



# SPECIAL TOPICS IN THE JUVENILE COURT

Honorable Amanda C. Calogero

# JUVENILE COURTS

Juvenile Courts have the responsibility of promoting rehabilitation

- (a) recognize a **diminished criminal responsibility of juveniles**, adolescent brain development/immaturity
- (b) seeks to promote **child welfare by “best interest of the child,”** in child dependency and in delinquency weighed with public safety
- (c) ensure representation, due process, judge trials

# JEFFERSON PARISH JUVENILE COURT STATISTICS

CASE TYPE	2018	2019	2020	2021	2022
<b>Adoption</b>	129	135	98	101	93
<b>Child Support</b>	1560	1478	882	835	917
<b>CINC</b>	187	94	83	72	175
<b>Delinquency</b>	580	707	566	395	501
<b>Special Immigrant</b>	333	351	293	371	860
<b>Traffic</b>	307	636	621	560	772
<b>VTOC</b>	150	107	49	71	81

# DELINQUENCY VERSUS FINS

## Delinquency

- Delinquency - charged with having committed a criminal offense and under 18
- The court has jurisdiction over these cases until the minor reaches the age of 21

## FINS

- FINS – not criminal/delinquent
- FINS also includes caretaker caused, truancy or other education problems.
- follow a similar process as the delinquency cases, As part of the disposition in a FINS case, a juvenile may be placed in the care of someone other than the parent(s) or caretaker, but are not placed in secure care such as a detention facility.

Promote safety  
and recovery

Pretrial  
matters for  
traumatized  
youth

Physical:  
Crowded, noisy  
waiting areas  
Confusing signage

## TRAUMA INFORMED CARE (TIC) & THINGS TO CONSIDER IN COURT

Support crisis  
training for  
LEO

avoiding situations that  
inadvertently retraumatize  
individuals

Give a voice to  
minors when  
the outcome  
affects them

Recalling  
traumatic  
experiences

## 305 TRANSFERS

### Consideration to Transfer of Offenders to Adult Court

- Article 305 –
  - Divestiture of juvenile court jurisdiction;
  - original criminal court jurisdiction over children when acquired

## 305(A) TRANSFERS

- A. (1) When a child is fifteen years of age or older ...of 14:30, 14:30.1, 14:42, or 14:44, he is subject to the exclusive jurisdiction of the juvenile court until either:
  - (a) An indictment is returned.
  - (b) probable cause, whichever occurs first.

If the juvenile is transferred, the Court exercising criminal jurisdiction for all subsequent procedures, including:

- bail applications

## 305(B) DISCRETIONARY TRANSFERS

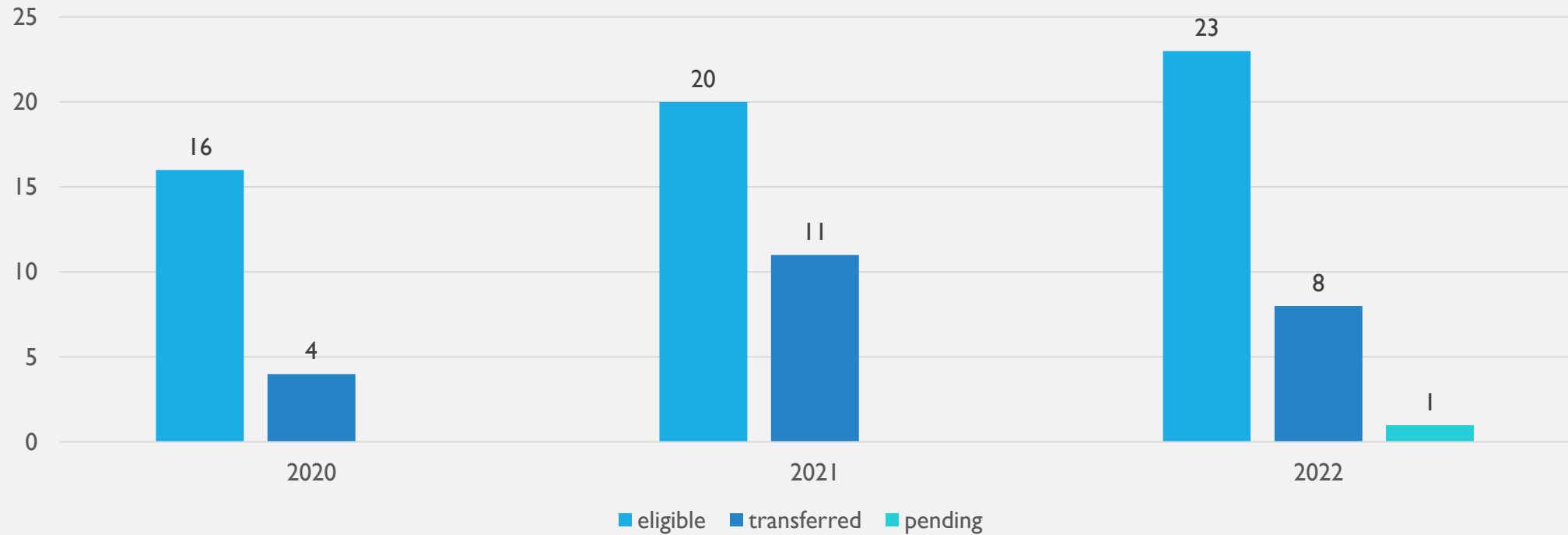
- (a-c) Att. Murder, 1st/2nd/Manslaughter
- (d) Armed robbery
- (e) Aggravated burglary
- (f) Forcible rape
- (g) Simple rape
- (h) Second degree kidnapping.



