UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiffs-Petitioners,

-against-

JOHN BEL EDWARDS, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF LOUISIANA; THE LOUISIANA OFFICE OF JUVENILE JUSTICE; EDWARD DUSTIN BICKHAM, IN HIS OFFICIAL CAPACITY AS INTERIM DEPUTY SECRETARY OF THE LOUISIANA OFFICE OF JUVENILE JUSTICE; JAMES WOODS, IN HIS OFFICIAL CAPACITY AS THE DIRECTOR OF THE ACADIANA CENTER FOR YOUTH; SHANNON MATTHEWS, IN HER OFFICIAL CAPACITY AS THE DIRECTOR OF THE BRIDGE CITY CENTER FOR YOUTH; SHAWN HERBERT, IN HIS OFFICIAL CAPACITY AS THE DIRECTOR OF THE SWANSON CENTER FOR YOUTH AT MONROE; and RODNEY WARD, IN HIS OFFICIAL CAPACITY AS THE DEPUTY DIRECTOR OF THE SWANSON CENTER FOR YOUTH AT COLUMBIA,

Defendants-Respondents.

CIVIL ACTION NO.

CLASS ACTION

CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR WRIT OF HABEAS CORPUS

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On information and belief,

INTRODUCTION

1. Plaintiffs-Petitioners are children who have been adjudicated delinquent and are currently confined in one of four secure care facilities operated by the Louisiana Office of Juvenile Justice ("OJJ"). These facilities are: Acadiana Center for Youth in Bunkie; Bridge City Center for Youth; Swanson Center for Youth Columbia; and Swanson Center for Youth Monroe.[1] Plaintiffs-Petitioners bring this action on behalf of themselves and all other children similarly situated, as well as those children who may in the future be subject to confinement in one of the four OJJ facilities throughout the duration of the Coronavirus Disease 19 ("COVID-19") pandemic. Plaintiffs-Petitioners seek declaratory and injunctive relief for Defendants-Respondents to comply with basic constitutional guarantees against cruel and unusual punishment and due process of law, including an order requiring Defendants-Respondents to (i) release class members who meet the criteria set forth herein for presumptive release; (ii) adopt procedures to determine, on an ongoing basis while the pandemic persists, whether confinement is appropriate for any other children remaining in, or facing, confinement in OJJ facilities; (iii) implement remedial measures to ensure the physical safety as well as social and psychological well-being of children remaining in OJJ facilities; and (iv) provide class members in custody the treatment and rehabilitation services required by statute and the United States Constitution. Such relief is necessary to protect the physical and emotional safety and well-being of the class members from the unprecedented effects of COVID-19.

2. COVID-19 is a deadly global pandemic caused by a novel coronavirus that has infected over 4 million people and killed more than 298,000 people worldwide in just five

[1] State of Louisiana, Office of Juvenile Justice, *Youth in Secure Care Facilities*, https://ojj.la.gov/serving-youth-families/youth-in-secure-care-facilities/ (last visited May 14, 2020).

months.[2] As of May 14, 2020, more than 1.38 million people in the United States have tested positive for COVID-19, and more than 84,000 have died from the illness.[3] Both the number of confirmed cases and the number of deaths continue to rise daily.[4] Louisiana is among the hardest hit states in the United States, with approximately 32,000 confirmed cases and over 2,300 deaths to date.[5] It has become increasingly clear that children and young adults are fully susceptible to COVID-19. While the full effects of the disease on children are not fully known, recent reports suggest that children may be vulnerable to life-threatening complications both during and *after* the infection itself appears to have resolved.[6] And, while children may not always develop symptoms, they unquestionably play a role in the transmission and spread of COVID-19.[7]

3. Recent scientific projections suggest the crisis will only worsen. As of May 4, 2020, the Institute for Health Metrics and Evaluation at the University of Washington's School of Medicine is predicting over 147,000 COVID-19-related fatalities in the United States by August 2020, up from a previous prediction of 72,000.[8] Factoring in the scientists' margin of error, the new United States fatality prediction over the next couple months ranges from 95,000 to 243,000.[9]

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[2] Coronavirus Resource Center, JOHNS HOPKINS UNIVERSITY, https://coronavirus.jhu.edu/map.html (last visited May 14, 2020).
[3] *Id*.
[4] *Id*.
[5] Louisiana Department of Health, *Louisiana Department of Health Updates for 4/22/2020*, http://ldh.la.gov/index.cfm/newsroom/detail/5557, (last visited May 14, 2020).
[6] *See, e.g.*, Joseph Goldstein, *15 Children Are Hospitalized With Mysterious Illness Possibly Tied to COVID-19*, N.Y. TIMES (May 5, 2020), https://www.nytimes.com/2020/05/05/nyregion/children-Kawasaki-syndrome-coronavirus.html; Ex. 1, Graves Decl. ¶ 7.
[7] CDC, *Morbidity and Mortality Weekly Report* (Apr. 10, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6914e4.htm.
[8] Alice Miranda Ollstein & Caitlin Oprysko, *Models shift to predict dramatically more U.S. deaths as states relax social distancing*, POLITICO (May 4, 2020), https://www.politico.com/news/2020/05/04/cdc-daily-deaths-coronavirus-234377.
[9] *Id*.

4. While Louisiana has encouraged people in most communities to practice social isolation and heightened hygiene measures to protect themselves from COVID-19, it is impossible for individuals who are incarcerated to adhere to such protective measures. Incarcerated individuals live in close and crowded quarters, have limited access to soap or other sanitizing agents, and are unable to take basic steps to clean their own living surroundings.

5. Correctional facilities, including juvenile correctional facilities such as OJJ's four secure facilities, are among the top "hotspots" for coronavirus transmission in the country.[10] Indeed, as of May 14, 2020, 28 of the incarcerated children and 41 staff working in those four secure care facilities have tested positive for COVID-19.[11] These numbers surely are just the tip of the iceberg, as OJJ has tested only 29 children—producing a positive test rate of 97%. The low rate of testing and extraordinarily high rate of infection portends a dire picture going forward in the absence of appropriate physical distancing and other necessary protective measures in the four OJJ secure care facilities.

6. On March 23, 2020, the CDC issued Interim Guidance on Management of Coronavirus Disease 2019 in Correctional and Detention Facilities ("CDC Guidance").[12] The CDC Guidance provides, among other things, that correctional and detention facilities should coordinate closely with their local public health departments, facilitate social distancing wherever possible, and restrict transfer to and from other facilities or jurisdictions unless necessary. Individuals with COVID-19 must be carefully monitored and transferred to the nearest hospital

[10] C.J. Ciaramella, *8 of the 10 Biggest U.S. Coronavirus Hotspots are Prisons and Jails*, REASON (April 29, 2020), https://reason.com/2020/04/29/8-of-the-top-10-biggest-u-s-coronavirus-hotspots-are-prisons-and-jails/.
[11] State of Louisiana, Office of Juvenile Justice, *OJJ COVID-19 Information*, https://ojj.la.gov/ojj-covid-19-information/ (last visited May 14, 2020).
[12] CDC, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html ("CDC Guidance").

if their physical health deteriorates or if their condition worsens.[13] The American Academy of Pediatrics has urged that facilities release all children who can be safely cared for in the community and restrict new admissions to correctional settings.[14] This guidance echoes similar calls by medical and correctional experts for a sharp reduction in the number of incarcerated children to mitigate the devastating effects of this pandemic on children, staff, and communities.[15]

7. OJJ has not significantly reduced the population of confined children[16] and has failed to implement an updated pandemic policy or a remedial plan that complies with CDC Guidance with respect to the four OJJ secure care facilities. Despite a high-risk environment and a 97% positive test rate among children who have been tested, OJJ has failed to test all children in their custody, failed to facilitate social distancing, failed to restrict transfer among facilities, failed to carefully monitor those who have tested positive, and failed to provide for the basic hygiene of confined children. These failures show that OJJ has ignored the recommended CDC guidelines and thus knowingly placed the lives and health of these children at substantial risk of serious irreparable harm, including death, as well as jeopardized the health and safety of secure care facility staff members, their families, and their communities. OJJ has simply relied heavily

[13] *Id.*
[14] *Responding to the Needs of Youth Involved With the Justice System During the COVID-19 Pandemic*, AM. ACAD. PEDIATRICS (May 6, 2020), https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/responding-to-the-needs-of-youth-involved-with-the-justice-system--during-the-covid-19-pandemic/.
[15] National Governors Association, *Memorandum re: COVID-19 Responses in the Juvenile Justice System* (March 30, 2020), https://www.nga.org/wp-content/uploads/2020/04/Memorandum_COVID-19-Responses-in-the-Juvenile-Justice-System.pdf; Council of Juvenile Justice Administrators, *COVID-19 Practice, Policy & Emergency Protocols in State Juvenile Facilities* (May 2020), http://cjja.net/wp-content/uploads/2020/05/COVID-19-Issue-Brief-.pdf; Physicians for Criminal Justice Reform, *Memorandum re: COVID-19 Risks for Detained and Incarcerated Youth* (March 22, 2020), https://njdc.info/wp-content/uploads/PFCJR-Statement.pdf; Youth Correctional Leaders for Justice, *Recommendations for Youth Justice Systems During the COVID-19 Emergency*, https://yclj.org/covid19statement; *see also* U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Emergency Planning for Juvenile Justice Residential Facilities*, 32 (Oct. 2011), https://www.ncjrs.gov/pdffiles1/ojjdp/234936.pdf.
[16] Ex. 2, Schiraldi, et al. Decl. ¶¶ 21–24.

on dorm lockdown and solitary confinement as a "safety" measure, placing Plaintiff-Petitioners at a high risk of lasting psychological damage.

8. In addition to failing to adopt CDC-recommended safety measures, Defendants-Respondents are also confining children without the rehabilitative services to which they are entitled under federal and state law. The Louisiana Constitution explicitly provides that children in OJJ custody are confined for the purpose of receiving "rehabilitation and individual treatment," and requires the State in its role as "parens patriae," to manage the welfare of juveniles in State custody.[17] While OJJ's failure to meet the required safety guidelines itself imperils children's lives, the cessation of all (or nearly all) educational, counseling, recreational and mental health services in light of the pandemic also endangers the physical and emotional wellbeing of Plaintiffs-Petitioners, and strips the state of its express legal justification for their continued confinement.

9. Defendants-Respondents' virtually non-existent (and in any event wholly inadequate) COVID-19 response constitutes deliberate indifference to the substantial risk of dire physical and emotional harm threatening the Plaintiffs-Petitioners and all class members currently in OJJ custody. Accordingly, Plaintiffs-Petitioners, on behalf of themselves and the putative class they are endeavoring to represent, seek declaratory and injunctive relief, and petition the Court for a writ of habeas corpus, against all Defendants-Respondents to prevent the continued violation of their constitutional rights.

[17] Pursuant to Louisiana Constitution Article V, § 19, the nature of the Louisiana juvenile justice system is manifested in a non-criminal "focus on rehabilitation and individual treatment rather than retribution, and the state's role as *parens patriae* in managing the welfare of the juvenile in state custody." *In re C.B.*, 708 So. 2d 391, 397 (La. 1998).

JURISDICTION AND VENUE

10. Plaintiffs-Petitioners bring this putative class action pursuant to 22 U.S.C. § 2241, 42 U.S.C. § 1983, and 28 U.S.C. §§ 2201, 2202, for relief from both detention and conditions of confinement that violate the Eighth and Fourteenth Amendments.

11. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 1343(a) (civil rights jurisdiction), and 28 U.S.C. § 1331 (federal question jurisdiction).

12. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because the events giving rise to the claims asserted in this complaint substantially occurred in this judicial district.

13. This Court has jurisdiction to award attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and 28 U.S.C. § 1920.

14. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

15. Plaintiff J.H. is a minor currently confined at Acadiana Center for Youth who was previously confined at Bridge City Center for Youth. J.H. brings this lawsuit through his mother and next friend, N.H., who is an adult resident of the state of Louisiana. N.H. brings this action on J.H.'s behalf pursuant to Fed. R. Civ. P. 17(c)(2). N.H. is dedicated to the best interests of J.H. and will advocate for those best interests in this action. J.H. and N.H. are concerned about J.H.'s health and well-being.[18]

16. Plaintiff-Petitioner I.B. is a minor currently confined at Acadiana Center for Youth. I.B. brings this lawsuit through his parents and next friends, A.B. and I.B., who are adult

[18] Ex. 3, N.H. Decl. ¶ 4.

residents of the state of Louisiana. A.B. and I.B bring this action on I.B.'s behalf pursuant to Fed. R. Civ. P. 17(c)(2). A.B. and I.B. are dedicated to the best interests of I.B. and will advocate for those best interests in this action.

17. Defendant John Bel Edwards is the Governor of Louisiana ("Governor Edwards"). Governor Edwards has the responsibility to "support the constitution and laws of the state and of the United States and shall see that the laws are faithfully executed," pursuant to the Louisiana Constitution, Article IV, § 5. Further, he is entrusted with the authority to act in times of emergency, pursuant to Louisiana R.S. § 29.724(D)(1), and has the ultimate authority for ensuring that all executive agencies, including OJJ and the Louisiana Department of Health ("LDH"), function in compliance with state and federal laws. Governor Edwards spearheads Louisiana's decision making regarding COVID-19 and OJJ policies, including those regarding the appropriateness of OJJ's COVID-19 mitigation plan within facilities. Governor Edwards has failed to fulfill his duty to oversee the Secretary of Health and ensure that LDH is providing sufficient guidance to OJJ. Governor Edwards has the power, but to date has failed, to ensure that OJJ and the LDH implement adequate policies and procedures to protect Plaintiffs-Petitioners and the putative class from the harms of COVID-19. He can be served at 900 N. 3rd Street #4, Baton Rouge, LA 70802.

18. Defendant OJJ is responsible for all children adjudicated delinquent and assigned to their care by the court system, either for supervision or custody in residential placement or its secure care facilities. OJJ can be served at 7919 Independence Blvd., State Police Headquarters, First Floor, Baton Rouge, LA 70806.

19. Defendant Edward Dustin Bickham is the Interim Deputy Secretary of OJJ. The Deputy Secretary is appointed by Governor Edwards, serves as the agency head of OJJ, and is

responsible for all OJJ operations. He can be served at 7919 Independence Blvd., State Police Headquarters, First Floor, Baton Rouge, LA 70806.

20. Defendant James Woods is the Director of the Acadiana Center for Youth. In this capacity, he is responsible for the operation of the Acadiana Center for Youth, where Plaintiffs-Petitioners are detained, and has immediate physical custody of Plaintiffs-Petitioners. He can be served at 1536 Bordelon Road, Bunkie, LA 71322.

21. Defendant Shannon Matthews is the Director of the Bridge City Center for Youth. In this capacity, she is responsible for the operation of the Bridge City Center for Youth, where Plaintiffs-Petitioners are detained, and has immediate physical custody of Plaintiffs-Petitioners. She can be served at 3225 River Road, Bridge City, LA 70094.

22. Defendant Shawn Herbert is the Director of the Swanson Center for Youth at Monroe. In this capacity, she is responsible for the operation of the Swanson Center for Youth at Monroe, where Plaintiffs-Petitioners are detained, and has immediate physical custody of Plaintiffs-Petitioners. Defendant Herbert is also the Director of the Swanson Center for Youth at Columbia. In this capacity, she is responsible for the operation of the Swanson Center for Youth at Columbia, where Plaintiffs-Petitioners are detained, and has immediate physical custody of Plaintiffs-Petitioners. She can be served at 4701 South Grand St., Monroe, LA 71202, or 132 Hwy 850, Columbia, LA 71418.

23. Defendant Rodney Ward is the Deputy Director of the Swanson Center for Youth at Columbia. In this capacity, he is responsible for the operation of the Swanson Center for Youth at Columbia, where Plaintiffs-Petitioners are detained, and has immediate physical custody of Plaintiffs-Petitioners. He can be served at 132 Hwy 850, Columbia, LA 71418.

FACTUAL ALLEGATIONS

I. COVID-19 Is a Serious and Deadly Global Pandemic That Threatens the Lives of Louisiana Citizens and Its Incarcerated Children

24. COVID-19 is a highly contagious virus for which there is no current vaccine and no proven, effective therapies.[19]

25. COVID-19 is an acute respiratory syndrome that can cause pneumonia, acute respiratory distress syndrome, respiratory failure, heart failure, sepsis, and other potentially fatal conditions.[20] Lab testing and imaging is required to appropriately evaluate and provide treatment to patients with COVID-19. One-fifth of all confirmed cases cause serious illness, including respiratory damage that requires hospitalization and mechanical ventilation and can permanently damage the lungs and other organs of those lucky enough to survive.[21]

26. Treatment for severe cases of COVID-19 includes respiratory isolation, oxygen, and mechanical ventilation.[22] Symptoms can range from fever, cough, chest pain, and headache to loss of smell, abdominal pain, rash, diarrhea, aches, and vomiting.[23] However, medical experts are quickly learning about this new disease, and new symptoms "from the brain to the toes"

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[19] Ex. 4, Vassallo Decl. ¶¶ 2, 3.
[20] Fei Zhou et al., *Clinical Course and Risk Factors for Mortality of Adult Inpatients with COVID-19 in Wuhan, China: A Retrospective Cohort Study*, 395 LANCET 1054 (Mar. 11, 2020), https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30566-3/fulltext.
[21] "While about 80% of cases manifest as a mild illness (i.e. non-pneumonia or mild pneumonia), approximately 20% progress to a more severe illness, with 6% requiring specialist medical care, including mechanical ventilation." *Preparedness, Prevention and Control Of COVID-19 In Prisons and Other Places Of Detention: Interim Guidance*, WORLD HEALTH ORGANIZATION, 10 (Mar. 15, 2020), http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/publications/2020/preparedness,-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention,-15-march-2020.
[22] Ex. 4, Vassallo Decl. ¶ 16.
[23] Steven Johnson & Dana Gottlieb, *Breaking News: Update on Evaluation and Management for COVID-19 Patients*, EMERGENCY MEDICINE NEWS (March 31, 2020), https://journals.lww.com/em-news/blog/breakingnews/pages/post.aspx?PostID=508.

continue to emerge.[24] Screening for cough or fever is not sufficient to exclude the possibility of infection from COVID-19.[25] Even testing is not entirely reliable; fifteen percent of patients who are tested for COVID-19 have a false negative.[26] Symptoms can rapidly worsen, with people who appear to have mild cases quickly developing severe symptoms that require medical intervention and life-saving measures immediately upon arrival at the hospital.[27]

27. There are no reliable tests that can predict the course of a COVID-19 patient's illness.[28] Some patients have adequate oxygen saturation for days and then deteriorate.[29] There are no signs or symptoms that can be used to predict clinical deterioration.[30] It is therefore critical that patients who test positive or likely positive (known as persons under investigation) for COVID-19 or who have been exposed and show symptoms be within easy transportable distance of hospitals in the event that more critical care is necessary.[31] Importantly, COVID-19 patients are not always aware of the lack of oxygen in their bodies and can be on the edge of death without gasping for breath or feeling the need for oxygen.[32]

28. COVID-19 is especially concerning—and dangerously contagious—because a high percentage of infected individuals are asymptomatic. The CDC advises people to "[r]emember that some people without symptoms may be able to spread [the] virus," that "[k]eeping distance from others is especially important for people who are at higher risk of getting

[24] Lenny Bernstein & Ariana Eunjung Cha, *Doctors keep discovering new ways the coronavirus attacks the body*, THE WASHINGTON POST (May 10, 2020), https://www.washingtonpost.com/health/2020/05/10/coronavirus-attacks-body-symptoms/?arc404=true.
[25] Ex. 4, Vassallo Decl. ¶ 8.
[26] *Id.* ¶ 7.
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.*

very sick," and that "[y]ou could spread COVID-19 to others even if you do not feel sick."[33] The Director of the CDC has warned that as many as 25% of individuals infected with COVID-19 may be symptom-free.[34] With limited testing performed on asymptomatic patients, authorities cannot confirm or rule out the presence of COVID-19 in an individual.[35]

29. Severe COVID-19 patients can suffer acute respiratory distress syndrome ("ARDS"). When a patient has ARDS, the lungs fill with fluid, and the patient becomes extremely difficult to oxygenate. The only way to manage ARDS is to put the patient on a ventilator. The mortality rate for ARDS is 40%.[36] COVID-19 patients can develop ARDS very quickly, and the severity and sensation of ARDS for COVID-19 patients is similar to drowning.[37]

30. COVID-19 is highly transmissible. Recent estimates by the CDC suggest that, in community settings, each infected person transmits the virus to 5.7 other persons on average.[38] Only the influenza pandemic of 1918 is known to have higher infectivity among pandemics.[39] COVID-19 is transmitted by respiratory droplets that can survive in the air for up to three hours—and on surfaces such as plastic and stainless steel for two to three days.[40] The virus can also be

[33] CDC, *Coronavirus Disease 2019 (COVID-19): How to Protect Yourself and Others*, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html (last visited May 14, 2020) ("How to Protect Yourself, CDC").
[34] Ex. 4, Vassallo Decl. ¶ 15.
[35] *Id.*
[36] Tai Pham & Gordon D. Rubenfeld, *The Epidemiology of Acute Respiratory Distress Syndrome*, 195 AM. J. RESPIRATORY & CRITICAL CARE MED. 860 (Apr. 1, 2017), https://www.atsjournals.org/doi/pdf/10.1164/rccm.201609-1773CP.
[37] Lizzie Presser, *A Medical Worker Describes Terrifying Lung Failure From COVID-19—Even in His Young Patients*, PROPUBLICA (Mar. 21, 2020), https://www.propublica.org/article/a-medical-worker-describes--terrifying-lung-failure-from-covid19-even-in-his-young-patients.
[38] Steven Sanche et al., *High Contagiousness and Rapid Spread of Severe Acute Respiratory Syndrome Coronavirus 2*, CDC, EMERGING INFECTIOUS DISEASES (Apr. 7, 2020), https://wwwnc.cdc.gov/eid/article/26/7/20-0282_article.
[39] Ex. 4, Vassallo Decl. ¶ 3.
[40] National Institutes of Health, *New Coronavirus Stable for Hours on Surfaces* (Mar. 17, 2020), https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces.

transmitted through saliva, fecal matter, or discharge from the nose.[41] The incubation period is believed to be 2 to 14 days, which is particularly concerning for transmission rates given that so many people are asymptomatic yet infectious.[42]

31. The rapid spread of COVID-19 has created an unprecedented, worldwide health emergency. The World Health Organization ("WHO") declared COVID-19 a worldwide pandemic on March 11, 2020.[43] Governor Edwards declared "a statewide public health emergency" in Louisiana that same day.[44] On March 13, 2020, President Trump declared a national emergency.[45]

32. The number of confirmed cases of COVID-19 in the United States is rising rapidly. As of May 14, 2020, more than 1.38 million confirmed cases in the United States have been reported, and more than 84,000 deaths. Both the number of confirmed cases (which undoubtedly is under-reported given that less than 1% of the entire population has been tested) and the number of deaths continue to rise substantially on a daily basis.[46] The United States has the highest number of reported cases of any country in the world. The CDC projects that without swift and effective public health interventions, over 200 million people in the United States could

[41] Ex. 5, Yukich Decl. ¶ 4.
[42] Ex. 4, Vassallo Decl. ¶ 3.
[43] Tedros Adhanom Ghebreyesus, *WHO Director-General's Opening Remarks at the Media Briefing on COVID-19*, WORLD HEALTH ORG. (Mar. 11, 2020), https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020.
[44] Louisiana Proclamation No. 25 JBE 2020 (Mar. 11, 2020), https://gov.louisiana.gov/assets/Proclamations/2020/modified/25-JBE-2020-Public-Health-Emergency-COVID-19.pdf.
[45] *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, (Mar. 13, 2020), https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.
[46] *Coronavirus disease (COVID-19) Situation Dashboard*, WORLD HEALTH ORGANIZATION, https://who.sprinklr.com/region/amro/country/us (last visited May 14, 2020).

ultimately become infected with COVID-19 over the course of the epidemic, with as many as 1.7 million deaths.[47]

33. Many studies have shown that there is an increased risk for serious complications in patients infected with COVID-19 who also suffer from co-morbidities, including common health problems that afflict class members here, such as, asthma, hypertension, obesity, diabetes, and human immunodeficiency virus ("HIV") infection.[48]

34. Although advanced age and underlying illnesses or chronic medical conditions increase the risk of serious effects of COVID-19, the disease does not spare the young. Due to the novel nature of COVID-19, the full effects of the disease on children are not yet known. However, reports show that children can suffer—and have suffered—these serious complications, including hospital admission, admission to an intensive care unit, invasive ventilation, and death.[49] Moreover, recent evidence suggests that COVID-19 positive children may be vulnerable to pediatric multisystem inflammatory syndrome, which can lead to toxic shock.[50] These serious complications can occur even *after* the infection itself appears to have resolved.[51] Screening by age and prior medical history alone is not sufficient to determine who

[47] Sheri Fink, *Worst-Case Estimates for U.S. Coronavirus Deaths*, N.Y. TIMES (Mar. 13, 2020), https://www.nytimes.com/2020/03/13/us/coronavirus-deaths-estimate.html.
[48] Wei-jie Guan et al., *Comorbidity and its Impact on 1590 Patients with Covid-19 in China: A Nationwide Analysis*, EUROPEAN RESPIRATORY J. (Mar. 26, 2020), https://doi.org/10.1183/13993003.00547-2020; *see also* Committee on Adolescence, *Health Care for Children and Adolescents in the Juvenile Correctional Care System*, AM. ACAD. PEDIATRICS (Apr. 2001), https://pediatrics.aappublications.org/content/107/4/799.
[49] Ex. 1, Graves Decl. ¶ 6.
[50] Pam Belluck, *A New Coronavirus Threat to Children*, N.Y. TIMES (May 11, 2020), https://www.nytimes.com/2020/05/06/health/kawasaki-disease-covid-coronavirus-children.html.
[51] *Id.*

may develop serious complications and need medical intervention. Long term effects of COVID-19 on a person's (including a child's) health remain unknown.[52]

35. In a virtual press conference held on March 20, 2020, WHO Director General Tedros Adhanom Ghebreyesus warned that younger people are not spared from contagion, and worldwide make up a "significant proportion" of patients requiring hospitalization, sometimes for weeks and sometimes resulting in their deaths.[53] The largest study of pediatric COVID-19 patients to date shows that approximately 6% of infected children and 11% of infected infants have had severe or critical cases,[54] and data in the United States shows a growing number of pediatric cases requiring intensive care.[55] These cases have included children who suffered from respiratory failure, shock, encephalopathy, heart failure, coagulation dysfunction, acute kidney injury, and life-threatening organ dysfunction.[56] There is no doubt that children constitute a small but tragic percentage of COVID-19 deaths.[57] Recent research suggests that children are

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[52] Joseph Goldstein, *15 Children are Hospitalized with Mysterious Illness Possibly Tied to Covid-19*, N.Y. TIMES (May 5, 2020), https://www.nytimes.com/2020/05/05/nyregion/children-Kawasaki-syndrome-coronavirus.html?referringSource=articleShare.

