aim to keep young people out of the system, including the design of “treatment and rehabilitation plans that include a youth’s family in planning and services” with

A 2021 poll of Louisianans shows that they “**overwhelmingly favor a youth justice system that focuses on prevention and rehabilitation (73%), with only 26% favoring a system focusing on punishment and incarceration.**”



83% in favor, and the provision of “financial incentives for states and municipalities to invest in alternatives to youth incarceration in the communities most affected by youth prisons, such as intensive rehabilitation, education, job training, community services, and programs that provide youth the opportunity to repair harm to victims and communities,” with 80% in favor.

# Policy Recommendations

The Southern Poverty Law Center urges Louisiana to take the following actions to transform its broken youth justice system:

## 1. Louisiana should raise the minimum age of juvenile incarceration and prosecution in the state.

For years, Louisiana advocates fought for the state to raise the minimum age at which youth could be prosecuted as adults, a fight they ultimately won – although currently challenged in 2023<sup>123</sup> – for young people up to age 17 who committed nonviolent offenses when Gov. Edwards signed into law the Raise the Age Act in 2016.<sup>124</sup> Louisiana should follow this needed reform by raising the minimum age of juvenile incarceration<sup>125</sup> and prosecution<sup>126</sup> in the state from 10 years of age. Science has consistently found that the human brain does not complete its development until approximately age 25, leaving younger people more prone to impulsiveness, risk-taking, substance abuse and peer pressure.<sup>127</sup> Reflecting this research, given the facts around early brain development, the United Nations recommended that the minimum age of criminal responsibility be at least 14 years old internationally in 2019.<sup>128</sup> There were 36 youths under the age of 14 incarcerated in Louisiana juvenile facilities in 2019.<sup>129</sup> Prosecuting and incarcerating youth not only exposes them to a potentially abusive juvenile system, but also interrupts their education, exposes families to expensive court fines and fees, and jeopardizes citizenship status. Louisiana must reflect international norms and scientific findings and allow kids to be kids outside of youth justice system involvement.

## 2. Louisiana should make nonviolent offenses, especially technical violations, status offenses, and nonviolent drug offenses, non-jailable for juveniles.

Dealing with nonviolent situations with incarceration is harmful, no guarantee to deter future crime,<sup>130</sup> and can be more effectively resolved with counseling and community resources. To the tune of \$156,570 per year to pay for an incarcerated youth, Louisiana's youth justice system is choosing a very expensive route to house, educate and care for children arrested for only nonviolent offenses. The cost of youth incarceration could potentially be reinvested in community-based programs which have a history of success and effectiveness in rehabilitating young people,<sup>131</sup> and be a recommitment to the potential of Act 1225. Also, given the revolving door of recidivism, an unnecessary entrance into the juvenile system for a nonviolent offense could result in a future return to the criminal system later in life – extending major repercussions initiated from incarcerating a minor event.

## 3. Louisiana should invest in community-based alternatives to youth incarceration that prioritize rehabilitation.

Investing in policies and services aimed at keeping young people in their home communities instead of carceral settings can alleviate overcrowded facilities and be more productive toward rehabilitation. Mentoring, counseling for mental health or substance abuse, and diversion programs are all opportunities that

have shown success with young people, alleviated crowded facilities, and lowered recidivism rates. Counseling programs for substance abuse and mental health issues would also provide a substantial benefit, given that as many as 70% of youths in the system have a diagnosable mental health condition.<sup>132</sup> However, these programs have not always had the consistent commitment of funding and resources. State and local officials should be intentional about prioritizing state funding for community-based programs and services and exploring additional funding opportunities from sources like the U.S. Office of Juvenile Justice and Delinquency Prevention.