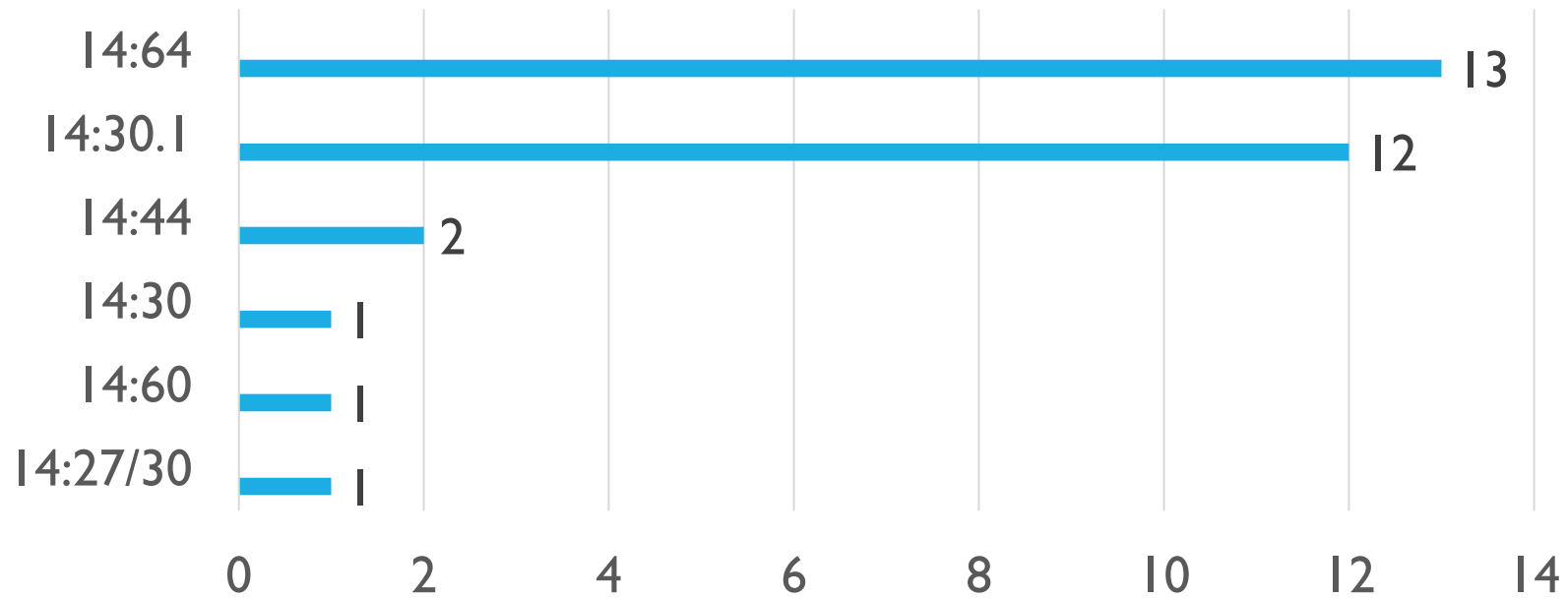
## 305(B) PROCEDURE

- (3) DA discretion to file petition in juvenile court or, alternatively, to obtain an indictment or file a bill of information.
- DA shall make his election within 30 after the child's arrest, unless the child waives this right.
- Remains in adult court once transferred