[53] Stephanie Nebehay, *WHO Message to Youth on Coronavirus: 'You Are Not Invincible'*, REUTERS (Mar. 20, 2020, 11:29 A.M.), https://www.reuters.com/article/us-health-coronavirus-who-idUSKBN21733O.

[54] *See* Yuanyuan Dong et al., *Epidemiology of COVID-19 Among Children in China*, AM. ACAD. PEDIATRICS (Apr. 2020), https://pediatrics.aappublications.org/content/early/2020/03/16/peds.2020-0702.1.

[55] Virtual Pediatric System, LLC, *COVID-19 Data: North American Pediatric ICUs* (Mar. 31, 2020), https://covid19.myvps.org/.

[56] *See* Dong, *Epidemiology of COVID-19 Among Children in China*.

[57] Taryn Luna et al., *L.A. County Reports First Death of A Possible Coronavirus Patient Under 18 as COVID-19 Cases Top 660*, L.A. TIMES (Mar. 24, 2020), https://www.latimes.com/california/story/2020-03-24/california-coronavirus-cases-surge-to-2-200-the-worst-is-yet-to-come; Jennifer Millman, *"It Attacks Everyone:" NYC Loses 1st Child to Virus as State Deaths Eclipse 1,300; NJ Cases Soar*, NBC NEW YORK (Mar. 30, 2020), https://www.nbcnewyork.com/news/local/nyc-virus-deaths-leap-from-0-to-776-in-15-days-emergency-hospital-help-arrives-monday/2350357/; CDC, *Severe Outcomes Among Patients with Coronavirus Disease 2019 (COVID-19)—United States, Feb. 12–Mar. 16, 2020*, MORBIDITY & MORTALITY WEEKLY REP. (Mar. 26, 2020), cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm; Erika Edwards, *5-Year-Old Is First Child Death from COVID-19-Related Inflammatory Syndrome Reported in U.S.*, NBC NEWS (May 8, 2020), https://www.nbcnews.com/health/kids-health/boy-5-dies-covid-19-linked-inflammatory-syndrome-n1203076.

susceptible to serious neurological side effects, which is particularly alarming at this stage of their development when the brain is in its formative period of development.[58]

36. Compared with past outbreaks of communicable diseases, the COVID-19 pandemic is of nearly unprecedented magnitude.[59] Reliance on prior infectious disease protocols is insufficient to respond to this novel and deadly disease.[60]

a. COVID-19 Is Particularly Severe in Louisiana

37. Louisiana is experiencing one of the worst COVID-19 outbreaks in the world. As of May 14, 2020, Louisiana had 33,489 confirmed cases of COVID-19, with at least 2,351 deaths; 7.0% of persons diagnosed with COVID-19 in Louisiana have died.[61] The overall mortality rate in the United States from the disease is 2.3%.[62]

38. Confirmed COVID-19 cases in Louisiana grew by 67.8% in the two weeks after the first diagnosis on March 9, 2020—the highest growth rate in the United States.[63]

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[58] George Citroner, *What We Know About the Long-Term Effects of COVID-19*, HEALTHLINE (Apr. 21, 2020), https://www.healthline.com/health-news/what-we-know-about-the-long-term-effects-of-covid-19#COVID-19-might-affect-the-brain-stem.

[59] *United States v. Martin*, No. 19-cv-140-13, ---F. Supp. 3d ----, 2020 WL 1274857, at *2 (D. Md. Mar. 17, 2020).

[60] Apoorva Mandavilli, *Infected but Feeling Fine: The Unwitting Coronavirus Spreaders*, N.Y. TIMES (Mar. 31, 2020), https://www.nytimes.com/2020/03/31/health/coronavirus-asymptomatic-transmission.html.

[61] Louisiana Department of Health, *Louisiana Coronavirus (COVID-19) Information*, http://ldh.la.gov/coronavirus/ (last visited May 14, 2020).

[62] Kenneth McIntosh, *Coronavirus Disease 2019 (COVID-19): Epidemiology, Virology, Clinical Features, Diagnosis, and Prevention*, UPTODATE (Apr. 2020), https://www.uptodate.com/contents/coronavirus-disease-2019-covid-19-epidemiology-virology-clinical-features-diagnosis-and-prevention.

[63] Adam Daigle, *Coronavirus Cases Grew Faster in Louisiana than Anywhere Else in the World: UL Study*, ACADIANA ADVOCATE (Mar. 24, 2020), https://www.theadvocate.com/acadiana/news/coronavirus/article_94494420-6d4b-11ea-ac42-ff7dd722c084.html.

39. When the first United States cases emerged, New Orleans quickly became a coronavirus epicenter.[64] As of early April, Louisiana, Michigan, and New York accounted for more than half the country's deaths.[65]

b. Incarcerated People Are Especially Vulnerable to COVID-19

40. Crowded correctional facilities are known to be a breeding ground for infectious respiratory illness.[66] Prisons now account for seven of the top ten coronavirus clusters in the United States.[67] It is not possible to isolate incarcerated people from the outside world, nor is it possible to isolate them from one another. Social distancing practices are impossible with individuals living in close quarters, sharing bathroom and dining facilities, common living or recreational areas and, in many instances, sleeping two or more to a room or cell. Correctional facilities are also not closed environments. Staff enter and leave the facilities on a daily basis, typically interacting regularly with both COVID-19 positive individuals and those who are healthy. Without daily testing, there is no way to ensure that staff are not carriers; a significant percentage of carriers are asymptomatic, or are presenting with lesser-known symptoms that will escape detection in simple screenings for temperatures or coughs.[68] When the COVID-19 virus is introduced to a prison, staff and incarcerated people alike are at heightened risk of contracting

[64] Erika Edwards, *Why New Orleans Is Quickly Becoming a Coronavirus Epicenter in the U.S.*, NBC NEWS (Mar. 26, 2020), https://www.nbcnews.com/health/health-news/why-new-orleans-quickly-becoming-coronavirus-epicenter-u-s-n1169376.
[65] Jenni Fink, *U.S. Coronavirus Hotspot Updates: The Latest on COVID-19 Cases in New York, Detroit, New Orleans*, NEWSWEEK (Apr. 6, 2020), https://www.newsweek.com/us-coronavirus-hotspot-updates-latest-covid-19-cases-new-york-detroit-new-orleans-1496318.
[66] Timothy Williams et al., *'Jails Are Petri Dishes': Inmates Freed as the Virus Spreads Behind Bars*, N.Y. TIMES (Mar. 30, 2020), https://www.nytimes.com/2020/03/30/us/coronavirus-prisons-jails.html.
[67] The most vivid example is the Marion Correctional Institution in Marion, Ohio, which currently has 2,349 cases among inmates and staff members, the highest outbreak numbers in the country. *Coronavirus in the U.S.: Latest Map and Case Count*, N.Y. TIMES (May 14, 2020), https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html.
[68] Ex.4, Vassallo Decl. ¶ 8.

the virus and, in turn, spreading the virus to others with whom they live or come into contact in their own homes, neighborhoods, and communities.[69]

41. In addition to the inherent risk of greater spread in congregate living facilities, correctional facilities magnify that risk through their failure to maintain sanitary environments. People share toilets, sinks, and showers and often have limited access to soap, hand sanitizer, hot water, and other necessary hygiene items. Because COVID-19 can survive on surfaces such as plastic and stainless steel for two to three days,[70] the CDC advises all people—and particularly those at higher risk of severe illness—to "[w]ash [their] hands often with soap and water" or, "[i]f soap and water are not readily available, use a hand sanitizer that contains at least 60% alcohol," "[a]void close contact with people who are sick," "[p]ut distance between yourself and other people," and to "[c]over your mouth and nose with a cloth face cover when around others."[71] For correctional facilities, the CDC recommends using EPA-registered disinfectants effective in eliminating COVID-19.[72] The CDC also advises a 14-day medical quarantine for those known to who have had close contact with a COVID-19 case to determine whether they develop symptoms of the disease.[73]

42. Louisiana's secure care facilities have already become, and risk further becoming, hotbeds of contagion during this pandemic. As of May 14, 2020, OJJ asserts on its website that 28 children have tested positive for COVID-19, in addition to 4 other cases reported to media, and that 41 staff have tested positive for COVID-19.[74] Children in secure care facilities are unable

[69] *Id.* ¶ 11.
[70] *As Coronavirus Spreads, Many Questions and Some Answers*, https://www.health.harvard.edu/diseases-and-conditions/coronavirus-resource-center.
[71] How to Protect Yourself and Others, CDC.
[72] CDC Guidance.
[73] *Id.*
[74] State of Louisiana, Office of Juvenile Justice, *OJJ COVID-19 Information*, https://ojj.la.gov/ojj-covid-19-information/ (last visited May 14, 2020).

to protect themselves by taking the necessary measures to mitigate the risk of exposure, putting them at heightened risk of COVID-19 infection. Children live, sleep, eat, and spend the full day in close contact with each other as well as with staff members.[75]

43. For example, the four OJJ secure care facilities have dormitory-style living, with up to 12 children sleeping and living in one room. In at least one facility that is typical of all facilities, beds are typically nailed to the floor and arranged in a cubicle style with low walls separating each sleeping area. Each child is provided with a small desk and chair in the sleeping area. In the Bridge City Center for Youth, the beds are approximately six feet apart, which might suggest appropriate social distancing overnight, but the children cannot remain in their bed for 24 hours per day and the staff cannot remain adequate social distance from the children while adequately performing their jobs.[76]

44. Significant deficiencies with respect to sanitation in the four OJJ secure care facilities heighten the risks still further. Many of these recommended preventative measures are unavailable to people who are incarcerated and share toilets, sinks, and showers and with limited access to soap, hand sanitizer, hot water, and other necessary hygiene items. The CDC instructs that individuals should wash their hands for 20 seconds regularly, and after sneezing, coughing, blowing their nose, eating or preparing food, before taking medication, and after touching garbage.[77] The CDC also instructs that staff should clean and disinfect commonly touched surfaces and shared equipment several times a day.[78] In the four OJJ secure care facilities, children share toilets, sinks, and showers, without disinfection between each use. Children have reported that they are responsible for disinfecting, and not all children have been provided

[75] Ex. 6, L.P. Decl. ¶ 9, Ex. 7, B.B. Decl. ¶ 6, Ex. 3, N.H. Decl. ¶ 4.
[76] Ex. 8, Holt Decl. ¶ 7.
[77] CDC Guidance.
[78] *Id.*

cleaning materials.[79] A staff member recently stated that "[t]here's been no apparent deep cleaning in areas where infected youth [have been] housed."[80] He described the facility as "filthy" in general, and he said staff were expected to store and microwave their lunches in the staff bathrooms.[81] This lack of access to proper sanitation, combined with shared bathrooms and sinks and regular close contact with other children and staff, creates an intolerably high risk of infectious spread and the dire consequences that follow from the virus.

45. Additionally, children in correctional facilities are particularly likely to have pre-existing conditions making them medically vulnerable to COVID-19, including asthma, hypertension, obesity, diabetes, and the HIV infection,[82] with asthma being one of the most commonly diagnosed illnesses among children in correctional facilities.[83]

46. Recognizing this inherent risk of greater spread in congregate living facilities, in an effort to stop the spread of COVID-19, the Supreme Courts of Hawaii,[84] New Jersey,[85]

[79] Ex. 3, N.H. Decl. ¶ 4; Ex. 9, A.B. Decl. ¶ 12.
[80] *"There was no control," says Bridge City youth prison guard about riot*, WDSU NEWS, (Apr. 24, 2020), https://www.wdsu.com/article/there-was-no-control-says-bridge-city-youth-prison-guard-on-riot/32259043.
[81] *Id.*
[82] *Comorbidity and its impact on 1590 patients with Covid-19 in China: A Nationwide Analysis*, EUROPEAN RESPIRATORY JOURNAL, (March 26, 2020), https://doi.org/10.1183/13993003.00547-2020; Comm. on Adolescence, *Health Care for Children and Adolescents in the Juvenile Correctional Care System*, 107 PEDIATRICS 799 (2001), https://bit.ly/2UxTW5y.
[83] Comm. on Adolescence, *Health Care for Children and Adolescents in the Juvenile Correctional Care System*; Nicole Wetsman, *To Reduce Long-Term Health Gaps, a Push for Early Intervention in Juvenile Detention*, JUV. JUST. INFO EXCHANGE, (July 30, 2018), https://bit.ly/2Jq7Os7.
[84] Yoohyun Jung, *Special Master Appointed To Recommend On COVID-19 Jail Releases*, HONOLULU CIVIL BEAT (Apr. 2, 2020), https://www.civilbeat.org/2020/04/special-master-appointed-to-decide-on-covid-19-jail-releases/.
[85] Consent Order at 4, *In the Matter of the Request to Commute or Suspend County Jail Sentences*, No. 084230 (N.J. Mar. 22, 2020), https://bit.ly/3aJOim8. The order provided a mechanism for prosecutors, within 24 to 48 hours, to object to the release of specific prisoners who "would pose a significant risk to the safety of the inmate or the public," with such objections to be considered by judges or special masters appointed by the Supreme Court.

Massachusetts,[86] Montana,[87] South Carolina,[88] and Washington[89] have all issued orders to reduce adult jail populations. In an effort to prevent new admissions to county jails, the chief judge of Maine's trial courts, with the approval of the chief justice of the Maine Supreme Court, vacated all outstanding warrants for unpaid fines, restitution, fees, and failures to appear.[90] The chief justice of the Louisiana Supreme Court recently issued guidance to those judges with jurisdiction over juvenile defendants, urging these judges to review their dockets and to release children who are medically vulnerable or who have a non-violent adjudication.[91] Across the country, officials in more than 60 state and local jurisdictions have acted to sharply reduce prison populations.[92]

c. Placement in an OJJ Facility during the COVID-19 Pandemic Creates Risk of Serious Emotional and Psychological Harm

47. Placement in a juvenile correctional facility creates serious physical and mental health risks for children under any circumstances. The risk of exposure and contagion caused by the COVID-19 pandemic exacerbates these harms, putting young people at serious risk of lasting physical harm, emotional trauma, and other health problems.

[86] Comm. for Public Counsel Services, Associate Justice Gaziano of the Assoc. Justice of the Supreme Judicial Ct. of Mass. (Apr. 3, 2020), https://www.mass.gov/files/documents/2020/04/03/12926.pdf.
[87] Letter from Mike McGrath, Chief Justice, Mont. Supreme Ct., to Montana Cts. of Limited Jurisdiction Judges (Mar. 20, 2020), https://bit.ly/3aAv4iX.
[88] Memorandum from Donald W. Beatty, Chief Justice of S.C. Supreme Ct., to Magistrates, Municipal Judges, & Summary Ct. Staff (Mar. 16, 2020), https://bit.ly/3dJ69LY.
[89] Am. Order, *In the Matter of Statewide Response by Washington State Courts to the COVID-19 Public Health Emergency*, No. 25700-B-607 (Wash. Mar. 20, 2020), https://bit.ly/39DHyoU.
[90] Judy Harrison, *Maine courts vacate warrants for unpaid fines and fees*, WGME NEWS (Mar. 17, 2020), https://wgme.com/news/coronavirus/maine-courts-vacate-warrants-for-unpaid-fines-and-fees.
[91] Letter from Bernette Joshua Johnson, Chief Justice of the Supreme Ct. of the State of Louisiana to Cts. of Limited Jurisdiction Judges (Apr. 6, 2020), https://www.lasc.org/COVID19/2020-04-06-LASC-ChiefLetterReJuvenileDefendants.pdf.
[92] *Responses to the COVID-19 pandemic*, PRISON POLICY INITIATIVE (May 13, 2020), https://www.prisonpolicy.org/virus/virusresponse.html.

48. To respond to the physical health risks of harm, OJJ has adopted widespread use of isolation for the purpose of preventing infection. Isolation is punishment in form and effect, and it can exacerbate underlying trauma disorders.[93]

49. Additionally, as facilities try to limit personal contact and increase physical distancing, educational programming, counseling and other therapeutic services and recreation are substantially limited if not entirely eliminated.[94] As staff fall ill or are themselves subject to quarantine, programming will be further hampered and the state-mandated staffing ratios needed for basic safety and well-being will be jeopardized.[95]

50. Cutting off education and treatment is particularly devastating to teenagers. During adolescence, the brain reaches what is referred to as the "second period of heightened malleability."[96] As a result, children are uniquely responsive to environmental changes—and uniquely susceptible to harm from adverse experiences.[97] If there is "[a] lack of stimulation or aberrant stimulation" for children during this period, the results can lead to "lasting effects on physical and mental health in adulthood."[98] Children especially need positive social interactions to help them "develop a healthy functioning adult social identity"[99] and build their social skills,[100]

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[93] *See* Elizabeth S. Barnert et al., *How Does Incarcerating Young People Affect Their Adult Health Outcomes?* 29 PEDIATRICS 1 (2017), https://bit.ly/2xyL8mJ; Ex. 2, Schiraldi et al. Decl. ¶ 21.
[94] Ex. 7, B.B. Decl. ¶ 9, Ex. 9, A.B. Decl. ¶ 17, Ex. 3, N.H. Decl. ¶ 10.
[95] Ex. 8, Holt Decl. ¶ 6.
[96] Delia Fuhrmann et al., *Adolescence as a Sensitive Period of Brain Development*, 19 TRENDS COGNITIVE SCI. 558, 559 (2015), https://www.ncbi.nlm.nih.gov/pubmed/26419496.
[97] Nancy Raitano Lee, Drexel Univ. Dep't of Psychology, *Presentation for the Juvenile Law Center: Neuroplasticity and the Teen Brain: Implications for the Use of Solitary Confinement with Juveniles* (2016).
[98] Fuhrmann et al., *Adolescence as a Sensitive Period of Brain Development*, at 561.
[99] Anthony Giannetti, *The Solitary Confinement of Juveniles in Adult Jails and Prisons: A Cruel and Unusual Punishment*, 30 BUFF. PUB. INTEREST L.J. 31, 47 (2012), https://bit.ly/2xzXxqy.
[100] Sarah-Jayne Blakemore & Kathryn L. Mills, *Is Adolescence a Sensitive Period for Sociocultural Processing?*, 65 ANN. REV. PSYCHOL. 187, 199 (2014), https://bit.ly/2R0My04.

so that they can successfully "reintegrate into the broader community upon release" from confinement.[101]

51. These developmental risks are even greater for young people in state custody. Children in the juvenile justice system have high rates of underlying mental health illnesses,[102] making them particularly vulnerable to suffering from the stress and fears associated with the COVID-19 outbreak and the fears that they have for the health of their own families.[103] For example, the children detained in "horrific conditions" in Louisiana during Hurricane Katrina reported "substantial and enduring" psychological impact long after conditions improved.[104]

52. The WHO has cautioned that children (and teens in particular) are at heightened risk of trauma from the stress of the pandemic, facing increased risk of future delinquency as a result, and has instructed parents to support and reassure their children, maintain routines, and facilitate connections with friends and family.[105] Children in facilities are deprived of this necessary attention and support. In facilities struggling to ensure social distancing, these problems are further intensified.

d. Releasing As Many Children As Possible Will Protect Those Children—and the Surrounding Communities—From Substantial Risk of Serious Harm

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[101] Sandra Simkins et al., *The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Disposition Representation*, 38 J.L. & POL'Y 241, 256 (2012), https://bit.ly/2WX7KrH.
[102] Matthew C. Aalsma et al., *Preventative Care Use Among Justice-Involved and Non-Justice Involved Youth*, AM. ACAD. OF PEDIATRICS (2017), https://pediatrics.aappublications.org/content/pediatrics/140/5/e20171107.full.pdf.
[103] Managing Anxiety & Stress, CTRS. FOR DISEASE CONTROL AND PREVENTION, https://cdc.gov/coronavirus/2019-ncov/prepare/managing-stress-anxiety.html.
[104] *Treated Like Trash: Juvenile Detention in New Orleans Before, During, and After Hurricane Katrina*, JUVENILE JUSTICE PROJECT OF LOUISIANA, https://www.njjn.org/uploads/digital-library/resource_342.pdf; Adam Nossiter, *Teenage Prisoners Describe Hurricane Horrors*, N.Y. TIMES (May 10, 2006), https://www.nytimes.com/2006/05/10/us/10prison.html.
[105] *Addressing Human Rights as Key to the COVID-19 Response*, WORLD HEALTH ORGANIZATION, https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/healthy-parenting.

53. Under these unprecedented circumstances, returning as many children safely to their homes as possible is the best (and indeed potentially only) way to protect the children from this devastating scenario and is in both the children's and the public's best interest.[106]

54. Medical professionals have called on state governors, courts, and departments of corrections to "[i]mmediately release youth in detention and correctional facilities who can safely return to the home of their families and/or caretakers, with community-based supports and supervision, in order to alleviate potential exposure to COVID-19."[107]

55. Jurisdictions around the country and around the world have heeded the call and begun to do so.[108] These examples are reflective of a national trend to reduce the numbers of children in custody,[109] with substantial reductions nationwide since the onset of the pandemic.[110]

II. OJJ's Insufficient Response to COVID-19 Places the Putative Class at a Substantial Risk of Serious Harm

56. Despite the grave dangers posed by COVID-19 to the children under their care, Defendants-Respondents, acting under color of law, have failed to take the necessary steps to

[106] Ex. 1, Graves Decl. ¶ 10.
[107] Letter from Physicians for Criminal Justice Reform, to State Governors, State and Local Juvenile Detention and Correctional Departments, and Juvenile Court Judges and Magistrates at 1 (Mar. 22, 2020), https://bit.ly/3az51sz.
[108] In Maryland, for instance, in response to an order from the state Supreme Court to reduce reliance on institutional placements during the COVID-19 crisis, state officials have released approximately 200 children from state juvenile detention facilities over health concerns due to the coronavirus pandemic. Luke Broadwater, *Maryland Releases About 200 Juveniles From Detention Centers Amid Coronavirus Pandemic*, BALTIMORE SUN (April 27, 2020), https://www.baltimoresun.com/coronavirus/bs-md-pol-juvenile-release-coronavirus-20200427-4mjlk5pawnbpnafusvm7a7b7g4-story.html. The release amounts to a nearly one-third reduction of the state's detained juvenile population. *Id.* Likewise, in Clayton County, Georgia, the juvenile court issued an order strictly limiting detention during the pandemic, leading to a 90% reduction in the juvenile detention population. Amended Order on Court Operations During Declaration of Judicial Emergency, Juvenile Court of Clayton County, Georgia (April 6, 2020), https://www.claytoncountyga.gov/Home/ShowDocument?id=12300.
[109] *Following the Action*, YOUTH CORRECTIONAL LEADERS FOR JUSTICE (last accessed May 14, 2020), https://yclj.org/covid19-resources.
[110] *At Onset of the COVID-19 Pandemic, Dramatic and Rapid Reductions in Youth Detention*, ANNIE E. CASEY FOUNDATION (April 23, 2020), https://www.aecf.org/blog/at-onset-of-the-covid-19-pandemic-dramatic-and-rapid-reductions-in-youth-de/.

preserve the physical safety and mental health of the class members, have affirmatively placed the class members at substantial risk of serious harm, and deprived them of their rights to reasonably safe living conditions and to rehabilitative treatment.

a. Defendants-Respondents Have Either Sought to Obscure Their COVID-19 Policies From Plaintiffs-Petitioners, Parents, the Public, and Advocacy Groups—or Have Failed to Devise a Comprehensive Plan

57. OJJ has not updated its policies, procedures, and practices, including but not limited to its flu and pandemic plan, since the onset of COVID-19, despite many warnings from outside agencies that doing so was necessary to prevent infection and spread of COVID-19 within facilities.