## 4. Louisiana should completely ban the practice of incarcerating youth in adult facilities like Angola.

Adult jails and prisons do irreparable harm to young people and are not designed to address the unique needs youth have for growth, education, healing and rehabilitation. In fact, Liz Ryan, administrator of the federal Office of Juvenile Justice and Delinquency Prevention, recently affirmed that children “do not belong in adult courts and certainly not in adult jails and adult prisons.”<sup>133</sup> Rather than abuse exceptions to this decree, Louisiana should conduct a wholesale ban on the harmful practice of incarcerating youth in adult facilities – starting with the immediate movement of kids out of Angola.

# Conclusion

“[We are] increasingly concerned about the demonization of these youth in the juvenile justice system. Some leaders in Louisiana have referred to them as ‘dangerous juvenile inmates’ and ‘monsters,’ and [are] advocating for them to be locked up far away from their families and communities. The evidence is clear that this is a dangerous and uninformed perspective. Children – and these *are* children despite the derogatory terms being used to describe them – do not belong in adult courts, jails, and prisons. ... Sadly, moving youth to this maximum security prison complex demonstrates a major reversal for the field of juvenile justice, not only in Louisiana, but nationwide.”

**Liz Ryan, Office of Juvenile Justice and Delinquency Prevention administrator<sup>134</sup>**

Since 2022, dozens of teenagers have been incarcerated in one of the worst prisons in the country. Maximum security prisons are unhealthy and problematic for adults, let alone children. As a result, Louisiana must act urgently to move these young people out of Angola. And beyond this immediate need, Louisiana should swiftly and deliberately act to advance this report’s policy proposals that provide the state an opportunity to take a different approach that is both less expensive for taxpayers and more productive for Louisiana’s Black youth. For all too long, deterioration has been the norm for Louisiana’s incarcerated youth – that should end now.

# Endnotes

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## Acknowledgments

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ATTACHMENT

B

**UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF LOUISIANA**

ALEX A., by and through his guardian, Molly Smith; BRIAN B.<sup>1</sup>; and CHARLES C., by and through his guardian, Kenione Rogers, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

GOVERNOR JOHN BEL EDWARDS, in his official capacity as Governor of Louisiana; WILLIAM SOMMERS<sup>2</sup>, in his official capacity as Deputy Secretary of the Office of Juvenile Justice, JAMES M. LEBLANC, in his official capacity as Secretary of the Louisiana Department of Public Safety & Corrections,

Defendants.

Civil Action No. 3:22-CV-00573-SDD-RLB

## EXHIBIT 10

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<sup>1</sup> On July 14, 2023, pursuant to Rule 25(a)(2) of the Federal Rules of Civil Procedure, Plaintiffs notified the Court of the death of Brian B. Doc. 162. Plaintiffs leave Brian B. as a Plaintiff until the clerk is ordered to change the caption.

<sup>2</sup> On November 18, 2022, Gov. Edwards announced the resignation of Dep. Sec. Sommers and the appointment of Otha “Curtis” Nelson as his replacement. <https://gov.louisiana.gov/index.cfm/newsroom/detail/3892> Because Sommers was sued in his official capacity, Nelson is automatically substituted as a Defendant. Fed. R. Civ. P. 25(d). Plaintiff leaves Sommers as a Defendant until the clerk is ordered to change the caption.



**FFLIC**

**FAMILIES AND FRIENDS OF LOUISIANA'S INCARCERATED CHILDREN**

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New Orleans, LA 70156

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June 1, 2023

Deputy Secretary Curtis Nelson  
Office of Juvenile Justice  
7919 Independence Blvd.  
Baton Rouge, LA 70806

Dear Sec. Nelson,

I am writing pursuant to the Louisiana Public Records Act § 44:1 et seq. to request any and all documents and materials between January 2021 and present related to the creation of the Transitional Treatment Unit (“TTU”) at BCCY-West Feliciana and the TTU your agency is constructing at Swanson-Monroe. This request includes, but is not limited to, any and all records, documents, reports, analyses, notes, memoranda, financial records, faxes, emails, audio and video tapes and/or digital footage, including but not limited to the following:

