

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

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R.B., A.C., J.R., and T.B., by and)	
through their next friend, on their own behalf and)	
on behalf of those similarly situated,)	
Plaintiffs,)	COMPLAINT- CLASS ACTION
)	
vs.)	
)	
Dr. MARY LIVERS, in her official capacity as)	2:12--CV--1502
Deputy Secretary of the Louisiana Office of)	
Juvenile Justice; NAMON REID III, in his)	
Official capacity as Director of the Bridge City)	
Center for Youth; DARON BROWN, in his)	
Official capacity as Director of Jetson Center for)	
Youth; and R.VICKIE SHOECRAFT, in her)	
official capacity Director of Swanson Center)	
for Youth)	
)	
Defendants.)	
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COMPLAINT

1. This is a civil action pursuant to 42 U.S.C. § 1983 to vindicate the Plaintiffs’ rights under the First and Fourteenth Amendments to the United States Constitution. U.S. CONST. amend. I & XIV. The named Plaintiffs are children confined at Bridge City Center for Youth (BCCY), Jetson Center for Youth (JCY), Swanson Center for Youth (SCY) and youth in the Office of Juvenile Justice (OJJ) custody but housed at various contracted secure facilities around the state, who have been denied access to the courts. Rather than facilitate their access to courts, as the Constitution demands, the Defendants have instead created a series of obstacles designed to impede access. Under the Defendants’ obstructionist policies, or lack of policies, an incarcerated

child is not provided access to courts and counsel and suffer extreme constitutional violations and in many cases exposure to greater harm, with no recourse. Further, Defendants have failed to take any steps to assure access to courts and counsel for youth in OJJ custody that are housed at contract facilities. Plaintiffs are not provided adequate access to legal mail or provided with an adequate mechanism to contact counsel. On behalf of themselves and all other current and future residents of any OJJ secure facility or facility contracting with OJJ for secure confinement, the named Plaintiffs seek declaratory and injunctive relief requiring the Defendants to respect the class members' constitutional rights to access the courts and counsel including creation and implementation of policies and procedures which help Plaintiffs attain access to meaningful, adequate and effective legal advocacy.

JURISDICTION AND VENUE

2. This action arises under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983.

3. Jurisdiction of this court is invoked pursuant to Title 28 U.S.C. §§1331, 1343(3), 2201 and 2202.

4. Because at least one Defendant resides in this district and many of the events or inaction giving rise to this cause occurred in this district, venue is proper in the United States District Court for the Eastern District of Louisiana pursuant to 28 U.S.C. 1391 (b).

THE PARTIES

5. Plaintiff R.B. is a 19-year-old boy who is committed to the jurisdiction of OJJ. R.B is currently housed at SCY. He sues on his own behalf. R.B. has experienced

persistent constitutional violations inside of multiple OJJ facilities. R.B. is not provided with meaningful access to courts and counsel after his rights are violated.

6. Plaintiff A.C. is a 16-year-old boy who is committed to the jurisdiction of OJJ. A.C. is currently housed at BCCY. He sues by and through his next friend, Kelly Craddock¹. A.C. has experienced persistent constitutional violations inside of OJJ facilities. A.C. is not provided with meaningful access to courts and counsel after his rights are violated.

7. Plaintiff J.R. is a 17-year-old boy who is committed to the jurisdiction of the OJJ. J.R. is currently housed at BCCY. He sues by and through his next friend, Dolly Robicheaux². J.R. has experienced persistent constitutional violations inside of OJJ facilities. J.R. is not provided with meaningful access to courts and counsel after his rights are violated.

8. Plaintiff T.B. is a 16-year-old girl who is committed to the jurisdiction of OJJ. T.B. is currently housed at an OJJ contracted facility. She sues by and through her next friend, Tracie Breaux³. T.B. has experienced persistent constitutional violations inside of OJJ contract facilities. T.B. is not provided with meaningful access to courts and counsel after her rights are violated.

9. Defendant Mary Livers is sued in her official capacity as the Deputy Secretary of the Louisiana Office of Juvenile Justice. In that capacity, Defendant Livers is responsible for the management, oversight, control and policy-making at BCCY, JCY, and SCY, including the administration and day-to-day operations of the Louisiana Office of Juvenile Justice. Additionally, Defendant Livers is responsible for contracting with

¹ Please See Exhibit A, Declaration of Kelly Craddock.

² Please See Exhibit B, Declaration of Dolly Robicheaux.