58. On April 3, 2020, and May 28, 2020, organizations that advocate for the rights of children held in the four OJJ secure care facilities sent letters to Governor Edwards urging him to adopt evidence-based and proactive plans for the prevention and management of COVID-19 in the four OJJ secure care facilities. The letters included thirteen specific recommendations and numerous resources to assist Governor Edwards in the development of these plans.[111] Governor Edwards never responded, and none of the recommendations were implemented.

59. The records show that OJJ circulated information internally identifying certain areas within each secure care facility that have been identified for potential COVID-19 "isolation." This preliminary information provides no insight into how Defendants-Respondents implemented quarantine procedures, and conflicts with reporting suggesting that OJJ has designated its Swanson Center for Youth Monroe facility for COVID-19 positive children.[112]

[111] Ex. 10, Letter from Youth Correctional Leaders for Justice to Governor Edwards (Apr. 28, 2020), and Letter from Louisiana Center for Children's Rights to Governor Edwards (Apr. 3, 2020).
[112] Associated Press, *Riots, Escapes and Pepper Spray: Virus Hits Juvenile Centers*, 4WWL.COM (May 3, 2020, 5:03 PM), wwltv.com/article/news/health/coronavirus/riots-escapes-and-pepper-spray-virus-hits-juvenile-centers/289-e52aa1ea-5680-47eb-a8c5-4c62af60cd4e.

60. According to parents and family members of detained children, OJJ has not provided information about OJJ's plans for the prevention and management of COVID-19 in the four OJJ secure care facilities. Parents and family members have repeatedly demanded such information, but nothing has been provided in response to these requests.[113] Parents and advocates have reported that it is difficult to contact anyone at the four OJJ secure care facilities and sometimes impossible to even figure out who is in charge.[114] Accordingly, parents and family members understandably have expressed very serious concerns about the health and welfare of their incarcerated children.

61. OJJ has provided varying—and often conflicting—information to detained children across the four OJJ secure care facilities.[115] OJJ's lack of transparency and failure to implement uniform procedures has caused confusion and has sparked fear among the children. For example, reports claim that OJJ is transporting COVID-19 positive children to one facility. Other reports suggest that COVID-19 positive children are isolated, but remain at their respective facility. At least one child who tested positive, however, remained in his regular dormitory, and OJJ did not attempt to implement any quarantine procedures.

62. OJJ has published "COVID-19 Information" on its website purporting to provide "updated" information about the numbers of COVID-19 positive children and staff, but that information raises troubling questions about what is actually happening at the four OJJ secure care facilities. For example, as of May 14, 2020, OJJ asserts on its website that 28 children have tested positive for COVID-19, in addition to 4 other cases reported to media, and that 28 of these

[113] *See, e.g.*, Ex. 9, A.B. Decl. ¶¶ 6, 13, 15; Ex. 11, D.B. Decl. ¶¶ 8, 12.
[114] *See, e.g.*, Ex. 9, A.B. Decl. ¶ 6; Ex. 6, L.P. Decl. ¶ 6.
[115] *See generally* Ex. 9, A.B. Decl.; Ex. 3, N.H. Decl.; Ex. 7, B.B. Decl.; Ex. 11, D.B. Decl.; Ex. 6, L.P. Decl.; Ex. 12, S.W. Decl.; Ex. 13, W.H. Decl.

children have recovered.[116] The reported number of children who have tested positive has remained completely static since at least April 21, 2020, a fact which is both at odds with everything known about how COVID-19 spreads and with the rest of the world's experience with it.[117] Some reports suggest that OJJ had actually tested *only* 29 children, which would explain why the number of children testing positive remains static. Notably, these reported test results demonstrate a 97% positivity rate. Equally troubling, as of May 14, 2020, OJJ asserts on its website that 41 staff have tested positive for COVID-19 and that 16 of these have recovered. These figures have increased periodically since April 17, 2020. Current statistics demonstrate that the four OJJ secure care facilities have among the highest percentage of COVID-19 positive staff members compared to juvenile detention facilities across the country.

63. Despite the high prevalence of the disease at the four OJJ secure care facilities, OJJ has provided no information about its testing policies,[118] including when and how often tests are administered or if tests are administered to asymptomatic staff and children. Indeed, it appears that OJJ has sought to obscure its testing procedures from children, their parents, and the public. According to the American Heart Association, COVID-19 testing leads to quick identification of cases, quick treatment for those people and immediate quarantine to prevent spread. Early testing

[116] On information and belief, there are an additional four positive COVID-19 children who are being held in OJJ's non-secure custody.
[117] Internet Archive, *OJJ COVID-19 Information* (April 21, 2020), https://web.archive.org/web/20200422143617/https://ojj.la.gov/ojj-covid-19-information/.
[118] Certain facilities are providing universal testing to combat the spread of COVID-19. For example, in early May New Jersey began testing all of its correctional officers and all of its inmates detained across the state. Blake Nelson, *All N.J Prisoners Will Be Tested For Coronavirus Beginning Next Week, Murphy Says*, NJ.COM (May 1, 2020), https://www.nj.com/coronavirus/2020/04/mass-coronavirus-testing-in-nj-prisons-should-begin-next-week-murphy-says.html.

also helps to identify everyone who came into contact with infected people so they too can be quickly treated.[119]

64. OJJ also has issued no formal guidance about any procedures for returning those children who allegedly have recovered to their respective dormitories, nor is there any information on the OJJ website about how OJJ determines whether and when a child has "recovered."

65. Moreover, although OJJ's website provides that "[t]he Office of Juvenile Justice is working closely with its medical provider, Wellpath and guidance from the Louisiana Office of Public Health to determine the most appropriate treatment for each youth who may fall ill in its facilities during this crisis,"[120] parents and the public are completely in the dark as to what remedial measures OJJ has taken or intends to take as result.

66. In short, there is no evidence that OJJ has developed policies, procedures, or a comprehensive COVID-19 remedial plan, and there is no evidence that any such plans have been disclosed to the children's parents or the public.

b. OJJ's Policies are Inadequate to Care for COVID-19 Positive Children or to Prevent the Spread of COVID-19

67. Defendant Governor Edwards has failed to assert his authority over the Secretaries of either OJJ or LDH to ensure Louisiana's incarcerated children's access to appropriate precautions to stop the spread of COVID-19, assure appropriate quarantine practices, and assure appropriate medical isolation practices. The lack of appropriate oversight, policies, and practices

[119] Dr. Eduardo Sanchez, *COVID-19 Science: Why Testing is So Important*, AMERICAN HEART ASSOCIATION (April 2, 2020), https://www.heart.org/en/news/2020/04/02/covid-19-science-why-testing-is-so-important.
[120] State of Louisiana, Office of Juvenile Justice, *OJJ COVID-19 Information*, https://ojj.la.gov/ojj-covid-19-information/ (last visited May 14, 2020).

by Defendants-Respondents has resulted in children with confirmed COVID-19 cases not getting the care recommended by the CDC.

68. While the CDC guidance recommends "medical isolation of confirmed or suspected COVID-19 cases,"[121] the four OJJ secure care facilities have implemented conflicting procedures for its COVID-19 positive staff and children. One child who tested positive spent the time he was ill by himself in a stifling room previously used for disciplinary solitary confinement without air conditioning. According to the child's mother, while he was in isolation, he was unable to bathe or brush his teeth.

69. On information and belief, OJJ has designated its Swanson Center for Youth Monroe facility for COVID-19 positive children. This designation requires OJJ to transport children to Swanson Center for Youth Monroe and back again to their original facility upon recovery, increasing travel and exacerbating the risk of transmission and defying CDC guidance around need for transfer for medical purposes only.[122]

70. To the extent OJJ is caring for COVID-19 positive children in its infirmaries, these areas are not equipped to care for more than three to four children each.[123] The infirmaries in each of the four OJJ secure care facilities maintain only three or four beds and there are only one or two nurses on duty at any given time.[124]

71. It is particularly important that confined children receive adequate instruction and reinforcement in the form of mandatory policies and training concerning sanitizing, hand-washing, and face coverings. Without such policies and instruction, children, especially those who suffer from mental illnesses or cognitive disabilities, may not comprehend the significance

[121] CDC Guidance.
[122] Associated Press, *Riots, Escapes and Pepper Spray: Virus Hits Juvenile Centers*.
[123] Ex. 8, Holt Decl. ¶ 4.
[124] *Id.*

of these procedures in preventing the spread within the four OJJ secure care facilities and within the broader community. Indeed, many of the children in the four OJJ secure care facilities may lack impulse control and have difficulty retaining their focus, leading to ineffective hygiene practices.[125]

72. The CDC recommends wearing face coverings where social distancing measures are difficult to maintain, especially in areas of significant community-based transmission.[126] Some children report that OJJ has circulated some face masks to the children, but OJJ has failed to promulgate a uniform policy requiring that all staff and children wear masks.[127] Other children report that some staff wear masks, but that masks have not been made available for the children.[128]

73. OJJ's furlough programs—which provide for authorized temporary release from the grounds of a secure facility for the purposes of aiding in the children's rehabilitation and re-entry[129]—could facilitate physical distancing at the facility by easing capacity, but have been halted during the pandemic. As recently as mid-March, children in OJJ's custody were home on furlough. OJJ's furlough policy is intended to assist children in maintaining family and community relations while incarcerated in OJJ's four secure are facilities, and OJJ determines, based on a detailed list of criteria, which children qualify for various types of furloughs.[130] One category of children eligible for furlough include those who qualify as a "low to moderate" risk on the Structured Assessment of Violence Risk in Youth ("SAVRY") scale. But children who are deemed "high" risk on the SAVRY scale may also qualify if they meet other criteria, like

[125] *Id.* ¶ 8.
[126] CDC, *Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission* (April 3, 2020), https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html.
[127] *See, e.g.*, Ex. 9, A.B. Decl. ¶ 12; Ex. 3, N.H. Decl. ¶ 4; Ex. 6, L.P. Decl. ¶ 9.
[128] *Id.*
[129] OJJ, *Youth Services Policy* (July 11, 2018), https://ojj.la.gov/wp-content/uploads/2018/07/C.4.1.pdf.
[130] *Id.*

"making progress on identified treatment needs."[131] However, OJJ has now refused to release children eligible for furlough in recent months. OJJ has also refused to evaluate furlough eligibility despite many children becoming eligible for release.

c. OJJ's Policies Place Children at a Substantial Risk of Serious Long-Term Mental, Developmental and Emotional Harm

74. In an attempt at physical distancing, the four OJJ secure care facilities have implemented isolation procedures for children who have contracted COVID-19, which, as described above, can lead to long-term psychological harm for children.[132]

75. On information and belief, the Swanson Center for Youth Columbia implemented a revised daily schedule as of April 21, 2020, mandating the children spend 23 hours each day in their dormitory. Approximately five hours each day are devoted to "quiet time (journaling)" in the dormitory. Other children have reported spending 23 hours in their dormitory for the past seven weeks.[133]

76. Regular schooling and developmental programs have been severely curtailed. According to some children, certain dormitories have received several hard-copy worksheet packets. However, officials have not collected the completed packets and children have not received any feedback on their work nor received any update about the status of their future educational programming. One child who receives special education services completed the packets he received in just a few minutes, leaving very little structured time during the remaining isolation period. This child also had not been receiving any of his usual speech and language special education services.

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[131] *Id.*
[132] *See* Blakemore& Mills, *Is Adolescence a Sensitive Period for Sociocultural Processing?*
[133] *See e.g.*, Ex. 6, L.P. Decl. ¶ 9; Ex. 13, W.H. Decl. ¶ 7.

77. Even before the pandemic, OJJ was already severely understaffed at the four OJJ secure care facilities.[134] Due to high turnover and sick leave before the pandemic, OJJ's "relief factor" was 2.1, which means that for every staff member assigned to a scheduled shift, OJJ required approximately two employees to be available to cover that shift.[135] Since March, these numbers have become even more troubling. The number of staff who have contracted COVID-19 has continued to rise.[136] On information and belief, due to staff shortages, probation officers have filled in. According to one probation officer whose normal duties for OJJ include probation and parole, OJJ was forced to supplement staff at three of the four facilities with "community-based staff" who are not properly trained to attend to the children's needs at the secure care facilities, which has led to the use of inappropriate and excessive disciplinary measures such as disciplinary lockdown and pepper spray.[137] Staff shortages combined with these dire conditions have also resulted in desperate runaway attempts, including most recently at Swanson Center for Youth Monroe.[138] Children who reenter the facilities after runaway attempts pose a risk of having been exposed to COVID-19 while outside the secure care facility and transmitting to children and staff.

78. As additional staff fall ill or become subject to quarantine, programming will be further curtailed and mandated staffing ratios needed for basic safety and learning will continue to be jeopardized.

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[134] Ex. 8, Holt Decl. ¶ 6.
[135] *Id.*
[136] *See* State of Louisiana, Office of Juvenile Justice, *OJJ COVID-19 Information*, https://ojj.la.gov/ojj-covid-19-information/ (last visited May 14, 2020).
[137] Emily Lane & Greg LaRose, *"There Was No Control," Says Bridge City Youth Prison Guard About Riot*, WDSU NEWS (April 24, 2020 10:25 AM), https://www.wdsu.com/article/there-was-no-control-says-bridge-city-youth-prison-guard-on-riot/32259043.
[138] *Inmates Escape Swanson Youth Center, 2 Still On The Run*, KNOE NEWS (May 9, 2020 10:42 PM), https://www.knoe.com/content/news/Inmates-escape-Swanson-Youth-Center-2-still-on-the-run-570347141.html.

79. Experts advise that children can best weather the emotional storm of the pandemic by spending time with family and receiving regular and consistent emotional reassurance and support.[139] Regular familial contact mitigates anxiety levels for both children and their families. Children in juvenile justice settings, and especially those subjected to stringent physical distancing rules, will be deprived of this support. The four OJJ secure care facilities have halted regular family and attorney visits. One family member called the facility repeatedly attempting to speak to someone about her child, but did not get a formal update until three days later.

80. Children have reported that there are no procedures for non-COVID-19 healthcare. For example, one child who suffers from recurring ear infections was not permitted to seek care in the infirmary.[140] Other children have not been provided with mental health care during this time.[141]

81. Parents of the children incarcerated in the four OJJ secure care facilities have expressed serious concern for their children's health and wellbeing amid the pandemic. These concerns have been aggravated by OJJ's lack of accountability and transparency.[142]

CLASS ACTION ALLEGATIONS

82. Named Plaintiffs bring this action on behalf of themselves and all others similarly situated, or who may be so situated in the future, to assert the claims alleged in this Complaint on a common basis.

83. A class action is a superior means, and the only practicable means, by which named Plaintiffs-Petitioners and unknown Class Members can challenge Defendants-Respondents' unconstitutional COVID-19 response.

[139] Ex. 8, Holt Decl. ¶ 10.
[140] Ex. 13, W.H. Decl. ¶ 4.
[141] Ex. 6, L.P. Decl. ¶ 6; Ex. 3, N.H. Decl. ¶ 8.
[142] Ex. 8, Holt Decl. ¶ 11.

84. This action is brought and may properly be maintained as a class action pursuant to Rule 23(a)(l)–(4) and Rule 23(b)(2) or 23(b)(1)(A) of the Federal Rules of Civil Procedure.

I. The Plaintiff Class

85. Plaintiffs-Petitioners propose a declaratory and injunctive class defined as: All children who are, or will in the future be, confined at Acadiana Center for Youth in Bunkie; Bridge City Center for Youth; Swanson Center for Youth Columbia; and Swanson Center for Youth Monroe (the "Plaintiff Class"). Plaintiffs-Petitioners seek declaratory and injunctive relief to terminate the ongoing course of conduct on the part of Defendants-Respondents that is creating a substantial risk of serious harm (including death) to class members and is depriving or will deprive class members of their constitutional rights, and to enjoin the policies and practices adopted and implemented by Defendants-Respondents that result or will result in the deprivation of those rights.

II. Rule 23(a) Factors

86. The proposed class satisfies the numerosity, commonality, typicality, and adequacy requirements of Rule 23(a).

a. Numerosity—Fed. R. Civ. P. 23(a)(1)

87. The class is so numerous that joinder of all members is impracticable. As of April 19, 2020, there were approximately 220 children incarcerated in the four OJJ secure care facilities. Defendants-Respondents' policies and practices put everyone in OJJ's custody at risk of contracting and dying of COVID-19 and of receiving inadequate care while in custody.

88. The currently incarcerated Plaintiff Class members are identifiable using records maintained in the ordinary course of business by OJJ.

89. Furthermore, joinder is impracticable because the Plaintiff Class also includes unidentifiable future members.

b. Commonality—Fed. R. Civ. P. 23(a)(2)

90. All members of the proposed Plaintiff Class are or will be subject to the same systemic unconstitutional policies, practices, acts, and omissions on the part of Defendants-Respondents described in this Complaint, and all are or will be at risk of adverse impacts on their physical and mental health resulting therefrom.

91. There are questions of law and fact common to the members of the class.

92. Such common questions of law include, but are not limited to:

- Whether Plaintiffs-Petitioners, and the putative class they seek to represent, are experiencing or will experience conditions of confinement that are so seriously deficient in providing for their basic needs as to constitute punishment, abuse, and neglect rather than rehabilitation and treatment;
- Whether Plaintiffs-Petitioners, and the putative class they seek to represent, face a substantial risk of serious harm under OJJ's COVID-19 response plan (or lack thereof);
- Whether Plaintiffs-Petitioners, and the putative class they seek to represent, face a substantial risk of serious harm due to the COVID-19 pandemic; and
- Whether OJJ's COVID-19 response plan (or lack thereof) amounts to deliberate indifference to Plaintiffs-Petitioners' right and the right of the putative class members they seek to represent to be free from cruel and unusual punishment.

93. Such common questions of fact include, but are not limited to:

- Whether Defendants-Respondents are aware or should have known of the substantial risk of serious harm Plaintiffs-Petitioners face under OJJ's lack of an adequate COVID-19 response plan;
- Whether Defendants-Respondents have taken reasonable measures to abate the substantial risk of serious harm caused by the COVID-19 pandemic for the individuals who are within their custody;
- Whether Defendants-Respondents have promulgated adequate policies to protect against the harms of COVID-19;
- Whether Defendants-Respondents have ensured that OJJ's secure care facilities have sufficient oversight, staffing, and resources to protect people from COVID-19;
- Whether OJJ's COVID-19 response plan (or lack thereof) is consistent with CDC guidelines; and
- Whether Defendants-Respondents have ensured that the conditions in OJJ's juvenile secure care facilities are adequate to accomplish the rehabilitative and treatment purposes of Plaintiffs-Petitioners' confinement.

94. Defendants-Respondents are expected to raise common defenses to these claims, including denying that the conditions of confinement constitute punishment or that they are deliberately indifferent and denying that their actions violate the law.

c. Typicality—Fed. R. Civ. P. 23(a)(3)

95. Plaintiffs-Petitioners' claims are typical of those of the Plaintiff Class, as their claims arise from the same policies, practices, or courses of conduct, and their claims are based on the same theory of law as the class's claims. Named Plaintiffs-Petitioners are all subjected to

the inadequate policies and practices of Defendants-Respondents. Named Plaintiffs-Petitioners and the proposed class they seek to represent have suffered or will suffer injuries or face a substantial risk of serious harm (including death) and will continue to be in this position due to Defendants-Respondents' unlawful and unconstitutional policies and practices.

d. Adequacy—Fed. R. Civ. P. 23(a)(4)

96. Named Plaintiffs-Petitioners are adequate representatives of the Class because their interests in the vindication of the legal claims that they raise are entirely aligned with the interests of the other Class Members, who each have the same basic constitutional claims. They are members of the Class, and their interests coincide with, and are not antagonistic to, those of the other Class Members.

97. There are no known conflicts of interest among Class Members, all of whom have a similar interest in vindicating their constitutional rights.

98. Plaintiffs-Petitioners are represented by attorneys from the Promise of Justice Initiative, Law Office of John Adcock, Juvenile Law Center and O'Melveny & Myers LLP, all of whom who have experience in litigating complex civil rights matters related to incarcerated children and prisoners' rights in federal court and extensive knowledge of both the details of Louisiana's juvenile justice process and the relevant constitutional and statutory law.

99. Class counsel have a detailed understanding of local law and practices as they relate to federal constitutional requirements.

III. Rule 23(b)(2)

100. Class action status is appropriate because Defendants-Respondents have acted or will act in the same unconstitutional manner with respect to all putative Class Members by enforcing the same set of policies and practices that expose Plaintiffs-Petitioners and the putative

Class Members to a substantial risk of serious harm and result in the deprivation of Plaintiffs-Petitioners' and the putative Class Members' constitutional rights.

IV. Rule 23(b)(1)(A)

101. Class action status is appropriate because Defendants-Respondents have acted or will act in the same unconstitutional manner with respect to all putative Class Members by enforcing the same set of policies and practices that expose Plaintiffs-Petitioners and the putative Class Members to a substantial risk of serious harm and result in the deprivation of Plaintiffs-Petitioners' and the putative Class Members' constitutional rights. There is therefore a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class.

102. The Class therefore seeks declaratory and injunctive relief to enjoin Defendants-Respondents from exposing Plaintiffs-Petitioners and the putative Class members to a substantial risk of serious harm and depriving them of their constitutional rights in the manner described in this Complaint. Because the putative Class challenges Defendants-Respondents' policies and practices as unconstitutional through declaratory and injunctive relief that would apply the same relief to every Class Member, Rule 23(b)(1)(a) certification is appropriate and necessary.

103. Injunctive relief compelling Defendants-Respondents to respect Plaintiffs-Petitioners' constitutional rights will similarly impact all the parties. Therefore, declaratory and injunctive relief with respect to the Class as a whole is appropriate.

CLAIMS FOR RELIEF

I. 42 U.S.C. § 1983 Unlawful Conditions of Confinement and Deprivation of Due Process (Fourteenth Amendment)

104. Plaintiffs-Petitioners repeat and re-allege the preceding paragraphs as if fully set forth in this Count.

105. The conditions of Plaintiffs-Petitioners' confinement violate their substantive due process rights arising from the Fourteenth Amendment, as described in this Complaint.

106. Named Plaintiffs-Petitioners and the putative class they seek to represent face a substantial risk of serious harm (including death) from the policies, actions and inactions of Defendants-Respondents in response the COVID-19 pandemic.

107. Defendants-Respondents have failed to take reasonable measures to abate that risk for children incarcerated in the four OJJ secure care facilities.

108. As a result, Plaintiffs-Petitioners have been deprived and continue to be deprived by the Defendants-Respondents of their rights under the Fourteenth Amendment to reasonably safe living conditions and to rehabilitative treatment.

109. Plaintiffs-Petitioners are held in OJJ custody for purposes and in furtherance of rehabilitation and treatment, not for retribution or punishment.[143]

110. The conditions of Plaintiffs-Petitioners' confinement are so seriously deficient in providing for their basic needs as to constitute punishment rather than rehabilitation or treatment, in violation of their right to substantive due process arising from the Fourteenth Amendment.

111. Defendants-Respondents have drastically reduced or suspended the rehabilitative and treatment programs to which Plaintiffs-Petitioners are entitled upon their adjudication and commitment to OJJ custody, including therapeutic services, education, social activities, and recreation.

112. As a result, Plaintiffs-Petitioners have been deprived and continue to be deprived of their rights under the Fourteenth Amendment to rehabilitation and treatment services.

[143] *See supra* n.17.

113. Plaintiffs-Petitioners and the putative Class Members have no plain, adequate, or complete remedy at law to address any of the constitutional violations described herein.

114. Plaintiffs-Petitioners, on their own behalf and on behalf of the putative Class Members, seek injunctive and declaratory relief against all Defendants-Respondents to prevent the continued violation of their constitutional rights as detailed herein.

II. 42 U.S.C. § 1983 Unlawful Conditions of Confinement (Eighth Amendment)

115. Plaintiffs-Petitioners repeat and re-allege the preceding paragraphs as if fully set forth in this Count.

116. The conditions of Plaintiffs-Petitioners' confinement violate their right to be free from cruel and unusual punishment arising from the Eighth Amendment, as described in this Complaint.

117. The COVID-19 pandemic creates a substantial risk of serious harm (including death) to Plaintiffs-Petitioners from the policies, actions and inactions of Defendants-Respondents in response the COVID-19 pandemic—a risk of which Defendants-Respondents are well aware—and the Eighth Amendment requires that Defendants-Respondents take reasonable measures to abate that risk for the individuals who are within the State's custody.

118. Defendants-Respondents have failed to take reasonable measures to abate that risk for children incarcerated in the four OJJ secure care facilities.