- Budget documents re the construction and staffing of OJJ Angola facility – contracts, money spent before opening and since opening, current and projected expenditures
- Staffing levels and categories, and organizational charts for OJJ Angola
- Staffing levels and categories and organizational charts for Swanson-Monroe TTU
- Budget documents re the construction of Swanson-Monroe TTU
- Planning documents re the Swanson-Monroe TTU – including emails, timing, contracts, scope of work, projected numbers and categories of children to be housed there
- Demographic information re children whom OJJ has housed at Angola (age, home parish, race, ethnicity, disability)

I request access to the above mentioned records for review and copying. If you make copies of any documents and you expect copying costs to exceed \$100 please inform me before producing the documents. Any copying charges will be paid upon submission of an invoice. Please notify me within three days, as required by law, regarding your response and to make arrangements to review the files. Feel free to contact me at the above phone number if you have any questions or concerns.

Thank you very much for your prompt assistance.

In solidarity,

Gina B. Womack  
Co-Founder & Executive Director

Cc: David J. Utter, Esq.

**Youth Identified with a Placement Record for any length of days at Bridge City - West**

Special Needs Identified	
SPECIAL_NEED	Frequency
Substance Use - SS/A (17D.2A)	1
Substance Use - CHP (17D.3)	10
SMI	6
Substance Use - SS/B (17D.2B)	4
Substance Use - RSUT (17D.4)	2
	<b>23</b>

A single youth may have multiple special needs identified. There are 15 unique youth identified in this table.

Age at first Placement		Youth Race			
		African American		Mixed	
		Hispanic Ethnicity			
		No	Undetermined	No	No
Parish of Residence	Age				
ACADIA	17	1	.	.	.
ASSUMPTION	18	1	.	.	.
CADDO	16	.	.	.	.
	18	2	.	.	.
	19	1	.	.	.
CALCASIEU	16	1	.	.	.
	17	1	.	.	.
	18	2	.	.	.
EAST BATON ROUGE	15	1	.	.	.
	16	1	.	.	.
	17	2	.	1	.
EAST CARROLL	18	1	.	.	.
EVANGELINE	16	1	.	.	.
FRANKLIN	17	1	.	.	.
GRANT	14	.	.	1	.
IBERIA	15	1	.	.	.
	19	1	.	.	.
IBERVILLE	16	1	.	.	.
	17	1	.	.	.
JEFFERSON DAVIS	17	.	.	1	.
LAFAYETTE	16	1	.	.	1
	17	1	.	.	.
LIVINGSTON	17	1	.	.	.
ORLEANS	15	1	.	.	.
	16	1	1	.	.
	17	5	.	.	.
	19	1	.	.	.
OUACHITA	19	1	.	.	.
SABINE	16	1	.	.	.

	17	1	.	.	.
ST. BERNARD	15	1	.	.	.
ST. LANDRY	15	1	.	.	.
	16	.	.	.	1
	17	1	.	.	.
	19	1	.	.	.
ST. MARTIN	16	.	.	.	1
ST. MARY	18	.	.	.	1
WEST BATON ROUGE	16	1	.	.	.
OUT OF STATE	16	1	.	.	.
<b>Total (ALL)</b>		<b>40</b>	<b>1</b>	<b>3</b>	<b>4</b>

June 22 2023

BCCY WF Transfer

**Feliciana**

	Total (ALL)
<b>White</b>	
<b>Undetermined</b>	
.	1
.	1
1	1
.	2
.	1
.	1
.	1
.	2
.	1
.	1
.	3
.	1
.	1
.	1
.	1
.	1
.	1
.	1
.	1
.	1
.	1
.	2
.	1
.	1
.	1
.	2
.	5
.	1
.	1
.	1



ATTACHMENT

C



**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA**

ALEX A., by and through his guardian, Molly Smith; et al.

*Plaintiffs,*

v.