³ Please See Exhibit C, Declaration of Tracie Breaux.

facilities as an exercise of her statutory responsibility to provide placement for youth in OJJ legal custody.

10. Defendant Namon Reid III is sued in his official capacity as the Director of BCCY. In that capacity, Defendant Reid is responsible for the administration and day-to-day operations of BCCY.

11. Defendant Daron Brown is sued in his official capacity as the Director of JCY. In that capacity, Defendant Brown is responsible for the administration and day-to-day operations of Jetson Center for Youth.

12. Defendant R.Vickie Shoecraft is sued in her official capacity as Director of SCY. In that capacity, Defendant Shoecraft is responsible for the administration and day-to-day operations of SCY.

CLASS ACTION ALLEGATIONS

13. Plaintiffs bring this suit as a class action on their own behalf and on behalf of all children who are or who will in the future be incarcerated at a confinement facility under the care, custody, and control of the State of Louisiana Office of Juvenile Justice.

14. The class is so numerous that joinder of all members is impractical. More than 450 children are in OJJ secure custody. Children are committed to OJJ custody for varying amounts of time, and the population changes on a regular basis. The class also includes hundreds of future members whose names are not known. Fed. R. Civ. P. 23(a)(1).

15. There are questions of law and fact common to all class members. The questions of law and fact common to all class members include but are not limited to the constitutionality of Defendants' practice and policy of denying meaningful access to

courts and counsel. The common questions of law or fact predominate over questions affecting only individual class members. Fed. R. Civ. P. 23(a)(2).

16. Because the policies and practices challenged in this Complaint apply with equal force to the named Plaintiffs and other members of the class, the claims of the named Plaintiffs are typical of the class in general. Fed. R. Civ. P. 23(a)(3).

17. The named Plaintiffs will fairly and adequately represent the interests of the class. They possess a strong personal interest in the subject matter of the lawsuit, and are represented by experienced counsel with particular expertise with class action litigation in federal court. Counsel has the legal knowledge and the resources to fairly and adequately represent the interests of all class members in this action. Fed. R. Civ. P. 23(g)(4).

18. Defendants have acted and refused to act on grounds generally applicable to the class in that Defendants' policy and practice of interfering with Plaintiffs' constitutional right to access the courts has affected all class members equally. Accordingly, a class action is superior to other available methods for the fair and efficient adjudication of the controversy, and final injunctive and declaratory relief is appropriate to the class as a whole. Fed. R. Civ. P. 23(b)(2).

ALLEGATIONS OF WRONGFUL CONDUCT

19. The OJJ is responsible for the care and control of all Louisiana youth adjudicated delinquent and placed in their custody for the purposes of rehabilitation and treatment. These youth consist of boys and girls between 10-21 years of age.

20. BCCY, JCY, and SCY house boys exclusively but OJJ contracts with other facilities around the state to house female and other male youth.

21. Upon commitment to OJJ custody, Defendant has sole custody of Plaintiffs and is responsible for their care, treatment and placement. La. R.S. 15:901(D)(1).

22. BCCY, JCY, and SCY are under the supervision and control of OJJ and are responsible for execution of policies created by OJJ.

23. A high percentage of youth in the custody of Defendants suffer from severe mental illness and low level educational functioning and are in need of outside advocates to assure that their civil and educational rights are protected. National and Louisiana studies of juvenile justice involved youth demonstrate that these youth have complex behavioral needs. As many as 67% of incarcerated male juvenile offenders and 81% of the females have been found to have diagnosable mental illnesses in addition to their delinquency issues. Shufelt, J.S., and Coccozza, J.C. (2006), *Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-state, Multi-system Prevalence Study*.

24. On or around September 1, 2000, Defendant OJJ (formerly a subdivision of the Department of Public Safety and Corrections), entered into a consent agreement with private plaintiffs and the United States Department of Justice addressing OJJ's constitutional violations including issues related to access to courts and counsel for youth housed in secure care.

25. Since that time, Defendants have neglected their responsibility as sole custodian of Plaintiffs, which is to provide them with meaningful access to courts and counsel.

26. Specifically, OJJ has made no effort to ensure that youth housed in OJJ contract facilities have access to courts and counsel. Plaintiffs are at the mercy of these contract facilities in order to receive access to family, courts and counsel. These youth have no access to counsel to address constitutional violations that occur inside these facilities.

27. Plaintiffs who receive adult charges while inside Defendants' facilities have no access to counsel in order to protect their rights. Plaintiffs are transported from the juvenile facility to an adult jail and throughout this process they incriminate themselves without meaningful access to an attorney. Also, Plaintiffs are denied an opportunity to access counsel to confer about possible constitutional violations which occur as a result of the underlying facts related to the allegation of criminal misconduct.