119. Defendants-Respondents knew or should have known of the substantial risk of harm that COVID-19 poses to Plaintiffs-Petitioners, and further knew or should have known of the particular risks of severe illness and possible death that Plaintiffs-Petitioners face as a result of the inherently congregate and unclean living conditions of incarceration. Despite this knowledge, Defendants-Respondents have failed to take reasonable measures to mitigate these dangers.

120. Plaintiffs-Petitioners and the putative Class Members have no plain, adequate, or complete remedy at law to address the constitutional violations described herein.

121. Plaintiffs-Petitioners, on their own behalf and on behalf of the putative Class Members, seek injunctive and declaratory relief against all Defendants-Respondents to prevent the continued violation of their constitutional rights as detailed herein.

PRAYER FOR RELIEF

Wherefore, Plaintiffs-Petitioners, on behalf of themselves and the putative class they seek to represent, request that this Court enter judgment in their favor and against Defendants-Respondents and prescribe the following relief:

a) Certification of this case as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2) or 23(b)(1)(A), and appointing the undersigned as Class Counsel;

b) Injunctive and declaratory relief ordering that Defendants-Respondents' policies and practices concerning COVID-19, in their totality, violate the Fourteenth Amendment to the United States Constitution;

c) An order and judgment declaring that Defendants-Respondents' policies and practices concerning COVID-19, in their totality, violate the Eighth Amendment to the United States Constitution;

d) An order and judgment declaring that the conditions, acts, omissions, policies, and practices described above are in violation of the rights of Plaintiffs-Petitioners, and the rights of the Plaintiff Class they seek to represent, under the Fourteenth Amendment to the United States Constitution;

e) An order and judgment declaring that the conditions, acts, omissions, policies, and practices described above are in violation of the rights of Plaintiffs-Petitioners,

and the rights of the Plaintiff Class they seek to represent, under the Eighth Amendment to the United States Constitution;

f) A preliminary injunction enjoining Defendants-Respondents, their subordinates, agents, employees, representatives, contractors, and all others acting or purporting to act in concert with them or on their behalf from subjecting Plaintiffs-Petitioners and the putative class members to the illegal and unconstitutional conditions, acts, omissions, policies, and practices set forth above;

g) A preliminary injunction ordering Defendants-Respondents to immediately conduct a review of all children currently held in the four OJJ secure care facilities, and ordering their release if feasible. The populations of children most likely to be released through this process should include those who meet the "presumptively eligible for release" standard, including (1) all class members who have contracted COVID-19; (2) all class members who have a pre-existing medical condition that the United States Centers for Disease Control ("CDC") has determined puts them at significantly higher risk of contracting COVID-19 and developing complications, including death; (3) all class members currently eligible for furloughs in accordance with OJJ's policies; and (4) all class members who can be safely returned to their communities, including children with 180 days or fewer remaining on their sentence;

h) A preliminary injunction ordering Defendants-Respondents to develop and implement, within 48 hours, a plan to eliminate the substantial risk of serious harm that Plaintiffs-Petitioners and all members of the putative class, including, at a minimum:

- That Defendants-Respondents promulgate and implement adequate policies and procedures related to COVID-19 that comply with the CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities. These policies and procedures must ensure adequate staffing; resources; quality assurance; surveillance; auditing; data tracking; coordination with local, state, and federal health officials; education; clinical guidance; and training;
- That each COVID-19 patient in OJJ custody is evaluated by a medical professional;
- That Defendants-Respondents conduct testing for all children in the four OJJ secure care facilities, not only the few individuals who display obvious symptoms, on a regular basis and in accordance with CDC guidelines;
- That Defendants-Respondents eliminate or reduce to the greatest extent possible the transportation of children between the four OJJ secure care facilities;
- That Defendants-Respondents eliminate or reduce to the greatest extent possible the transportation of children from non-secure to secure facilities;
- That Defendants-Respondents assess and issue guidance to the relevant individuals at the four OJJ secure care facilities regarding the conditions of confinement in the four OJJ secure care facilities consistent with the CDC's social distancing guidelines;

- That Defendants-Respondents implement temperature checks and appropriate personal protective equipment for all individuals entering the four OJJ secure care facilities;
- That Defendants-Respondents suspend the use of solitary confinement and dorm confinement as a means of medical isolation;
- That Defendants-Respondents provide Plaintiffs-Petitioners with at least five hours per day of free and regular access to phones and video visitation with family and attorneys;
- That Defendants-Respondents provide Plaintiffs-Petitioners with online (or through other adaptive strategies) educational and therapeutic services and opportunities and physical activity and recreation;
- That Defendants-Respondents issue immediate guidance preventing staff from using inappropriate and excessive disciplinary measures, including pepper spray; and

i) A preliminary injunction ordering Defendants-Respondents to collect and publish, on an ongoing basis and separately for each secure care facility, the following information necessary to monitor Defendants-Respondents' efforts to remedy the unlawful acts, omissions, conditions, and practices described in this Complaint:

- The number of children tested and the number of children with positive test results for COVID-19 in each facility;
- The number of facility personnel tested and the number of facility personnel with positive test results for COVID-19 in each facility;

- The procedures used in the four OJJ secure care facilities for testing children and facility personnel;
- The number of children who have been considered for release under the process described in subsection (e) of this prayer for relief, and the disposition and basis for Defendants-Respondents' decision for each child reviewed, including whether the child was actually released; and

j) Retain jurisdiction of this case until Defendants-Respondents have fully complied with the orders of this Court, and there is a reasonable assurance that Defendants-Respondents will continue to comply in the future absent continuing jurisdiction;

k) An order and judgment granting reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and

l) Any other relief this Court deems proper.

Respectfully submitted this 14th day of May, 2020.

/s/ Mercedes Montagnes

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Attorneys for Plaintiffs

**Pro hac vice* to be submitted

JS 44 (Rev. 09/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B.

(b) County of Residence of First Listed Plaintiff Orleans
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Mercedes Montagnes, Promise of Justice Initiative, 1024 Elysian Fields Avenue, New Orleans, LA 70117, (504) 529-5955 (see attachment for full list)

DEFENDANTS

Edwards, John Bel, et al. (see attachment for full list)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ❒ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ❒ 2 U.S. Government Defendant
- ❒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

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- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ☒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
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PROPERTY RIGHTS
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- ❒ 830 Patent
- ❒ 835 Patent - Abbreviated New Drug Application
- ❒ 840 Trademark

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- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 376 Qui Tam (31 USC 3729(a))
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit (15 USC 1681 or 1692)
- ❒ 485 Telephone Consumer Protection Act
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Remanded from Appellate Court ❒ 4 Reinstated or Reopened ❒ 5 Transferred from Another District *(specify)* ❒ 6 Multidistrict Litigation - Transfer ❒ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
42 U.S.C. § 1983

Brief description of cause:
14th Amendment and 8th Amendment Deliberate Indifference to Serious Risk of Harm

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:

JURY DEMAND: ❒ Yes ❒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
05/14/2020

SIGNATURE OF ATTORNEY OF RECORD
/s/ Mercedes Montagnes

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

CIVIL COVER SHEET ADDENDUM

I(a) DEFENDANTS

JOHN BEL EDWARDS, In His Official Capacity As Governor Of Louisiana; THE LOUISIANA OFFICE OF JUVENILE JUSTICE; EDWARD DUSTIN BICKHAM, In His Official Capacity As Interim Deputy Secretary Of The Louisiana Office Of Juvenile Justice; JAMES WOODS, In His Official Capacity As The Director Of The Acadiana Center For Youth; SHANNON MATTHEWS, In Her Official Capacity As The Director Of The Bridge City Center For Youth; SHAWN HERBERT, In Her Official Capacity As The Director Of The Swanson Center For Youth At Monroe; and RODNEY WARD, In His Official Capacity As The Deputy Director Of The Swanson Center For Youth At Columbia

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**Pro hac vice* to be submitted

EXHIBIT 1

DECLARATION OF DR. JULIE DEAUN GRAVES

I, Dr. Julie DeAun Graves, declare as follows:

1. My name is Julie DeAun Graves. I am a physician licensed to practice medicine in the states of Alabama, Florida, Maryland, Missouri, New Jersey, South Carolina, Texas, Virginia, Wisconsin, and in the District of Columbia. I am currently working in family medicine and public health private practice as the Associate Director of Clinical Services at Nurx. I have been certified by the American Board of Family Medicine since 1989.

2. I am a public health physician, previously serving as Regional Medical Director for the Texas Department of State Health Services for the Houston region, as Medical Services Coordinator for the Texas Department of Aging and Disability Services, and as a medical consultant to the Texas Medical Board. I managed the H1N1 influenza outbreak for the Texas State Supported Living Centers and oversaw public health efforts for the Houston region (population seven million) for Ebola virus, Zika virus, West Nile virus, highly pathogenic avian influenza, tuberculosis outbreaks, and natural disasters.

3. I obtained my medical degree and completed a surgical internship then family medicine residency at the University of Texas Southwestern Medical School in Dallas, Texas, then completed a fellowship in faculty development at the McLennan County Medical Education and Research Foundation in Waco, Texas. I earned a Master's degree in Public Health and a Doctor of Philosophy in Management, Policy, and Statistics at the University of Texas School of Public Health. I have practiced family medicine and public health since 1989, and in 2018-

2019 I was Associate Professor and Vice-Chair for Education at Georgetown University School of Medicine. At Nurx I care for patients seeking contraception, HIV (human immunodeficiency virus) prevention, sexually transmitted infection diagnosis and treatment, cervical cancer screening, and coronavirus (SARS-CoV-2, the virus that causes COVID-19) testing and treatment. I am a former member of the Public Health Committee of the Texas Medical Association and a former member of the Executive Board and current Governing Councilor of the American Public Health Association.

COVID-19

4. COVID-19 is an illness caused by the SARS-CoV-2 virus, which is a novel coronavirus that was first detected in humans during the outbreak (now a pandemic) we are experiencing now. The Centers for Disease Control and Prevention reports that as of May 12, 2020 at 4:00pm there were 1,342,594 cases reported in the United States, with cases reported in every state, and 80,820 reported deaths so far. See www.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6.

5. The United States is in the midst of the pandemic, and because there has been insufficient testing for cases, the reported cases numbers are lower than actual cases. There is a high probability that there are many more infected individuals in the population. The spread of the virus is faster and more dangerous when people are in close quarters. People with health conditions such as diabetes, asthma, emphysema, heart disease, kidney disease, pregnancy, diabetes, cancer, HIV, and autoimmune diseases such as lupus and rheumatoid arthritis are at higher risk for severe illness, complications, and death from COVID-

19. The ratio of cases of COVID-19 to deaths from this illness is much higher than for other contagious diseases such as influenza. The SARS-CoV-2 virus damages the lung tissue, which means that even those who recover need prolonged medical care and rehabilitation. They are likely to have permanent disability from loss of lung capacity. The heart itself can be infected, and kidneys and the nervous system can also be impacted and damaged permanently.

6. While people over age 60 have higher death rates, severe cases of illness and deaths are reported in people of all ages, including children. While children make up a minority of COVID-19 patients hospitalized, children have died from COVID-19 and have also experienced serious medical complications that required ventilators and extended hospitalization. Most recently, new cases of Pediatric Multi-System Inflammatory Syndrome, thought to be associated with exposure to COVID-19, have emerged, including at least 93 cases in New York as well as additional cases across the United States and Europe. The syndrome, which appears in young people from birth to age 18, can progress to serious disease, including blood pressure instability, toxic shock and heart failure and has resulted in fatalities in children.

7. Children with pre-existing medical conditions such as asthma and diabetes are at heighted risk for serious complications from COVID. Children in the justice system are particularly at risk because of their high rates of unmet medical needs. The Survey of Youth in Residential Placement, the most comprehensive examination of the health needs of confined youth, reported that 69% of confined youth have an unmet health care need including injury, vision problems, hearing problems, dental needs, or other illness. High rates of childhood trauma among

justice-involved youth also lead to heightened health risks in this population.

8. There is no vaccine and no treatment for COVID-19. We only have prevention as a tool to stop the pandemic. If people remain in congregate settings, most of them plus the staff who work with them will become infected, and many will die or have permanent disability. COVID-19 is transmitted from person to person by breathing in expired air that contains the droplets an infected person has coughed or the virus they have shed, or by touching a surface with the virus on it, unless there is full personal protective equipment: mask, gloves, gown, plus thorough hand washing before putting on the equipment and after removing it. The only way to avoid transmission is for people to distance themselves at least six feet from others (commonly referred to as "social distancing" or "physical distancing"). People should not be in large buildings full of many people, and people must practice frequent and thorough hand washing with adequate soap and water. If we do not implement these two steps – physical distancing and hand washing – the pandemic will only continue to spread and the number of deaths will continue to increase.

9. There is a national shortage of COVID-19 tests. Medical providers cannot test everyone who they believe should be tested, and so are presuming that people with a certain set of symptoms are positive. This is an appropriate and common situation with new infectious diseases and is a widely recognized strategy in public health disease control. Individuals and communities should not rely solely on the criteria of a positive COVID-19 test to implement precautions or quarantine symptomatic persons. A public health response requiring

widespread preventive measure of physical distancing and appropriate hand washing is our only tool to slow the spread of the virus.

10. There is no question that requiring children to remain detained in congregate care facilities is more dangerous than the travel required to release children to their homes. While there is level of risk in traveling at this time, the risk of exposure in congregate care environments is much higher. All of the risks of exposure during travel – such as persons coming within six feet and transmitting the virus through respiratory droplets – also apply to congregate care environments, because multiple staff members are constantly entering and exiting the facility and there is potential for them to expose children to the virus. These children are at risk every single time a staff member or visitor walks into the facility – because any one of them could be an asymptomatic carrier of COVID-19. Even if juvenile and criminal justice facilities faithfully adhere to screening protocols to minimize the risk of transmission, there is still the risk that a staff member is an asymptomatic carrier. Children will be significantly safer in a home environment, where they can truly avoid public spaces and practice appropriate social distancing. For this reason, the American Academy of Pediatrics has recommended that juvenile justice agencies release youth who can be safely cared for in their home communities and that new admissions to juvenile detention facilities be reduced.

11. Many facilities are quarantining youth who exhibit coughing, fever, or difficulty breathing. This response is too late – if a child is not quarantined when there is an initial exposure, then there is much higher likelihood that the virus spreads around the facility, especially

when everyone is in such close contact and social distancing is not possible.

CDC COVID-19 Guidance for Correctional and Detention Facilities

12. I have reviewed the CDC "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities" (CDC Detention Facility Guidance) issued March 23, 2020, https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html. The CDC Detention Facility Guidance highlights many ways in which people in detention facilities and congregate environments are at a higher risk of contracting COVID-19.

13. The CDC Detention Facility Guidance acknowledges that "(i)ncarcerated/detained persons live, work, eat, study, and recreate within congregate environments, heightening the potential for COVID-19 to spread once introduced." Further, it states that "(t)here are many opportunities for COVID-19 to be introduced into a correctional or detention facility, including daily staff ingress and egress; transfer of incarcerated/detained persons between facilities and systems, to court appearances, and to outside medical visits; and visits from family, legal representatives, and other community members."

14. The CDC Detention Facility Guidance instructs facilities to "implement social distancing strategies to increase the physical space between incarcerated/detained persons (ideally six feet between all individuals, regardless of the presence of symptoms," but acknowledges that "not all strategies will be feasible in all facilities." Social distancing does not work when it is only followed part of the time. The CDC's "Interim U.S. Guidance for Risk Assessment and Public Health

Management of Healthcare Personnel with Potential Exposure in a Healthcare Setting to Patients with Coronavirus Disease (COVID-19)" issued on March 7, 2020 states that "(d)ata are insufficient to precisely define the duration of time that constitutes a prolonged exposure. However, until more is known about transmission risks, it is reasonable to consider an exposure greater than a few minutes as a prolonged exposure. Brief interactions are less likely to result in transmission; however, clinical symptoms of the patient and type of interaction (e.g., did the patient cough directly into the face of the HCP) remain important" and "(e)xamples of brief interactions include: briefly entering the patient room without having direct contact with the patient or their secretions/excretions, brief conversation at a triage desk with a patient who was not wearing a facemask." Repeated interactions, even brief, that occur throughout the day in these facilities, are each an independent opportunity for transmission of infection. Because it is not known whether people who have recovered from infection develop immunity to subsequent infections with COVID-19, and because transmission may occur when the infected person has no symptoms, each interaction between a staff member and a detainee and each interaction between two individual detainees or two individual staff members is an independent opportunity with the same risk of infection. The risks are additive with each interaction.

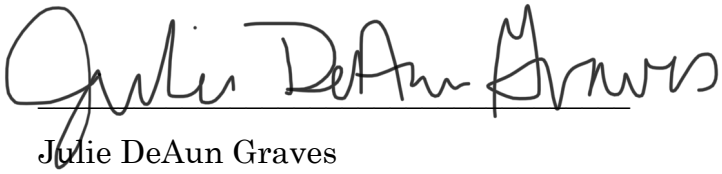
15. The CDC Detention Facility Guidance states that "The ability of incarcerated/detained persons to exercise disease prevention measures (e.g., frequent hand washing) may be limited and is determined by the supplies provided in the facility and by security considerations." Facilities are instructed to provide no-cost access to liquid soap (or bar soap), running water, and hand drying supplies.

16. Detention facilities are instructed to "(o)ffer the seasonal influenza vaccine to all incarcerated/detained persons (existing population and new intakes) and staff throughout the influenza seasons." Preventing influenza cases in these facilities can speed the detection of COVID-19 cases and reduce pressure on healthcare resources.

17. Even if all of the recommendations made in the CDC Detention Facility Guidance are followed, the conditions of detention are such that children in detention and correctional settings would still be at high risk of contracting COVID-19. Because this virus is transmitted through droplets, through the air, and on surfaces, and because people who do not have symptoms but are infected transmit the virus to others, even one infected person in a facility, either a detainee or a staff member, can infect the majority of people in the facility. This is worsened by the crowded conditions in the facilities.

18. If we are to contain the spread of the COVID-19 virus, we must relocate as many people as possible out of congregate settings. If we prevent people from practicing adequate physical distancing from others and the other steps outlined above, institutional centers will become clusters in which high percentages of persons are infected with COVID-19. Such clusters not only endanger those who are immediately infected, but the health of those residing in the communities in which congregate facilities are located.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 12, 2020 in North Bay Village, Florida.



Julie DeAun Graves

EXHIBIT 2

DECLARATION OF ANNE MARIE AMBROSE, PHYLLIS BECKER, SUSAN BURKE, GLADYS CARRION, PATRICK MCCARTHY, DAVID MUHAMMAD, MARC SCHINDLER, AND VINCENT SCHIRALDI

We declare as follows:

1. We are former leaders of youth justice agencies in multiple states across the country. As members of the Steering Committee for Youth Correctional Leaders for Justice (YCLJ), we serve as a resource to the youth corrections field, engaging in an array of technical assistance, guidance, research and policy activities in order to advance reform. In March, YCLJ issued *Recommendations for Youth Justice Systems During the COVID-19 Emergency* signed on to by 32 current and former youth correctional administrators throughout the country recommending measures youth justice systems could take to avoid the inadvertent spread of the coronavirus into and out from youth correctional facilities.[1]

2. Anne Marie Ambrose is the Managing Director for the Technical Assistance Unit for Systems Improvement at Casey Family Programs. She was previously the Commissioner of Human Services for the City of Philadelphia with responsibility for child welfare and juvenile justice, and Bureau Director for child welfare and juvenile justice for the Commonwealth of Pennsylvania's Department of Public Welfare.

3. Phyllis Becker is the former director of the Missouri Division of Youth Services.

4. Susan Burke is the former director of the Utah Division of Juvenile Justice Services.

5. Gladys Carrión is a Senior Fellow with the Columbia University Justice Lab and is the co-chair of Youth Correctional Leaders for Justice. She was previously Commissioner of New York City's Administration for Children's Services with responsibility for child welfare and juvenile justice, and the Commissioner of the New York State's Office of Children and Family Services with responsibility for child welfare and juvenile justice.

[1] Retrieved on 3/30/20 from https://yclj.org/covid19statement.

6. Patrick McCarthy is a Stoneleigh Fellow and Research Scholar with the Columbia University Justice Lab, former director of the Delaware Division of Youth Rehabilitative Services and former President and CEO of the Annie E. Casey Foundation.

7. David Muhammad is the Executive Director of the National Institute for Criminal Justice Reform, he is the former Chief Probation Officer of Alameda County (in California) and the former Deputy Commissioner of the New York City Department of Probation.

8. Marc Schindler is Executive Director of the Justice Policy Institute and former interim director of Washington, D.C.'s Department of Youth Rehabilitation Services.

9. Vincent Schiraldi is co-director of the Columbia University Justice Lab, co-chair of Youth Correctional Leaders for Justice, former director of Washington, D.C.'s Department of Youth Rehabilitation Services, and former Commissioner of New York City Probation.

10. COVID-19 is a serious, highly contagious disease that is particularly likely to spread in juvenile detention and correctional settings. According to the most recently available information, COVID-19 cases have been confirmed for over 200 incarcerated individuals and over 100 facility staff members in adult and juvenile correctional settings across the United States.[2] Incarcerated individuals have reported confirmed cases of COVID or COVID-like symptoms in 25 states.[3]

11. Worldwide, catastrophic COVID-19 outbreaks have already occurred. Data released on February 29 showed that almost half (233 out of 565) of new infection cases out of Wuhan, China were inmates in the city's prison system.[4] Iran recently released 54,000 prisoners to address the pandemic.[5] The spread of the disease on cruise ships, churches, nursing

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[2] Ned Parker et al., *Spread of Coronavirus accelerates in U.S. Prisons and Jails* (March 28, 2020), *available at* https://www.reuters.com/article/us-health-coronavirus-usa-inmates-insigh/spread-of-coronavirus-accelerates-in-us-jails-and-prisons-idUSKBN21F0TM.

[3] COVID Behind Bars https//www.google.com/maps/d/u/0/viewer?mid=1cAMo2yrrmxupUZ_IJVBuuZO4UizfVxm8&ll=40.09352283139395%2C-86.87937406451238&z=4.

[4] ZI Yang, *Cracks in the System: COVID-19 in Chinese Prisons,* The Diplomat (March 9, 2020).

[5] BBC News, *Coronavirus: Iran temporarily frees 54,000 prisoners to combat spread* https://www.bbc.com/news/world-middle-east-51723398 (March 3, 2020).

homes and in malls further highlights the dangers of keeping multiple people enclosed in a confined space.

12. Louisiana has the highest number of known cases in any juvenile correctional system in the country.

13. Youth in juvenile justice facilities, including detention centers, correctional placements, group homes, and private facilities, live, eat, learn, and spend almost all of their time in close contact with each other. These facilities are, in many respects, designed for exactly the opposite of the physical distancing measures required by this pandemic. A myriad of living arrangements can be found in youth justice facilities, from single cells or rooms to double celling or bunking to large dorm-type sleeping arrangements, with a dozen or more youth sleeping in one large room in close quarters. Facilities generally include shared bathroom and showering facilities, dining facilities, and day rooms. During the day, youth are mostly "locked out" of their cells or rooms, forcing them into congregate environments. Programs and education, necessary for rehabilitation and the safe and secure operation of such facilities, almost always occur in groups and in spaces that rarely allow for distancing. Of course, in facilities in which youth sleep in dormitory settings, they are almost constantly congregated with one another.

14. Youth justice facilities do not have the capacity to ensure the hygiene and sanitizing necessary to protect from the spread of COVID-19. In many cases, youth do not even have regular access to soap and water that would allow them to wash hands when they sneeze, cough, prepare to eat, touch an object, or go from one room to another. Youth typically do not have access to hand sanitizer. Ventilation is often inadequate. And the facilities are not staffed sufficiently to ensure that all surfaces will be regularly cleaned and disinfected.

15. Youth justice facilities typically lack the medical staffing, and often the physical capacity, to hold young people in a safe medical quarantine. Relying on nearby hospitals risks overwhelming local, often rural, health systems; failure to properly treat infected youth risks facility-wide exposure.

16. Youth in the justice system tend to be less healthy than their peers. They have more gaps in Medicaid enrollment and higher rates of asthma and

other medical vulnerabilities[6] that can increase the severity of COVID-19.[7]

17. Failing to release youth and properly address the justice system's role in the spread of and exposure to COVID-19 will disparately impact Black, Latino, and Indigenous youth. Research consistently shows racial disparities in rates of incarceration. For example, in 2017, Black and native youth were incarcerated at 5.8 and 2.5 times the rate of white youth.[8] In 2015, Latino youth were 1.7 times more likely to be incarcerated than white youth.[9] Research has shown that these disparities reflect differential treatment from our justice system rather than differing youth behaviors.[10]

18. Youth correctional facilities are often short-staffed and generally staffed in shifts, with program, educational, health/mental health, and custody staff frequently rotating through these facilities three times a day, seven days a week. Like youth, these staff will have a very difficult time maintaining physical distance from the youth, risking carrying the virus into, or out from, the facility from their home communities.