# JEFFERSON PARISH 305 STATISTICS ELIGIBLE VS. TRANSFERRED



# JEFFERSON PARISH 305 STATISTICS BY CRIME FROM 2020-22



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## PRE-ADJUDICATION HOUSING (PRE-TRIAL DETENTION)

Prior to the transfer decisions under Ch. Code Art. 305, the child shall be held in custody in a juvenile detention center, except

I. If juvenile detention facility is not available, he may be held for up to 6 or 24 hours if all of the following occur:

- (a) The child meets the age and offense criteria set out in Article 305;
- (b) A continued custody hearing is held within 24 hours;
- (c) No acceptable alternative placement;
- (d) Sight and sound separation of the juvenile from adult offenders with continuous visual supervision

## PRE-ADJUDICATION HOUSING PRIVATE FACILITIES

- Assumption Parish
- Caddo Parish
- Calcasieu Parish
- Community Receiving Home in Alexandria
- East Baton Rouge Parish
- Florida Parishes
- Rivarde Detention
- Green Oaks in Monroe
- Lafayette Detention Home
- Lafourche Parish
- St Bernard Parish
- Terrebonne Parish
- Youth Study / JJIC

→ Generally facilities do not accept outside of parish offenders

→ Difficult for parishes with no facility

## RAISE THE AGE AND 305 TRANSFERS IMPACTS ON RIVARDE DETENTION HOME – JEFFERSON PARISH

Data beginning in 2021 shows these residents make up a significant portion of the Average Daily Population (ADP) as they have a larger Average Length of Stay (ALOS). There is often overlap between the RTA and Adult Transfer cases.

2021	Released Residents	ADP	ALOS (days)
<b>Rivarde Total</b>	<b>560</b>	<b>27</b>	<b>15</b>
<b>Raise the Age</b>	<b>124</b>	<b>6</b>	<b>13</b>
<b>305 Transfers</b>	<b>5</b>	<b>5</b>	<b>206</b>

2022	Released Residents	ADP	ALOS (days)
<b>Rivarde Total</b>	<b>625</b>	<b>26</b>	<b>17</b>
<b>Raise the Age</b>	<b>133</b>	<b>7</b>	<b>22</b>
<b>305 Transfers</b>	<b>11</b>	<b>4</b>	<b>302</b>

## JUVENILE LIFE ART. 897.1

After adjudication of R.S. 14:30, first degree murder or R.S. 14:30.1, second degree murder, when the juvenile is 14 years or older or older at commission of the offense, juvenile shall be confined in secure placement until the child attains the age of 21 without benefit of parole, probation, suspension or execution, or modification of sentence.

## ART. 897.1 CONT.

Sentencing/Dispositions of R.S. 14:42, first degree rape, or R.S. 14:44, aggravated kidnapping, when the juvenile is 14 years or older at the time of the offense, they shall be confined in secure placement until the child attains the age of 21 years without benefit of probation or suspension of imposition or execution of sentence.

- Parole eligible after serving 36 months



## ART. 897.1 CONT.

After adjudication of R.S. 14:64, armed robbery, when the juvenile is 14 years of age or older at the time of the offense shall be confined in secure placement without benefit of probation or suspension of imposition or execution of sentence.