GOVERNOR JOHN BEL EDWARDS, in his official capacity as Governor of Louisiana, et al.

*Defendants.*

Civil Action No. 3:22-cv-573-SDD-RLB

**SUPPLEMENTAL DECLARATION OF** [REDACTED]

I, [REDACTED] hereby declare the following to be true under penalty of perjury:

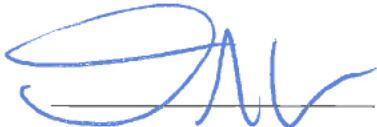
- (1) I am [REDACTED] years old and making this declaration of my own free will. Everything in this declaration is true to the best of my personal knowledge. For this lawsuit, I am going by the name [REDACTED] to protect my privacy.
- (2) I am in the custody of Office of Juvenile Justice (“OJJ”) related to a juvenile delinquency proceeding.
- (3) OJJ is currently housing me at the Acadiana Center for Youth - Bunkie, also known as “Bunkie.”
- (4) I came to Bunkie from the Jackson Parish Jail in Jonesboro, Louisiana (“Jackson Jail”).
- (5) I was at the Jackson Jail about five (5) days, from about September 15 to September 19, 2023.
- (6) I was sent to the Jackson Jail from OJJ’s West Feliciana Campus at Angola (“Angola”). This was the third time I had been sent to Angola to complete the “program” there. A couple of weeks before they moved everyone to the Jackson Jail, I was told I had completed the program again.
- (7) On the day they took me to the Jackson Jail, the guards woke us up in the middle of the night. We left Angola at about 2 a.m. They did not tell us where we were going. I figured

we were going to the Swanson Center for Youth, but, when we pulled up to the new facility, I saw the sign for the Jackson Parish Jail.

- (8) For the five days I was there, we were on lockdown almost the whole time.
- (9) I was only allowed to have two showers in five days.
- (10) In five days, I left my cell only a few times—for medical, for a meeting staff held with all the kids, and twice to shower.
- (11) Every time I left my cell, I was in handcuffs and shackles, even in the shower.
- (12) There was no counseling, no school, and no recreation.
- (13) I was in a cell with one other person. My cell had a solid door and a small window.
- (14) I saw incarcerated adults every day. They walked by our cells every time they went somewhere in the facility and talked to us through the door.
- (15) Even when I went to shower, I could see the adults nearby.
- (16) We were required to wear orange jumpsuits like the adults.
- (17) We had to buy things from the commissary that OJJ gives us at other facilities, like deodorant.
- (18) There were no Juvenile Justice Specialists from OJJ at the facility. The guards were all from the Sheriff's office. They brought in dogs to patrol the unit and had mace guns.
- (19) A kid in another cell was maced once for making too much noise. We had tablets we could use to get stuff we needed from the commissary, and the kid couldn't get his to work. He kept calling, "I need help, I need help." A woman officer came up to him and said "You need help? I'll give you help" and maced him.
- (20) The whole time I was at the Jackson Jail, I only got to talk to my family once. There was no counseling, and no school.

I declare under penalty of perjury that the foregoing declaration is true and accurate.

Date: October 4, 2023

[REDACTED]  
[REDACTED]  
  
David Utter, Witness

ATTACHMENT

D

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF LOUISIANA**

ALEX A., et al.,

Plaintiffs,

v.

GOVERNOR JOHN BEL EDWARDS, et  
al.,

Defendants.

Civil Action No. 3:22-cv-573-SDD-RLB

**DECLARATION OF** [REDACTED]

I, [REDACTED] hereby declare the following to be true under penalty of perjury:

1. I am [REDACTED] years old and making this declaration of my own free will.

2. I am currently in the custody of the Office of Juvenile Justice (“OJJ”) and being held in the Jackson Parish Jail (“Jail”). I was moved here when they closed BCCY-WF at the Louisiana State Penitentiary in Angola, Louisiana (“Angola”) to OJJ youth. One week before I was brought here, I was told I had been staffed to leave—I had completed the program. They did not send me to another OJJ facility, as they promised. Instead, they took me to the Jail along with the other youth in Angola on September 15, 2023.

3. Guards at the jail use mace on us. Since I have been here they have sprayed mace in our dorm 3-4 times.

4. One time was at night. We were asking for the remote for the television. A female guard, a supervisor, came into the dorm and had taken the remote and we asked for it back. After we kept asking, she sprayed mace around the whole dorm. After she did that, guards came and removed us from the dorm one by one. They zip-tied our hands behind our back and took us outside to a grass and dirt area. They made us get on our knees, with our ankles crossed, and our

hands behind our back. They left us there for about 30 minutes. One of the youth smirked when another youth said something. The female supervisor said stop smirking and she maced him in the face even though he obeyed her.

5. When I first met David Utter, during his attorney visit with me on October 4, I had only been to school once in the 19 days I had been there. Teachers come from Swanson, and have class in the dining hall, but usually I sleep through it. No one wakes me up.

6. We should get one free phone call once a week. All other calls cost money. We get no free Zoom meetings, but we can pay for them. As of October 4, I had only had 2 free calls and no Zooms.

7. When we first got to the Jail from Angola, we were placed in a cell with a solid door, with one small window and a steel flap that opens and shuts. We got to the Jail on a Friday and we only got out to shower on Sunday—we were in the cell the whole time. We got no rec and no school. That lasted about 5-7 days. Then they moved us into the dorm.

8. On October 4, school had only started a few days ago.

9. I've never gotten any counseling here—no individual and no groups. I've gotten no visits from my mom, and no Zooms.

10. I saw adults locked up in the Jail every day when I was in the cell. They walked by our cell when they went to the dining hall and opened up the flap to our cells to talk to us.

11. We rarely get outside for rec. We've been once since we were moved into the dorm. When we went outside for rec when we were locked in the cell, we were forced to do so with handcuffs and shackles on us.

12. Last week, on Wednesday night, guards maced the entire dorm and took us outside. When I called my mom the next morning, I was in tears, and my face was still burning from the

mace. One youth in the dorm was upset because he was not allowed to make a phone call, so he broke something. The staff responded by waking all of us up and macing us, and then they took us outside and made us sit there from 10 or 11 pm until 4 am the next morning.

13. This Jail is for adults. It is no place for any young person.

I declare under penalty of perjury that the foregoing is true and accurate.

[Redacted signature area]

Witness:   
David Utter

October 10<sup>th</sup>, 2023.

ATTACHMENT

E



COLLEGE OF LAW  
STUART H. SMITH LAW CLINIC  
AND CENTER FOR SOCIAL JUSTICE

September 15, 2023

**VIA ELECTRONIC MAIL**

Louisiana Department of Education  
Attn: Legal Division  
1201 North Third Street  
Baton Rouge, LA 70802  
DisputeResolution.DOE@la.gov

**RE: Request to Enforce Resolution Agreement or Alternatively to Resume Investigation and Issue Findings in Special Education Formal Complaint No. 12-C-13 on behalf of Students Detained at ACY – St. Martinville**

Dear Sir or Madam:

We write to report the abandonment by the Office of Juvenile Justice (“OJJ”) of the Resolution Agreement entered into between complaints and OJJ and the Special School District (“SSD”) (collectively, “Defendants”) pursuant to the Formal Written Complaint, No. 12-C-13, filed by the Louisiana Center for Children’s Rights (“LCCR”) and the Loyola Law Clinic with the Louisiana Department of Education (“LDOE”) in November 2021 on behalf of youth being deprived of educational services at the Acadiana Center for Youth - St. Martinville (“ACY-SM”) facility. Specifically, as detailed below, on January 18, 2023, despite not having been found in compliance in the vast majority of the compliance measures for the Resolution Agreement, Defendants, in bad faith and without any notice, unilaterally terminated the Agreement. As such, undersigned counsel for Complainants now request that the Louisiana Department of Education either enforce the January 10, 2022 Resolution Agreement, or in the alternative, immediately initiate or resume its investigation of Complaint No. 12-C-13 and the ongoing special education violations and issue findings and corrective action pursuant to § 153 of Louisiana Bulletin 1706 as detailed below.

This matter is urgent. Some of Louisiana’s most vulnerable children are detained at ACY-SM where they have been and continue to be deprived of the Free and Appropriate Public Education they need and are entitled to under federal and state special education laws. It is evident from the few reports issued by the Independent Monitor before Defendants unconscionably cancelled the Resolution Agreement that the allegations contained in the original complaint continue to be true and the violations of special education law remain ongoing. As stated in the original November 2021 Complaint, the stakes here are high: Without access to meaningful learning opportunities, children in custody are at risk of dropping out of school upon release, isolating them from the programs, services, and supportive adults that can help them build ties to their community and establish economic and life security. By depriving them of their right to receive general and special education, the defendants are also denying them the means to succeed upon release.



## FACTUAL BACKGROUND

On November 3, 2021, the Louisiana Center for Children’s Rights (“LCCR”) and the Stuart H. Smith Law Clinic & Center for Social Justice at Loyola University New Orleans College of Law (“Loyola Law Clinic”) filed a Formal Written Complaint with the Louisiana Department of Education against the Special School District (“SSD”) and the Office of Juvenile Justice (“OJJ”) about the lack of special education services for students with disabilities detained at the Acadiana Center for Youth - St. Martinville facility (“St. Martinville” or “ACY-SM”). *See* Exhibit A (Complaint No. 12-C-13).<sup>1</sup> Specifically, the complaint alleged that since OJJ opened St. Martinville in July 2021, OJJ and SSD (collectively, “Defendants”) have been systemically denying all students—including students with disabilities—access to comprehensive general and special education during the entirety of their detention at St. Martinville. *Id.* Defendants’ failure to provide the children at St. Martinville with adequate special and general education violates their obligations under state and federal law, including the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (“IDEA”), and corresponding federal and state regulations. *See* 34 C.F.R. § 300.2(b)(iv); Louisiana Bulletin 1706 § 902. *Id.*

On January 10, 2022, OJJ, SSD, LCCR, and the Loyola Law Clinic (collectively, “the Parties”) entered into a written Resolution Agreement negotiated by and through their respective counsel. *See* Exhibit B (Resolution Agreement – January 10, 2022). Because the Parties were able to negotiate a resolution, LDOE did not make any findings in this matter. The Resolution Agreement established a number of terms to address OJJ and SSD’s provision of special education, related services, and compensatory education to students with disabilities detained at ACY-SM, as well as requirements to ensure students with disabilities would be properly identified before and while at ACY-SM. *See* Exhibit B. The Agreement further established the appointment of an Independent Monitor to track and ensure compliance with the substantive terms of the Agreement. *Id.* at 7-9. The parties agreed that the Agreement would “be terminated upon a finding by the Independent Monitor . . . that OJJ and SSD are in substantial compliance with the requirements described herein.” *Id.* at 2.

Although the parties agreed upon the appointment of Dr. Joseph Gagnon as the Independent Monitor, due to delays in Defendants providing him a contract, Dr. Gagnon was not able to start working towards monitoring compliance with the Resolution Agreement until Fall 2022. Dr. Gagnon issued Monitor Reports and Implementation Rubric Reports for the months of September 2022, November 2022, and December 2022. *See* Exhibit C (Monitor Report and Rubric - September 2022); Exhibit D (Monitor Report and Rubric - October 2022); Exhibit E (Monitor Report and Rubric - November 2022); Exhibit F (Monitor Report and Rubric - December 2022). Dr. Gagnon also performed a site visit to ACY-SM on September 19-22, 2022 and his findings from that visit were included in the September 2022 Report. *See* Exhibit C. All of Dr. Gagnon’s Reports show continued violations of the IDEA in the areas of child find, the provision of FAPE, specifically including failure to provide instructional minutes, failure to provide a continuum of

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<sup>1</sup> Complainants originally filed this Formal Written Complaint with the Louisiana Department of Education on November 2, 2021, but amended it to include additional parties and filed the Amended Complaint on November 3, 2021.

alternative placements, failure to develop, review and revise IEPs, failure to provide access to the general education curriculum, and failure to provide students manifestation determination reviews, and the provision of compensatory education. *See* Exhibits C, D, E & F.

Despite these repeated and serious findings of non-compliance and violations of the IDEA and without any prior notice or discussion, on January 18, 2023, OJJ's Deputy Secretary, Curtis Nelson, sent counsel for complainants a letter via email notifying them that they were cancelling the agreement. *See* Exhibit G (Letter Terminating Resolution Agreement – January 18, 2023).

Since that time, neither OJJ nor SSD have implemented any terms of the Resolution Agreement. As such, the serious violations of the IDEA as set forth in the original Formal Written Complaint and further identified by Dr. Gagnon in his Monitoring Reports remain ongoing. As a result, some of Louisiana's most vulnerable children who have been and continue to be housed at the ACY-SM facility continue to suffer from Defendants' failures to provide a comprehensive educational program and comply with federal and state special education laws. Therefore, based on these continued violations and the complete abandonment by Defendants of the Resolution Agreement and the resulting reforms put in place to remedy these violations, Complainants now request that LDOE either enforce the Settlement Agreement or resume their investigation of the original complaint and make findings and issue remedies per the process outlined in La. Bulletin 1706 § 153.


### **REQUESTS FOR RELIEF**

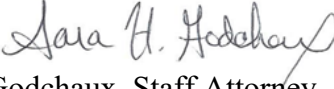
Based on the foregoing, Loyola Law Clinic and LCCR urge the LDOE to enforce the Resolution Agreement entered into by all parties on January 10, 2022, or in the alternative, to immediately initiate or resume its investigation of Complainant's Formal Written Complaint and the ongoing violations and issue findings and corrective action pursuant to § 153 of Louisiana Bulletin 1706 as detailed below. Specifically, we request that the Louisiana Department of Education:

- Compel Defendants OJJ and SSD to immediately implement all terms of the Resolution Agreement negotiated and entered into with the assistance of counsel on January 10, 2022, including reinstating the Independent Monitor; or in the alternative,
- Immediately commence or resume an investigation into the allegations contained in Formal Written Complaint No. 12-C-13 and contained herein and:
  1. Issue findings that Defendants have systemically deprived and continue to deprive the children detained at St. Martinville of their legal right to FAPE by failing to provide educational services since the facility was opened;
  2. Issue findings that Defendants have systemically deprived and continue to deprive the children detained at St. Martinville of their legal right to FAPE by unilaterally breaching the Resolution Agreement entered into by all Parties on January 10, 2022;

3. Impose a Corrective Action Plan as set forth in the original Formal Written Complaint that contains substantially similar terms as the January 10, 2022 Resolution Agreement, including the appointment of an Independent Monitor or, in the alternative, a special master selected with the approval of the complainants.
4. Any other relief deemed necessary and appropriate by the Louisiana Department of Education, including but not limited to the loss of IDEA funding to Defendants.

Respectfully Submitted:

  
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### Exhibit List

<b>Exhibit</b>	<b>Description</b>
A	Formal Written Complaint – November 3, 2021
B	Resolution Agreement – January 10, 2022
C	Monitor Report and Rubric - September 2022
D	Monitor Report and Rubric – October 2022
E	Monitor Report and Rubric - November 2022
F	Monitor Report and Rubric - December 2022
G	Letter Terminating Resolution Agreement – January 18, 2023