19. Once they, their families and youth in the facilities begin to fall ill or test positive, staff will likely begin calling in sick, either because they or their family members are ill, or because they fear contracting the virus in a

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[6] Matthew C. Aalsma et al., Preventive Care Use Among Justice-Involved and Non–Justice-Involved Youth, Pediatrics (November, 2017).

[7] Centers for Disease Control, *What to Know About Asthma and COVID-19,* https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/asthma.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fspecific-groups%2Fasthma.html.

[8] Sickmund, Melissa, T. J. Sladky, W. Kang, and Charles Puzzanchera, Easy Access to the Census of Juveniles in Residential Placement, Bureau of Justice Statistics. Washington, DC: U.S. Department of Justice (2019), *available at* https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/State_Facility_Operation.asp?state=59&topic=State_Facility_Operation&year=2017&percent=rate; Puzzanchaera, Charles, Sladky, A., and Kang, W., "Easy Access to Juvenile Populations: 1990-2018." Office of Juvenile Justice and Delinquency Prevention. Washington, DC: U.S. Department of Justice (2019), available at https://www.ojjdp.gov/ojstatbb/ezapop/asp/profile_selection.asp.

[9] The Sentencing Project, *Still Increase in Disparities in Juvenile Justice,* 2017 *available at* https://www.sentencingproject.org/news/still-increase-racial-disparities-juvenile-justice/.

[10] Pope, Carl E., Rick Lovell, and Heidi M. Hsia. *Disproportionate Minority Confinement: A Review of the Research Literature from 1989 Through 2001.* Juvenile Justice Clearinghouse/National Criminal Justice Reference Service. Rockville, MD: Office of Juvenile Justice and Delinquency Prevention (2002), *available at* https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=198428.

closed setting. Staff will not only be required to quarantine themselves in the event of exposure, but the exposure or contagion of family members may also impede them from continuing to work. This could also exacerbate staff turnover and make staff recruitment more difficult. This, in turn, can thin already stretched staffing complements and endanger remaining youth and staff. These staffing issues are already plaguing Louisiana's facilities. Illness among staff has resulted in the agency reassigning probation and parole officers to address vacancies. Staff report that they are not being paid overtime, are working in unsanitary conditions, and are concerned for their own health and safety as well as that of the youth who are incarcerated.

20. Combined, these staff disruptions will inevitably lead to diminished programming for youth, including education or special education, individual or group counseling and other rehabilitative programs. Reduced programming will likely lead to increased depression and frustration of residents. It may also lead to behavior problems in the facility, resulting in decreased safety for both youth and staff. It is not surprising, given the staffing disruptions, that there have been a number of disturbances and escapes in Louisiana's juvenile justice facilities lately, as well as incidents of pepper spray being used on children, a practice that is growing increasingly rare in youth facilities around the country.

21. In attempting to comply with physical distancing recommendations to prevent the spread of COVID-19, OJJ facilities are instead relying on isolation of individual youth. Youth are confined to their dorms 23 hours a day – which has been shown to have negative consequences – with little to no programming or activities and limited virtual contact with their families. Withdrawing visitation, reducing or eliminating programs, reducing staffing complements and increasing isolation may dramatically increase the risk that youth will self-harm and is associated with risks lasting into adulthood, including poorer overall general health and increased incidence of suicide.[11]

22. Given the physical and staffing constraints of youth justice facilities, the only appropriate way for states to respond to the COVID-19 pandemic is to close intake to detention and placement facilities for all but the most

[11] Casiano, H, Katz, LY, Globerman, D, Sareen, J. (2013). Suicide and deliberate self-injurious behavior in juvenile correctional facilities: A review. Journal of Canadian Child and Adolescent Psychiatry, 22(2), 118–124.

serious offending youth and release as many youth as safely possible back to their homes.

23. This approach is widely supported. The Office of Juvenile Justice and Delinquency Prevention notes that during a pandemic, facilities should be ready to adjust intake and discharge, which could include admitting "only juveniles who present the greatest danger to the community or who are at highest risk of escaping from the jurisdiction of the local detention center during the pandemic. Another measure might be to accept no admissions during the disease outbreak." [12] The National Governor's Association and the Council of Juvenile Justice Administrators have similarly highlighted the importance of reducing admissions and releasing youth from juvenile facilities during this pandemic.[13]

24. Youth systems should quickly develop and implement individualized transition and aftercare plans for those currently in confinement; and policymakers should augment resources for community programming and access to health care to assure that releases are carried out in a safe manner. Families must be provided the necessary financial resources to meet the basic needs of their child, including adequate housing, food, access to educational supports, and health care.

25. Shifting youth from placement to home is possible, practical, and can be done safely. In New York City and Washington D.C., the vast majority of youth were safely moved out of incarceration and into community programs while ensuring public safety.[14] This is true throughout the country; in the overwhelming majority of states, youth incarceration has declined by double-digits. Nationally, from 1997-2017, there has been a 59 percent decline in youth incarceration during which time youth crime has continued to plummet nationally by 71 percent. Because youth

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[12] U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Emergency Planning for Juvenile Justice Residential Facilities (2011), p. 32 *available at* https://www.ncjrs.gov/pdffiles1/ojjdp/234936.pdf.

[13] National Governors Association, Memorandum on COVID-19 Responses in the Juvenile Justice System (March 30, 2020). https://www.nga.org/wp-content/uploads/2020/04/Memorandum_COVID-19-Responses-in-the-Juvenile-Justice-System.pdf; Council of Juvenile Justice Administrators, COVID-19 Practice, Policy & Emergency Protocols in State Juvenile Facilities (May 2020).

[14] Center for Children's Law and Policy, Implementing New York's Close to Home Initiative: A New Model for Youth Justice (2018) available at http://www.cclp.org/wp-content/uploads/2018/02/Close-to-Home-Implementation-Report-Final.pdf; Liz Ryan and Marc Schinder, Notorious to Notable: the Crucial Role of the Philanthropic Community in Transforming the Juvenile Justice System in Washington, D.C, https://www.yumpu.com/en/document/read/41029454/notorious-to-notable.

incarceration actually makes youth behavior worse, prioritizing community-based solutions whenever possible is not only medically appropriate, but also better for community safety.[15]

26. Reducing population to address the COVID crisis is not unprecedented nationally. Maryland's highest court recently issued an order directing lower courts to consider the health risks posed by confining youth and encouraging the lower courts to use detention and confinement only to address safety concerns. This led to the release of over 200 young people, or a third of their population. Colorado Governor Jared Polis issued an executive order in early May giving the Department of Human Services authority to release young people without parole board review, and urged them to review all but the most serious cases for release. Michigan Governor Gretchen Whitmer similarly issued an executive order strongly encouraging release wherever possible and discouraging confinement for technical violations of parole. Detention numbers around the country have declined significantly since the pandemic reached the United States.[16] The only population reduction effort for Louisiana's juvenile prisons that has been reported was the possibility of extended furloughs for seven youth, out of an incarcerated population of more than 200.

For those youth who cannot be safely released back to the community, every effort must be made to ensure that youth and staff inside facilities stay safe and healthy. To that end, facilities must fully comply with all guidance currently being issued by public health officials, including maintaining social distance, increased handwashing, and frequent disinfecting and sanitization of common areas. Additionally, facilities must support youth during this unprecedented time by providing access to technology to facilitate communications with their families and loved ones, as well as distance learning and other activities aimed at supporting rehabilitation. Youth should have regular access to health and mental health care while in custody during this pandemic period to ensure they can get needed medications and support in a timely manner. Finally, under no circumstances should the current pandemic justify the use of punitive measures, such as room confinement or isolation.

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[15] Anna Aizer, Joseph J. Doyle, Jr., Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges , *The Quarterly Journal of Economics*, Volume 130, Issue 2, May 2015, Pages 759–803, https://doi.org/10.1093/qje/qjv003.

[16] Annie E. Casey Foundation, At Onset of the COVID-19 Pandemic, Dramatic and Rapid Reductions in Youth Detention (April 23, 2020), https://www.aecf.org/blog/at-onset-of-the-covid-19-pandemic-dramatic-and-rapid-reductions-in-youth-de/.

We declare under penalty of perjury that the foregoing is true and correct.

Executed on May 8, 2020,

Anne Marie Ambrose
Phyllis Becker
Susan Burke
Gladys Carrion
Patrick McCarthy
David Muhammad
Marc Schindler
Vincent Schiraldi

EXHIBIT 3

DECLARATION OF N.H

I, N.H., declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My initials are N.H.
2. I am at least 18 years of age and am competent to make this declaration.
3. My son J.H. is seventeen and is being held at Acadiana Center for Youth. He has been there for about three weeks. He was previously housed at Bridge City Center for Youth. I don't know if or when they plan on transferring him back.
4. Even though children and staff at Bridge City and at ACY have tested positive for COVID-19, my son has never been tested. He is housed with 11 others in a dorm and is not able to maintain social distancing. He does not have a mask or any other PPE or any cleaning materials. He doesn't have appropriate hygiene materials. One time when I was talking to him on the phone, he had one of his t-shirts wrapped around his face. I don't know if there is any process for reintroducing "recovered" children back into the general population after they have COVID-19. The staff are coming back and forth into the facility and my son is scared of getting sick. I am worried about my son's safety and well-being.
5. As a result of understaffing, my son has been subjected to inappropriate and excessive levels of discipline, putting him and all the other children at risk of harm. At both Bridge City and ACY, he was pepper sprayed by probation officers on multiple occasions. OJJ staff do not use pepper spray and do not use it in the facilities, but the probation officers do. Under the therapeutic model used by OJJ, they are not supposed by pepper spraying children.
6. After the incident at Bridge City, my son was pepper sprayed and everyone in his dorm was transported to ACY. They did not test the children for COVID-19 before transferring them to ACY.

7. At ACY, my son was trying to hold back a boy who was getting in trouble with a probation officer for having a game or something like that. The officer pepper sprayed the boy, that boy had a seizure, and my son held the boy during the progression of the seizure. The child fainted and as my son was laying the child down, the probation officer then pepper sprayed my son. He has also been pepper sprayed on one other occasion by probation officers at ACY.
8. My son has underlying medical and mental health conditions, including ADHD and PTSD. He hasn't had any access to therapy or his counselor.
9. I have had trouble accessing my child during COVID-19. There is no family visitation. I have not seen my son in three months. I have had one Zoom meeting with him. I have to pay for any phone calls that I am able to have with him. My son is smart but needs guidance, leadership, and love, which he is not being provided.
10. My son no longer has any access to education or other programming. He was working towards his high school diploma. The facility is not abiding by his Individualized Education Plan. The facilities are inadequate to be able to abide by his Individualized Education Plan.
11. I have spoken with staff at Bridge City, ACY, and OJJ to make my concerns known. I have emailed and called them. I have written letters to the regional managers at OJJ.
12. I would like my son to either be released early or come home to on furlough until all COVID-19 is absent from the facility and there is a vaccine. There is no reason for him to be detained right now. He is not receiving any educational or rehabilitative services. My ability to parent him is being impeded by the fact that he is in a facility and away from me. I can keep him safe at home until it is safe for him to return to his facility.
13. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist

with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.

14. I seek only declaratory and injunctive relief on behalf of the class. I am not seeking monetary damages, and I understand this civil case will not result in the dismissal of any criminal proceedings against my son or others.
15. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
16. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar
Nishi Kumar on behalf of N.H.
May 11, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant N.H. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on her behalf with her express consent.
3. I spoke with N.H. over the phone. She has confirmed that I can sign on her behalf as reflected in her declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on May 11, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

May 11, 2020

EXHIBIT 4

DECLARATION OF DR. SUSI VASSALLO CONCERNING THE RISK OF COVID-19 IN THE LOUISIANA STATE PRISON AT ANGOLA

1. I am a board-certified emergency room physician and medical toxicologist. I practice as an attending physician in the emergency room of Bellevue Hospital, a large urban emergency department in New York City, and have practiced at various sites in Texas for many years. I am a Clinical Professor of Emergency Medicine at the New York University School of Medicine. I am certified as a correctional health professional by NCCHC and have evaluated correctional health care systems in nine states. I evaluated the Louisiana State Prison at Angola ("Angola") for The Promise of Justice Initiative in 2016 (and also conducted records review in 2018). I have also been retained by the Department of Homeland Security to review medical care delivery at its detention facilities, and the Fifth Circuit and other courts have relied on my reports.

2. Coronavirus disease of 2019 (COVID-19) is a viral pandemic. This is a novel virus for which there is no established curative medical treatment and no vaccine. Severe pneumonia is one of the serious consequences of COVID-19 and the lungs become filled with fluid. I have had patients tell me "I can't do this anymore" as they realize they can no longer keep up the work of breathing and require life saving interventions.

3. The U.S. Centers for Disease Control (CDC) estimates that the reproduction rate of the virus, the R0, is 3.8-8.9-3.8, meaning that each newly infected person is estimated to infect on average 5.7 additional persons.[1] This is highly infectious and only the great influenza pandemic of 1918 is thought to have higher infectivity. This is likely a function of all human populations currently being highly susceptible. The attack rate given an exposure is also high, estimated at 20-30% depending on community conditions, but may be as high as 80% in some settings and populations. The incubation period is thought to be 2-14 days, which is why isolation is generally 14 days.[2] The long incubation period is particularly concerning for transmission rates given that so many people are asymptomatic and infectious.

4. The number of cases of COVID-19 in the United States are rising rapidly. On April 13, 2020, Johns Hopkins reported that there were 572,587 reported COVID-19 infections in the U.S. The number of deaths is over 23,000 but both cases and deaths are rising rapidly so by the time this declaration is read the numbers of both cases and deaths will be significantly larger. The number of cases of COVID-19 is the highest number of reported cases of any country in the world.

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[1] CDC, Emerging Infectious Diseases, High Contagiousness and Rapid Spread of Severe Acute Respiratory Syndrome Coronatvirus 2 (April 7, 2020), https://wwwnc.cdc.gov/eid/article/26/7/20-0282_article

[2] The Incubation Period of Coronavirus Disease 2019 (COVID-19) From Publicly Reported Confirmed Cases: Estimation and Application (March 10, 2020), https://annals.org/aim/fullarticle/2762808/incubation-period-coronavirus-disease-2019-covid-19-from-publicly-reported

5. Louisiana has a rapidly accelerating rate of COVID-19 infections. A study from the University of Louisiana at Lafayette reported that COVID-19 cases grew at a 67.8% rate, the highest rate in the U.S.[3] The Louisiana Department of Health reported on April 13, 2020 that there were 21,016 cases of COVID-19 with 884 deaths. Louisiana has the third most deaths per capita of any state in the U.S.

6. UpToDate reports an overall case mortality rate from the disease of 2.3. Louisiana has 884 deaths for 21,016 cases; more than 4.2% of persons diagnosed with the infection in Louisiana die.

7. The symptoms of COVID-19 present variably from fever, cough, chest pain, and headache to symptoms of loss of smell, diarrhea, aches, and vomiting.[4] At present, there are no markers identified nor signs or symptoms that would predict clinical deterioration. In at least one study, half of the patients admitted to the intensive care unit for COVID died on the first day.[5] However, COVID patients may also present insidiously and it is impossible to predict the course of the illness, who will do well, and who will not. It is my experience treating patients in the emergency departments of NYU Langone Health and Bellevue Hospital Center that patients are not always aware of the degree of hypoxia (lack of oxygen) present in their bodies. Unlike the more common experience of holding one's breath for as long as possible and then gasping for breath, these patients teeter on the edge of death with no gasping for breath or feeling their need for oxygen. This has been shocking to us working in Emergency Departments. Immediately upon arrival to the hospital, life-saving measures may be required. In some cases the patients code (suffer cardiac arrest) precipitously. In other experiences, some patients have adequate oxygen saturations for days and then deteriorate. To wit, the Prime Minister of England Boris Johnson was able to stay at home for 12 days before he was transferred to the hospital intensive care unit. In some cases, corrections staff and medical staff on the frontline may not be alarmed by a patient's complaint or appearance. This is not a predictable illness with a predictable course. There is no lab test that predicts the patient's course. In fact, the laboratory tests for COVID may give inaccurate results. Fifteen percent of patients who are tested for COVID have a false negative, meaning they do indeed have COVID but the test is negative. Given the lack of tell-tale signs or a timeline for subsequent deterioration, it is absolutely critical and necessary that patients who test positive or likely positive (known as person under investigation) for COVID-19 or have been exposed and show symptoms, be within easy transportable distance of hospitals in the event that more critical care is necessary. The care required to

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[3] Coronavirus cases grew faster in Louisiana than anywhere else in the world: UL study, The Acadiana Advocate, Adam Daigle March 24, 2020, https://www.theadvocate.com/acadiana/news/coronavirus/article_94494420-6d4b-11ea-ac42-ff7dd722c084.html.

[4] Breaking News: Update on Evaluation and Management for COVID-19 Patients – Updated 4/7/20, Emergency Medicine News (March 31, 2020), https://journals.lww.com/em-news/blog/breakingnews/pages/post.aspx?PostID=508.

[5] Covid-19 in Critically Ill Patients in the Seattle Region — Case Series, The New England Journal of Medicine (March 30, 2020), https://www.nejm.org/doi/pdf/10.1056/NEJMoa2004500?articleTools=true

appropriately evaluate and provide treatment to patients with COVID includes lab testing, imaging, and treatment individualized to the presentation of the patient. This may range from oxygen therapy by nasal cannula, or high flow oxygen, continuous positive pressure masks; to intubation of the trachea and ventilator assistance. These are difficulty decisions influenced by not only the level of oxygen in the blood to the all important work of breathing. This viral infection is showing a serious predisposition to hypercoaguopathy and patients have pulmonary emboli (blood clots in the lungs) necessitating anticoaguation. Some patients' clinical course are complicated by superimposed bacterial infections of the lungs. Fluid therapy is complicated by dehydration due to fever and decreased fluid intake due to illness and the need to restrict the willy-nilly administration of IV fluids as the lungs are damaged by the virus and the attempts to oxygenated using positive pressure. Camp J is located in a remote prison that is lacking in these capabilities and technologies and is at least an hour from a facility that could provide them.

8. During this pandemic, patients with COVID often present with cough or fever or both. However, there are enormous numbers of patients with other symptoms and no cough and or fever. In one study of critically ill patients, only 88% presented with cough and only 50% had a fever.[6] In this pandemic, fatigue alone, sore throats, body aches, ear aches, or congestion frequently prove to be COVID. Abdominal pain with or without fever and cough is COVID. Back pain is COVID, with or without fever or cough. In fact most of our trauma patients at Bellevue, appendicitis and any other problem are found to have COVID. Diarrhea is COVID. Rash may be COVID and can be mistaken for other illnesses. Because the ACE2 receptors are on the intestines and the lungs, diarrhea is a common presentation. Screening for cough and or fever is inadequate to exclude the possibility of infection from COVID. Moreover, many patients are asymptomatic and are infectious to others.

9. Although advanced age and underlying illnesses or chronic medical conditions increase the risk of serious effects of COVID, the relatively young and healthy are also in the intensive care units and die. While fatalities have been highest for older patients, increasing evidence in the US has shown the dire risk that COVID-19 poses to younger patients. Young patients ages 20-54 years old can have serious complications from COVID-19 including hospital admission, admission to an intensive care unit, invasive ventilation, or death. As of late March 2020, 38% of those individuals hospitalized in the US were between 20-54 years old.[7] Of those admitted to the ICU, 12% were aged 20-44 years and 36% were age 45-64 years. These statistics highlight the significant risk younger people are at for serious complications due to coronavirus. A few days ago, at the hospital where I work, there were 482 patients in isolation and 209 patients on ventilators. Almost 50% of the COVID positive patients are less than 65 years old. 13 patients are on extracorporeal membrane oxygenation, 10 are on

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[6] Covid-19 in Critically Ill Patients in the Seattle Region — Case Series, The New England Journal of Medicine (March 30, 2020), https://www.nejm.org/doi/full/10.1056/NEJMoa2004500

[7] John Hopkins Medicine, Coronavirus and COVID-19: Younger Adults Are at Risk, Too, https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-and-covid-19-younger-adults-are-at-risk-too (accessed April 9, 2020).

continuous venovenous dialysis. Autopsy studies are demonstrating widespread tissue destruction due to the COVID virus. The numbers show that all types of people – healthy and unhealthy, young and old – are impacted by this virus, and we are learning more each day.

10. Those incarcerated in U.S. jails and prisons make up 2.2 million people of our U.S. population.[8] This population is one the most vulnerable in society, with high rates of coinfection with hepatitis C, HIV, and tuberculosis (TB). More specifically, the World Health Organization has identified the level of TB in prisons to be 100 times higher than that of the civilian population, due to the hazardous combination of overcrowding, poor ventilation, and inadequate treatment and diagnosis.[9] The transmission of COVID-19 in prisons can easily be likened to the transmission of TB, where "social distancing" practices are impossible with inmates living in close quarters and the lack of available measures to ensure proper handwashing, hygiene, and sanitation. What's more, half of this vulnerable population of incarcerated individuals have at least one comorbid condition, increasing the risk of poor outcomes for those who also contract COVID-19. COVID-19 is likely to rampantly spread within jails and prisons given its droplet aerosol transmission that is stable for hours and can even last on cardboard and metal surfaces for hours per the National Institutes of Health.[10] This has been the experience at the Cook County Jail, which now has the highest outbreak numbers in the country.[11]

11. The Department of Corrections plan is to allow for the transfer of detained individuals - including people who have not been convicted of a crime - from the state's over 100 numerous jails and prisons to Camp J at Angola. It is my opinion that transferring detainees who test positive for COVID from jails around the state to Camp J is a medically unsound plan and contrary to public health guidelines for multiple reasons. First, it is against the recommendation of the Louisiana Department of Health.[12] The State Health Officer, Jimmy Guidry, issued recommendations to prisons and juvenile detention centers on April 8, 2020. In it he states that correctional and detention centers should "have a trained Emergency Medical Service/Emergency Medical Technician (EMS/EMT) assess and transport anyone you think might have COVID--19 to a healthcare facility." Camp J is not a healthcare facility and the DOC plan goes against this guidance.[13] This plan is also against the guidance

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[8] Flattening the Curve for Incarcerated Populations — Covid-19 in Jails and Prisons, The New England Journal of Medicine (April 2, 2020), https://www.nejm.org/doi/full/10.1056/NEJMp2005687?query=featured_coronavirus

[9] World Health Organization, *Tuberculosis in Prisons*, https://www.who.int/tb/areas-of-work/population-groups/prisons-facts/en/ (accessed April 9, 2020).

[10] National Institutes of Health, New coronavirus stable for hours on surfaces (March 17, 2020), https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces

[11] Chicago's Jail is Top U.S. Hot Spot as Virus Spreads Behind Bars, New York Times (April 8, 2020), https://www.nytimes.com/2020/04/08/us/coronavirus-cook-county-jail-chicago.html

[12] Louisiana Department of Health, Office of Public Health, COVID-19; recommendations regarding prisons and juvenile detention centers (April 8, 2020).

[13] Without any explanation, these recommendations were rescinded on April 9, 2020.

of the CDC, which recommends that all transfers of incarcerated and detained people are suspended, unless necessary for medical evaluation, medical isolation/quarantine, care, extenuating security concerns, or to prevent overcrowding.[14] Each facility should be able to provide isolation and quarantine services on-site. If not, release or repurposing of other unused spaces (dorms, hotels) is preferable to transfer. Even if up-to-date medical records are sent along with people who are transported to Angola, there is no indication that Angola is in a position to provide newly transferred detainees with any prescribed medications for underlying medical conditions, such as hypertension and diabetes; conditions that render patients vulnerable to severe COVID symptoms. The process of transporting COVID positive cases to a parish like West Feliciana with relatively fewer cases increases the risk of spread throughout that parish and the surrounding communities. Angola has a particularly vulnerable population with over 50% of people over 50 years of age, many of whom have high risk medical conditions and are vulnerable to serious medical complications if infected. Medical and custody staff are also at risk if they come into contact with infected transferred detainees and are likely to spread infection to the uninfected and vulnerable Angola population, no matter what measures are purportedly taken to isolate Camp J. Angola had insufficient staff when we reviewed in 2016 and there is no reason to believe they have seriously increased their staffing numbers since. Introduction of COVID-19 into the system will result in the existing Angola patients not having their substantial medical needs met.

12. The Department of Corrections has said that only people who have tested positive but are not displaying serious symptoms and who are not in medical distress are supposed to be sent to Camp J. There is no information or medical criteria on how to identify patients as meeting that definition. In fact, at this time, there is no way to define who will do well and who will do poorly. And nothing is said about what will happen if and when the medical conditions of those people deteriorate and medical intervention and hospitalization becomes necessary. As the other two medical experts in *Lewis v. Cain* and I noted in our review of care at Angola, the people incarcerated there lack access to hospital care across the board and this pandemic will only make it worse. Angola is remote from hospitals. The closest emergency room of any kind is at least 30 minutes away and it does not have a ventilator, and the space at that hospital is otherwise limited. The closest emergency room that can provide adequate services is in Baton Rouge, more than an hour away. Louisiana's hospitals are already overwhelmed by COVID-19 cases, and transporting more people who have tested positive to a remote location with already-limited hospital beds puts those people at unnecessary risk. For example, people held in the East Baton Rouge Parish Prison who test positive are being transported more than an hour away to Camp J, putting staff who are transporting them at increased risk of transmission. And then transporting them back to Baton Rouge or New Orleans when they require hospitalization. People who test positive in the New Orleans jail could be taken three hours away to Camp J and then be transported to Baton Rouge or New Orleans when they require hospitalization. Angola is not set up to manage hospital level care including ventilation. Housing a COVID-19 patient on the

[14] CDC, Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html

infirmary where the most vulnerable, uninfected, medically compromised patients are housed all the patients and staff at risk.

