

To: Rodger Heaton, Chairman and Commissioners
Illinois Criminal Justice and Sentencing Reform Commission

From: Elizabeth Clarke, President
Juvenile Justice Initiative

Date: October 30, 2015

Re: Written testimony Urging Replication of Juvenile Diversion and Sentencing Options for Young Adults

The Juvenile Justice Initiative (JJI) submits this written testimony to augment its earlier recommendation that the Commission include **replicate juvenile diversion and sentencing options for young adults** (people ages 18-21) as a means of reducing the jail and prison populations in Illinois. Specifically, we include new comments and recommendations from the **U.S. Justice Department** on this issue.

JJI applauds the work the Commission has undertaken so far and its *Initial Report* issued on July 1, 2015. However, the Commission's *Initial Report* lacks any mention of research or recommendations regarding young adults or the consideration of diversionary programs specifically geared towards this population, as separate from a discussion of diversion for adults in general.

The Juvenile Justice Initiative has previously submitted testimony on this issue, and seeks today to augment our earlier written testimony (of July 27, 2015) and the submission of our report on Young Adults.

On March 9, 2015, JJI forwarded a copy of its report, *Young Adults in Conflict with the Law: Opportunities for Diversion*, individually to each Commissioner. As a reminder, in that report, JJI looked at data from the Cook County Jail and found that a third of the young adult admissions to the jail in 2013 were for misdemeanor offenses – **that's a total of 4,011 admissions in 2013 to the Cook County jail of young adults for misdemeanor offenses**. There were nearly 12,000 admissions of young adults to the jail in 2013, but most were for non-person offenses with half of the admissions for drug/property offenses. Our research found half of the young adults spent twelve nights or less, with a quarter being released within a day.

The fact that the young adults do not stay long in jail, and the fact that research demonstrates people age out of criminal behavior in their early twenties, indicates diversion and sentencing reforms could be particularly effective with this Young Adult population.

Last month (9/8/15) the **Office of Justice Programs** held a panel discussion on “*Justice-Involved Young Adults*” in Washington, D.C. During her opening remarks **Attorney General Loretta E. Lynch** stated:

Research indicates that as young adults age through their late teens and early 20s, they experience a period of rapid and profound brain development. In addition to providing insight into why young adults act the way they do, brain science also indicates that we may have a significant opportunity, even after the teenage years, to exert a positive influence and reduce future criminality through appropriate interventions. It raises the possibility that considering these unique stages of development within the criminal justice setting, we could reduce the likelihood of recidivism and create important benefits for public safety. And it offers a chance to consider new and innovative ways to augment our criminal justice approach.

Read her full comments [here](http://www.justice.gov/opa/speech/attorney-general-loretta-lynch-delivers-opening-remarks-office-justice-programs-panel). <http://www.justice.gov/opa/speech/attorney-general-loretta-lynch-delivers-opening-remarks-office-justice-programs-panel>

At the panel discussion, the Executive Session on Community Corrections released the *inaugural paper* from the new series, *New Thinking in Community Corrections*, entitled **Community-Based Responses to Justice Involved Young Adults**:

“This paper raises important questions about the criminal justice system’s response to young adults. Recent advances in behavior and neuroscience research confirm that brain development continues well into a person’s 20s, meaning that young adults have more psychosocial similarities to children than to older adults. This developmental distinction should help inform the justice system’s response to criminal behavior among this age group.” -**Karol V. Mason**, Assistant Attorney General, Office of Justice Programs at the U.S. Department of Justice

Executive Session members **Vincent Schiraldi**, **Bruce Western**, and **Kendra Bradner**, the authors, note that the human brain has been clinically shown to not fully mature prior to the mid-20s and suggest new institutional methods and processes for young adult justice that can meet the realities of life for today’s disadvantaged youth involved in crime and the criminal justice system.

The authors envision a system that extends the reach of the juvenile court to reflect a modern understanding of the transition into adulthood, and their primary recommendation is that the age of juvenile court jurisdiction be raised to 21, with additional, gradually diminishing protections for young adults up to age 24 or 25.

The Chicago Tribune recently published the following commentary by Vincent Schiraldi and Bruce Western (republished from the Washington Post) on the report:

Just over 100 years ago, there was no separate court for juveniles anywhere in the world. Adolescents were viewed as smaller versions of adults, were prosecuted under the same laws and often sent to the same prisons.

But in 1899, a pioneering group of women — Jane Addams, Lucy Flower and Julia Lathrop — persuaded the state of Illinois to create a separate court to handle juveniles’ cases individually, be more rehabilitative and less punitive and ensure that youthful mistakes wouldn’t haunt youngsters throughout their lives. The family court was a smashing success,

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spreading to 46 states and 16 countries by 1925 and decidedly reducing recidivism compared with trying children as adults.