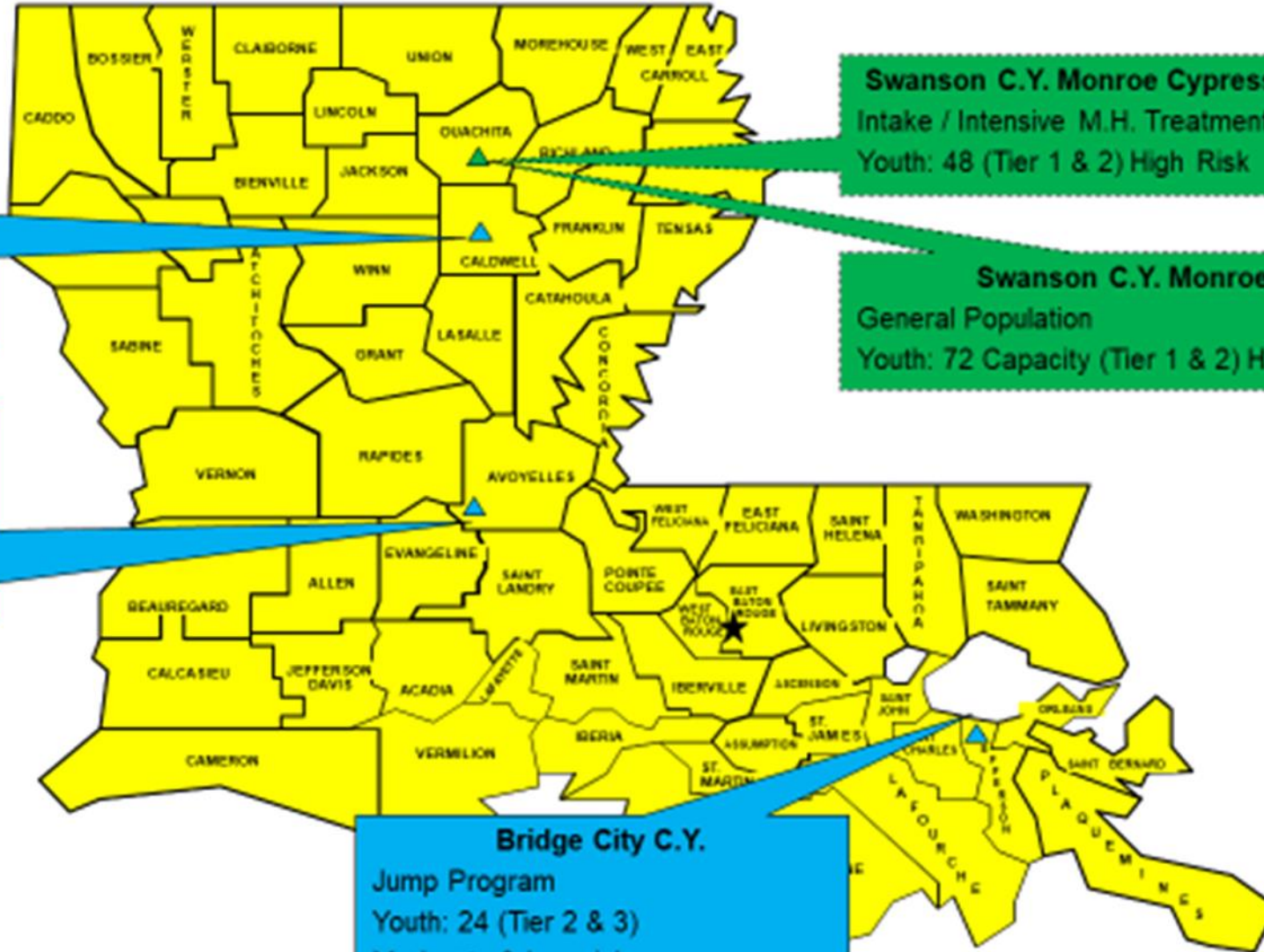
- Parole eligible for after serving 36 months of the disposition or, if the disposition is less than 36 months, two-thirds of the disposition.

# POST-ADJUDICATION HOUSING SECURE CARE FACILITIES

Secure care is reserved for those youth deemed to be a risk to public safety and/or not amenable to treatment in a less restrictive setting.

- OJJ secure care facilities for males:
  - Bridge City Center for Youth in Jefferson Parish (36 Beds)
  - Swanson Center for Youth in Monroe (120 Beds)
  - Swanson Center for Youth at Columbia (48 Beds)
  - Acadiana Center for Youth in Bunkie (72 Beds)
  - Acadiana Center for Youth in St. Martinville (24 Beds)
  - West Feliciana Center for Youth (24 Beds)
- OJJ contracts with WARE Youth Center to house females in both a secure facility and non-secure group home on the campus.

# Act 693 Tiered Structure



**Swanson C.Y. Columbia**  
Fast Track Program  
Youth: 48 Capacity (Tier 2 & 3)  
Moderate & Low Risk

**Acadiana C.Y. Bunkie**  
Vocational Programming  
College Courses  
Youth: 72 (Tier 2 & 3)  
Moderate & Low Risk

**Swanson C.Y. Monroe Cypress / MHTU**  
Intake / Intensive M.H. Treatment  
Youth: 48 (Tier 1 & 2) High Risk

**Swanson C.Y. Monroe**  
General Population  
Youth: 72 Capacity (Tier 1 & 2) High Risk

**Bridge City C.Y.**  
Jump Program  
Youth: 24 (Tier 2 & 3)  
Moderate & Low risk

## JEFFERSON PARISH STATS FOR SECURE AND NONSECURE CARE

18 → Non- Secure (group homes)

35 → Secure Care

53 total in custody of OJJ Care

# JUVENILE PAROLE HISTORY

2010 – SCOTUS said Juveniles cannot be sentenced to life without parole for non-homicide crime, life WITH parole is ok *Graham v. Florida*, 560 US 48 (2010)

2012 - Legislature responds to *Graham* by adding Subsection D to La. R.S. 15:574.4 to grant parole eligibility for crimes other than murder

2012 – SCOTUS in *Miller* held that a juvenile who commits murder is not subjected to “mandatory” life without parole; the Court must consider mitigating factor of youth and its attendant characteristics in deciding an appropriate sentence *Miller v. Alabama*, 567 U.S. 460 (2012)

## JUVENILE PAROLE HISTORY CONT.

2013 - Legislature responds to *Miller* with Subsection E to La. R.S. 15:574.4 to grant potential parole eligibility after serving 35 years (and meeting other conditions) to juveniles convicted of 1st or 2nd degree murder, BUT only if they have been granted parole eligibility by the Trial Court after a “Miller hearing” under La. C.Cr.P. art. 878.1.

- Miller hearing is designed to differentiate juvenile murderers who are NOT irreparably corrupt (parole eligibility after 35 years) from those who ARE irreparably corrupt (no parole).
- *Miller* is not retroactive *State v. Tate*, 130 So.3d 829 (La. 2013)

## JUVENILE PAROLE HISTORY CONT.

2016 - SCOTUS decides *Montgomery v. Louisiana*, which overruled *Tate* and made *Miller* retroactive to all cases going back to forever. *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016)

2016 - Louisiana Supreme Court in *State ex rel. Morgan v. State*, struck down a 99 year without parole sentence for a juvenile armed robber “virtual lifers” under *Graham*  
*State ex rel. Morgan v. State*, 217 So.3d 266 (La. 2016)

## JUVENILE PAROLE HISTORY CONT.

2017 – In response to *Montgomery Act 277* of 2017 was passed which split the “juvenile” provisions of La. R.S. 15:574.4 into 4 subsections D, E, F, and G:

D - life for crimes other than murder

E - life for 1st degree murder indicted on or after August 1, 2017

F - life for 2nd degree murder indicted on or after August 1, 2017,

G- life for either 1st or 2nd degree murder indicted before August 1, 2017

- D and F → parole eligible after 25 years and meeting other conditions, no Miller hearing required.
- E and G → parole eligible after 25 years & meets other conditions, IF Trial Court determines them parole eligible after a Miller hearing or DA does not pursue a Miller hearing.



## JUVENILE PAROLE HISTORY CONT.

2020-2022 – Act 99 of 2020 codified *Morgan* and addressed juvenile “virtual lifers”

- added Subsection J to La. R.S. 15:574.4 to provide parole eligibility for juveniles doing sentences of 25 years or greater after serving 25 years (and meeting other conditions)

2021 – SCOTUS in *Jones v. Mississippi*, 141 S.Ct. 1307 (2021), held explicitly that *Miller* and *Montgomery* did not impose a formal fact-finding requirement

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## TOP 10 THINGS TO KNOW WHEN COMING TO JUVENILE COURT VS. DISTRICT COURT

1. There is a Children's Code
2. The terms are completely different than the adult terms.
  - a. Adjudication versus Trial
  - b. Answer versus arraignment
  - c. Disposition versus sentence
3. Timelines are completely different than adult timelines.
  - a. Petition must be filed within 48 hours if continued in custody or released
  - b. Time from answer to adjudication is 30 days
  - c. Time from adjudication to disposition is 30 days
4. Delinquency cases do not end at disposition, but continue with reviews until the end of sentence/probation. Children are presumed indigent, so if you withdraw they are represented by PDO
5. Juvenile courts are a rehabilitative court, not a punitive court

## TOP 10 THINGS TO KNOW WHEN COMING TO JUVENILE COURT VS. DISTRICT COURT

6. Adoptions, Child Support, Voluntary Transfers, CINC, FINS, Juvenile Traffic, and Delinquency.
7. Family Preservation Court.
8. Attorney waiting lounge
9. Upgrade to children's meeting space – calming studio
10. There are three sections of court, with a rotating magistrate by week. You cannot walk motions through like you can in district courts.

Q&A TIME