13. Additionally, the quality of care at Angola was substandard in 2016 when we produced a report of our investigation and again in 2018 based on selected record reviews. Physicians were not credentialed appropriately and did not provide medical care in line with national standards. While reviewing records, we noted many examples of failure to recognize indications for hospitalization, including many cases of failure to recognize typical signs of respiratory decompensation which is critical for COVID-19 patients. There were delays in transfer of patients to a hospital when indicated. Physicians, nurses, and EMTs failed to recognize "red flag" signs resulting in adverse events.

14. From our review, we also found that medical care was substandard in other ways that would impact the care that the positive transported detainees and any COVID-19 positive Angola inmates would be provided, either at Camp J or at the infirmary. For example, laboratory services are only available on weekdays and blood gas assessments are not available at all.

15. The Director of the CDC has warned that as many as 25% of individuals infected with COVID-19 may be symptom-free, leading to the broadening of their criteria as to who should wear masks.[15] With limiting testing performed on asymptomatic patients, we cannot confirm or negate the presence of COVID-19 in an individual. As such, incarcerated individuals and staff can be infected with the virus and unknowingly spread it throughout the already overcrowded prison. We further cannot determine whether patients will abruptly need escalated medical care requiring hospitalization. One precautionary measure that must be taken is that people who are COVID positive are not transferred to Camp J, which is more than an hour from the closest hospital able to provide appropriate medical intervention.

16. Patients with severe COVID-19 symptoms may require critical specialists even if not in the intensive care unit; ICU-level supplies and specialized treatment, including but not limited to invasive mechanical ventilation, vasopressor treatment for low blood pressure, intravenous fluid therapy, support for kidney failure, respiratory therapists, and/or early antibiotics.[16] High flow oxygen administered in a hospital is tricky; continuous positive pressure ventilation is tricky; the need for a ventilator is unpredictable except at the point of respiratory arrest. Treatment requires staff that have experience in using this equipment. The intensity of care and the protracted length of this care with this illness can not be provided at Angola or at any of the hospitals within an hour from Angola. What's more, highly specific airborne precautions with N95 respirators, face shields, and gowns for personal protective equipment are critical to prevent spread of the virus. On a national level,

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[15] Infected but Feeling Fine: The Unwitting Coronavirus Spreaders, New York Times (March 31, 2020), https://www.nytimes.com/2020/03/31/health/coronavirus-asymptomatic-transmission.html

[16] Care for Critically Ill Patients with COVID-19, JAMA Insights (March 11, 2020), https://jamanetwork.com/journals/jama/fullarticle/2762996

these supplies and highly advanced and expensive equipment of ventilators are limited across the country. Angola is lacking in these capabilities and is not an appropriate site to manage patients with COVID-19

17. In my experience in New York City and from what I know is happening in the rest of the country, there are not enough resources to battle the COVID pandemic in the big cities, much less in rural areas like West Feliciana Parish that only have two ambulances as of my last review. Even without the influx of positive detained transferees to Angola, West Feliciana would be strained for resources like ambulances and ambulance personnel. Ambulance personnel are being infected daily and they transmit the infection widely. Transporting many COVID positive people to the parish will further strain what is already a strained system, at increased risk to both those patients and the surrounding community.

18. Anyone who comes into proximity to someone who is tested positive for COVID is at increased risk of infection. COVID-19 is a highly contagious respiratory virus that spreads through droplets created when an infected person coughs, sneezes or speaks. Normal breathing can spread the virus. The virus can also be transmitted through saliva or discharge from the nose. While the droplets generated by infected people only hang in the air for a short period of time, they can easily be breathed in by people within one meter of a person with COVID-19. Furthermore, the droplets generated will contaminate the surfaces they land on resulting in transmission of the virus if someone touches a contaminated surface and then touches their eyes, nose or mouth before washing their hands. In the close-quarters setting of a vehicle this means that even one infected person could easily spread the virus to everyone else in the vehicle. Additionally, reduced airflow in a transport vehicle could result in higher concentrations of contaminated droplets remaining in the air and on surfaces. Transport should be avoided unless necessary for hospitalization and then only having to travel a short distance to the hospital is the safest option. Staff at Angola may contract the virus as a result of its high infectivity and then spread the virus amongst the West Feliciana community. There are only 46 confirmed cases in West Feliciana as of April 12, 2020. The high concentration of infected persons at Angola would increase the likelihood of the virus spreading to West Feliciana community members via infected Angola medical and custodial staff who are exposed to those viral loads.

19. Many studies have shown the increased risk for serious complications in patients infected with COVID-19 that also suffer from comorbidities. Those comorbidities include common health problems like hypertension and diabetes, among others. Many people in jails and prisons have multiple comorbidities and are at an even higher risk of complications. The complications include development of serious illness such as acute respiratory distress syndrome (ARDS) requiring admission to an intensive care unit, invasive ventilation or death. Studies found that COPD, diabetes, hypertension, cancer, and the presence of multiple comorbidities resulted in the highest increased risk of the above mentioned serious complications.[17] This puts the most vulnerable patient populations, including people in jails

[17] Comorbidity and its impact on 1590 patients with Covid-19 in China: A Nationwide Analysis, European Respiratory Journal (March 26, 2020), https://doi.org/10.1183/13993003.00547-2020

and prisons with chronic health problems, at increased risk for severe medical complications or death from COVID-19. If transferred to Camp J, transferred detainees – particularly those who had only been incarcerated for short periods of time and not sufficiently evaluated by medical staff – may also have difficulties or delays in getting any of their regular prescribed medications for conditions such as hypertension and diabetes, even if they are transported to Angola with their medical records.

20. COVID-19 can result in serious complications leading to death where people feel the same pain as if they were drowning because their lungs are so filled with fluid. In cases where people are suffering from life-limiting illness due to COVID-19 it is imperative that they have access to palliative care. Palliative care is a crucial part of any health care plan to ensure that patients do not suffer needlessly and that in the case of life-limiting illness the treatments needed to relieve suffering are available.[18] Furthermore, a robust supply of medicines, equipment and trained medical professionals is required to appropriately treat and manage patients with COVID-19. The DOC plan (provision of Tylenol, Motrin, NS for IV flush, Imodium, and Insulin) is insufficient as a response to the needs of COVID-19 positive patients. The provision of morphine or other end-of-life drugs is crucial to manage pain and symptoms and to allow for a humane death. The pandemic has resulted in widespread shortages of the pharmaceuticals needed to treat COVID patients.

My recommendations for the DOC to mitigate the spread of the coronavirus among Louisiana's incarcerated population are:

1. Transfer people who test *negative* for COVID-19 to Angola to free up space in the remaining DOC facilities so that the non-Angola incarcerated populations will be able to practice social distancing and will have space to provide appropriate quarantine and isolation areas for those who test positive or may be positive.

2. House COVID-19 patients in locations where they can reach a hospital—one that is equipped to treat severe COVID-19 symptoms—quickly. The illness progresses quickly and unpredictably; patients' symptoms can worsen very suddenly, so it is not safe for them to be housed far from a hospital. To move COVID-19 patients farther from health care is anathema to the care of these patients. The emphasis must be on these patients being housed near to the care they need.

3. Protect the current Angola population—many of whom are elderly and chronically ill and therefore at greater risk of developing severe or deadly COVID-19 symptoms—from an increased risk of infection by not transferring any confirmed COVID-19 patients to Camp J or any other part of Angola.

4. Increase the chances of survival for COVID-19 patients by not transferring them to Angola, which is located in a parish where there are no ventilators. No one can predict whether a COVID-19 patient's symptoms will progress to the point of respiratory distress such that

[18] The Role of Palliative Care in a COVID-19 Pandemic, Shiley Institute for Palliative Care, https://csupalliativecare.org/palliative-care-and-covid-19/ (accessed April 9, 2020).

the patient will require a ventilator; patients can deteriorate very rapidly. If a patient tests positive for COVID-19, that patient is at risk of requiring a ventilator and should not be housed in a location where there are none.

5. Involve the Department of Health in the development of any transport plans for medical isolation needs and follow the Department's initially guidance and advice as well as the CDC's guidance regarding transport.

6. Prepare for a widespread outbreak by streamlining medical power of authority.

7. Prepare for a widespread outbreak by developing adequate policies related to palliative care for incarcerated individuals who may die from COVID-19 complications.

8. Reduce the incarcerated population by allowing furlough for anyone who is 60 years of age or older and for anyone who has an underlying medical condition that puts him or her at greater risk of developing a severe case of COVID-19. This will allow incarcerated individuals to practice social distancing throughout the state and free up space for appropriate quarantine and isolation units at individual DOC facilities. All of these measures would reduce the risk of a widespread outbreak among the incarcerated population.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on April 13, 2020 in New York, New York.

/s/ Susi Vassallo

Susi Vassallo

EXHIBIT 5

AFFIDAVIT OF DR. JOSHUA YUKICH

State of Louisiana
Parish of Orleans

BEFORE ME, the undersigned Notary Public, personally came and appeared: **Joshua Yukich**, who after being duly sworn did depose and state the following:

1. I, Dr. Joshua Yukich, earned my doctorate in epidemiology in 2009 and have been working on infectious disease research, policy and prevention for approximately 20 years in varied capacities, including as a laboratory scientist researching immune responses to HIV/AIDS viral infections, and currently as an epidemiologist focused on infectious disease and health decision making. I received a Master's Degree in Public Health from Tulane University in 2005 and a PhD in Epidemiology from the University of Basel in 2009. I have been employed as a faculty member at the Tulane University School of Public Health and Tropical Medicine since 2009. Since that time, I have been engaged in teaching and research on infectious disease prevention and control and epidemiology across a wide range of infectious viral and parasitic diseases. My research covers health care delivery, primary prevention, operations research for large-scale disease prevention programs. I have served, and continue to do so, as a technical expert and advisor to the World Health Organization and to numerous international research projects and organizations. I am also an expert reviewer for the National Institutes of Health - National Institute of Allergy and Infectious Disease and other international health research and public health implementation funders such as the Global Fund for HIV/AIDS/TB and Malaria.

2. I reviewed the Juvenile Justice Intervention Center Coronavirus Action Plan and the Children's Hospital Supplement plan on the third of April, 2020 from the perspective of its suitability, usefulness and likelihood of preventing introduction of SARS-CoV-2 into and transmission of the virus inside the facility and mitigating the health risks to staff and children housed there from COVID-19.

3. The plan contains elements which are appropriate to the response to the community wide transmission of SARS-CoV-2 but is also deficient and misguided in a number of areas. Developing a response plan for a highly transmissible disease such as COVID-19 is challenging in the context of a jail but despite the major challenges there remain a number of areas in which this response plan is still deficient.

4. The main areas of deficiency are:

    a. the procedures detail very little to protect the health or well-being of either the children incarcerated other than expanded handwashing and sanitation of surfaces.

        i. SARS-CoV-2 is likely mainly transmitted by droplet and close contact transmission but may also be transmitted by aerosol over longer and shorter distances and by the fecal-oral route. Respiratory droplets are believed to be the main way in which SARS-CoV-2 is transmitted. Respiratory droplets are larger particles of water with virus inside which can be emitted when a person breaths, speaks, coughs, or sneezes and are of a size that they typically fall to

the ground before the water evaporates. Meaning that to cause infection persons need to come into close range of a person with an infection or to touch surfaces contaminated by the person and then introduce the virus into themselves by touching their face, mouth, eyes, or similar areas. Aerosol transmission is caused when a person emits aerosolized particles during respiration, talking, coughing, or sneezing which are small enough that they do evaporate before falling to the ground and can thus possibly leave infectious virus particles aloft for longer periods. While it is not known if transmission in this fashion occurs commonly with SARS-CoV-2, there are large-scale transmission events documented that are more consistent with aerosolized transmission than other modalities. Finally, fecal-oral transmission occurs when infectious virus is released from an infected person's gastro-intestinal tract. Contaminated material can thus be transferred from these secretions onto hands or surfaces and then onto a second persons hands and eventually to mouth, eyes, or other areas causing infection. While it is not currently known the extent to which each of these potential pathways of transmission contribute to the overall spread of COVID-19 disease and SRA-CoV-2 infection, it is well documented that other coronavirus produce aerosolized infectious particles and that SARS-CoV-2 can be shed in infectious droplets and also in rectal secretions. Rectal shedding of SARS-CoV-2 has been shown to persist for longer durations after recovery from COVID-19 disease than does shedding through respiratory secretions.

ii. The Centers for Disease Control and Prevention (CDC) currently recommends the use of masks including cloth masks by anyone in a public area. The plan makes no mention of use of masks for children or staff other than noting that "N-95 masks will be kept in stock for use by staff as needed" with no clear description of how the supply of such masks will be ensured or when they might be needed. No mention of provision of masks to children held at the facility is mentioned. While it is recognized that the CDC recommendation is new, it is a clear need for all members in these contexts to have access to regularly cleaned and sanitized masks, whether staff or children and whether exposed, infected, or part of the general population.

iii. Social distancing, or the act of maintaining at least a six-foot distance between persons, is not mentioned in the document. No steps to increase the ability of staff or children held at the facility to be able to maintain appropriate distance are discussed. Such steps might include limiting the number of persons eating in a dining area at one time or reducing the numbers of people allowed in showers at a time. The ability to implement social distancing measures would be enhanced by reducing the number of persons in the facility at any given time such as is being implemented in retail shops such as grocery stores across the United States and in the state of Louisiana currently.

iv. The guidance provided to the children on the symptoms of disease is outdated and inaccurate. It is widely recognized that SARS-CoV-2 infections can be transmitted by persons experiencing little or no symptoms, which is not mentioned in this guidance. It also instructs children to seek help through

contacting their primary care providers or through other avenues such as a Louisiana State department hotline or calling 911, none of which would be appropriate or available to children held in the JJIC. The description of symptoms is based on the early beliefs of the clinical spectrum in adults. These are i) outdated and incomplete for adults and ii) inconsistent with what is known about the clinical spectrum of the presentation of disease among children.

b. The Process for intake screening seems inappropriately targeted to irrelevant risk factors especially considering the population likely to be brought into this facility.

i. It is focused on travel and exposure to confirmed cases. Transmission of SARS-CoV-2 is currently widespread in the community in nearly the entirety of the United States and especially intense inside Orleans and Jefferson Parishes of Louisiana. As such, travel history and known exposure are likely of extremely poor usefulness in the assessment of the risk of carrying a SARS-CoV-2 infection at the current time.

ii. It is not clear if the clinical component of this assessment will be administered by a trained health worker or by other untrained staff. There is no part of the form that assesses if the child taken into the facility has a fever or at what level. The form does not specify any manner in which the assessment itself will guide the classification of the child into the categories of isolation quarantined or cleared.

iii. More importantly, there is no evidence that such screening procedures are likely to be either sensitive or specific (meaning that it is unlikely to be able to identify all infected persons and that it will misidentify persons without SARS-CoV-2 infections as potentially infected), and the range of symptoms (or lack thereof) for this disease are wide and non-specific so that symptom based screening is not likely to be an effective way to identify all those infected with SARS-CoV-2 on intake

iv. Screening based only on symptoms is likely to miss a large fraction of already incarcerated children as well given that the infection often manifests with very mild or absence of symptoms in children.

v. SARS-CoV-2 is known to be transmissible from infected individuals who experience no or minimal symptoms. As such only a sensitive screening test and an appropriate waiting period greater than 14 days before introduction to a general population could be expected to make the risk of introduction of infection from the outside community reliably.

vi. While children are at much lower risk of severe disease than adults infected by the SARS-CoV-2 severe disease and death has been documented in children including at least one fatality in Orleans Parish.

5. The plan provides very little protection for staff who are arguably at a much higher risk of severe disease than the children incarcerated in this facility. These staff can also transmit infection between the children or other members of the facility staff or introduce infections from the community or back to the community.

    a. Staff are not mandated to wear masks at all times

    b. It is not clear if staff handling infected isolated children will mix with other staff or other children at the facility.

    c. No plan is in place to support staff social distancing.

    d. While staff are being checked for fever on entry every day it is well known that the disease is transmitted by asymptomatic persons and fever is a symptom which is present in only a fraction of even symptomatic cases.

6. No element of the plan proposes or discusses medical treatment or supportive care or a plan of action in the event of a severe disease episode or even how the staff of the facility would determine if such an event were occurring.

7. It is likely inevitable that SARS-CoV-2 is introduced to the JJIC facility, given the limited availability of testing, the widespread community transmission in Orleans Parish, and the regular movement of children and staff between the community and the facility. Given this fact it is critically important to reduce the likelihood of transmission within the facility, the likelihood of introduction to the facility and the numbers of people exposed to what is potentially a high transmission environment within the facility. Action to reduce the population of the facility and increase the safeguards for reducing transmission inside the facility will be more effective if taken earlier before widespread transmission takes place inside the facility.

I hereby affirm that the foregoing is true and correct to the best of my knowledge.

Executed this 5th day of April, 2020.

Dr. Joshua Yukich, Ph.D., M.P.H.

Sworn and subscribed before me on April 5, 2020 in the Parish of ORLEANS, State of Louisiana.

NOTARY PUBLIC, Attorney at Law. My Commission does not expire.

Lauren E. Godshall
State of Louisiana - Notarial I.D. No. 86828
My commission is issued for life

EXHIBIT 6

DECLARATION OF L.P.

I, L.P., declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My initials are L.P.
2. I am at least 18 years of age and am competent to make this declaration.
3. My son is being held at the Acadiana Center for Youth. His release date is in February 2021. He was previously housed at the Bridge City Center for Youth and then was moved to the Swanson Center for Youth after the riot incident and then the Acadiana Center for Youth about a week ago. When he was moved to Swanson he did not have clothes, shoes, or any of his belongings. They have not brought him any of those things in Acadiana. His possessions are very important to him and them being taken away from him could trigger some of his underlying issues.
4. My son has had to have surgery twice while in OJJ's custody. I know from that experience that they do not provide sufficient medical care. Their follow up with parents on medical diagnoses and treatment is woefully negligent. When my son needed ice after he tore his ACL, he was denied it.
5. My son has underlying medical and mental health conditions, including bipolar disorder, major depressive disorder, ADD, and behavior disorder. Before he was in OJJ custody, he received very active mental health treatment and therapy, including community-based services and medication.
6. My son was supposed to be receiving physical therapy for his ACL injury and hasn't been receiving it. He has requested mental health treatment due to the COVID circumstances and they will not put him on medication. He said he really thought he needed to get back on medication so I reached out to Wellpoint daily and did not get phone calls back. They would not be present at the facility and OJJ staff said they had to reach out to Wellpoint. I was told

he would not get medication because he was non-compliant in the past. I told them that was illegal and ludicrous – people with mental health issues go through periods of non-compliance and that should not prevent them from getting their medicine.

7. My son was at Bridge City when the riot occurred and was transferred to Swanson afterwards. The probation officer used pepper spray on him when he was trying to get a game from another dorm. They had gotten some sort of special permission to use pepper spray on the kids. His skin was burning afterwards. He had to wait two hours after being pepper sprayed to be taken to the infirmary. He did not receive any medical treatment, and was just told to rinse out his eyes.
8. He has not been tested for COVID-19 to my knowledge, although other children at the facility tested positive. He was feeling really sick at one point and requested to be tested since he does not get sick very often. He was told he wasn't eligible for a test and wasn't going to get tested. He knew there were people around him who had tested positive.
9. As far as I know, there is no process for reintroducing "recovered" children to the general population. At Bridge City they were all in the dorm together and locked down 23 hours a day. There is no social distancing being practiced in the dorm. There are no policies around interactions with staff and other children. My son has not gotten a mask or any other protective materials and I don't believe any of the other children have either. I had a mask for him but was not able to send it to him. They haven't gotten any cleaning materials or hand sanitizer. My son is normally very clean and has not received anything to disinfect his living area. I am not allowed to send him those things.
10. There has been a serious decline in correctional staff since COVID-19. I am worried about my son's health and safety. The staff is not listening to the children when they articulate their

needs and they are not being heard. I as a parent cannot advocate for him because nobody returns phone calls.

11. There are no family or attorney visits allowed. The last time I saw my son was around Christmas. I have requested a video conference and finally received one last week after almost two months of requests.
12. All schooling and other developmental training has been suspended. My son was taking college courses online but has not been allowed to do so because of understaffing issues due to COVID. All social activities have been suspended. My son must be bored out of his mind and for children like him with mental health issues being locked in a dorm is very harmful for them.
13. My access to my child and access to information about him and his wellbeing has been impeded. All I have received is a call telling me they were taking him to Swanson and then later taking him to Acadiana.
14. My son has previously been able to come home before for short periods of time. I would like my son to come home to rest and recover on furlough until all COVID-19 is absent from the facility, everyone has been tested, and there is a vaccine. There is no reason for him to be detained right now. He is not receiving any rehabilitative services. My ability to parent him is being impeded by the fact that he is in a facility and away from me. It is the worst feeling for a mom ever. I have always been an advocate for the justice system and doing the right thing and they are punishing and treating my child unfairly.
15. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them

information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of the family members of other individuals detained in Louisiana as long as I am a named plaintiff.

16. I seek only declaratory and injunctive relief on behalf of the subclass. I am not seeking monetary damages, and I understand this civil case will not result in the dismissal of any criminal proceedings against my son or others.
17. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
18. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar
Nishi Kumar on behalf of L.P.
May 12, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant L.P. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on her behalf with her express consent.
3. I spoke with L.P. over the phone. She has confirmed that I can sign on her behalf as reflected in her declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on May 12, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

May 12, 2020

EXHIBIT 7

DECLARATION OF B.B.

I, B.B., declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is B.B.
2. I am at least 18 years of age and am competent to make this declaration.
3. My son J.B. is fifteen and is being held at Acadiana Center for Youth in Bunkie, LA. He had previously been housed at Bridge City Center for Youth in Bridge City, LA. He had been there since December 2019. He was transferred from Bridge City to Acadiana on April 21, 2020, after the riot.
4. Even before COVID-19, my son was being mistreated at Bridge City. He has been abused and had to fight for his food. Another child put him in a chokehold and he fainted. Staff are not watching over the children. They never respond or answer the phone. I have sat on hold for several hours trying to talk to someone. He was pepper sprayed after the riot by a probation officer.
5. I have not seen my son since February 15, 2020 when I had a meet-and-greet at the facility. When I went to see him on February 22, 2020, they would not let me in the facility even though I had taken off from my job in order to go see him. I am very worried about my son and cannot do anything for him because he is so far away.
6. Children and staff at Bridge City have tested positive for COVID-19 and nobody from the facility called me to let me know. My son was housed in a dorm with 11 other children and some of the boys in the dorm tested positive. My son was not tested for COVID-19. He did not get masks or hand sanitizer or any other protective materials or cleaning materials. He is not able to practice social distancing. My son was not instructed to stay away from staff or other children. He is also housed in a dorm in Acadiana with 11 other children.

7. My son was moved after the riot at Bridge City and is now at Acadiana where I cannot visit him. I was only able to talk to him every so often when he was at Bridge City. At Acadiana I have been able two video calls. He hasn't gotten the letter I sent him.
8. He has underlying medical and mental health conditions, including a low immune system. He has not received a COVID-19 test and they have not been taking his temperature.
9. My son is not provided with any educational services or other programming. He hasn't been in school since March. He is sometimes allowed to go outside.
10. I would like my son to come home on furlough until all COVID-19 is absent from the facility and everyone has been tested and there is a vaccine. There is no reason for him to be detained right now. He is not receiving any rehabilitative services. My ability to parent him is being impeded by the fact that he is in a facility and away from me. He has a safe home to come home to.
11. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of the family members of other individuals detained in Louisiana as long as I am a named plaintiff.
12. I seek only declaratory and injunctive relief on behalf of the class. I am not seeking monetary damages, and I understand this civil case will not result in the dismissal of any criminal proceedings against my son or others.

13. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
14. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar
Nishi Kumar on behalf of B.B.
May 12, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant B.B. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on her behalf with her express consent.
3. I spoke with B.B. over the phone. She has confirmed that I can sign on her behalf as reflected in her declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on May 12, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

May 12, 2020

EXHIBIT 8

DECLARATION OF GLENN HOLT

I, Glenn Holt, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I have 26 years of experience in senior level public administration and policy in the juvenile and criminal justice fields. I have worked for the government at the state, county/parish, and city level. I worked for the Louisiana Office of Juvenile Justice in its previous iteration from 2005 to 2009. I was the Director of the Swanson Center for Youth in Monroe from 2005 to 2007 and a Deputy Assistant Secretary of OJJ from 2007 to 2009. I then worked for the City of New Orleans from 2010 to 2016. I went back to work at OJJ in 2016 and was a Deputy Assistant Secretary/Assistant Secretary/Regional Director from 2016 to 2019. I am currently the Deputy Director for the Arkansas Division of Youth Services. I have also worked as a Treatment Manager for the Iowa Department of Corrections and the Director of the Polk County Juvenile Detention Center. I have been certified as a juvenile justice expert before courts in Louisiana. I have testified on behalf of the Iowa Department of Corrections in federal court.

