

STATE OF NEW JERSEY

Plaintiff,

v.

SAMMY MOORE,

Defendant.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – UNION COUNTY

IND. No. 94-06-00636-I

Criminal Action

On a Motion to Correct an Illegal  
Sentence

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BRIEF OF *AMICI CURIAE* JUVENILE LAW CENTER  
AND CENTER ON RACE, INEQUALITY, AND THE LAW  
IN SUPPORT OF DEFENDANT SAMMY MOORE

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Tiara J. Greene  
NJ Attorney No. 107312014  
JUVENILE LAW CENTER  
1800 JFK Blvd, Ste. 1900B  
Philadelphia, PA 19103  
(215) 625-0551  
tgreene@jlc.org

*Counsel for Amici Curiae*

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## **IDENTITY AND INTEREST OF AMICI CURIAE**

**Juvenile Law Center** fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

The **Center on Race, Inequality, and the Law** at New York University School of Law was created to confront the laws, policies, and practices that lead to the oppression and marginalization of people of color. Among the Center's top priorities is wholesale reform of the criminal legal system, which has, since its inception, been infected by racial bias and plagued by inequality. The Center fulfills its mission through public education, research, advocacy, and litigation aimed at cleansing the criminal legal system of policies and practices that perpetuate racial injustice and inequitable outcomes. No part of this brief purports to represent the views of New York University School of Law or New York University.

## STATEMENT OF FACTS AND PROCEDURAL HISTORY

*Amici Curiae* Juvenile Law Center and Center on Race, Inequality, and the Law relies upon the Statement of Facts and Procedural History set forth in brief of the Office of the Public Defender on behalf of Sammy Moore.

## ARGUMENT

In 1995, Sammy Moore was sentenced to life in prison—he was required to serve a combined minimum of fifty (50) years before becoming eligible for parole—for offenses committed when he was only 19 years old.<sup>1</sup> Sammy was sentenced at a time when the public consciousness—fueled by media—was inundated with false warnings of a dangerous class of young “criminals,” referred to as “superpredators,” who experts claimed would terrorize communities around the country if left unchecked. The predictions, which were rooted in misguided and often overtly-racist theories, suggested that Black men and boys were predisposed to violence and criminality, and that this surge of crime would be greatest in Black neighborhoods. This dangerous rhetoric permeated scholarly publications, media outlets, and

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<sup>1</sup> Research now shows that older adolescents share the same physiological and psychological traits of youth described in *Miller*, which make them equally less culpable and less deserving of the most serious punishments meted out for adults. Indeed, researchers have established that the regions of the brain associated with the characteristics relied on in *Graham* and *Miller* continue to develop beyond age 18. See Catherine Lebel & Christian Beaulieu, *Longitudinal Development of Human Brain Wiring Continues from Childhood into Adulthood*, 31 J. Neuroscience 10937, 10937 (2011); Adolf Pfefferbaum et al., *Variation in Longitudinal Trajectories of Regional Brain Volumes of Healthy Men and Women (Ages 0 to 85 Years) Measured with Atlas-Based Parcellation of MRI*, 65 NeuroImage 176, 189 (2013).

political agendas. As a result, Black youth were disproportionately and wrongfully seen as perpetrators of violent crime. States responded by implementing “tough-on-crime” legislation making it easier to waive youth into the adult criminal system, thereby exposing teenagers to mandatory lengthy and life sentences. The superpredator rhetoric infiltrated the criminal legal system of New Jersey and other states leaving a lasting impact. However, it was ultimately exposed as a myth and renounced by its lead proponent. The crime surge never materialized, youth crime rates decreased during the predicted period, and the theory was deemed baseless.

Amici write to highlight how the superpredator era caused immense harm to youth in New Jersey and across the country. In the instant case, the sentencing court relied upon this debunked claim to enhance Sammy’s sentence. The court’s reliance upon materially false information to sentence Sammy was a violation of his right to due process and fundamental fairness. Juvenile Law Center and the Center on Race, Inequality, and the Law urge this Court to grant Sammy a *Comer* hearing in recognition of the damage caused by this debunked theory, its disproportionate impact on Black and Brown youth and older adolescents, and the inherent unfairness of allowing the ruling below to stand.

**I. THE “SUPERPREDATOR” THEORY AROSE FROM A LONG HISTORY OF DEHUMANIZING BLACK PEOPLE AND THE DEEPLY ENTRENCHED STEREOTYPE THAT BLACK PEOPLE ARE PREDISPOSED TO VIOLENT CRIMINALITY**

The racialized panic around the category of so-called “superpredators” in the 1990s arose from a long and sordid history of suggesting that people of color—and in particular Black men and boys—are predisposed to violence and criminality. Vincent M. Southerland, *Youth Matters: The Need to Treat Children Like Children*, 27 J. C.R. & Econ. Dev. 765, 773 (2015). While the concept of Black *criminality* largely became popularized in the late 19th and early 20th centuries, racist notions that Black people were inherently “inferior” can be traced back for centuries. KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA* (2010). The myth of the superpredator connects to this long history of pseudo-scientific methodologies that seek to shroud white supremacist ideology with a facade of objectivity and respectability. Similarly, the dehumanizing language employed at the height of the panic around the rise of mythical superpredators, including describing children as “predators,” “barbarians,” “wolf pack[s],” “gang creatures,” and a “breed” of persons, draws from this insidious pattern of portraying Black people as less-than-human. See LynNel Hancock, *When Denver Lost Its Mind Over Youth Crime*, NEW REPUBLIC (Nov. 23, 2021), <https://newrepublic.com/article/164419/denver-lost-mind-youth-crime-wave-panic>; See also Philip Goff et al., *Not Yet Human: Implicit Knowledge*,

*Historical Dehumanization, and Contemporary Consequences*, 94 J. PERSONALITY & SOC. PSYCHOL. 292 (2008). Just as earlier iterations of the specter of Black criminality were used to justify the subjugation of Black people—including chattel slavery, lynching, and incarceration in the wake of Emancipation—the mythical figure of the superpredator contributed to a trend towards harsher prison sentences for young people of color. Southerland, *supra*, at 766.