28. Defendant OJJ contracts with numerous secure custody facilities all over the state of Louisiana and has failed to provide any mechanisms, policies, or procedures to assure Plaintiffs housed in these facilities have meaningful access to courts and counsel.

29. Plaintiffs are not provided with confidential communications with counsel and are routinely intimidated and discouraged from contacting counsel to address violence, abuse, and constitutional violations that occur inside the facilities.

30. Currently, Defendants are failing to provide Plaintiffs with their constitutionally required meaningful access to counsel and courts.

31. Defendants have failed to address an increase in violence inside their facilities. Because of increased violence, access to counsel is of increased importance for youth in Defendants' custody.

32. Defendants have blocked and stifled Plaintiffs' access to meaningful counsel by intimidating Plaintiffs into not contacting counsel; refusing visits with counsel; canceling scheduled visits with counsel; refusing phone calls to attorneys after Plaintiffs have experienced crisis and trauma inside of Defendants' facilities; failing to create effective ways for Plaintiffs to contact counsel; refusing to schedule visits with counsel in a manner timely enough to address the constitutional violations; failing to have any method to assure that Plaintiffs in contract facilities have access to court and counsel; and failing to operate a functioning administrative grievance procedure.

33. During the month of October 2011, Plaintiffs had no access to counsel because the phones used to contact attorneys and advocates at the Juvenile Justice Project of Louisiana (JJPL) were broken inside of BCCY. During this period, Plaintiffs were in various situations that put their constitutional rights in peril, including receiving adult charges for alleged criminal violations, violence victimization, and other constitutional concerns.

34. Staff at BCCY routinely inform Plaintiffs that "their attorney is too busy to talk with them," which is baseless and meant to intimidate or discourage contact with Plaintiffs' legal advocates.

35. Defendants routinely return legal mail with adequate postage that is properly addressed to Plaintiffs, thus disallowing access to legal advocacy.

36. Defendants routinely cancel scheduled attorney visits, limit access to clients in serious jeopardy of victimization or violence, and create administrative obstacles that severely delay visitation with Plaintiffs who are in urgent need of legal advocacy.

37. Youth housed in contract facilities have no access to counsel and are treated as pretrial detainees as opposed to youth who are judicially mandated to receive rehabilitative care. Defendants have not taken any steps to assure these youth have access to court and counsel even though youth in Defendant OJJ custody might be housed at a contract facility for months at a time.

38. Youth that receive adult charges while in the custody of OJJ inside of a juvenile secure care facility are not provided access to counsel at times when their rights are in extreme peril based on allegations of criminal law violations.

39. Plaintiffs housed at JCY were refused access to counsel during the months of November and January because scheduled visits were consistently canceled. Additionally, legal visits were requested and every date was allegedly inconvenient; therefore, Plaintiffs could not meet with attorneys or advocates for months.

40. Plaintiffs are intimidated by staff and feel unsafe to talk on the phone when they are allowed access to phones, thereby increasing the importance of legal visits with counsel and advocates.

41. On or around late April 2012, Defendant OJJ informed their probation staff not to speak with legal advocates and attorneys from the Juvenile Justice Project of Louisiana regarding Plaintiffs. Defendant OJJ's actions further obstruct Plaintiffs' ability to access the courts.

42. Currently, JJPL is the only entity providing access to legal counsel to youth in OJJ custody for civil matter and conditions of confinement grievances. However, JJPL's access to these youth is made arbitrary and inadequate as a result of Defendant's obstructionist practices.

43. Plaintiff J.R. experienced physical abuse at BCCY. He was in an altercation with a staff member and sustained multiple injuries, yet he was not treated for those injuries until he was arrested and transferred to Jefferson Parish Jail. J.R.'s family was not informed of his injuries or of his transfer. J.R. wished to contact legal counsel but was unable to do so because the phones were inaccessible. Additionally, Defendant told J.R. not to call The Juvenile Justice Project of Louisiana [JJPL] to "rat on BCCY" and told him that he was the problem. When J.R. has been able to contact his attorney, he has had his confidential calls monitored by staff.

44. J.R. was alleged to have committed adult criminal violations while inside Defendant's facility and did not have access to counsel when his constitutional rights were in jeopardy.

45. Plaintiff A.C. was placed on lockdown and was not given enough food; he had also been given rotten or undercooked food. A.C. was not permitted to attend school while on lockdown and could not contact counsel for recourse because the phones at BCCY were inaccessible during part of October, 2011. A.C. cannot speak freely when he speaks with legal advocates out of fear of retaliation from facility staff that listens to his calls.

46. Plaintiff R.B. was denied access to counsel while at JCY. R.B. was placed on suicide watch as a form of punishment. R.B. was denied an opportunity to communicate with counsel regarding these actions. R.B. was housed in an OJJ contract facility for more than a month while in OJJ custody. He desired to speak with an attorney during this time but there was no way for him to access an attorney. Additionally, R.B. was alleged to have committed adult criminal violations while inside the facility and did

not have access to counsel when he was transported to adult jail and his constitutional rights were in jeopardy.

47. Currently, T.B. is housed in an OJJ contract facility. Prior to her current placement, T.B. was housed at a Parish detention facility which contracts with OJJ to house youth. T.B. suffered consistent harassment while being housed in the Parish Detention Facility but had no access to legal counsel. OJJ has no policy in place to assure meaningful and adequate access to counsel but rather defers to the practices of the contract facilities.

48. Plaintiffs are intimidated by staff and Plaintiffs feel unsafe to talk on the phone when they are allowed access to phones, thereby increasing the importance of legal visits with counsel and advocates.

EXHAUSTION

49. Plaintiffs have exhausted all available administrative remedies.

50. Plaintiffs have continuously filed administrative grievances but Defendants have not responded to grievances or followed their procedures regarding the provision of a ruling and appeals of rulings.

CAUSES OF ACTION

I.

51. By refusing to allow Plaintiffs meaningful access to counsel, Defendants are violating the Plaintiffs' First and Fourteenth Amendment rights to meaningful, effective, and adequate access to the courts. U.S. CONST. amend. I & XIV.

52. The violation of Plaintiffs' constitutional rights may be remedied pursuant to 42 U.S.C. §1983.

II.

53. By refusing to allow Plaintiffs to meet with their counsel, Defendants are violating the Plaintiffs' Fourteenth Amendment rights to due process of law. U.S. CONST. amend. XIV.

54. By failing to implement policies and procedures at all facilities that house youth in OJJ custody that will protect Plaintiffs' constitutional right to meaningful, adequate, and effective counsel, Defendants' violated Plaintiffs' First and Fourteenth Amendment rights. U.S. CONST. amend. I & XIV.

55. The violations of Plaintiffs' constitutional rights may be remedied pursuant to 42 U.S.C. §1983.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray that this Honorable Court grant the following relief:

1. Certify a class consisting of all youth in Office of Juvenile Justice custody that are or will be held in OJJ secure custody inside Bridge City Center for Youth, Jetson Center for Youth, Swanson Center for Youth or any other secure custody facility in Louisiana.
2. Enter a declaratory judgment that Defendants' current policy and practice, or lack thereof, with respect to attorney visitation, legal mail, and access to courts violates Plaintiffs' constitutional rights to adequate, meaningful, and effective access to the courts.
3. Enter a preliminary and permanent injunction requiring the Defendants, their agents, employees, and all persons acting in concert with them to allow youth to meet with counsel of their choice by:

- a. honoring written requests for legal visits, whether made by youth or by parents, without unnecessary delay;
 - b. assisting youth in making written requests for legal assistance;
 - c. posting a notice in each housing unit at all facilities housing youth in OJJ secure custody that informs youth of their right to speak with a lawyer to seek assistance;
 - d. establishing policies and procedures for all Plaintiffs to ensure that these youth are provided with meaningful and effective access to court and counsel;
 - e. refraining from harassing, intimidating, punishing, or otherwise retaliating against children who ask to or do speak with lawyers; and
 - f. protecting Plaintiffs from any harassment, intimidation, punishment, or other retaliation as a result of their participation in this lawsuit.
4. Enter a permanent injunction requiring Defendants to install and maintain in working condition telephones in every housing unit which houses youth in OJJ secure custody so that children can confidentially contact attorneys by phone.
 5. Award Plaintiffs reasonable costs and attorney fees.
 6. Grant Plaintiffs such other relief as the Court deems necessary and just.

Respectfully submitted,

/s/ John S. Williams
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CERTIFICATE OF SERVICE

I hereby certify that on 13th day of June 2012, I electronically filed the foregoing with the Clerk of court by using the CM/ECF system. A copy of this document as well as a notice of electronic filing has been personally served on all non-CM/ECF participant Defendants:

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