2. I have first-hand knowledge of policy-making procedures at OJJ and the pandemic policy in particular. At OJJ, I have worked with facility directors to institute the Missouri model[1] that was mandated under a federal consent decree. I was responsible for writing policy and procedure at both the facility level and at the OJJ level. When I was Assistant Secretary, I drafted and approved policies and procedures and made edits to existing policies as necessary, including the emergency operations plan and the pandemic policy. I was the point of contact for the Department of Homeland Security. After the last major flu outbreak, I wrote the facility and agency policy for how we would respond to the next type of pandemic outbreak. It has been updated since, but I have reviewed the most recent version dated December 11, 2019,[2] and very little has changed from the version I drafted. In Arkansas, we updated our pandemic policy using the interim guidance specific to correctional facilities from the Centers for Disease Control ("CDC")[3] as well as guidance from the Arkansas Department of Health. We mandated that the companies we contract with that directly run the juvenile facilities update their policies in accordance with our updated policy. It does not appear that OJJ has updated its policies to implement the CDC guidance. For example, the facilities should be asking all staff and children a set of diagnostic questions about general health, including cough, fever, and other COVID-related symptoms on a daily basis. OJJ should be getting reports on all testing numbers from each facility. Any staff that has a temperature of 100 degrees or more should be denied entrance to the facility. If anyone has

[1] The Annie E. Casey Foundation, The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders, (Jan. 1, 2010), https://www.aecf.org/resources/the-missouri-model/
[2] Office of Juvenile Justice, Influenza Preparedness, Response and Recovery A.1.13, (December 11, 2019), *available at* https://ojj.la.gov/wp-content/uploads/2020/01/A.1.13.pdf.
[3] CDC, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities" (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html.

traveled within the last 14 days, they should be denied entrance to the facility. If anyone has had contract with anyone with COVID or who has been suspected to have COVID, they should be denied entrance to the facility. It is OJJ's job to keep all staff and children across all its facilities safe. According to their written policy, OJJ does not require any of these measures.

3. Within the facilities, there should be twice daily temperature checks and general questions (cough, any other symptoms) for every child. If symptomatic at all, the facility should be in contact with the Department of Health and set up a medical assessment. If at all possible, every child that has come into contact with another child or staff member that tests COVID positive should be tested because we know that many people are asymptomatic carriers.[4] I would also test all staff who had been on the unit where the infected person was within the last 2-4 days. In Arkansas, for example, we had a child in a mental health hospital where a youth later tested positive (along with six others). Even though the child in our custody had been transferred out of the hospital 8 days earlier and was at a group home and had no symptoms, we managed to get him tested.

4. None of the four secure care facilities in Louisiana is designed to handle more than three or four children in the infirmary. The infirmaries are all bare minimum, open bay, with three or four beds and staff need to be inside to supervise. Swanson and ACY each have one negative pressure room but you can only put one patient there. There are only one or two nurses (a mix of RNs and LPNs) per shift at each facility. There is not enough PPE to manage an outbreak in any of the facilities based on the nature of COVID, even if they had were stockpiled according to the pandemic policy.

5. For any youth that are at risk because of underlying medical conditions – including hypertension, severe obesity, asthma[5] – in accordance with CDC guidelines I would increase medical surveillance (i.e. take their blood pressure every couple of hours) and make sure their medical management was in place in the instance they test positive for COVID. I would arrange necessary transport to the appropriate hospital for higher level care of treatment if it became necessary.

6. Per its pandemic policy, OJJ should have started with the assumption that the facilities will not be fully staffed and will lose approximately 30-40% of staff due to illness or illness in their family.[6] Because of high turnover and use of sick leave, OJJ's relief factor is almost 2:1, meaning for every guard assigned to a scheduled shift you need approximately two employees available to cover that shift. OJJ was already severely understaffed at all four

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[4] CDC, "Clinical Presentation in Children," https://www.cdc.gov/coronavirus/2019-ncov/hcp/pediatric-hcp.html (last visited May 7, 2020).
[5] CDC, "At Risk for Severe Illness," https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html (last visited May 7, 2020).
[6] Office of Juvenile Justice, Influenza Preparedness, Response and Recovery A.1.13, (December 11, 2019), available at https://ojj.la.gov/wp-content/uploads/2020/01/A.1.13.pdf.

facilities prior to the COVID outbreak.[7] Under normal circumstances, there are two staff per dorm. Staff take children to and from wherever they need to go, including to and from the infirmary and to and from the social worker.

7. It would be highly difficult to ensure social distancing within the dorms if they are used for quarantine or isolation. For example, in the dorms on the second floor of Bridge City Center for Youth, the beds are six feet apart. Therefore, for effective social distancing, you must ensure that the children stay on their beds at all times. The bathrooms are shared and would need to be individually sanitized between uses. It is impossible for staff to stay six feet away from the children and perform their jobs, putting both the staff and children at risk.

8. During this pandemic, we are able to maintain educational services in Arkansas because we use online schooling called Virtual Arkansas. This allows the children to continue to receive individualized educational services and allows those who are on-track to continue to progress timely towards getting their high school diploma or GED, while maintaining social distancing. OJJ should make every effort to keep schedules and programming as normal as possible amidst the pandemic and in compliance with CDC guidelines. Instead, OJJ shut down all their schooling and programming. Children have poor impulse control and get bored very easily. Levels of horseplay become higher and could turn into fights, especially if staff are also bored. You can breed lazy practices and high incidents of physical altercations between kids that is driven more by boredom than anything else. If possible, I would only isolate the dorms that need to be quarantined or isolated and let the other dorms run as normal – you want to maintain normalcy as much as possible with increased sanitation practices. If programming and school are not being provided, there is really no point of holding the children in the facilities.[8]

9. OJJ's first and continued response should have been to shrink the campuses as much as possible to protect children and staff. They should look at getting anyone within 30-45 days of release out early, look at doing furloughs (that are available for up to 30 days),[9] and identify anyone with an upcoming court review. If they had shrunk the size of the campuses, they could have lessened the likelihood of having COVID positive patients in those facilities at all. Now that COVID is inside the facilities, shrinking the campuses minimizes the

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[7] Oversight of Safety in Secure Care Facilities, Performance Audit Services, (June 6, 2018), https://www.lla.la.gov/PublicReports.nsf/64DF5EBB49AE4404862582A40078718D/$FILE/000194C2.pdf ("Staffing challenges, such as high turnover, make it difficult for OJJ to maintain required staff to youth ratios, which affects the overall safety of the facilities.").

[8] Office of Juvenile Justice, "Secure Care Handbook for Parents," (Sept. 13, 2017), *available at* https://ojj.la.gov/wp-content/uploads/2017/09/SecureCareHandbookforParents_13September2017.pdf ("Youth in secure care receive a variety of treatment and rehabilitative services designed to help them learn to make better choices, provide life skills and prepare them for release. OJJ's goal is to help your son learn the life skills needed to become a law-abiding, productive citizen.").

[9] Office of Juvenile Justice, Furlough Process C.4.1, (July 11, 2017), *available at* https://ojj.la.gov/wp-content/uploads/2018/07/C.4.1.pdf

potential spread and the impact on operations. The Governor could instruct OJJ to effect widespread releases in a rational way. Any child who is furlough eligible should be furloughed after making sure the home they would go to does not pose a COVID risk to the child (which can be assessed virtually). If they test every child before they came back to the facility, no home evaluation is necessary. I would also prioritize furloughing any children that are at risk medically if they got COVID – including kids with a history of asthma or who are obese. There are adolescents who have died and their condition can turn very quickly. They need a higher level of medical care than can be provided at any of the facilities. Acadiana is in Bunkie and very far from any advanced life support facility – almost an hour. Swanson Center in Columbia is at least twenty or thirty minutes from a hospital. Shrinking the campus through early releases and furloughs ensures the health of any children and the staff that remain.

10. It is extremely important that family members and children in facilities have high levels of frequent contact right now, preferably visual contact. This manages the level of anxiety and fear on both ends.[10] Children should be allowed to have multiple phone calls a week and it should be switched over to a non-paid phone system. Case managers have direct lines that children can use to reach their family members as well. OJJ should make sure family members and children could have face-to-face video visitation as much as possible. Video conference capabilities already exists at all the facilities and at all the regional offices. OJJ can assist parents in setting up Zoom calls for any parents that have that capability. In Arkansas, we upped installation of TV monitors so that we could use Zoom for visitation and said children and parents can get as many phone calls as they want. I want parents to have connection to their child.

11. Information-sharing and transparency is key during a pandemic and should be built into OJJ's COVID response. Facility directors need to have the authority to answer direct questions from family members about their children and their medical status and what is happening at the facility, subject to any operational concerns. Facility directors should be accessible to parents. We have a responsibility and duty to be transparent with family members during this time and help them maintain their connection to their children.

12. OJJ's response to COVID-19 has put the children in their custody at risk of serious medical complications, including death. One of the most troubling responses is the level of force that is being used by officers – specifically probation officers – against children. For example, the use of pepper spray was immediately removed from the juvenile facilities and the future use

[10] Office of Juvenile Justice, "Secure Care Handbook for Parents," (Sept. 13, 2017), available at https://ojj.la.gov/wp-content/uploads/2017/09/SecureCareHandbookforParents_13September2017.pdf ("Support and visitation by family members are very important to your son's well-being. Your visits can motivate and inspire him to participate in programming and meet the goals of his treatment plan, which may result in an earlier release date. You can make a difference for your son. Your visits show that you care and that he has not been forgotten. While visiting, you will be able to meet with staff to discuss your son.").

of pepper spray prohibited back in 2003 and 2004 and has been prohibited ever since. It is not present in the OJJ disciplinary policy for facilities and there are no guidelines on its use.[11] Pepper spray is being used against children in response to horseplay and fights[12] – it is the first thing that the probation officers that are filling in for regular OJJ staff are using. The probation officers were authorized to carry pepper spray into the facilities by OJJ in an internal memo on March 17, 2020. They have never worked in a facility unless ordered to work in a facility. They have been given no training on how that role is different from supervising people in the community. The use of pepper spray under these circumstances could be lethal. It irritates the wet, mucus things in your body[13] – the wettest being the lungs. If a child who is pepper sprayed is COVID positive and hasn't been tested, you are inhibiting their ability to breath and could kill them. OJJ knows this has become a problem because in another internal memo dated April 27, the Interim Secretary said officers could no longer bring pepper spray into the facilities but that its use is still permitted if needed. Per the threat force continuum, probation officers can also use pressure points and handcuffs. OJJ has no lethal use of force policy for when they can pull their weapons or pepper spray and when it would be appropriate to discharge those weapons. Probation officers are trained to use a higher level of force than the usual OJJ staff. They are going into facilities with access to deadly weapons that they have no policy on how to use in those facilities. Instead of figuring out how to prevent an incident like the riot at Bridge City from happening again, the probation officers are using potentially harmful reactive measures inside the facilities that staff are usually prohibited from using.

13. OJJ uses Safe Crisis Management[14] and the first step is to recognize escalation of activities that could lead to a bad outcome, and then redirect the child in a non-tactical way and then guide with physical hand techniques that restrain movement. Restraint is only to be used when necessary to prevent the imminent threat of physical harm to the child (such as self-mutilation) or to others. You have to get approval verbally from shift supervisor before you move up to a higher level on the use of force continuum.[15] None of the facilities, besides Acadiana, are built for room confinement. The Cypress disciplinary wing at the Swanson Center for Youth at Monroe was shut down in 2005 and turned into a short-term crisis intervention unit. They are currently using it for suicide watch as well as reconstituted it as disciplinary lockdown unit. After the riot, OJJ moved children from Bridge City to Swanson in a bus in order to lock them down without considering the transfer of infection between

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[11] Office of Juvenile Justice, Use of Interventions – Secure Care C.2.6, (August 13, 2018), available at https://ojj.la.gov/wp-content/uploads/2019/08/C.2.6.pdf

[12] "Riots, escapes and pepper spray: Virus hits juvenile centers," 4WWL, (May 3, 2020), available at https://www.wwltv.com/article/news/health/coronavirus/riots-escapes-and-pepper-spray-virus-hits-juvenile-centers/289-e52aa1ea-5680-47eb-a8c5-4c62af60cd4e

[13] National Capital Poison Center, "How Dangerous is Pepper Spray," https://www.poison.org/articles/how-dangerous-is-pepper-spray-201 (last visited May 7, 2020).

[14] Office of Juvenile Justice, Use of Interventions – Secure Care C.2.6, (August 13, 2018), available at https://ojj.la.gov/wp-content/uploads/2019/08/C.2.6.pdf

[15] Office of Juvenile Justice, Use of Interventions – Secure Care C.2.6, (August 13, 2018), available at https://ojj.la.gov/wp-content/uploads/2019/08/C.2.6.pdf

the two facilities and community spread, in accordance with CDC guidelines. The CDC guidelines say transport should only happen if necessary for medical isolation and quarantine, not for disciplinary purposes.[16] If I absolutely had to transfer children in the Arkansas facilities right now in order to ensure their safety and well-being, I would make sure that none of the children were COVID-positive before transferring.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Glenn Holt

May 8, 2020

[16] CDC, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities" (Mar. 23, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html.

EXHIBIT 9

DECLARATION OF A.B.

I, A.B., declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My initials are A.B.
2. I am at least 18 years of age and am competent to make this declaration.
3. My son is seventeen and is being held at the Swanson Center for Youth at Monroe. He has been there for four to five months. His release date is July 27, 2020.
4. A child who had tested positive for COVID-19 had been transferred to Swanson from another facility. My son did not come in contact with that child but he came in contact with a staff member who was coming back and forth between them. He is in Phase Three so he is housed and in contact with the same closed group of children every day (when one of them move, they all move) and he does not come into contact with any children who are newly coming into the facility as Phase One. OJJ should have been monitoring the staff and their symptoms better to prevent my son from getting sick.
5. My son got sick and tested positive for COVID-19 later that week. He was on the phone with me on April 5, 2020, and said he did not feel good and told me about the staff member going back and forth between him and the child who had tested COVID-positive. He told me he was getting off the phone so someone else could use it. He called me back later and said he was feeling cold; a nurse took his temperature while we were on the phone and it was over 100 degrees – I think it was 100.6 degrees. She said she was going to call a doctor but I don't know if my son ever saw a doctor. I tried to call back again that night to tell my son to give other children my number in case he wasn't able to call me and was told that my call to him had to go through the Captain.
6. I was not contacted by anyone at the facility to tell me my son had a fever or tested positive. I had to keep calling up there the next day to try to talk to my son or his case worker and she

would hang up on me or tell me that she didn't know anything. She said he would call me in seven days. She didn't answer the phone after that. I called the infirmary and found out my son was there but they hung up on me twice. On April 7, I called the case worker's supervisor and after three or four times I reached him and told him that I was worried that my son was in danger and that I could not wait a week to talk to him. He called me back and said he had talked to my son and that my son was alright but had tested positive for the virus. I told him I was worried that the boy who used the phone after my son had gotten the virus from him. He said he was worried about that too and they had talked about it in a staff meeting at the facility. I told him they should test everybody in the facility.

7. My son has underlying medical and mental health conditions, including ADHD. He takes some medication, including Adderall.
8. After my son tested positive for COVID-19, they put him in a dirty room at Cypress with no air conditioning. He was in there without water for 2-3 days. There were other children with him who had tested positive for COVID. I wasn't able to talk to him at all during that time. I was panicking worrying about him.
9. He couldn't take a bath or brush his teeth that whole time and was very upset about it. Staff didn't give them any water. The conditions in the room as he described them to me were filthy.
10. My sister recently died of COVID. I am and was very scared for my son's health.
11. After my son's fever broke around April 8 or 9, he was in the room for two more days. He was in that room for a total of about 4 days. Then I think they moved him to another wing with 10 or 11 people who all had the virus. He was moved back to his dorm on or around April 20 or 21, 2020. He has not received any medical treatment. He has not been retested for COVID-19. It is hard for him or anyone else to get any medical attention.

12. As far as I know, there is no process for reintroducing "recovered" children to the general population. They are all in the dorm together. There is no social distancing being practiced in the dorm. One little boy who was moved back to the dorm was still showing symptoms. I am worried that they haven't contacted his mother just like they did not contact me. There are no policies around interactions with staff and other children. My son has not gotten a mask or any other protective materials and I don't believe any of the other children have either. They haven't gotten any cleaning materials.
13. Nobody has called to tell me my son is out of quarantine, has been moved back to the dorm, or that he has recovered. I would never know any of this information if I wasn't able to talk to my son.
14. At first they would not let me son talk to his attorney but he finally got to talk to her. There are no family visits. I have been able to do two video calls. I still have to pay for phone calls with my son. I work at a Chicken Shack and risk my own life going to work six days a week to make money to support my family. My sister and my two best friends both died from COVID and I am scared for my own health.
15. My access to my child and access to information about him has been impeded. Nobody even told me when he had tested positive. I had to keep calling and calling and I was terrified. Even if I couldn't be beside him, I wanted to be able to give him my love and support.
16. My son has filed a grievance at Swanson about what has happened to him since COVID-19 started.
17. My son no longer has any access to education or other programming. He had gotten his GPA to the point where he was almost going to be able to get into the twelfth grade and that was making him have a whole different attitude. He is supposed to come home in July

and wanted to finish school and get his last credits. I don't think he has been able to access mental healthcare and counseling. There are no social activities.

18. I would like my son to either be released early or come home to rest and recover on furlough until all COVID-19 is absent from the facility and everyone has been tested. There is no reason for him to be detained right now. He is not receiving any educational or rehabilitative services. My ability to parent him is being impeded by the fact that he is in a facility and away from me.

19. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.

20. I seek only declaratory and injunctive relief on behalf of the class. I am not seeking monetary damages, and I understand this civil case will not result in the dismissal of any criminal proceedings against my son or others.

21. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.

22. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of A.B.

May 10, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant A.B. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on her behalf with her express consent.
3. I spoke with A.B. over the phone. She has confirmed that I can sign on her behalf as reflected in her declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on May 10, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

May 10, 2020

EXHIBIT 10

YOUTH CORRECTIONAL LEADERS FOR JUSTICE

COLUMBIA UNIVERSITY | JUSTICE LAB

Hon. John Bel Edwards
Governor
State of Louisiana
PO Box 94004
Baton Rouge, LA 70804

April 28, 2020

Dear Governor Edwards,

As an organization comprised of current and former youth correctional administrators, Youth Correctional Leaders for Justice (YCLJ) is working to mitigate the risk that incarcerated youth will contract or spread COVID-19. Many of us remember that one of your first acts after being elected was to join youth on the state capitol steps as they advocated for a Raise the Age bill. Yet media reports have led us to grow concerned about safety in Louisiana's juvenile prisons. We respectfully request that you use the power of your office to expand furloughs, eliminate incarceration of any youth for technical violations, release all youth who have been free of serious incidents and can safely be cared for in their home, expand the availability of post-release community supports, and improve conditions within facilities. On behalf of our YCLJ steering committee, we write to you in hope, because we believe that you understand that one of your most important duties as governor is to safeguard vulnerable youth.

On March 19, YCLJ published a set of recommendations signed by more than 30 current and former youth correctional administrators, providing a roadmap to control COVID-19 in our nation's juvenile facilities. These recommendations are based on the collective experience of those of us who have been inside systems and offer a pathway for ensuring the safety of youth, staff, and communities. In particular, we are deeply concerned about reports that so few youth in Louisiana have gone home, and those that remain live in conditions with both the potential to harm them and to spread the virus in and out of Office of Juvenile Justice facilities.

Due to the impossibility of social distancing in youth correctional facilities, public health experts agree that reducing the number of people incarcerated is the most important way to limit the spread of the virus in these facilities. While most young people are at lower risk from the virus, youth in the justice system are less healthy than their peers. They have more gaps in Medicaid enrollment and higher rates of asthma, which increases the severity of COVID-19. Furthermore, there remains a great risk to staff who work in the facilities, as well as the families and communities that they go home to daily. Recent efforts to conduct mass testing in correctional settings have shown that approximately 90 percent of incarcerated individuals who are diagnosed with COVID-19 are asymptomatic. Unless Louisiana has conducted mass testing in its juvenile prisons, children who may appear healthy are likely to be infected and capable of transmitting the virus.

The only population reduction effort for Louisiana's juvenile prisons that has been reported was the possibility of extended furloughs for seven youth, out of an incarcerated population of more than 200. We urge you to immediately and significantly expand the number of children eligible for these extended furloughs, and also authorize the release of children who are within 90 days of completing their dispositions. For these youth, release plans should be presented to the court that document what supports will be provided to ensure their well-being and health. These measures are not unprecedented nationally, particularly as governors in other states are issuing executive orders to release youth or empowering agencies with release authority to do so. For example, Colorado Governor Jared Polis issued an executive order in early May giving the Department of Human Services authority to release young people without parole board review, and urged them to review all but the most serious cases for release. Michigan Governor Gretchen Whitmer similarly issued an executive order this month, strongly encouraging release wherever possible, and discouraged out-of-home confinement for technical violations of parole.

As young people are released, it will be critical to assure that they have access to needed supports to assure their well-being. Many youths already have these supports in the homes that they will return to and could be released immediately, with parole supervision; ensuring such resources should in no way hinder your ability to release young people, but should be looked at in each step of the process. In particular, having clear release plans that outline a safe place to live, access to food, continuity in healthcare, and a plan for education and vocational services, including access to technology. OJJ may also be able to collaborate with other agencies in identifying resources that could support these efforts, including child welfare, health, and housing.

The staffing crisis in OJJ facilities would be alleviated by reducing the population there. The state has the highest number of known cases in any juvenile correctional system in the country. While illness among staff has resulted in the agency reassigning probation and parole officers to address vacancies, it is critical to ensure that these staff have the needed support and equipment to do this work well. Staff report that they are not being paid overtime, are working in unsanitary conditions, and are concerned for their own health and safety as well as that of the incarcerated youth. Given what is happening in other facilities nationwide, it is unsurprising that there have been a number of disturbances and escapes in the facilities lately, as well as incidents of pepper spray being used on children, a practice that is growing increasingly rare in youth facilities around the country.

The measures in place to prevent infection are also damaging to youths' mental health. Youth are confined to their dorms 23 hours a day – which has been shown to have negative consequences -- with little to no programming or activities and limited virtual contact with their families. OJJ can and should implement novel and creative strategies to reduce idle time and support the development, wellbeing, and safety of young people and staff. And while attending to physical health during this time is critical, providing support and resources to help young people understand and process what is going on and what they can do to stay safe and healthy is also critical.

As current and former juvenile correctional agency leaders, we understand the challenges OJJ is facing. That is why we urge you, as Governor, to immediately reduce the number of children incarcerated in your state facilities, end intakes for technical violations and misdemeanors, ensure the access of key post-release supports for youth in their communities (including housing, access to healthcare, and technology to support remote learning), and improve the conditions of confinement for those that must remain. This should include but not be limited to: reinstituting programming, including mental health services; allowing for more time outside of dorms while maintaining social distance; ensuring frequent and cost-free contact with family; and prohibiting the use of pepper spray in the facilities. Implementing these measures is the only way to effectively reduce the spread of the virus and provide for the safety and well-being for the children in state custody and the staff that care for them.

We thank you for your attention to this matter and of course stand ready to act as a resource to you as you do the critical work of protecting youth in an unprecedented crisis.

Sincerely,

Gladys Carrión
YCLJ Steering Committee Co-Chair

Vincent Schiraldi
YCLJ Steering Committee Co-Chair

CC:
Mark Cooper, Chief of Staff, Office of Governor John Bel Edwards

Matthew Block, Executive Counsel, Office of Governor John Bel Edwards
Tina Vanichchagorn, Special Counsel, Office of Governor John Bel Edwards
Leslie Ricard Chambers, Deputy Executive Council, Office of Governor John Bel Edwards
E. Dustin Bickham, Deputy Secretary, Office of Juvenile Justice
Elizabeth Touchet-Morgan, Executive Management Advisor, OJJ
Angelic Keller, General Counsel, OJJ
Ellyn Toney, Chief of Operations, Continuous Quality Improvement Services, OJJ
Senator Patrick Page Cortez, President, Louisiana State Senate
Representative Clay Shexnayder, Speaker, Louisiana House of Representatives
Senator Gary Smith, Chairman of Judiciary B Committee, Louisiana State Senate
Representative Ted James, Chairman of House Administration of Criminal Justice Committee
Daryl G. Purpera, Legislative Auditor
Karen LeBlanc, Assistant Legislative Auditor, Director of Performance Audit Services
Marketa Walters, Secretary, Louisiana Department of Children and Family Services
Dr. Courtney Phillips, Secretary, Louisiana Department of Health
Tonya Joiner, Louisiana Department of Health, Chief of Staff
Gena Lewis, Louisiana Department of Health, Office of Behavioral Health, Program Manager, Child Clinical Systems

Louisiana Center
for Children's Rights

1100-B Milton Street
New Orleans, LA 70122

504-658-6860 office
504-658-6869 fax
laccr.org

Dear Governor Edwards,

We, along with the undersigned individuals and organizations, write to request that you take urgent action to protect the health and welfare of Louisiana's children and families.