**A. White Supremacist Theorists Have Long Suggested That Black People Are Innately “Inferior” To People Of Other Races, And This Dehumanization Has Been Used To Justify Centuries Of Violence And Oppression**

The portrayal of Black people as biologically inferior can be traced back to some of the earliest contacts made between white Europeans and the people of West Africa. Goff et al., *supra*, at 292–93. European accounts of these early encounters describe African people as more “primitive,” “barbaric,” and more closely related to apes. *Id.* Later, during the Enlightenment period, “metaphysical and theological” theories about race gave way to a focus on “logically” classifying and taxonomizing racial differences within human societies. Jamelle Bouie, *The Enlightenment's Dark Side*, Slate (June 5, 2018), <https://slate.com/news-and-politics/2018/06/taking-the-enlightenment-seriously-requires-talking-about-race.html>. Within these pseudo-scientific racial hierarchies, Black people were consistently described as inferior to other races, farthest from the “perfected” form of “civilized” humans. *Id.* “Humanity exists in its greatest perfection in the white race,” wrote preeminent Enlightenment

theorist Immanuel Kant, stating that [Black people] “are the lowest part” of American society. *Id.*

The conception that Black people were a biologically distinct and innately inferior race was pervasive in the early United States and permeated the thinking of the nation’s founders. For instance, in his *Notes on the State of Virginia*, Thomas Jefferson, one of the most revered figures in American history, wrote that “[t]he blacks, whether originally a distinct race, or made distinct by time and circumstances, are inferior to the whites in the endowments both of body and mind.” THOMAS JEFFERSON, NOTES ON THE STATE OF VIRGINIA 153 (1787). Jefferson further posited that this inferiority was an innate biological feature of blackness, rather than the result of socio-political or other external factors. *Id.* at 151 (stating: “The improvement of the blacks in body and mind, in the first instance of their mixture with the whites, has been observed by everyone, and proves that their inferiority is not the effect merely of their condition of life.”).

**B. In Response To Growing Demands For Abolition, Proponents of Slavery Reasoned That It Was Necessary To “Control” The “Natural” Violent Proclivities Of Black People**

In response to the growing abolitionist movement, pro-slavery writers produced pamphlets and other publications attempting to justify slavery’s existence

as the necessary and natural order between the races.<sup>2</sup> These writers heavily emphasized the notion that a central element of supposed Black inferiority was a predisposition to “vice” and “violence” specifically. “Personal observation must convince every candid man, that the negro is constitutionally indolent, voluptuous, and prone to vice, that his mind is heavy, dull, and unambitious” wrote Southern lawyer William Drayton in an anti-abolitionist publication in 1836, arguing that slavery was necessary to control these qualities and was a “natural consequence of the inferiority of [the Black man’s] character.” WILLIAM DRAYTON, *THE SOUTH VINDICATED FROM THE TREASON AND FANATICISM OF THE NORTHERN ABOLITIONISTS* 232–33 (1836). Drayton described the unfortunate consequence of freeing enslaved people, suggesting that free Black people “have sunk lower than the Southern slaves,” describing them as “the most ignorant, voluptuous, idle, vicious, impoverished, and degraded population of this country.” *Id.* at 230. Pro-slavery activists argued that the future prospects and safety of the nation therefore required perpetual enslavement. Muhammad, *supra*, at 21.

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<sup>2</sup> It was also during this time that scientific racism began to proliferate, as scientists attempted to “prove beyond doubt just how and why African Americans were inferior” by studying the bodies of different racial groups. Nineteenth century pro-slavery advocates and racist thinkers hoped that “scientific” evidence would “prove” what they purported to know about the innate inferiority of Black people, lending credibility to their anecdotal “evidence” of racial difference. Muhammad, *supra*, 22–23.

**C. In The Wake Of Emancipation, “Black Criminality” Emerged As A Fundamental Measure Of Black Inferiority And A Core Justification For The Continued Oppression Of Black and Brown People**

The abolition of slavery did not diminish the specter of Black people as innately violent and criminal. In fact, it was largely in response to Emancipation that the stereotype of Black criminality gained widespread acceptance and became more deeply entrenched in the public imagination. *See* Calvin John Smiley & David Fakunle, *From “Brute” to “Thug:” The Demonization and Criminalization of Unarmed Black Male Victims in America*, 26 J. HUM. BEHAV. SOC. ENV’T 350 (2016). “By decade’s end the unimaginable [emancipation] had become reality, and the prospect of settlement and incorporation of African Americans added urgency and confusion to what many whites already saw as a desperate situation.” Muhammad, *supra*, at 16. The national panic that ensued after four million Black people were suddenly “transformed from property to human beings to would-be citizens of the nation” made the project of understanding the “true nature” of Black people and finding justifications for their continued oppression ever-more urgent in the eyes of many white people. *Id.* at 16. It was in this context that “black criminality would emerge, alongside disease and intelligence, as a fundamental measure of black inferiority” becoming “one of the most commonly cited and longest-lasting justification for black inequality and mortality in the modern urban world.” *Id.* at 20–21.



**D. Pseudo-Scientific Studies And Large-Scale Racial Statistics Affirmed Theories Of Racial Difference And The Supposed Inherent “Criminality” Of Black People, Creating A Veneer Of Legitimacy And Objectivity**

In the late nineteenth and early twentieth centuries, the study of racial difference became increasingly “scientific,” granting newfound legitimacy to the apparently “objective” and measurable differences between the races. In addition to studying physical differences, this new class of racial “scholars” shifted to a “behaviorist paradigm,” measuring inferiority not just by physical differences but also by the historical and contemporary behaviors of “primitive” races in civilized societies. *Id.* at 24. Racial knowledge was “transformed by new social scientific theories of race and society and new tools of analysis,” namely “racial statistics” and “social surveys” from post-emancipation demographic reports. “By taking a broad statistical view of the field, it will be possible to found our conclusions on much surer ground,” wrote Harvard scientist Nathaniel Shaler in his 1890 article “Science and the African Problem.” N.S. Shaler, *Science and the African Problem*, THE ATLANTIC (July 1890), <https://www.theatlantic.com/magazine/archive/1890/07/science-and-the-african-problem/523647/>. Rather than viewing crime statistics “as symptomatic of the failed promises of racial equality in the wake of the Civil War and Reconstruction,” or the “sociological consequence of economic and social inequality” or simply the direct outcome of discrimination and racist policing, statistical data—for example, data on the growth of the Black prison population—

was used as “definitive proof” of Black people’s natural proclivity towards criminality. Muhammad, *supra*, at 51. Frederick L. Hoffman’s well-known 1896 writing, *Race Traits and Tendencies of the American Negro*, was representative of this purportedly non-discriminatory “scientific” approach to crime statistics as evidence of Black inferiority. *Id.* at 35. Hoffman used arrest and prison statistics from across the United States, which showed that a disproportionate number of Black people were in prison, as confirmation that “without exception. . . the criminality of [Black people] exceeds that of any other race in any numerical importance in this country.” *Id.* at 51. Education, Hoffman asserted, “has utterly failed to raise [Black people] to a higher level of citizenship, the first duty of which is to obey the laws and respect the lives and property of others.” FREDERICK L. HOFFMAN, *RACE TRAITS AND TENDENCIES OF THE AMERICAN NEGRO* 228 (1896). Black people’s apparently “proven” propensity for crime in turn was used to justify and legitimize widespread subjugation and violence against Black people for decades to come.

For instance, Black men’s purported propensity to rape white women was the rationale for the widespread practice of lynching Black people in the South, according to Hoffman. *Id.* at 230 (“The fact is fairly proven that lynchings at the South are not the result of race antipathy but are due to crimes which meet with summary justice in cases of whites and blacks alike.”). Hoffman interpreted the

prevalence of lynching as evidence “of the increasing tendency” of Black men to commit rape, calling it the “most frightful of crimes,” and quoted Philip Alexander Bruce’s description of the rape of white women by Black men as marked “by a diabolical persistence and a malignant atrocity of detail that have no reflection in the whole extent of the natural history of the most bestial and ferocious animals.” *Id.* at 231. This myth of the widespread rape of white women by Black men, while not grounded in reality, took hold of the public imagination. Lisa Cardyn, *Sexualized Racism/Gendered Violence: Outraging the Body Politics in the Reconstruction South*, 100 MICH. L. REV. 675, 696–99 (2002).

Importantly, Hoffman’s writing was influential across the United States, and the widespread linkage between Black people and criminality was by no means limited to the South. Muhammad, *supra*, at 54–55. White people throughout northern cities “believed that African Americans were violent and deviant,” wrote historian and criminologist Jeffrey Adler. *Id.* The concept of Black criminality quickly and durably “captured the nation’s imagination after 1896,” which was reflected in popular culture. *Id.* at 81–84. Literature and film from the early twentieth century drew heavily on the widespread stereotype that Black men were congenitally violent and depicted them as more closely aligned with nonhuman animals. Thomas Dixon Jr.’s best-selling novels *The Leopard's Spots: A Romance of the White Man's Burden* and *The Clansman* both centered upon the figure of the Black male rapist,

Chris Ruiz-Velasco, *Order Out of Chaos: Whiteness, White Supremacy, and Thomas Dixon, Jr.*, 34 COLL. LITERATURE 148, 157–159 (2007), demonstrating “the increasingly popular appeal of thinking about black criminality and white responses on a national scale.” Muhammad, *supra*, at 83. In *The Clansman*—which was later adapted into the blockbuster film *The Birth of a Nation*<sup>3</sup>—Black people were described as “half child, half animal, the sport of impulse, whim, and conceit...a being who, left to his will, roams at night and sleeps in the day, whose speech knows no word of love, whose passions, once aroused, are as the fury of the tiger.” THOMAS DIXON JR., THE CLANSMAN: AN HISTORICAL ROMANCE OF THE KU KLUX KLAN 292–93 (1905).

#### **E. These Pseudo-Scientific Studies Formed The Basis For The Superpredator Rhetoric In The 1980s And 1990s**

The pseudo-scientific predictions of the coming of the superpredator, rooted in this belief in Black men’s predisposition to criminality, emerged as a lasting justification for Black inequality and mortality in the modern urban world. By the 1980s, the media’s characterization of violent young criminals was replete with racist undertones. Southerland, *supra*, at 771. Youth who engaged in criminal conduct were cast as “violent, morally deficient, and of color.” *Id.* at 770-71. This

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<sup>3</sup> Under President Woodrow Wilson, *The Birth of a Nation* was the first film ever screened at the White House in 1915. Allyson Hobbs, *A Hundred Years Later, “The Birth of a Nation” Hasn’t Gone Away*, NEW YORKER (Dec. 2015), <https://www.newyorker.com/culture/culture-desk/hundred-years-later-birth-nation-hasnt-gone-away>.

resulted in an overrepresentation and miscasting of Black and Brown youth as perpetrators of violent crimes:

A 2001 survey revealed that in the preceding decade, the media “misrepresent[ed] crime, who suffer[ed] from crime, and the real level of involvement of young people in crime,” such that whites were underrepresented and African-Americans and Latinos were overrepresented in depictions of perpetrators of violent crime. These faulty portrayals “reinforce[d] the erroneous notion that crime is rising, that it is primarily violent, that most criminals are nonwhite, and that most victims are White.”

*Id.* at 771-72 (alterations in original) (quoting Lori Dorfman & Vincent Schiraldi, *Off Balance: Youth, Race, & Crime in the News*, BERKELEY MEDIA STUD. GRP. 26 (2001), <https://www.ylc.org/wp-content/uploads/2018/11/media.pdf>). This perceived link between race and teen crime led the public to believe that Black and Brown youth posed a higher threat of violent crime. *Id.* at 769-70. This “threat” was attributed to “deficient personal traits—immorality, inherent proclivity to violence, and remorselessness—rather than external factors like substance abuse, family dysfunction, or criminal associations.” *Id.* at 770. Just as lynchings were used as evidence of Black men’s propensity to commit the “most frightful crimes,” HOFFMAN, *supra*, at 231, increasing crime rates between 1980 and 1994 were used to frame Black and Brown youth as morally impoverished monsters deserving of harsh punishments.

The increased youth crime rates laid the foundation for a prediction about “The Coming of the Super Predators,” creating a “moral panic.”<sup>4</sup> See John DiIulio, *The Coming of the Super-Predators*, WKLY. STANDARD (Nov. 27, 1995), <https://www.washingtonexaminer.com/weekly-standard/the-coming-of-the-super-predators>; Elizabeth R. Jackson-Cruz, Social Constructionism and Cultivation Theory in Development of the Juvenile “Super-Predator,” 12-13, 25-27 (Mar. 5, 2019) (M.A. theses, University of South Florida) (Scholar Commons), <https://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=9011&context=etd>.

Headlines in the 1980s and 1990s depicted youth from “inner-cities” as “hedonistic . . . youngsters from badland neighborhoods who murder, assault, rape, rob, burglarize, deal [. . .] drugs, join [. . .] gangs and create [. . .] disorder.” Jackson-Cruz, *supra*, at 6 (internal quotations omitted) (second, third, and fourth alterations in original) (quoting William J. Bennett, John J. DiIulio, Jr. & John P. Walters, Body

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<sup>4</sup> The definition of “moral panic” was developed by Stanley Cohen in his first publication of “Folk Devils and Moral Panics: The Creation of the Mods and Rockers” in 1972. Michael Welch et al., *Moral Panic Over Youth Violence: Wilding and the Manufacture of Menace in the Media*, 34 YOUTH & SOC’Y 3, 3-4 (2002), <https://troublesofyouth.pbworks.com/f/welch+at+al+-+moral+panic+over+youth+violence.pdf>. “Moral panic” was defined as:

a condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people.

*Id.* at 4 (quoting STANLEY COHEN, FOLK DEVILS AND MORAL PANICS: THE CREATION OF THE MODS AND ROCKERS 9 (1972)). It has been shown that “moral panic” has had lingering effects that “reinforce[] racial biases prevalent in criminal stereotypes, particularly the popular perception that young Black (and Latino) males constitute a dangerous class.” *Id.*

Count: Moral Poverty—And How to Win America’s War Against Crime and Drugs 27 (Simon & Schuster) (1996)). Scholars, led by political scientist John J. DiIulio Jr., made false predictions of an impending rash of crime and violence committed by youth “who have absolutely no respect for human life and no sense of the future.” DiIulio, *supra*. DiIulio claimed this wave of “super-predators” was coming to commit “the most heinous acts of physical violence for the most trivial reasons.” *Id*. They were characterized as “merciless criminals,” “predators” who were to prey on businesses, schools, and neighborhoods leaving “maimed bodies, human carnage and desecrated communities.” Southerland, *supra*, at 778–79 (first quoting *Dole Seeks to Get Tough on Young Criminals*, L.A. TIMES, July 7, 1996 A16, <https://www.latimes.com/archives/la-xpm-1996-07-07-mn-22017-story.html>, then quoting *The Violent and Hard-Core Juvenile Offender Reform Act: Hearing before the Subcomm. on Youth Violence* (May 9, 1996) (statement of John Ashcroft, Att’y Gen. of the United States)).

The predicted upward trend in youth violence, however, never materialized. Instead, youth arrest rates for violent crimes dropped by almost half between 1994 and 2009. Office of Juvenile Justice and Delinquent Prevention, *Juvenile Arrest Rate Trends: Violent Crimes, Statistical Briefing Book* (Nov. 16, 2020), [https://ojjdp.ojp.gov/statistical-briefing-book/crime/faqs/jar\\_display?ID=qa05218&selOffenses=](https://ojjdp.ojp.gov/statistical-briefing-book/crime/faqs/jar_display?ID=qa05218&selOffenses=). Youth arrested for murder and non-negligent manslaughter dropped

from 12.3 per 100,000 youth in 1994 to 3.5 per 100,000 youth in 2009. *Id.* This overlapped with the time period that DiIulio predicted America would see “an army of young male predatory street criminals.”<sup>5</sup> DiIulio, *supra*. Increased rates of assault and robbery by youth at the time were more appropriately attributed to changes in police arrest discretion and re-classification. Jackson-Cruz, *supra*, at 10. Similarly, increased rates of gun-related crimes most likely arose from the prevalence and increased access to firearms and crack-cocaine, *id.* at 10-11, not due to the alleged and materially false “natural propensity” among Black men and boys to commit violent crimes. By 2001, former Surgeon General, David Satcher reported:

There is no evidence that young people involved in violence during the peak years of the early 1990s were more frequent or more vicious offenders than youths in earlier years. The increased lethality resulted from gun use, which has since decreased dramatically. There is no scientific evidence to document the claim of increased seriousness or callousness.

U.S. DEP’T OF HEALTH & HUM. SERVS., YOUTH VIOLENCE: A REPORT OF THE SURGEON GENERAL 1-14 (2001); *see also State v. Belcher*, 342 Conn. 1, 15, 268 A.3d 616, 624 (2022). In the end, the “superpredator” was ruled “utter madness,”

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<sup>5</sup> In fact, in 1996 John DiIulio recanted and tried “to put the breaks on the superpredator theory.” Elizabeth Becker, *As Ex-Theorist on Young ‘Super-predators,’ Bush Aide Has Regrets*, N.Y. Times (Feb. 9, 2001), <https://www.nytimes.com/2001/02/09/us/as-ex-theorist-on-young-super-predators-bush-aide-has-regrets.html>. He later apologized for how the term took off, its lasting effects and stated that he “wished he had never become the 1990’s intellectual pillar for putting violent juveniles in prison and condemning them as ‘superpredators.’” *Id.*



Elizabeth Becker, *As Ex-Theorist on Young ‘Superpredators,’ Bush Aid Has Regrets*, N.Y. TIMES (Feb. 9, 2001), <https://www.nytimes.com/2001/02/09/us/as-ex-theorist-on-young-superpredators-bush-aide-has-regrets.html>. Yet, as Sammy’s case suggests, the impact of this media narrative persists.

## **II. THE SUPERPREDATOR MYTH WAS FALSE BUT HAD A LASTING IMPACT ON LEGISLATION ACROSS THE COUNTRY**

The racialized panic over crime and violence-prone Black boys, and the dehumanizing language used to describe them, led to sweeping legislative changes through the 1980s and 1990s. One significant way this legislative shift materialized was in harsh youth transfer laws, which exposed more youth to adult criminal court and mandatory lengthy and life sentences attendant to the criminal legal system. *See* Bogert & Lynnell Hancock, *Superpredator: The Media Myth That Demonized a Generation of Black Youth*, Marshall Project (Nov. 20, 2020), <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth> (“By the end of the 1990s, virtually every state had toughened its laws on juveniles: sending them more readily into adult prisons; gutting and sidelining family courts; and imposing mandatory sentences, including life sentences without parole”). Moreover, these laws—along with the onset of mandatory sentencing laws that came with them—are disproportionately imposed on Black and Brown youth and older adolescents today. The rhetoric infused with racial stereotypes that was used to push through such legislation is still

used to justify harsh charges and sentencing of adolescents like Sammy. While Sammy himself was not directly affected by the wave of transfer reforms in the 1990's, the false panic created by the superpredator myth seeped into every aspect of the criminal legal system. The demonization of Black and Brown people—reflected so clearly in the legislative push to prosecute more Black boys as adults—had a ripple effect in criminal courtrooms across America, including in New Jersey. Black and Brown people were seen against the backdrop of the “superpredator,” infecting sentencing for Black children and adolescents who were approaching adulthood.

#### **A. New Jersey Made Sweeping Changes To Its Juvenile And Criminal Laws**

Beginning in the early 1980s, driven by unease about rising youth crime, New Jersey made sweeping changes to its juvenile and criminal laws that disproportionately penalized the state's Black and Brown youth. In 1982, New Jersey overhauled its juvenile code to make it easier to prosecute youth in adult court. New Jersey Code of Juvenile Justice, L. 1982, c. 77, <https://repo.njstatelib.org/server/api/core/bitstreams/87677d65-2665-4859-add2-4256d4335688/content>. The Code of Juvenile Justice created a presumption in favor of waiver for youth as young as 14 years old charged with serious offenses, including criminal homicide, robbery, unlawful possession of a firearm, and sexual assault. L. 1982, c. 77, s. 7 <https://repo.njstatelib.org/server/api/core/bitstreams/87677d65->

2665-4859-add2-4256d4335688/content. It further placed the burden on youth to establish, by a preponderance of the evidence, that they could be rehabilitated before age nineteen (19) to avoid transfer to criminal court. *Id.* While lawmakers acknowledged that some youth should be diverted from the criminal system, they also believed that “the public welfare and the best interests of juveniles can be served most effectively through an approach which provides for harsher penalties for juveniles who commit serious acts or who are repetitive offenders.” Statement of Senate Judiciary Committee to Assembly No. 641 (Feb. 8, 1982), <https://repo.njstatelib.org/server/api/core/bitstreams/87677d65-2665-4859-add2-4256d4335688/content>. Then-Governor Thomas H. Kean shared the legislature’s concerns, emphasizing “the need to deal swiftly and sternly with violent young criminals.” Press Release, Office of the Governor (July 23, 1982), <https://repo.njstatelib.org/server/api/core/bitstreams/87677d65-2665-4859-add2-4256d4335688/content>.

In the following decade, the New Jersey legislature expanded the types of waivable offenses and instituted harsher penalties for youth and adults convicted of crimes. The legislature amended the Young Adult Offenders statute, N.J.S.A. 2C:43-5, which allowed youth to be sentenced to an indeterminate term at a youth detention facility, to exclude “any person less than 26 years of age at the time of sentencing who qualifies for a mandatory minimum term of imprisonment without eligibility

for parole” convicted of firearms offenses. L. 1983, c. 92, § 1, <https://repo.njstatelib.org/server/api/core/bitstreams/f6a6b22c-e7a8-4b8f-965e-cf5bbac8aae8/content>. The Comprehensive Drug Reform Act of 1986 also added stiff mandatory minimums for drug offenses and made new drug offenses eligible for waiver. L. 1987, c. 106, <https://repo.njstatelib.org/server/api/core/bitstreams/e4eb26ec-9e96-4562-8ff6-d758d94f4d52/content>. The legislature added carjacking to its criminal code—along with a mandatory minimum of five (5) years incarceration upon conviction. L. 1993, c. 221, <https://repo.njstatelib.org/server/api/core/bitstreams/1b66f550-5c15-49b7-ace3-681c68d2f6c2/content>. Carjacking,<sup>6</sup> death by auto while under the influence,<sup>7</sup> and auto theft,<sup>8</sup> previously excluded from the list of waivable offenses, were added in the 1990s and accompanied by harsh penalties. In fact, between 1992 and 1996, New Jersey was one of 15 states and the District of Columbia that “added or modified statutes that provide for a mandatory minimum period of incarceration of juveniles committing certain violent or other serious crimes.” Office of Juvenile Justice and Delinquency Prevention, *State*

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<sup>6</sup> The legislature added carjacking to its criminal code and made it a waivable offense in 1993. L. 1993, c. 221, <https://repo.njstatelib.org/server/api/core/bitstreams/1b66f550-5c15-49b7-ace3-681c68d2f6c2/content>.

<sup>7</sup> The legislature added death by auto while under the influence as a waivable offense in 1991. L. 1991, c. 30, <https://repo.njstatelib.org/server/api/core/bitstreams/e654815f-cfca-4397-ad8f-752801c1208e/content>.

<sup>8</sup> The legislature added auto theft as a waivable offense in 1991. L. 1991, c. 83, <https://repo.njstatelib.org/server/api/core/bitstreams/60f07143-1adf-4518-9009-600360101926/content>.

*Responses to Serious and Violent Juvenile Crime* 14 (1996), <https://www.ojp.gov/pdffiles/statresp.pdf>.

During this time, New Jersey judges were not immune to the superpredator rhetoric, and explicitly referenced and relied upon the public's concern over rising youth violence in their opinions. *See, e.g., State v. Des Marets*, 92 N.J. 62, 73-74 (1983) (explaining that “the legislative legitimacy of attempting to deter youthful offenders is underscored by the stark facts of youthful crime” which included “persons under 25 years of age”); *State v. Onque*, 290 N.J. Super. 578, 584 (App. Div. 1996) (“Although judges must never permit ‘public outrage’ to guide our decision on a waiver hearing, we must be mindful of the public policy considerations that motivate the Legislature to effect changes in our law and reflect public attitudes toward crime and law enforcement.”) (internal citation omitted); *State v. Presha*, 163 N.J. 304, 314 (2000) (noting that “‘youth crime’ is recognized as a major social problem in our society”).

The swift and stern response to violent youth crime disproportionately impacted Black youth in New Jersey. In 1984, one year after the new waiver law took effect, 69% of waivers (61 of 89) sought by prosecutors were for Black youth, compared to 18% (16) for white youth. Wayne S. Fisher & Lori Teichman, *Juvenile Waivers to Adult Court: A Report to the New Jersey State Legislature*, 9 Crim. Just. Q. 68, 76 (1986). Across the board, the number of waivers filed and granted climbed

dramatically in the years that followed. Between 1984 and 1990, the number of waivers filed by prosecutors increased 189% while the number of actual waivers granted jumped 161%. New Jersey Juvenile Delinquency Commission, *Waiving Juveniles to Adult Court: Some Trends and Concerns* 1 (1993), <https://www.ojp.gov/pdffiles1/Digitization/141442NCJRS.pdf>. Between 1990 and 2000, the state experienced an almost 50% increase in the number of youth transferred to adult court. Larissa Truchan et al., *Souls of Young Folk: The Disproportionate Prosecution of Black Youth as Adults in New Jersey* 5, New Jersey Youth Justice Initiative, [https://campaignforyouthjustice.org/images/FINAL\\_Souls\\_of\\_Young\\_Folk\\_Report-compressed.pdf](https://campaignforyouthjustice.org/images/FINAL_Souls_of_Young_Folk_Report-compressed.pdf).

In addition to changes in the waiver data, youth arrest rates also split disproportionately along racial lines. In 1986, a newly created Juvenile Delinquency Disposition Commission reported that “substantially fewer” white youth were being arrested while greater numbers of Black youth were being arrested for violent offenses. Juvenile Delinquency Disposition Commission, *First Annual Report of The Juvenile Delinquency Disposition Commission* 7 (1986), <https://www.ojp.gov/pdffiles1/Digitization/133993NCJRS.pdf>. Specifically, the Commission noted a 104% increase in arrests for violent offenses among Black youth—and that Black youth accounted for the majority (69%) of youth arrests for such offenses. *Id.* The same was true in the early 2000s, with minority youth nearly twice as likely to be

arrested than white youth. Office of Program Development & Prevention Services, *Disproportionate Minority Contact Among Juveniles in New Jersey: A Summary Report for 2002 & 2004* 10 (2006), [https://www.nj.gov/lps/jjc/pdf/rpt\\_2006\\_12\\_20\\_DMC\\_NJJuveniles.pdf](https://www.nj.gov/lps/jjc/pdf/rpt_2006_12_20_DMC_NJJuveniles.pdf). Punitive changes to New Jersey law in the 1980s and 1990s, coupled with persistent rhetoric about youth crime—particularly about Black males—resulted in the harsh and disproportionate treatment of Black youth in the state.

**B. The Superpredator Myth Also Had A Lasting Impact On Legislation Affecting Youth Across The Country**

Despite falling crime rates and predictions of youth criminality that never came to pass, as was the case in New Jersey, lawmakers across the country responded to false predictions of youth crime. Legislators’ statements mirrored the false depictions of Black youth, affirmed by white-supremacist researchers and scholars—Black and Brown youth were characterized as “thugs” and “hoodlums” with no value for human life.

Once the superpredator term gained media attention, DiIulio called for the pursuit of “genuine get-tough law-enforcement strategies against the super-predators.” DiIulio, *supra*. In response, between 1992 and 1997, almost all states made it easier to transfer youth to adult court, and thirty-one (31) states changed their sentencing authority by passing laws that “gave criminal and juvenile courts expanded sentencing options.” Howard N. Snyder & Melissa Sickmund, National

Center for Juvenile Justice, *Juvenile Offenders and Victims: 1999 National Report* 89 (1999), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/nationalreport99/chapter4.pdf>. *See also* Southerland, *supra*, at 780; John F. Stinneford, *Evolving Away from Evolving Standards of Decency*, 23 FED. SENT’G REP. 87, 88-89 (2010).

Legislative hearings and media coverage linked to the passage of these laws were replete with anecdotes and testimony stirring up fear of increased youth violence. For instance, in 1995, the Pennsylvania General Assembly modified its Juvenile Act to exclude specific offenses from the definition of “delinquent act,” resulting in cases being “direct-filed” in adult court. 1995 Pa. Legis. Serv. Sp. Sess. No. 1 Act 1995-33 (S.B. 100) (SS1). In a Special Session discussing proposed amendments to the bill, lawmakers focused on the rise in youth violence. Senator Michael Fisher stated:

Mr. President, this is, I believe, one of the most important bills that we have considered in this Special Session. It is a bill that basically says to young thugs across this Commonwealth that if you commit adult crimes, you are going to do adult time. . . . [W]hat we are finding today is the rise in crime in Pennsylvania has been caused as a result of the rise in violent crime among juveniles.

Commonwealth of Pa., Legislative Journal, S. 57, 1st Special Sess., at 304-05 (1995), <https://www.legis.state.pa.us/WU01/LI/SJ/1995/1/Sj19951025.pdf>. Senator Michael O’Pake also shared concern about the safety of society:



This protects innocent members of society and recognizes that when you are the victim of a violent crime, it does not matter to you whether the rapist or the armed robber or the murderer is 15 or 55. There is usually a weapon involved. They are gun-toting, knife-wielding hoodlums, and they have to be dealt with and they have to be sent a message that in Pennsylvania, we have had enough of that. The fastest growing crime rate in this country is not adult crime but rather it is juvenile crime, and there are statistics all over the place as to how bad that is.

*Id.* at 305. This commentary again echoed the rhetoric of the superpredator era, using terms like “young thugs” and “hoodlums” to push forward harmful, and racially-coded legislation affecting youth. Simultaneously, the legislature was voting to reinforce the death penalty and to expand maximum sentences for offenses including third-degree murder, sending the message that they were getting “tough” on crime. *See Commonwealth of Pa., Legislative Journal, S. 15, 1st Special Sess., at 83-85 (1995)*, <https://www.legis.state.pa.us/WU01/LI/SJ/1995/1/Sj19950306.pdf>.

Today, Pennsylvania’s direct-file law is still in place and the racial disparity is clear.<sup>9</sup> Recent data indicate that Black non-Hispanic youth make up 14% of the statewide youth population but are 62% of youth charged as adults under Pennsylvania’s Direct File scheme. *See Pennsylvania Juvenile Justice Task Force, Report and Recommendations 26 (June 2021)*, <https://www.pacourts.us/Storage/media/pdfs/20210622/152647-pajuvenilejusticetaskforcereportandrecommendatio>

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<sup>9</sup> House Bill 1381 was recently introduced to eliminate direct-file for youth, and raise the age of juvenile court jurisdiction. *See* <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2023&sInd=0&body=H&type=B&bn=1381>.

ns\_final.pdf. By contrast, white non-Hispanic youth constitute only 22% of youth charged as adults through statutory exclusion. *Id.* at 27. In Philadelphia, Black male youth are only 7% of the youth population, but 56% of youth prosecuted and convicted as adults. *Id.* at 28.

Similarly, Illinois, which first adopted automatic transfer in 1982 in response to rising youth crime, expanded its automatic transfer provision in the late 80s and early 90s. *See* Safe School Act of 1985, Pub. Act 84-1075 (allowing for the automatic transfer of youth for drug and weapons violations occurring within 1,000 feet of a school); Safe Neighborhood Law, Pub. Act 88-680, 1995 Ill. Laws 107 (amending the Juvenile Court Act of 1987 to include presumptive transfers). These expansions had an extensive and harmful impact on Black and Brown youth; prior to 1982, an average of 57 youth were transferred to the adult court annually, with Black youth making up 68% of transfers in Cook County. Juvenile Justice Initiative, *Automatic Adult Prosecution of Children in Cook County, Illinois, 2010-2012* 11 (2014), [https://modelsforchange.net/publications/532/Automatic\\_Adult\\_Prosecution\\_of\\_Children\\_in\\_Cook\\_County\\_Illinois\\_20102012.pdf](https://modelsforchange.net/publications/532/Automatic_Adult_Prosecution_of_Children_in_Cook_County_Illinois_20102012.pdf). From 2010-2012, this number jumped to 86 automatic prosecutions per year, with Black youth making up 83% of those prosecutions. *Id.* at 12 (noting that only one white youth was prosecuted as an adult in the same period). Despite later reform and a decline in youth prosecutions in adult court, Black youth are still disproportionately

represented. *See* Angela Caputo, *Seventeen*, *The Chicago Reporter*, Sept. 1, 2010 (reporting that 77% of 17-year-olds convicted of felonies in Cook County in 2010 were Black), <https://www.chicagoreporter.com/seventeen/>. *See also* Illinois Juvenile Justice Commission, *Trial and Sentencing of Youth as Adults in the Illinois Justice System: Transfer Data Report 19* (2021), (showing that Black youth represented 83% of youth prosecuted as adults through excluded jurisdiction in 2018).

In response to the false assumption that violent crime was on the rise, a key component of the superpredator myth, states also shifted the focus of their youth-related legislation. In 1994, Washington State passed the Youth Violence Reduction Act, which automatically transferred youth aged 16-17 charged with certain felonies to adult court. In the “Intent” section of the Act, the legislature commented:

The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade. The legislature finds that violence is abhorrent to the aims of a free society and that it can not [sic] be tolerated.

H.B. 2319, 53rd Leg., 1st Spec. Sess. (Wash. 1994), <https://lawfilesexternal.wa.gov/biennium/1993-94/Pdf/Bills/Session%20Laws/House/2319-S2.SL.pdf#page=1>. A stated purpose of the act was to “increase the severity and certainty of punishment for youth and adults who commit violent acts.” *Id.* at 3. In 1997, House Bill 3900

added additional offenses including robbery, rape, burglary and a violent felony committed with a firearm. H.B. 3900, 55th Leg., Reg. Sess. (Wash. 1997), <https://lawfilesexternal.wa.gov/biennium/1997-98/Pdf/Bills/Session%20Laws/House/3900-S3.SL.pdf?q=20220714164312>. Data showed that after passage of these laws, the number of youth prosecuted in adult court tripled. See Robert Barnoski, Wash. State Inst. for Pub. Pol’y, *Changes in Washington State’s Jurisdiction of Juvenile Offenders: Examining the Impact 2* (2003), [https://www.wsipp.wa.gov/ReportFile/825/Wsipp\\_Changes-in-Washington-States-Jurisdiction-of-Juvenile-Offenders-Examining-the-Impact\\_Full-Report.pdf](https://www.wsipp.wa.gov/ReportFile/825/Wsipp_Changes-in-Washington-States-Jurisdiction-of-Juvenile-Offenders-Examining-the-Impact_Full-Report.pdf).

Initially, the number of Black youth automatically transferred decreased. *Id.* However, a 2021 study examining data between 2009 and 2019 revealed that the automatic transfer process, or “decline process,” as it is called in Washington, “disproportionately affects children of color in Washington State.” See Heather D. Evans & Steven Herbert, Univ. of Wash., *Juveniles Sentenced as Adults in Washington State, 2009-2019* 19 (2021), <https://opd.wa.gov/sites/default/files/2024-03/000073-Juveniles%20Sentenced%20as%20Adults%20in%20Washington%20State%2C%202009-2019.pdf>. According to the study, Black youth made up 38% of youth convicted after being automatically transferred to adult court, comprising the largest population of convicted youth. *Id.* Compared to the “ethno-racial composition” of youth in Washington, the racial disparity demonstrated “a stark

over-representation of children of color among juveniles selected for adult sentencing” between 2009 and 2019. *Id.* at 19-20.

Similarly, Oregon lawmakers “fundamentally rewrote the mission statement of the juvenile justice system” through Ballot Measure 11. Passed in 1994, Ballot Measure 11 changed the purpose of the system from one focused on child welfare to one that “promotes accountability, responsibility, and punishment.” Office of Juvenile Justice and Delinquency Prevention, *State Legislative Responses to Violent Juvenile Crime: 1996-97 Update* 7 (Nov. 1998), <https://www.ojp.gov/pdffiles/172835.pdf>. The law required youth aged 15-17 who committed offenses, including murder and first and second-degree assault, to be tried in adult criminal court, expanded the use of mandatory minimum sentences for these offenses, and removed the possibility of release on post-prison supervision or early release. *See id.* *See also* H.B. 3439, 68th Leg., Reg. Sess. (Or. 1995), [https://www.oregonlegislature.gov/bills\\_laws/archivebills/1995\\_hb3439.en.html](https://www.oregonlegislature.gov/bills_laws/archivebills/1995_hb3439.en.html). Seeing a gap in the law’s reach to even younger youth, the legislature went a step further and passed Senate Bill 1. In support, a legislative taskforce reasoned:

Under existing law, a 14-year-old murderer-rapist cannot be tried as an adult or confined in juvenile facilities beyond his or her 21st birthday, whether or not the youth is a threat to the community and likely to re-offend. With an increasing number of serious violent crimes committed by individuals under 15, this glaring omission from Measure 11 represents a continuing threat to public safety.

*State v. J.C.N.-V.*, 342 P.3d 1046, 1064 (Or. Ct. App. 2015) (reversed on other grounds) (quoting Exhibit C, Senate Committee on Judiciary, SB 1, Jan. 26, 1995). *See also* Or. Rev. Stat. § 419C.352. As of April 2004, 41% of Oregon’s prison population growth was attributed to Measure 11. Bill Taylor, *Background Brief on Measure 11*, Legislative Committee Services, State of Oregon, Vol. 2, Issue 1, at 2 (May 2004), [https://www.oregonlegislature.gov/lpro/Publications/2004IG\\_Measure\\_11.pdf](https://www.oregonlegislature.gov/lpro/Publications/2004IG_Measure_11.pdf). Measure 11 was not amended until 2018 through Senate Bill 1008. The amendment eliminated automatic transfer of youth aged 15-17 and expanded eligibility for conditional release. *See* S.B. 1008, 80th Leg., Reg. Sess. (Or. 2019), <https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument?measureNumberWithPrefix=SB1008&measureVersion=House%20Minority%20%231%20Amendments%20to%20A-Engrossed>.

These are merely a few examples from states across the country that illustrate how swift action taken in response to a debunked theory had a lasting impact on policy. Even when legislation passed in the wake of this era was stricken decades later, the impact on our system of mass incarceration remains.

### **III. LWOP SENTENCES ARE DISPROPORTIONATELY IMPOSED ON BLACK YOUTH AND EMERGING ADULTS**

The superpredator era’s call to get tough on crime left little room to consider the unique developmental attributes of youth. As legislatures pushed more youth into the criminal legal system, they also swiftly implemented lengthy and mandatory

sentencing laws in response to the superpredator myth. This resulted in a vast number of adolescents serving life without parole (hereinafter “LWOP”) or *de facto* LWOP sentences. In particular, older adolescents disproportionately make up those serving LWOP sentences. Among that group, older Black adolescents make up a disproportionate number of individuals serving lengthy and life sentences.

Data from 2017 showed that while youth aged 18-24 made up 9% of the U.S. population, they represented more than 23% of people arrested. Karen U. Lindell & Katrina L. Goodjoint, Juv. L. Ctr., *Rethinking Justice for Emerging Adults: Spotlight on the Great Lakes Region 9* (2020) (citing *U.S. Census Bureau, Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States*: April 1, 2010 to July 1, 2018, <https://www.census.gov/data/tables/time-series/demo/popest/2010s-national-detail.html>; *FBI Criminal Justice Information Services Division, 2017 Crime in the United States*, Table 38, <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/tables/table-38>).

Racial disparities in LWOP sentences also persist. In 2016, people of color comprised 67.5% of those serving life and *de facto* sentences nationally—and nearly half (48.3%) of that cohort were Black. Ashley Nellis, The Sent’g Project, *Still Life: America’s Increasing Use of Life and Long-Term Sentences* 14 (2017), <https://www.sentencingproject.org/reports/still-life-americaos-increasing-use-of->

life-and-long-term-sentences/. These disparities are particularly prevalent for youth tried as adults. As of 2017, one out of every 17 persons sentenced to life were children at the time of their offense, comprising 5.7% of those serving life sentences. *Id.* at 16. At the time, there were 7,346 individuals serving parole-eligible life sentences for crimes committed as children and an additional 2,089 serving sentences of 50 or more years. *Id.* at 17. These sentences were overwhelmingly imposed on youth of color (80.4%), primarily Black youth (55.1%). *Id.*

A new report released in August 2024 reveals that in 2020, “prisons held over 8,600 people serving either life with the possibility of parole or ‘virtual’ life sentences of 50 years or longer.” Ashley Nellis & Devyn Brown, *Still Cruel and Unusual: Extreme Sentences for Youth and Emerging Adults* 1 (2024), <https://www.sentencingproject.org/publications/still-cruel-and-unusual-extreme-sentences-for-youth-and-emerging-adults/>. The report estimated that two in five people serving LWOP sentences were twenty-five-years-old or younger at the time of the offense. *Id.* (citing Ashley Nellis & Niki Monazzam, *The Sent’g Project Left to die in prison: Emerging adults 25 and younger sentenced to life without parole* 2 (2023), <https://www.sentencingproject.org/reports/left-to-die-in-prison-emerging-adults-25-and-younger-sentenced-to-life-without-parole/>). And the racial disparities remain stark: “More than half (55%) of all people serving LWOP in 2020 were



Black. . . . Two thirds (66%) of emerging adults sentenced to LWOP are Black.” *Id.*  
at 6.

## CONCLUSION

The superpredator myth emerged from a long history of racist and sinister efforts to dehumanize Black people and justify their persistent subjugation in this country. Those efforts, in turn, led to the assumption that prosecuting youth in adult court and incarcerating them for decades was a necessary solution to a temporary rise in youth crime. While the myth has since been debunked, responsive legislation had a lasting impact. In relying on the key features of this myth in sentencing, Sammy was unfairly prosecuted based on materially false, racially-fueled rhetoric aimed at perpetuating the narrative that Black and Brown youth are inherently violent and deserving of harsh sentences. We urge this Court to recognize the impact of this harmful rhetoric and the impropriety in relying on it to sentence an adolescent to life without parole.

Respectfully submitted,

/s/ Tiara J. Greene

Tiara J. Greene

NJ Attorney No. 107312014

JUVENILE LAW CENTER

1800 JFK Blvd, Ste. 1900B

Philadelphia, PA 19103

(215) 625-0551

tgreene@jlc.org

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*Counsel for Amici Curiae*