But while family court's founding mothers got a lot right, the setting of 18 as the court's maximum age was an arbitrary choice based on the mores of the time rather than hard evidence. It's time we expanded the protections and rehabilitative benefits of the family court to young adults.

Research in neurobiology and developmental psychology has shown that the brain doesn't finish developing until the mid-20s, far later than was previously thought. Young adults are more similar to adolescents than fully mature adults in important ways. They are more susceptible to peer pressure, less future-oriented and more volatile in emotionally charged settings.

Furthermore, adolescence itself has become elongated compared with that of previous generations. Today's young people finish college, find jobs, get married and leave home much later than their parents did. Just 9 percent of young adults were married in 2010, compared with 45 percent in 1960.

Non-criminal law and practice frequently recognize these developmental differences. States prohibit young adults from smoking cigarettes, consuming alcohol, possessing firearms, gambling and adopting children. You can't serve in the House of Representatives until age 25, it costs more to rent a car as a young adult and you can stay on your parents' health insurance until 26.

However, despite the developmental differences between young and fully mature adults, criminal law draws a stark, scientifically indefensible line at 18. This has disastrous public safety outcomes. For example, 78 percent of 18- to 24-year-olds released from prison are rearrested and about half return to prison within three years, the highest recidivism rate of any age cohort.

Fortunately, there has been growing innovation overseas along with some noteworthy U.S. experiments designed to address the challenges and opportunities this transition-aged population presents. The age of family court jurisdiction in Germany and the Netherlands is 21 and 23, respectively. Many European countries have separate correctional facilities for young adults. In Finland, young people can earn accelerated release from prison by participating in educational and professional training programs.

Several states — Florida, Michigan and New York — have laws that permit young adults' convictions to remain confidential. San Francisco's probation office has a special caseload category for "transitional-aged youth," and this summer the city established a specialized youth court.

New York City's justice officials are experimenting with specialized handling of young adults at every stage of the process. The police and district attorneys in Brooklyn and Manhattan have just launched "Project Reset" to divert youths upon arrest. The state courts have "adolescent diversion parts" in every New York borough. New York City's probation department is planning to launch specialized young-adult caseloads, and the Department of Correction is planning dedicated young-adult facilities with specialized re-entry services. A range of nonprofits target programming specifically at young adults.

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Attorney General Loretta Lynch recently convened an expert panel to explore developmentally appropriate responses to young adults caught up in the justice system. “Research indicates that . . . we may have a significant opportunity, even after the teenage years, to exert a positive influence and reduce future criminality through appropriate interventions,” she said. This “offers a chance to consider new and innovative ways to augment our criminal justice approach.”

Such thinking will undoubtedly face political head winds in some places, but improved outcomes can be used to build support with the public. Frequently, U.S. juvenile justice practice moves adolescents in the opposite direction — from family court into adult court and, too often, adult prisons. An estimated 247,000 people under 18 were tried as adults in 2007, and more than 5,000 adolescents are incarcerated in jails and prisons. There, they are at greater risk of sexual assault and experience higher rearrest rates vs. youth retained in the juvenile justice system. Any reforms for young adults need to also reduce this destructive practice of transferring young people into the maw of the adult system.

Given advances in research and successful innovation here and abroad, now is the time for practice to catch up with science — whether it is raising the family court’s age to 21 or 25 or otherwise creating a separate approach to young adults that reflects their developmental needs and furthers public safety.

Washington Post. Vincent Schiraldi and Bruce Western are, respectively, senior research fellow and chair of the Program in Criminal Justice Policy and Management at the Harvard Kennedy School. <http://www.chicagotribune.com/news/opinion/commentary/ct-raise-juvenile-age-limit-21-20151005-story.html>

Finally, any discussion of this issue would be incomplete without also referencing the profound racial disparities present throughout our justice system, and especially poignant in the context of our young adults. The JJI report examined arrest data and concluded that black young adults were 3.44 times more likely to be arrested than white youth, and 3.59 times more likely to be arrested statewide.

Black young adults ages 18 - 21 were represented at a level 2.42 times higher than general population, and more than three times as likely to be arrested than white peers in CY2013.

In summary, we urge you to consider current scientific evidence on adolescent development and the policy recommendations by the U.S. Attorney General’s office in finalizing your recommendations to the Governor of Illinois on how to reduce Illinois’ prison population. Replicating juvenile diversion and sentencing options for young adults and/or raising the age of juvenile court to 21 will not only help Illinois achieve its goal to reduce its prison population by 25% but will also allow our state’s young adults the opportunities they need to become productive members of society and make our communities safer.

Thank you for the opportunity to provide these additional comments for your consideration. If you would like additional information, please contact me at (847) 864-1567.