As you know, the novel coronavirus (COVID-19) is a respiratory illness that is highly contagious and can cause serious health complications and death. There are currently no antiviral treatments or approved vaccines for this strain of coronavirus, and it is highly communicable. As of April 3, Louisiana's Office of Juvenile Justice has reported more than a dozen positive COVID-19 cases at youth centers across the state, including nine children.[1] That is already a significant increase from just 7 days ago when there were only three youth and one staff person with positive test results. Detained children, and persons who work in close proximity to them, are at extraordinarily high risk to contract and transmit COVID-19.

In order to reduce further exposure to and transmission of COVID-19, we urge you to take the following actions as part of an executive order, effective immediately:

1) *Order the Office of Juvenile Justice ("OJJ") to immediately release from secure and non-secure custody any youth:*

   - *Currently held for offenses that are not crimes of violence; or*
   - *Who has served more than 50% of their sentence or adjudicated disposition; or*
   - *Who has less than one year remaining on their sentence or adjudicated disposition.*

2) *Order OJJ, in any circumstance where a youth is not eligible for release under the emergency release criteria outlined above in Action 1, to identify youth eligible for extended furloughs, allowing these youth to shelter-in-place with their families for the remainder of the health crisis;*

3) *Order OJJ to refuse custody of any juvenile ordered into secure or non-secure care post-adjudication for non-violent offenses, misdemeanors, or parole or*

[1] *OJJ COVID-19 Information*, State of Louisiana Office of Juvenile Justice, https://ojj.la.gov/ojj-covid-19-information/ (updated Apr. 3, 2020) (COVID-19 youth positive results); Kailey McCarthy, *Louisiana Office of Juvenile Justice Reports Almost a Dozen Positive COVID-19 Cases*, KALB (Mar. 31, 2020), https://www.kalb.com/content/news/Office-of-Juvenile-Justice-reports-almost-a-dozen-positive-COVID-19-cases--569254961.html.

probation revocations;

4) *Order OJJ parole and probation officers to cease any and all requests for secure detention in the event of parole or probation violations or parole or probation revocation;*

5) *Order that any juvenile awaiting placement to a non-secure OJJ facility will remain at home under probation supervision;*

6) *Order the suspension of all interagency transfers of youth from one secure care facility to another secure care facility;*

7) *Order OJJ and local detention centers to prohibit the use of room confinement in individual cells as a method of COVID-19 quarantine in all secure and non-secure facilities;*

8) *Order OJJ and local detention centers to make available to all youth held in secure and non-secure facilities cost-free telephone calls to their family, available without limitation but at minimum, once per week, for a minimum allowed duration of one hour;*

9) *Order OJJ and local detention centers to make available to all youth held in secure and non-secure facilities confidential and cost-free telephone calls to their attorneys, or any member of their legal team, within 24 hours of request by the legal team, and immediately upon request of the youth.*

10) *Order the suspension of all transfers of youth from juvenile detention facilities into adult jails or prisons, whether pre- or post-trial;*

11) *Order all OJJ staff to wear facemasks and disposable patient examination gloves, and to adhere to social distancing guidelines, whenever possible, during all interactions with youth;*

12) *Order OJJ to consult with public health officials, with expertise in epidemiology, to coordinate a public health safety inspection and review of all secure and non-secure detention facilities, and to adhere to any emergency recommendations made by public health officials; and*

13) *Recommend that authorities in local jurisdictions implement the following changes:*

- *Local law enforcement should decline to arrest juveniles for status offenses and minor misdemeanors;*

- *If an arrest must be made, law enforcement should counsel and release youth to their parents or guardians, as outlined under Louisiana Children's Code Article 814(B)(1);*[2]

- *Local authorities should cease use of pre-trial detention of any child for misdemeanors, status offenses, or technical violations, including failures to appear, and offenses that are not crimes of violence; and*

- *There should be a presumption of release for all children who are arrested, even for more serious offenses. Secure detention should not be considered unless there is clear and convincing evidence that detention is required to reduce the likelihood that the child may inflict serious bodily harm on others pending the next hearing. Localities should make full use of alternatives to detention using remote technologies and strategies.*

I. The Governor Has the Authority to Order These Actions Under the Louisiana Homeland Security and Emergency Assistance and Disaster Act, and the Louisiana Health Emergency Powers Act.

United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency on January 31, 2020.[3] Governors across the nation have declared public health emergencies, and a national emergency was announced on March 13, 2020.[4] The first presumptively positive case of COVID-19 in the state of Louisiana was identified on March 9, 2020,[5] and you issued Louisiana Proclamation No 25 JBE 2020 on March 11, 2020,[6] declaring a state of emergency under La. R.S. 29:760, et seq.[7]

Under the Homeland Security and Emergency Assistance and Disaster Act ("Disaster Act"), in times of emergency, the governor is "responsible for meeting the dangers to the state and people presented by emergencies or disasters."[8] In order to meet this responsibility, the governor is granted broad powers to issue and rescind any executive orders, proclamations, and regulations necessary to preserve the lives of the people of the state of Louisiana.[9]

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[2] La. Child. Code Ann. art. 814(B)(1).

[3] U.S. Department of Health & Human Services, Office of the Assistant Secretary for Preparedness and Response, *Determination that a Public Health Emergency Exists*, Public Health Emergency (Jan. 31, 2020), https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx.

[4] Donald J. Trump, President of the United States, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (Mar. 13, 2020), https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.

[5] *Gov. Edwards Confirms Louisiana's First Presumptive Positive Case of COVID-19*, Office of the Governor (Mar. 9, 2020), https://gov.louisiana.gov/index.cfm/newsroom/detail/2392.

[6] La. Proclamation No. 25 JBE 2020 (Mar. 11, 2020), https://gov.louisiana.gov/assets/ExecutiveOrders/25-JBE-2020-COVID-19.pdf.

[7] La. R.S. 29:760 et seq. (Louisiana Health Emergency Powers Act).

[8] La. R.S. 29:724(A).

[9] La. R.S. 29:722, La. R.S. 29:724.

Pursuant to the Disaster Act and the Louisiana Health Emergency Powers Act, the governor is authorized during a state of public health emergency to "suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency."[10]

II. Public Health Authorities Predict That Detention and Correctional Facilities Will Be Epicenters of COVID-19 Transmission.

The United States Centers for Disease Control and Prevention ("CDC") provides strict guidelines on physical distancing and sanitation[11] that detention facilities are unlikely to fully meet. Physical distancing may be impossible in detention facilities with limited beds and rooms, and it is unrealistic for detained youth to be appropriately distanced from staff. Constant sanitation of surfaces and hands is also unlikely in facilities with limited resources and where the ability to move freely is impeded. As evidenced by the swift spread of COVID-19 in nursing homes and cruise ships, enclosed spaces with large groups of people risk becoming epicenters of infection due to the inherent difficulties in adhering to proper physical distancing and sanitation.[12]

Detained youth are especially at risk of physical harm during the COVID-19 pandemic. Transmission of other infectious diseases is already common in detention centers.[13] Furthermore, individuals with underlying health conditions tend to be harder-hit by COVID-19 compared to healthy peers. Research shows that detained youth, as well as youth of color, have a higher likelihood of being medically vulnerable with conditions such as asthma compared to healthy peers.[14]

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[10] La. R.S. 29:724, La. R.S. 29:766(D)(1); *see also* La. R.S. 29:769 (articulating the governor's authority during a public health emergency to assert control over facilities that represent a danger to public health).

[11] *How to Protect Yourself*, CDC, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html (last reviewed Mar. 18, 2020) (Coronavirus Disease 2019 (COVID-19)).

[12] Jack Healy & Serge F. Kovaleski, *The Coronavirus's Rampage Through a Suburban Nursing Home*, N.Y. Times (Mar. 21, 2020), https://nyti.ms/2QIcVaS; *see also* John Balance et al., *Louisiana Identifies New Cluster of Coronavirus Cases in Donaldsonville Retirement Home*, Advocate (Mar. 23, 2020), https://bit.ly/39hxQZ9; Victoria Forster, *What Have Scientists Learned About COVID-19 and Coronavirus By Using Cruise Ship Data?*, Forbes (Mar. 22, 2020), https://bit.ly/2UeSgNS.

[13] Letter from Physicians for Criminal Justice Reform, to State Governors, State and Local Juvenile Detention & Correctional Departments, & Juvenile Court Judges & Magistrates, COVID-19 Risks for Detained and Incarcerated Youth 2-3 (Mar. 22, 2020), https://njdc.info/wp-content/uploads/PFCJR-Statement.pdf.

[14] American Academy of Pediatrics, Committee on Adolescence, *Health Care for Children and Adolescents in the Juvenile Correctional Care System*, 107 Pediatrics 799 (2001), https://pediatrics.aappublications.org/content/107/4/799; James H. Price et al., *Racial/Ethnic Disparities in Chronic Diseases of Youths and Access to Health Care in the United States*, 2013 BioMed Research International 1 (2013), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3794652/.

In addition to physical harm, emotional and mental harm is also likely. Family separation during a global crisis is especially distressing.[15] The CDC identifies that youth with preexisting mental health conditions "may respond more strongly" to the COVID-19 outbreak,[16] and OJJ estimates that 44% of youth in secure care have a serious mental illness.[17] Furthermore, isolating individuals in a cell or room as an attempt to provide physical distance is an unacceptable solution and has been shown to increase the likelihood of anxiety, depression, and self-harm.[18]

Public health experts expect that detention and correctional facilities will become epicenters of COVID-19 transmission if action is not taken.[19] Continuing to operate detention facilities not only puts detained youth at risk, but also places detention center staff and medical professionals at increased risk. These individuals may then infect their respective families, workplaces, and communities. With more than a dozen COVID-19 infections already confirmed in Louisiana group homes and youth detention facilities, time is of the essence.[20]

Therefore, to mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Louisianans who work at or are incarcerated in juvenile detention facilities across the state, it is reasonable and necessary to order limited and temporary COVID-19-related protocols and procedures for juvenile detention facilities; and to temporarily suspend certain rules and procedures to facilitate the implementation of those orders.

This executive order will ensure the health and safety of Louisiana youth and families, as well as the general public as our community navigates the COVID-19 pandemic. We thank you for your timely attention to this important matter.

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[15] Letter from Physicians for Criminal Justice Reform, to State Governors, State and Local Juvenile Detention & Correctional Departments, & Juvenile Court Judges & Magistrates, COVID-19 Risks for Detained and Incarcerated Youth 3 (Mar. 22, 2020), https://njdc.info/wp-content/uploads/PFCJR-Statement.pdf.

[16] *Stress and Coping*, CDC, https://www.cdc.gov/coronavirus/2019-ncov/prepare/managing-stress-anxiety.html (last reviewed Mar. 30, 2020).

[17] Louisiana Legislative Auditor, *Oversight of Rehabilitation and Treatment in Secure Care Facilities: Office of Juvenile Justice* (June 13, 2018), https://lla.la.gov/PublicReports.nsf/71C88F049AA3563A862582AB0075C861/$FILE/00019598.pdf.

[18] Barry Holman & Jason Ziedenberg, Justice Policy Institute, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.

[19] Amanda Klonsky, *An Epicenter of the Pandemic Will Be Jails and Prisons, if Inaction Continues*, N.Y. Times (Mar. 12, 2020), https://www.nytimes.com/2020/03/16/opinion/coronavirus-in-jails.html.

[20] *OJJ COVID-19 Information*, State of Louisiana Office of Juvenile Justice, https://ojj.la.gov/ojj-covid-19-information/ (updated Apr. 2, 2020) (COVID-19 youth positive results); Kailey McCarthy, *Louisiana Office of Juvenile Justice Reports Almost a Dozen Positive COVID-19 Cases*, KALB (Mar. 31, 2020), https://www.kalb.com/content/news/Office-of-Juvenile-Justice-reports-almost-a-dozen-positive-COVID-19-cases--569254961.html; Robin McDowell & Margie Mason, *Juvenile Detention Centers May Become a Coronavirus Hotbed, Experts Warn*, Time (Apr. 1, 2020), https://time.com/5813755/juvenile-detention-centers-coronavirus/.

Sincerely,

Bonnie K. Nastasi, PhD. Professor, Department of Psychology, Tulane University

East Baton Rouge Parish Prison Reform Coalition

Families and Friends of Louisiana's Incarcerated Children (FFLIC)

Greater New Orleans Housing Alliance Healing Minds NOLA

Hector Linares, Associate Clinical Professor, Loyola University New Orleans, College of Law

HousingLOUISIANA

HousingNOLA

Jesuit Social Research Institute/Loyola University New Orleans

Justice and Accountability Center

Justice for Families

Kim Sherman, Ph.D., NCSP, Licensed Psychologist, Professor of Practice, Department of Psychology, Tulane University

Lorna Seybolt, MD, MPH, Physician Site Director, CrescentCare

Louisiana Center for Children's Rights

Louisiana Survivors for Reform

Madalyn K. Wasilczuk, Assistant Professor, LSU Paul M. Hebert Law Center

New Pathways New Orleans

PREACH

Rebecca A Meriwether, MD, MPH, Retired Public Health Physician & Epidemiologist

Sarah Gray, Ph.D., Assistant Professor of Psychology, Tulane University

St Charles Center for Faith+Action

St. Charles Ave. Baptist Church

Stop Solitary Coalition

The Committee to Support Healthcare Equity

The Power Coalition for Equity and Justice

The Promise of Justice Initiative

Ubuntu Village

Voice of the Experienced (VOTE)

Wendy Hodgson, parent of an incarcerated child

EXHIBIT 11

DECLARATION OF D.B.

I, D.B., declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My initials are D.B.
2. I am at least 18 years of age and am competent to make this declaration.
3. My son is being held at Bridge City Youth Center. His release date is in October 2021.
4. My son has come home previously for the weekend on furlough and was supposed to be on furlough against in April and May of 2020. They cancelled those furloughs without telling me or telling me why. My son said they were cancelled.
5. My son has not been tested for COVID-19. Nobody else in my son's dorm has been tested for COVID-19. One of the boys in his dorm had COVID-19 and was removed and then moved back into the dorm.
6. During the riot at Bridge City, my son was pepper sprayed by a probation officer. The pepper spray affected him badly. He and the other children who were pepper sprayed were sent to the infirmary to be checked. There, my son was exposed to another boy who had tested positive for COVID-19.
7. After the riot, my son and about seventeen other children were transferred from Bridge City to Swanson Youth Center in Monroe and then transferred back to Bridge City. He did not do anything wrong. Nobody was tested for COVID-19 before the transfers. I was told by Mr. Bickham that they were all kept in a secluded area together so they did not need to be tested. I did not talk to Mr. Bickham until after my son was on his way back to Bridge City.
8. I don't know if my son has received any medical treatment. I have tried to get this information and have not been able to get an answer.
9. My son has underlying medical conditions, including bad allergies. I have lost two family members to COVID-19 already and am very scared for my son.

10. As far as I know, there is no process for reintroducing "recovered" children to the general population. The children are all in the dorm together. There is no social distancing being practiced in the dorm. There are no policies around interactions with staff and other children. My son had not gotten a mask or any other protective materials and I don't believe any of the other children have either. They haven't gotten any cleaning materials.
11. I have not been able to visit my son for months. I have only spoken with him three since this all began. I was able to do a video phone call two days ago but I don't know when I will be able to do another video call. He had a phone call scheduled with his attorney when the riot happened which has not been rescheduled.
12. My access to my child and access to information about him has been impeded. I was not contacted until after he was moved to Swanson and I reached out to the family liaison.
13. Schooling, developmental training, and social activities have all been suspended. He was taking college courses online and has not been able to continue them because of understaffing.
14. My son has previously come home on furlough and I would him to come home on furlough until all COVID-19 is absent from the facility and everyone has been tested and there is a vaccine. There is no reason for him to be detained right now. He is not receiving any rehabilitative services. My ability to parent him is being impeded by the fact that he is in a facility and away from me. I can provide him with a safe home.
15. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the

lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of the family members of other individuals detained in Louisiana as long as I am a named plaintiff.

16. I seek only declaratory and injunctive relief on behalf of the class. I am not seeking monetary damages, and I understand this civil case will not result in the dismissal of any criminal proceedings against my son or others.
17. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
18. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar
Nishi Kumar on behalf of D.B.
May 12, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant D.B. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on her behalf with her express consent.
3. I spoke with D.B. over the phone. She has confirmed that I can sign on her behalf as reflected in her declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on May 12, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

May 12, 2020

EXHIBIT 12

DECLARATION OF S.W.

I, S.W., declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My initials are S.W.
2. I am at least 18 years of age and am competent to make this declaration.
3. My son J.S. is being held at the Swanson Center for Youth at Monroe. He was previously held at Bridge City Center for Youth. His release date is in April 2021.
4. My son had a headache and a fever and was tested for COVID-19 on or around Sunday April 12, 2020. His test came back positive. He was moved to isolation for 14 days and then tested positive again. He stayed for another 4-5 days and then was moved back into a regular dorm. I don't know if they tested him before moving him back to the dorm. I don't know of any process for "recovered" children to be reintroduced back into the general population. There are no masks or cleaning materials available in the dorms. OJJ should have been monitoring the children and staff and their symptoms better to prevent my son from getting sick.
5. My son has underlying medical conditions, including asthma.
6. I tried to get information from the facility, including how many people were in the dorm, how my son got the virus, and have any of the staff tested positive. I was told that they couldn't give me any of that information. I am not able to parent my child under these conditions.
7. Nobody has called to tell me my son is out of quarantine, has been moved back to the dorm, or that he has recovered. I would never know any of this information if I wasn't able to talk to my son.
8. My son no longer has any access to education or other programming. He was supposed to be graduating from the program that he is completing.

9. My son was supposed to come home for furlough on March 20, 2020, for three days and that visit was cancelled. I would like my son to either be released early or come home to rest and recover on furlough until all COVID-19 is absent from the facility, everyone has been tested, and there is a vaccine. There is no reason for him to be detained right now. He is not receiving any educational or rehabilitative services. My ability to parent him is being impeded by the fact that he is in a facility and away from me. I have a safe home for him to come home to.

10. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of other individuals detained in Louisiana as long as I am a named plaintiff.

11. I seek only declaratory and injunctive relief on behalf of the class. I am not seeking monetary damages, and I understand this civil case will not result in the dismissal of any criminal proceedings against my son or others.

12. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.

13. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar

Nishi Kumar on behalf of S.W.

May 12, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant S.W. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on her behalf with her express consent.
3. I spoke with S.W. over the phone. She has confirmed that I can sign on her behalf as reflected in her declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on May 12, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

May 12, 2020

EXHIBIT 13

DECLARATION OF W.H.

I, W.H., declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My initials are W.H.
2. I am at least 18 years of age and am competent to make this declaration.
3. My son H.C. is being held at Bridge City Center for Youth in Bridge City, LA. He has been there since 2016. His release date is September 5, 2020. My son is a mentor to those around him and tries to look out for the other children.
4. He has underlying medical conditions, including continuous ear infections and boils. He recently was not able to go to the infirmary when he had an ear ache. He was supposed to see a specialist but the pandemic disrupted that.
5. He has not been tested for COVID-19 but at least two other children in his dorm tested positive and were moved into the infirmary.
6. I was on the phone with my son when the riot at Bridge City broke out. It was chaotic and very stressful for both him and me. The children were trying to keep their dorm leader inside the dorm so that she did not get hurt. Tension is very high and there are children there who are not able to talk to or see their family. They have a lot of anxiety and stress and fear built up because of the circumstances. It is a recipe for disaster.
7. My son has been in 23 hour lockdown since March 15 or 16. Before this past week, they were locked in their dorm for everything, even meals. Now I believe they are getting one hour of recreation time. There is no policy or transition plan for reintroducing "recovered" children to the general population. The children who were taken out of his dorm are back. I don't know if they have been retested.
8. I have not seen my son since March 16 when I took him back to Bridge City. I did not get a video call until around April 23. I have had three zoom calls with him. The facility doesn't

tell you until the morning of the call that you have a call. I am an essential worker and have to decide how to get to my computer and phone during the work day to be able to talk to my son undisturbed. Other parents may not have this flexibility and are not able to talk to their children with so little notice.

9. There are around 50 children at Bridge City and somewhere between 7 and 10 children in my son's dorm. There is no social distancing. The children had masks for one week and were not told that they have to use them. I think 17 staff members tested positive. Probation and parole officers had to be pulled in because they were low on staff. When the riot broke out, the probation officers used pepper spray against the children.
10. My son has not received a COVID-19 test and they have not been taking his temperature.
11. My son has not had any attorney visits and has not talked to his attorney on the phone.
12. School and developmental training has been suspended and there is limited access to materials. My son had eighteen college credits and was unable to do school because of COVID-19.
13. My son did not have access to his counselor/case manager for at least two weeks. She came back on or around April 23, 2020.
14. Until last week, I had not had any contact from OJJ. My son was home on furlough from March 13 to March 16. He was supposed to be home until March 17 and they made him go back earlier. He was scheduled and approved for a furlough for Easter but did not get to come home. I have dates in May, June, and July I would like to request furlough for but I can't hand in the paperwork.
15. My son should be released early from OJJ custody. If not, I would like my son to come home on furlough until all COVID-19 is absent from the facility and everyone has been tested and there is a vaccine. There is no reason for him to be detained right now. He is not

receiving any rehabilitative services. My ability to parent him is being impeded by the fact that he is in a facility and away from me. I have a safe home for him to come home to.

16. As a named plaintiff, to the best of my ability, I have been working with my lawyers to help them prepare and work on this case. I will continue to do so. I am available to them to assist with the case, and they are available to me to answer questions and to explain and keep me updated on the litigation. I regularly speak with my attorneys and their staff to provide them information in support of this lawsuit. I have responded and will continue to respond to the lawyers' requests for information about adequate health care and other conditions of confinement to the best of my ability. I intend to continue working zealously with my attorneys on behalf of the family members of other individuals detained in Louisiana as long as I am a named plaintiff.
17. I seek only declaratory and injunctive relief on behalf of the class. I am not seeking monetary damages, and I understand this civil case will not result in the dismissal of any criminal proceedings against my son or others.
18. I have authorized my attorney to sign on my behalf given the difficulty of arranging visitation and travel due to the current COVID-19 pandemic. If required to do so, I will provide a signature when I am able to do so.
19. This declaration was read to me in English and I was able to make changes and corrections.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature:

/s/ Nishi Kumar
Nishi Kumar on behalf of W.H.
May 12, 2020

I, Nishi Kumar, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a licensed attorney in good standing in Louisiana.
2. I represent the declarant W.H. Out of necessity in light of the COVID-19 pandemic, I signed the attached declaration on her behalf with her express consent.
3. I spoke with W.H. over the phone. She has confirmed that I can sign on her behalf as reflected in her declaration.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and that this declaration was executed on May 12, 2020 in New Orleans, Louisiana.

Signature:

/s/ Nishi Kumar

Nishi Kumar

May 12, 2020

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Louisiana

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

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

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Edward Dustin Bickham
7919 Independence Blvd.
State Police Headquarters, First Floor
Baton Rouge, LA 70806

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mercedes Montagnes, La. Bar No. 33287
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529 5955

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Louisiana

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

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

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* James Woods
1536 Bordelon Road
Bunkie, LA 71322

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mercedes Montagnes, La. Bar No. 33287
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529 5955

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Louisiana

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

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

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Governor John Bel Edwards
900 N. 3rd Street #4
Baton Rouge, LA 70802

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mercedes Montagnes, La. Bar No. 33287
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529 5955

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Louisiana

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

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

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Louisiana Office of Juvenile Justice
7919 Independence Blvd.
State Police Headquarters, First Floor
Baton Rouge, LA 70806

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mercedes Montagnes, La. Bar No. 33287
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529 5955

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Louisiana

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

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

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Rodney Ward
132 Hwy 850
Columbia, LA 71418

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mercedes Montagnes, La. Bar No. 33287
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529 5955

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Louisiana

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

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

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Shannon Matthews
3225 River Road
Bridge City, LA 70094

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mercedes Montagnes, La. Bar No. 33287
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529 5955

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Louisiana

J.H., by and through his mother and next friend, N.H.; I.B., by and through his parents and next friends, A.B. and I.B., on behalf of themselves and all others similarly situated,

Plaintiff(s)

v.

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

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Shawn Herbert
4701 South Grand St.
Monroe, LA 71202

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mercedes Montagnes, La. Bar No. 33287
1024 Elysian Fields Avenue
New Orleans, LA 70117
Telephone: (504) 529 5955

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc: