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# **Public Safety and Emerging Adults in Connecticut:**

*Providing Effective and Developmentally  
Appropriate Responses for Youth Under Age 21*

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## EXECUTIVE SUMMARY

Connecticut, a recognized leader in justice reform, is once again examining a new strategy to improve public safety: *Providing effective and developmentally appropriate responses for youth under age 21*.

In 2016, Governor Dannel Malloy proposed legislation that would gradually incorporate 18, 19 and 20-year-olds into the juvenile justice system over a three-year period. This proposal would affect approximately 10,000 individuals each year when the law is fully implemented. An estimated one-third of these emerging adults will be diverted and given the opportunity to resolve their cases in an effective but non-judicial manner. While the bill contains provisions to continue to prosecute and sentence youth ages 15 to 21 in the adult criminal justice system for the most serious offenses, it provides the opportunity of an individualized, rehabilitative system for the vast majority of the population in question.

To explore the potential effects of this proposal both for public safety and outcomes for emerging adults, the Harvard Kennedy School Program in Criminal Justice Policy and Management, (PCJ), in collaboration with the Tow Youth Justice Institute (TYJI) of the University of New Haven, embarked on an action research project to answer the following questions:

- How would this reform fit into Connecticut's substantial experience with justice reform, including the past "raise the age" initiative that successfully expanded juvenile jurisdiction from age 16 to 18?
- What lessons can be learned from other jurisdictions in the United States and abroad about more effective ways to address emerging adults in the justice system?
- What would be the broader impacts of these proposed reforms on Connecticut's justice system?
- What are the key issues that need to be addressed to ensure the successful implementation of these new reforms in Connecticut?

To answer these questions, PCJ conducted literature reviews in the fields of neurobiology, developmental psychology and life course criminology, as well as examined research on best and emerging practices nationally and internationally that target young, court-involved offenders. Over a four-month period, TYJI organized and PCJ facilitated a series of meetings in Connecticut to discuss the proposal and seek feedback about both the opportunities and the challenges presented by the proposal (see Appendix A). Participants of these meetings included members of the Juvenile Justice Policy and Oversight Committee (JJPOC) as well as government officials, advocates, academics and private citizens. Finally, PCJ requested and analyzed non-identified data from the state agencies as well as other publicly available data (e.g., arrest data from the Uniform Crime Report) to provide a better understanding of the potential impacts of the proposal's implementation on both the juvenile and criminal justice systems.

PCJ also examined this proposal in the context of the significant justice reform initiatives that Connecticut has accomplished in the last several decades. This includes the earlier “raise the age” initiative from age 16 to 18 (fully implemented in 2012), which resulted in positive impacts on both public safety and the state budget. Corresponding with these prior reforms, Connecticut has experienced a dramatic decline in crime and incarceration, particularly with respect to emerging adults: Arrests for 18, 19 and 20-year-olds dropped by 66% from 2008 to 2015, while emerging adults sentenced to prison declined by a notable 43% from 2005 to 2015. These substantial reductions provide Connecticut an exceptional foundation for implementing this new reform proposal.

### **Who are “emerging adults”?**

Emerging adults, a term first coined in 2000 by psychologist and author Jeffrey Arnett at Clark University, has become increasingly adopted in the criminal justice arena. The term invokes a critical developmental period: the transition from a child who is dependent on parents or guardians for supervision and guidance (as well as emotional and financial support) into a fully mature, independent adult who engages as a productive and healthy member of society. Connecticut’s proposal would impact a subset of this group – 18, 19 and 20-year-olds – which constitute approximately 4% of the overall population and 10% of arrests in the State.

In the United States, emerging adults have generally been treated in our criminal justice systems in the same manner as older, more mature adults. The results of this undifferentiated and generic approach have been demonstrably poor, be it in terms of public safety, individual well-being, or cost effectiveness. Emerging adults comprise a disproportionately high percentage of arrests: In the U.S., emerging adults (ages 18 – 24) make up 10% of the U.S. population but 30% of arrests; in Connecticut, emerging adults (ages 18 – 20) comprise 4% of the state’s population but 10% of arrests. Emerging adults have the highest recidivism rates of any age group, again both nationally and in Connecticut. Yet this is also an age of opportunity – a time when arrest rates begin to decline and when the life trajectory of young people can be influenced for the better.

As parents know well, and research bears out, this period is marked by significant intellectual, emotional, and social transformations that can continue into the mid-20s. Emerging adults are more volatile in emotionally charged settings, more susceptible to peer and other outside influences, more impulsive and less future-oriented. These factors are all amplified for those who have experienced trauma. Most emerging adults will mature normally through this stage between childhood and adulthood, and reach the developmental bridges (e.g., steady work and marriage) that research shows will allow them to “age out” of criminality. By recognizing the developmental needs of emerging adults and applying more developmentally appropriate responses, Connecticut has introduced a cutting-edge strategy to improve public safety by creating a more developmentally appropriate response to law breaking by youth in this age group.

In highlighting the opportunities and challenges of including emerging adults in the Connecticut juvenile justice system, this report identifies some key issues and explores them in greater detail. These include: extending pre-arraignment diversion to 18, 19 and 20-year-olds; identifying and applying evidence-based services to emerging adults, particularly for mental health and substance abuse, educational and vocational services, housing stability, and family involvement; defining emerging adults within the Connecticut statutory framework and expressing the intent to include this population in the juvenile justice system without unintentionally creating conflicts with federal laws and rules (e.g., the Juvenile Justice and Delinquency Prevention Act and the Prison Rape Elimination Act); and monitoring and reducing racial/ethnic disparities of both youth under 18 as well as emerging adults in the juvenile justice system.

This report examines some of the fiscal implications of the proposal, a particularly critical consideration in light of the recent significant reduction in the state budget (including staff and service contracts in both the juvenile and criminal justice systems). To the degree possible, the re-allocation and re-investment of resources is explored and the cost-savings that will flow from the proposal are highlighted.

The report concludes with fifteen specific recommendations for the implementation of this proposal that can be summarized in the following four categories:

- A. *Focus and cost-effectiveness*: These recommendations are designed to increase the likelihood of successful outcomes, lower costs to taxpayers, allow the system to focus on youth and emerging adults truly in need of intervention, and “right-size” the system so that it is better able to absorb the expanded population of emerging adults (Recommendations 1 - 3).
- B. *Breadth of application*: Applying the benefits of the juvenile justice system as much as possible to 18, 19 and 20-year-olds, including the expertise of the professionals within the juvenile system (Recommendations 4 - 5) in a practical manner that minimizes unnecessary law changes (Recommendations 6 - 7).
- C. *Investment in reforms*: Taking the opportunity of this watershed moment to increase investments in effective programming (e.g., educational services and vocational training) in the community and, when necessary, within residential treatment facilities (Recommendations 8 - 10), and to consider making some other important reforms to better serve both youth under 18 as well as emerging adults (Recommendations 11 - 13).
- D. *Institutional acceptance of “emerging adults”*: Intentionally fostering a culture shift and philosophically embracing emerging adults within the juvenile justice system, which will require additional training, monitoring, evaluation and leadership (Recommendations 14 - 15).

Connecticut could become the first state to implement a comprehensive legal framework to specifically address emerging adults in the juvenile justice system. However, it is not

the only state considering such reforms; both Illinois and Vermont held legislative hearings this past year with similar proposals. Moreover, specialized court sessions, probation and parole caseloads, and correctional housing units targeting emerging adults have been increasingly sprouting up and expanding across the country, a phenomenon thoroughly documented and catalogued in the National Institute of Justice's June 2016 report, *Environmental Scan of Developmentally Appropriate Criminal Justice Responses to Justice-Involved Young Adults*. In sum, effectively implementing Connecticut's proposal to provide emerging adults with developmentally appropriate responses within an expanded juvenile justice system will provide a better understanding of what works, and the country will be watching closely.

## INTRODUCTION

*“The future of our nation depends upon the future of our young people – including young people who have become involved with our justice system.”*  
– Loretta Lynch, April 2016

On January 28, 2016, Governor Dannel P. Malloy visited the Juvenile Justice Policy and Oversight Committee (JJPOC) to propose the gradual expansion of the jurisdiction of the juvenile justice system to include 18, 19 and 20-year-olds. The change would be made over a three-year period. In the letter that he simultaneously submitted to the JJPOC, the Governor emphasized that the goal of his proposed changes is to increase public safety:

Creating a justice system that enables our young adults to avoid the permanent effects of a criminal record will reduce crime and will help our young people have a greater chance for success. It will enable them to have a chance at finding employment, housing and go to school without carrying the weight of a permanent record. It is the right thing to do.<sup>1</sup>

At this meeting, the Governor also discussed previous efforts to elicit feedback on this important policy initiative and explicitly asked for JJPOC’s assistance in considering the implementation issues of this “new raise the age effort.”

The Program in Criminal Justice Policy and Management at the Harvard Kennedy School (PCJ) has undertaken this Action Research Project to provide guidance to the JJPOC and the State of Connecticut on how best to successfully implement an expansion of the juvenile justice system. The work has been supported by a grant to Connecticut from the United States Department of Justice’s Office of Juvenile Justice and Delinquency Prevention entitled “Second Chance Act: Smart on Juvenile Justice: Community Supervision Initiative.” PCJ has worked in collaboration with the Tow Youth Justice Institute (TYJI) at the University of New Haven in producing this report.<sup>2</sup>

Connecticut’s pursuit of more effective ways to respond to emerging adults in its justice system is commendable and puts Connecticut in the forefront of our nation’s approach to crime prevention and reduction. As will be explained below, the outcomes for 18 to 25-year-olds in our justice system have been particularly poor. The data show that not only are these individuals “failing,” but that the justice system is failing them. As a result, society is losing increasing numbers of young people to incarceration as well as unproductive and unhealthy lives. In effect, the justice system is harming these individuals, their families, and society as a whole, resulting in further victimization and the erosion of public safety.



Despite these challenges, there is growing recognition that this age cohort also presents significant opportunities to intervene effectively in a positive manner – to improve the individual outcomes of emerging adults and to increase public safety and system fairness.

This report is intended to be a resource for the reform efforts in Connecticut to leverage these opportunities. As such, the report addresses four key questions:

- How would this reform fit into Connecticut’s substantial experience with justice reform, including the past “raise the age” initiative that successfully expanded the juvenile jurisdiction age from 16 to 18?
- What lessons can be learned from other jurisdictions in the United States and abroad about more effective ways to address emerging adults in the justice system?
- What would be the broader impacts of these proposed reforms on Connecticut’s justice system?
- What are the key issues that need to be addressed to ensure the successful implementation of these new reforms in Connecticut?

PCJ wishes to acknowledge the support of Connecticut in this endeavor, including private citizens, government officials, advocates, academics and especially the members of the Juvenile Justice Policy and Oversight Committee who devoted considerable time and effort to share their knowledge and opinions. Please note that this publication does not express the views of the Judicial Branch, Department of Children and Families, Department of Correction or the State of Connecticut. The views and opinions expressed are those of the authors.

#### **WHAT THE GOVERNOR’S PROPOSAL SEEKS TO CHANGE**

Most 18 to 21-year-olds (those charged with less serious offenses) would be included in the juvenile system. They would have an opportunity to participate in pre-arraignment diversion and be adjudicated/convicted of a delinquency offense. If detained, they would be held in a juvenile facility (now operated by Court Support Services Division) and, if committed, sentenced to the custody of the Department of Children and Families.

#### **WHAT THE GOVERNOR’S PROPOSAL DOES NOT CURRENTLY SEEK TO CHANGE**

If current waiver provisions stay as is, all 15 to 21-year-olds charged with serious offenses would be prosecuted in the adult session. These proceedings would be open to the public (unless designated as a Youthful Offender) and, if ordered to be confined during the court case, the youths or emerging adults would be detained in a Department of Correction (DOC) facility (not a juvenile facility). If sentenced to confinement by a judge after a conviction, these youths and emerging adults would be incarcerated at a Department of Correction facility (not a juvenile facility operated by DCF).

## METHODOLOGY

PCJ conducted this Action Research Project to explore the most effective ways to implement the proposal to absorb emerging adults through age 20 in the juvenile justice system and to provide developmentally appropriate and effective community-based responses to offenders under the age of 21. PCJ developed four specific questions (outlined in the Introduction above) and then pursued a variety of different research methods to seek out the answers. These included conducting literature reviews in the fields of neurobiology, developmental psychology and life course criminology. At both the national and international levels, PCJ examined a growing body of research on best and emerging practices that target young, court-involved emerging adults. Over a four-month period, TYJI organized and PCJ facilitated a series of meetings in Connecticut to discuss the proposal and to seek feedback about both the opportunities and the challenges presented. Participants of these “focus groups” included members of the Juvenile Justice Policy and Oversight Committee as well as a wide range of government officials, advocates, academics and private citizens (see Appendix A for the list of these meetings). PCJ also spoke individually to some of the key juvenile and criminal justice leaders in person or by phone. In order to allow for open and free flowing brainstorming sessions, PCJ did not record any of the meetings or attempt to identify statements from particular individuals.

In addition to the above background research and analysis, PCJ also collected and analyzed juvenile and criminal justice data from Connecticut. Some of the data was publicly available, such as the arrest data from the Uniform Crime Report. However, PCJ also submitted specific requests for non-identified data to the Department of Children and Families, the Judiciary and the Department of Correction. This data was collected in order to examine how emerging adults are currently flowing through the justice system and analyze the potential impact on both the juvenile and adult justice systems during the implementation of this proposal.

Because of the type and scope of this Action Research Project, this report does not include information about the opinions of the individuals who will be most directly affected by the proposed policy changes: court-involved emerging adults. Some of the participants in the various focus group meetings raised concerns that emerging adults could be confused or even opposed to the notion of being processed in the juvenile system, rather than the adult criminal justice system. Others noted that if emerging adults did have a negative reaction to the proposed changes, this could be indicative of the developmental stage of emerging adults (who are often more concerned with immediate “status” rather than long-term consequences) as well as the misconceived notion that juvenile courts are mere “kiddie courts.” Researching the views and opinions of emerging adults themselves, and asking them about what they believe would be most helpful to both hold them accountable and also provide them an opportunity to move on in a positive manner to become productive members of our communities, is an area of future study that would be useful for Connecticut to undertake in the future.<sup>3</sup> But on the assumption that public safety can be more effectively protected through the successful

outcome of an emerging adult's experience in the justice system, the absence of such research in the meantime does not preclude us from making recommendations now.

This report makes fifteen recommendations, all of which were (1) identified and developed through the above methodology and (2) selected because they appeared to be most relevant and also addressed the concerns or issues most often raised by different groups during the "listening tour" conducted over the course of this project.

Finally, it should be noted that this report uses the term "emerging adults" to define individuals between the ages of 18 up to and including 20. This term replaces that of "young adults," which was the specific term used in the proposed legislation filed earlier this year. The change was a conscious and deliberate choice, one that reflects PCJ's belief that "emerging adults" more accurately describes this important and distinct developmental stage. "Emerging adult," a term first coined in 2000 by psychologist and author Jeffrey Arnett at Clark University, has become increasingly adopted in the criminal justice arena and invokes a critical developmental period: the transition from a child who is dependent on parents or guardians for supervision and guidance (as well as emotional and financial support) into a fully mature, independent adult who engages as a productive and healthy member of society. The section of this report entitled "The Role That Age Plays In The Justice System" will provide greater details about this "in-between" stage as well as its implications to the justice system.

### QUESTION #1:

*How would this reform fit into Connecticut's substantial experience with justice reform, including the past "raise the age" initiative that successfully expanded juvenile jurisdiction from 16 to 18?*

### Connecticut's Legacy of Reform

Connecticut has a long track record of tackling justice reform and has been recognized as a national leader in the past couple of decades, especially for the improvements made to the juvenile justice system. As the Justice Policy Institute has pointed out:

*Perhaps more than any other state, Connecticut has absorbed the growing body of the knowledge about youth development, adolescent brain research and delinquency, adopted its lessons, and used the information to fundamentally re-invent its approach to juvenile justice. As a result, Connecticut's system today is far and away more successful, more humane, and more cost-effective than it was 10 or 20 years ago.*<sup>4</sup>

Although not an exhaustive list, here are some highlights of past reform efforts that have a bearing on this emerging adult initiative:

- In 2000, Connecticut commissioned the Connecticut Policy and Economic Council to provide an in-depth recidivism analysis. The report, released in 2002, provided unwelcome and somewhat shocking news: 20 of 22 alternative programs being funded and implemented in Connecticut were ineffective at best – and that some of the programs may have increased the chances of recidivism.<sup>5</sup> In response, the Department of Children and Families and the Court Support Services Division committed substantial funding to expand and improve the network of evidence-based community programs for court-involved youth. By 2009, the annual budget for programs reached \$39 million.<sup>6</sup> The new and improved programming included the development of "YES! Centers" around the state that offer a mix of individual and group programming for youth on probation, as well as the adoption of well-respected, evidence-based, non-residential treatment models, such as Multi-Systemic Therapy (MST)<sup>7</sup> and Functional Family Therapy (FFT).<sup>8</sup>
- In 2006, Connecticut engaged in a thorough strategic planning process for its juvenile justice system, a formal, thoughtful and inclusive process that few (if any) other states have replicated.
- In 2007, Connecticut passed legislation, often referred to as "Raise the Age," that raised the upper age of juvenile jurisdiction from 16 to 18. At the time, Connecticut was one of only three states in the country to automatically prosecute all children as young as 16 as adults. Connecticut implemented the upward shift in age of jurisdiction in a gradual manner: 16-year-olds were included in the juvenile system on January 1, 2010 and 17-year-olds were added later on July 1, 2012.<sup>9</sup> This Raise the

Age initiative has been implemented in a fiscally sound manner and proven to have advanced public safety. (The discussion from *Question 3: What would be the broader impacts of these proposed reforms on Connecticut's justice system* below further examines the impact of this earlier Raise the Age initiative on the juvenile caseloads and crime rates, while the section entitled "Fiscal Impact" reviews the implications of reform on the State budget).

- At the same time that Connecticut was raising the age of juvenile court jurisdiction to 18, it expanded its diversion programs, providing greater opportunity to effectively serve youth referred to court for an alleged criminal offense in a less formal, non-judicial manner. The Connecticut diversion system includes Juvenile Review Boards (JRBs), which are panels comprised of community volunteers, police, school personnel and or/local agency staff, who collectively work to resolve a youth's case. Outcomes can include the requirement for the youth to engage in substance abuse treatment, to pay restitution to the victim and/or to write a letter of apology, among other resolutions. Many of the JRBs have formally adopted a Restorative Justice approach.<sup>10</sup>
- Connecticut has implemented a number of substantial reforms to stop the "criminalization" of youth who have been referred to court for a "Family with Service Needs" (FWSN) case for a "status offense." Although FWSN cases are non-criminal cases (addressing behavior that is contrary to the child's own interest, such as running away from home), children were often treated in the same manner as a delinquent, both jeopardizing their well-being and increasing the likelihood that they would later become involved with the delinquency and/or criminal justice systems. Perhaps one of the most significant reforms occurred in 2007 with a new law that ended the practice of detaining or committing children in locked facilities on the grounds that the child disobeyed a judge's order in a status (non-criminal) case. In addition, Connecticut has taken a number of other bold steps to reform the FWSN system, including a law passed just this year (2016) that eliminates both "truancy" and "defiance of school rules" as grounds for judicial intervention within the FWSN system.<sup>11</sup>
- Connecticut has also tackled one of the other big "feeders" into the juvenile justice system: the school-to-prison pipeline. In 2007, Connecticut severely limited its public schools' use of out-of-school suspensions and began implementing memoranda of understandings between school and local police to reduce in-school arrests for low-level behavior.<sup>12</sup> In 2009, Connecticut launched a School-Based Diversion Initiative (SBDI).<sup>13</sup> And, in a dramatic move that garnered national headlines, the Connecticut juvenile courts began rejecting court referrals for school-based arrests for minor misbehavior.<sup>14</sup> Connecticut has made efforts to offer training on an ongoing basis to all school districts to implement Positive Behavioral Interventions and Supports (PBIS), a pro-active approach that has been found to be effective in both reducing incidents of misbehavior as well as increasing academic success.<sup>15</sup> The law eliminating the school-based grounds of filing a FWSN for truancy and defiance of school rules (mentioned above), will have a substantial impact on further reducing the school-to-prison-pipeline in Connecticut and will undoubtedly become a model in the country when it takes effect on August 15, 2017.

- Although the focus of this list has been on reforms in the juvenile justice system, we would be remiss not to mention that Connecticut has also made great strides in tackling much-needed reforms in the adult criminal justice system as well. As just one example, in 2003 Connecticut started working with the Council of State Governments Justice Center to address the rapid growth of the prison population and correction spending.<sup>16</sup> A year later, Connecticut became the first state to enact Justice Reinvestment, with approximately \$14 million reinvested into programming and services administrated by the Department of Mental Health and Addiction Services.<sup>17</sup>

This hard-won list of accomplishments did not, of course, develop in a vacuum. Some of the reform efforts in Connecticut came about in direct response to specific crises, similar to those that have periodically caught the public’s attention in other states and at the national level. In some cases, litigation has been the means to expose some of the system’s failings, most notably in the *Emily J.* class action suit filed in 1993, which highlighted the deplorable conditions in the detention centers at the time, with overcrowded, unsanitary, and unsafe environments and neglectful and overly punitive supervision. A more recent example of public attention drawn to problems in the juvenile justice system came from last year’s publication of the Office of the Child Advocate’s investigative report on the Connecticut Juvenile Training School and Pueblo Unit that revealed “urgent safety problems for youth.” Troubling findings included: “inadequate suicide prevention, lack of appropriate support and training for staff, inadequate and harmful crisis management, and an opaque system that, despite significant public funding, reports scant information regarding quality, public safety outcomes, and oversight.”<sup>18</sup> Such litigation and investigative reports have been critical catalysts for reform over the years.

One particular failing in the recent history of the Connecticut juvenile justice system was the construction of the Connecticut Juvenile Training School (CJTS), a large, 230 bed-facility. In 2001, Connecticut’s Governor John Rowland declined to adopt recommendations to build a therapeutic facility or regionalized network of smaller facilities—an approach that had been adopted by Missouri, and was considered a national model in juvenile corrections for youths found delinquent and sentenced to the custody of the state. Instead, Governor Rowland opted to build the CJTS, which was modeled on a maximum-security adult prison in Ohio. Although it would later be discovered that the contracting process had been rigged (Governor Rowland subsequently resigned from office in 2004 and was sentenced to prison along with the Chief of Staff and contractor), CJTS opened in August 2001. Many consider this a tragic mistake that the state continues to try to mitigate – or at the very least a “missed opportunity” for reform. Fortunately, Connecticut has closed the Pueblo Unit (hardware secure facility for girls) and taken significant steps to reduce the population of youth held in CJTS. As of the writing of DCF’s October 18, 2016 report on CJTS that was presented to JJPOC, there were only 42 boys housed there.<sup>19</sup> Recently, Governor Malloy announced that CTJS will be closed by July 2018 and plans are underway to develop a more appropriate, model alternative (see section “The Proposals Impact on the Department of Children and Families below for further discussion).<sup>20</sup>

Despite such setbacks, the impressive list of reforms that have been accomplished to date in Connecticut occurred in large measure because of the hard work and dedication of organizations and individuals committed to improving the justice system. Many key leaders in the judicial, legislative and executive branches of government, as well as an array of public policy advocates, lawyers, service providers and funders from private foundations, have made these reforms possible. Fortunately, many if not most of these key leaders are still working towards further reform today.

Finally, it is worth noting that the comparatively rapid implementation of Connecticut's reforms is at least partly due to its political structure. In contrast to most other states, Connecticut has a statewide justice system and no county level jurisdictions. Each state agency has offices, courts or facilities scattered in different parts of the state but they are all overseen by the state agency. For instance, the statewide Superior Court holds both juvenile and adult sessions around the state, the Office of the State Prosecutor prosecutes all juvenile and criminal cases statewide, the Division of Public Defender Services provides counsel to indigent juveniles and defendants, the Court Support Services Division runs the juvenile detention centers, the Department of Children and Families oversees all committed youth, and the Department of Correction has custody of individuals (both under and over 18) who have been sentenced to prison. An exception to the statewide system is the police: there are separate departments for the major cities as well as many of the towns. But there is also the statewide Connecticut State Police, which provides law enforcement services for approximately half of the State's 169 municipalities<sup>21</sup> and for those areas not covered by local departments. Due to the integrated nature of Connecticut's legal system, reforms enacted at a higher policy level do not need to be implemented in a piecemeal fashion among various local jurisdictions across the state, but rather can be immediately implemented on a statewide basis. This structure allows Connecticut to avoid the classic "state versus locality" power struggles experienced in many other states, thereby enabling Connecticut to implement reforms in a consistent and rapid manner across the entire state.

In PCJ's facilitated meetings around the state to discuss the implementation of this proposal, reactions varied. Many expressed approval and enthusiasm over the prospect of Connecticut building on its past success in improving the juvenile justice system by expanding an individualized, rehabilitative model to 18, 19 and 20-year-olds. However, there was also some apprehension that these new reform efforts could unintentionally diminish—or even harm—the previous hard-won improvements that have been achieved for youth under age 18. Accordingly, the recommendations included in this report are offered with the view that the successful incorporation of emerging adults in the juvenile justice system must not be achieved at the detriment of the younger youth who have been swept into the juvenile justice system.

## QUESTION #2:

*What lessons can be learned from other jurisdictions in the United States and abroad about more effective ways to address emerging adults in the justice system?*

### **The Role That Age Plays in the Justice System**

Until the implementation of Connecticut's last "raise the age" legislation began in 2010, Connecticut automatically treated anyone 16 and above as an adult for criminal law purposes, prosecuting them in the adult court and sentencing them to adult prisons. Since the law was fully implemented in July 2012, Connecticut has used the 18<sup>th</sup> birthday as the default demarcation between the juvenile and the adult justice systems. But under this current proposal, this line would gradually rise to 21 over a period of three years.

The age of majority chosen for criminal law purposes has never been set in stone. In 1899, Cook County, Illinois, was the first jurisdiction in the country to establish a separate juvenile court for children under the age of 16. The idea quickly spread; within 25 years every other state except two (Maine and Wyoming) had followed suit, using a range of upper ages for their newly created juvenile justice systems, generally between the ages of 16 to 18.<sup>22</sup> At times, different ages were sometimes picked for different genders; for instance in 1905, Illinois lawmakers raised the age of juvenile jurisdiction from 16 to 17 for boys and from 16 to 18 for girls.<sup>23</sup> Between the court's inception and today however, most states that set the age of juvenile court jurisdiction below 18 gradually raised the age to 18, leaving the seven states that have jurisdictional limits before age 18 as today's outliers.<sup>24</sup>

Over the ensuing century, there was not a great deal of public debate or attention about the age set for juvenile jurisdiction. But in the 1990s, the United States experienced a rise in juvenile crime, eliciting a "tough on crime" response – one supporting the view that any child who committed a serious or "adult crime" deserved "adult time." Consequently, many states quickly changed their laws to allow more children under age 18 to be tried and sentenced as adults and incarcerated in adult facilities.

Although this drastic response was implemented in the pursuit of enhancing public safety, it ultimately backfired. Research on the cohort of young individuals subjected to "adult time" soon began to demonstrate a high rate of recidivism. Specifically, when comparing youth who were prosecuted in the adult system to those retained in the juvenile system, the former had a 34% to 77% greater likelihood of being re-arrested for a crime. They were also more likely to be re-arrested for a more violent crime than those exiting the juvenile system.<sup>25</sup>

In addition to these findings, more recent research has revealed a strong distinction between the development of children and adults, undermining the assumptions made in automatically treating youth as adults in the adult criminal justice system. Neurological research over the last two decades has found that brain development continues into early adulthood (mid-20s or beyond) and that adolescents are particularly prone to risky



behavior, a proclivity that naturally declines with maturity. Specifically, research has shown that youths are:

- Prone to be impulsive;
- More sensitive to immediate rewards and less future-oriented;
- More volatile in emotionally charged settings; and
- Highly susceptible to peer and other outside influences.<sup>26</sup>

All of these factors have proven to be more pronounced for youth who have experienced trauma, which is estimated to be between 75 - 93% of all youth in the juvenile justice system.<sup>27</sup>

The picture is not entirely bleak. While youth are vulnerable to negative influences, the persistent and rapid physical, emotional, and cognitive development of adolescents and emerging adults also makes them particularly susceptible to positive influences. Research reveals that the vast majority of children will grow up and out of their risky (and sometimes criminal) behavior.<sup>28</sup> As many parents know from experience, it takes time to grow up.

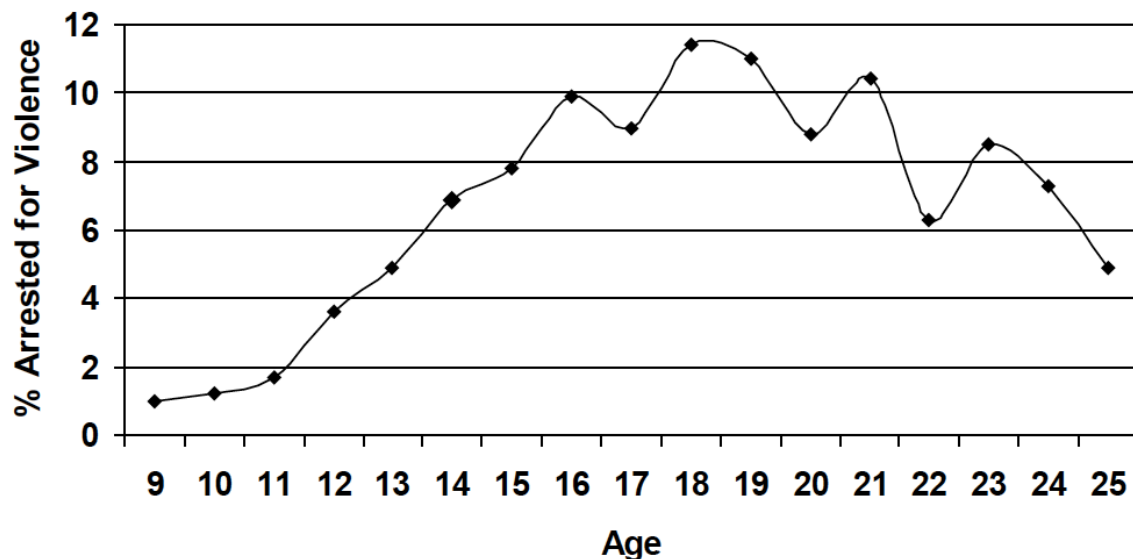
Connecticut was one of the first states to question the wisdom of automatically treating children as mini-adults. This reflection led the state to reverse the national trend to try more children as adults by passing the “raise the age” law to age 18 in 2007 (fully implemented by 2012). Following Connecticut’s lead over the past decade, six other states have raised the age of juvenile jurisdiction to 18: Mississippi, Massachusetts, Illinois, New Hampshire, South Carolina, and Louisiana.<sup>29</sup>

Criminal law is not the only area where society has struggled to define the age of adult maturity. The legal age to drive in Connecticut is 16, to vote is 18 and to purchase alcohol is 21. California recently raised the age of purchasing tobacco to 21. Most rental car companies will not rent to individuals under the age of 25, deeming the risk too high. The Affordable Care Act allows parents to keep their “dependent child” on their health plans until age 26, regardless of whether or not the child is living with the parent.

The research that has influenced Connecticut and other states to redesign the parameters of the juvenile justice system has also had an impact on judicial jurisprudence, particularly from the United States Supreme Court. In a relatively rapid succession of decisions from 2005 to 2012, the Supreme Court has cited commonsense understanding of adolescent development as well as the large body of research in neuroscience and developmental psychology to find that adolescents have distinctive attributes and that these distinctions have important constitutional significance. Most significantly, under both the 8<sup>th</sup> Amendment and Due Process jurisprudence, the Court has held that youth have greater constitutional rights than adults.<sup>30</sup>

In addition, sociological data tells us that youth in the United States are entering into traditional, stabilizing adult roles later than in previous generations. The transition to adulthood has become prolonged, and the developmental milestones associated with both adulthood and desistance from committing crime, such as full employment and marriage, have become delayed.<sup>31</sup> As just one example, in 1960, 45% of 18 to 24-year-olds were married. In 2010, only 9% were married.<sup>32</sup> Sociologists have described the levels of detachment of 16 – 24-year-olds from mainstream institutions (e.g., employment) as a problem of “disconnection” and noted its increase over the decades, particularly for young men of color with little schooling, who are over-represented in our justice system.<sup>33</sup>

In shining the light of recent neurological, developmental, and sociological research on the justice system, it is not surprising to discover that the age-rates of criminal offenses are highest during the teenage years and that they only start to decline in the early 20s. This phenomenon, which has been found to be universal in all Western populations,<sup>34</sup> is reflected in the “age-crime curve”<sup>35</sup>:



Interestingly, irrespective of the age of onset of offending, most will desist “naturally” during the young adult years.<sup>36</sup> As highlighted in a 2013 report for the Department of Justice states:

...many young people who offend at ages 19 to 20 and who are now fed into the adult justice system (and are more likely to receive longer sentences than in the juvenile justice system), would have been likely to desist naturally in the next few years. It seems likely that justice system processing makes them worse rather than better...

In summary, developmental studies of the persistence in and desistance from offending between adolescence and early adulthood do not support the notion that there is any kind of naturally occurring break in the prevalence of offending at age 18. Persistence in offending is not immutable; interventions

outside of the justice system...can improve a young person's desistance from offending between adolescence and early adulthood.<sup>37</sup>

The problem of using 18 as a stark demarcation of the “transition” between childhood and adulthood is that the criminal justice system could, unintentionally, be making this natural maturing process worse rather than better: Emerging adults are “branded” as criminal and are weighed down with a criminal conviction that will follow them throughout the rest of their adult lives, affecting their employment, housing and educational opportunities. The juvenile justice system, on the other hand, holds the individual accountable but provides developmentally appropriate services and allows the individual to exit the system without a public “conviction.”

The chart below – prepared by PCJ to compare the Connecticut juvenile justice system to the adult criminal justice system – highlights the key differences of the two systems. The most important distinctions are the juvenile system's focus on rehabilitation, with individualized assessments and treatment, and the absence of a “conviction” as a public record. By recognizing that there is no “magic moment” of adulthood and extending the jurisdiction of the juvenile system to emerging adults (while still allowing youth with more serious offenses/prior records to be tried as adults), Connecticut will be giving individuals the time and support to desist and move downward on the infamous bell curve.

#### Comparison of Juvenile and Adult Justice Systems in Connecticut

ry trial available

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Note: This chart excludes the prosecution of 15-17 years as “youthful offenders” in the adult criminal session (pursuant to C.G.S. 54-76b).

## National Perspective

No state has yet to raise the age of juvenile jurisdiction over age 18, but this could change under current reform efforts in Connecticut. Specifically, by recognizing “emerging adults” as a distinct developmental stage that deserves developmentally appropriate responses in the criminal justice system, Connecticut has placed itself on the forefront of justice reform in this country.

National attention to emerging adults in the criminal justice system – and questions about whether there might be more effective ways of handling them – has been quickly gaining prominence in the last few years with the publications of a number of influential research papers.<sup>38</sup> One of the reasons for this upsurge in interest is the recent developmental and sociological research described above. But another reason is the recognition that emerging adults are failing in our justice system. Nationally, approximately 78% of 18 to 24-year-olds released from state or federal prison are rearrested within three years, a significantly higher recidivism rate than for the released population as a whole. The racial disparities of emerging adults is particularly troubling: In 2012, the rate of incarceration in state or federal prison for males ages 18 and 19 was nearly three times greater for Hispanic people and more than nine times greater for Black people than for Caucasians.<sup>39</sup> These facts have led many to ask: *Can we do better and, if so, how?*

In addition to Connecticut, legislators in Illinois and Vermont held hearings in 2016 for proposals to raise the age of juvenile jurisdiction to include emerging adults up to age 21. In January, a subject matter hearing was held in Illinois, in which testimony was presented by the Cook County Jail raising concerns about the appropriateness of housing emerging adults in jail. Data from the jail was also presented showing that one-third of the 7,777 emerging adults who were incarcerated in it in 2015 were convicted of misdemeanor offenses.<sup>40</sup> This subject matter hearing, co-chaired by four House Committee Chairs, led to the filing of House Bill 6308, which sought to raise the age of juvenile jurisdiction for misdemeanor offenses to age 21. This reflected a strategy used previously in Illinois, when the state moved the age of juvenile jurisdiction from age 17 to 18 first for misdemeanor offenses (implemented in 2009) and then later for felony cases (implemented in 2014). HB 6308 was held up in the House Judiciary Committee following a hearing where questions were raised over whether young adults could be waived to adult court if their cases began in juvenile court. But in the meantime, there is a plan in place, including designated funding, to open a community restorative justice court in Chicago in the spring of 2017 specifically designed for young adults from age 18 to their 26<sup>th</sup> birthday. The court will be located in North Lawndale,<sup>41</sup> will be presided over by a Juvenile Court Judge, and will handle misdemeanor as well as some felony cases.<sup>42</sup>

Vermont also considered raising the age of juvenile jurisdiction to age 21, with the Senate Committee on Judiciary holding a hearing on the matter on March 24, 2016. Ultimately, the legislature directed the Justice Oversight Committee to study the feasibility of raising the age for this cohort except for the most serious offenses (known in Vermont as “the big 12 offenses”), thereby postponing the decision to a future date.

But Vermont did pass legislation that greatly expanded youthful offender status to emerging adults up to their 22<sup>nd</sup> birthday.<sup>43</sup> This expansion will take effect in 2018 and is significantly different than the current and limited youthful offender provision, which is used infrequently, and only applies to individuals before they turn eighteen (regardless of the age they allegedly committed the crime), and requires a plea (without an admission, the case must remain in the adult criminal justice system). This new law will allow any party to move for the emerging adult (again, up to the 22<sup>nd</sup> birthday) to be treated as a youthful offender and the court will conduct a hearing to determine the individual's amenability for treatment. Bench trials will be available for those designated as a youthful offender (although youthful offenders must waive their right to a jury trial to proceed as a youthful offender). At the time of disposition, the juvenile correctional agency (Vermont Department of Children and Families) and the adult correctional agency (Vermont Department of Corrections) will co-author a report with recommendations for services, supervision and confinement. The youthful offender can be supervised by either the juvenile or the adult correctional agency, depending on the report's recommendations about which agency would be most appropriate for that particular case.

A few issues remain to be worked out with Vermont's new youthful offender statute before it is implemented, some of which were outlined in a report submitted to the Joint Legislative Justice Oversight Committee on November 1, 2016, and technical amendments will most likely be introduced soon.<sup>44</sup> But the passage of such an expansive statute demonstrates Vermont's strong commitment to approaching emerging adults in a new and different manner – one that adopts some of the rehabilitative features of the juvenile justice system – in the belief that it will improve public safety.

In addition to these legislative proposals to raise the age of juvenile jurisdiction and expand youthful offender statutes, states have been taking other steps to address emerging adults. For example, California, Kansas, Oregon and Wisconsin have extended youth-facility placements past age 18 and even past age 21, to give emerging adults the opportunity to receive rehabilitative treatment.

Another increasingly popular approach is to develop special correctional units or facilities within the adult correctional system specifically designed for emerging or young adults, with targeted programming for the needs of this age group. One specific example of such a program is the Mountain View Young Adult Offender Program in Charleston, Maine. Faced with closing a juvenile correctional facility due to decreasing caseloads, Maine converted the facility in April 2014 and designated one section specifically for 18 to 26-year-olds. Many of the previous juvenile facility staff have shifted focus to the emerging adults in this reconstituted facility.<sup>45</sup> A number of states, counties and cities have also recently announced plans to open special facilities for young adults, including Connecticut, Vermont, New York City and Essex, Middlesex and Suffolk Counties, Massachusetts. Once again, Connecticut has been a model for other states, working closely with the Vera Institute of Justice to carefully and thoughtfully consider staff training needs, effective disciplinary approaches, ways to retain connections to family

members, and an array of appropriate programming, including education, and vocational services.

There have also been numerous court- and prosecutor-driven initiatives focused on emerging adults that have sprung up on a local, county and federal district level. Two of the most well-known are the Young Adult Court in San Francisco Superior Court<sup>46</sup> and the Young Adult Opportunity Pilot Program offered by the United States District Court of the Southern District of New York.<sup>47</sup> The National Institute of Justice initiated an Environmental Scan in November 2015, in an attempt to identify all the existing programs and initiatives scattered around the country that are specifically directed to this age cohort. Noting that the search was “neither straightforward nor simple,” the NIJ published its findings in a report in July 2016, identifying 40 different local initiatives that included young adult courts, probation/parole programs, District Attorney-led programs, community-based partnerships, and prison-based programs. This plethora of local programs demonstrates the remarkably high level of interest and investment in adopting developmentally appropriate responses to emerging adults in the justice system that is currently being embraced on a national level.<sup>48</sup>

“An adolescent or young adult who jumps a turnstile or steals a smartphone may be acting from the same governing impulse as someone who commits a robbery or an assault. That doesn’t mean the more violent crime doesn’t deserve greater accountability – including possible detention – but if our goal is to deter future crime, then we have to consider whether our responses are facilitating the aging-out process or simply perpetuating a cycle of criminal behavior.”

The Honorable Karol V. Mason, Assistant Attorney General, Office of Justice Programs.<sup>49</sup>

## International Perspective

Applying the rehabilitative goals and services of the juvenile justice system to emerging adults (18 and over) is relatively new to the United States but a firmly established concept internationally. The past three decades have seen the following important international bodies identify young adult offenders as a group to be distinguished for their distinct developmental stage and best served by applying the same special provisions traditionally applied to youth under age 18:

- (1) The United Nation Standard Minimum Rules for the Administration of Juvenile Justice, more commonly known as the *Beijing Rules* and adopted by General Assembly resolution in 1985, recommends that “efforts shall also be made to extend the principles embodied in the Rules to young adult offenders” (e.g., the adoption of a rehabilitative approach, rather than merely punitive).

- (2) The International Association of Penal Law (IAPL) (the world's oldest association of specialists in penal law that convenes 50 national groups to research and produce resolutions about criminal law) included in the resolutions flowing from their 17<sup>th</sup> International Congress in 2004 provisions for emerging adults.<sup>50</sup> The recommendations included that legislation for young adults must be adapted in a similar way for minors given that the state of adolescence can be prolonged into young adulthood,<sup>51</sup> that educational measures as alternative sanctions may be extended to individuals to the age of 25,<sup>52</sup> and that special provisions for minors may be extended to crimes committed by persons up to the age of 25.<sup>53</sup>
- (3) The Council of Europe (founded in 1949 and consisting of 47 member states and covering over 800 million people) has passed recommendations firmly placing young adults within the purview of the juvenile justice system. A recommendation adopted in 2003 acknowledged the delayed transition into adulthood, with the Committee of Ministers writing that the "the age of legal majority does not necessarily coincide with the age of maturity".<sup>54</sup> Rules within that recommendation state that young adults under the age of 21 should be treated comparably to juveniles when the judge is of the opinion that they are not as mature and responsible for their actions as full adults<sup>55</sup> and facilitate entry into the labor market by ensuring young adult offenders are not required to disclose criminal records to prospective employers.<sup>56</sup> In 2008, a further recommendation defined young adult offenders as between the ages of 18 and 21.<sup>57</sup> The Committee of Ministers commentary on the recommendation acknowledged the progress of many European countries in the preceding 15 years in this area, and concluded that, "it is an evidence based policy to encourage legislators to extend the scope of juvenile justice to the age group of young adults."<sup>58</sup>

There are now numerous examples of countries that have embraced within their domestic legal structures the principles endorsed by these international bodies. Although not confined to Europe, it is worth noting that in a recent survey of European countries, all but seven countries have special provisions for prosecuting and/or sentencing young adults. The three countries below are examples of justice systems that have been tailored to respond specifically to young adults.

### *Japan*

Both Japan's juvenile and civil laws state that all persons under age 20 are children.<sup>59</sup> Thus, teenagers 14-19 are, by default, dealt with in Family Court and, if sentenced to confinement, placed in the youth reform school.<sup>60</sup> Under certain circumstances, the Court can determine that the youth (age 14 and up) should be transferred and tried in adult court; however, the media is still prevented from disclosing the youth's identity.<sup>61</sup> In addition, in the relatively rare circumstance that a teenager is sentenced as an adult, attempts are made to separate them from older adults.<sup>62</sup> Due to low populations in the youth rehabilitative facilities, many of the young adults (up to age 26) are housed and treated in such facilities.<sup>63</sup>

## *Germany*

In 1953, based on concerns about the development of fatherless youth post World War II, Germany raised the jurisdiction of the juvenile court through age 20 and extended the possibility of confinement in a juvenile treatment facility until age 24.<sup>64</sup> Under the German Juvenile Justice Act (*Jugendgerichtsgesetz*), courts are tasked with considering the young adult's maturity, developmental stage, and circumstances when determining the best avenue of treatment.<sup>65</sup>

The majority of young adults are prosecuted in the juvenile system, and the proportion continues to rise. In 1965, for instance, 38% of young adults were sentenced as juveniles, rising to 67% in 2012.<sup>66</sup> Unlike the United States, young adults are more likely to be prosecuted in the juvenile system for serious offenses. In 2012, over 90% of young adults were sentenced under the juvenile law for homicide, rape, and other serious bodily injury crimes (compared to only 48% of motor vehicle sentences),<sup>67</sup> reflecting confidence in the ability of the juvenile system to appropriately handle even the most serious offenses.

It was an invitation from the Vera Institute of Justice to Governor Malloy and the Department of Correction Commissioner Scott Semple in June 2015 to tour European prisons and observe the rehabilitative correctional systems that influenced the Governor's proposal to raise the age in Connecticut to 21.<sup>68</sup> Neustrelitz Prison, a facility for only young adults aged 15 to 25, demonstrated the potential benefits of a therapeutic approach, even in a locked setting.<sup>69</sup>

## *The Netherlands*

The Netherlands has a longstanding tradition of focusing on the needs of its emerging adult justice-involved population. As early as 1937, the Netherlands had two special emerging adult prisons for males and females 18 to 23 year olds.<sup>70</sup>

In 1971, a separate justice system with specific criminal sanctions for emerging adults ages 18 to 23 was proposed by the Wiarda Committee<sup>71</sup> (established by the Dutch Government to present suggestions for reform on the legal status of children).<sup>72</sup> This was also supported by the Anneveldt Committee (established by the Dutch Government to review the juvenile justice system<sup>73</sup>), which in 1982 proposed extending such a system to 24 year olds.<sup>74</sup> While neither Committees' recommendations were incorporated into Dutch law at the time, discussions continued and culminated in 2010, when the new government introduced "*adolescentenstrafrecht*" a major change to the law.

Implemented in April 2013, *Adolescentenstrafrecht* provides that all young offenders from ages 12 to 23 are eligible for juvenile law (previously limited to young offenders up



to 21),<sup>75</sup> including a wide range of educational measures for young adults and sanctions such as community service work or compensatory work for damage caused.<sup>76</sup> The maximum incarceration sentence a juvenile can receive is 7 years in exceptional circumstances.<sup>77</sup>

Although this law was enacted too recently to fully discern its impact, it is worth noting the recent prison closings in The Netherlands (including five planned for the next few years) due to a surplus of unused prison beds.<sup>78</sup>

### **QUESTION #3:**

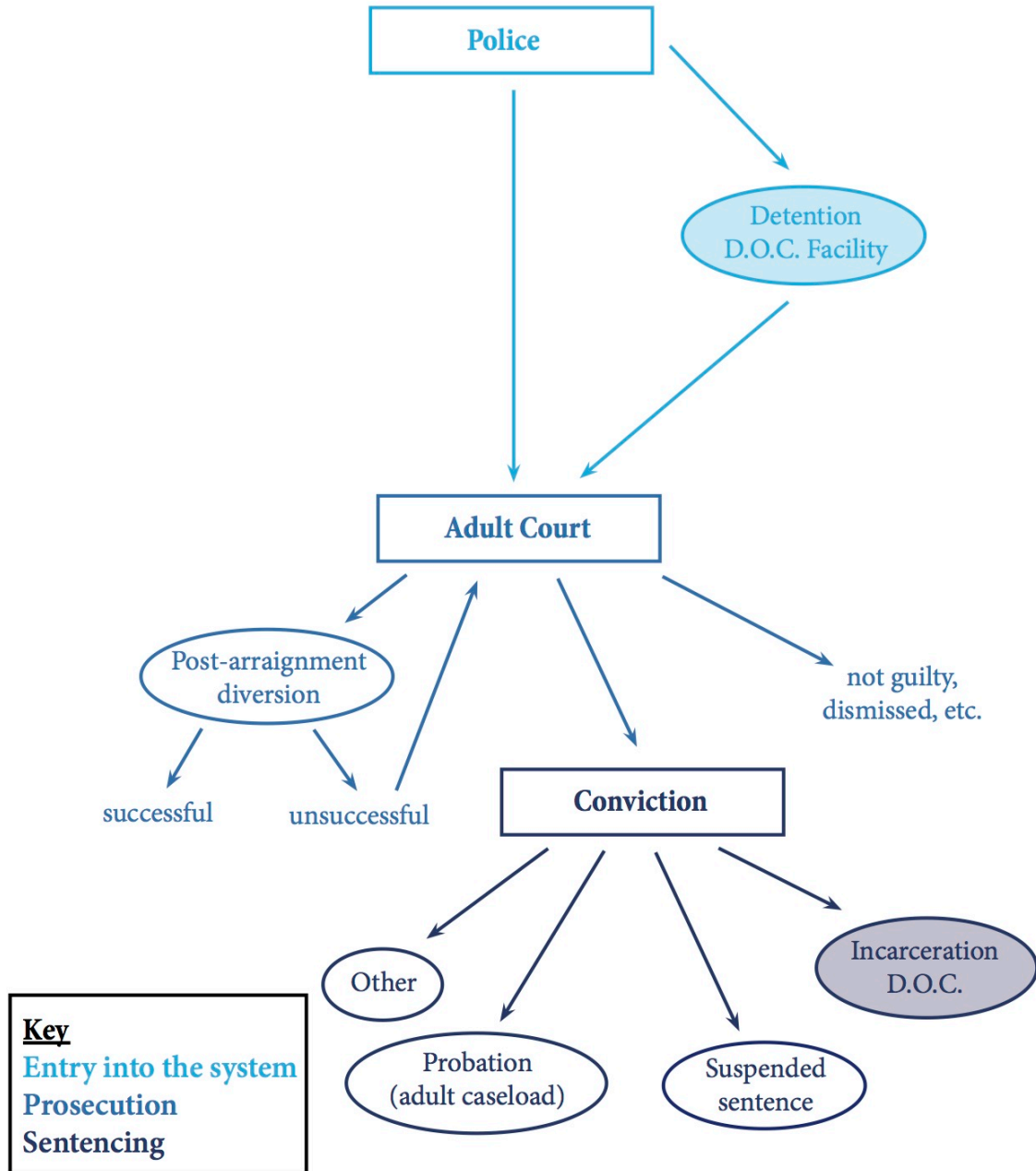
***What would be the broader impacts of these proposed reforms on Connecticut's justice system?***

By implementing this proposal, Connecticut would be moving many – *but not all* – of the 18, 19 and 20-year-olds that are now statutorily prosecuted and sentenced as adults by virtue of their age into the juvenile justice system. This will result in a reduction in caseloads throughout the adult criminal justice system (including the courts, detention, probation and prison caseloads and/or populations) with an approximately corresponding increase in the juvenile system. But because of the size difference between the two justice systems, the impact of this proposal will be felt most strongly by the juvenile justice system. Implementing the proposal gradually – over a three-year period – should assist Connecticut in coping with the changes. In addition, Connecticut has experienced a significant decline in crime that, were it to continue, would also make the incorporation of emerging adults into the juvenile system easier. Finally, there are a number of strategies that Connecticut is using now that could be expanded (e.g., diversion) or adopted (e.g., raising the lower-age of juvenile jurisdiction above age 7) that are discussed below, that would make room for emerging adults in the juvenile justice system.

The following two flow charts show (1) the general path that emerging adults currently take through the adult criminal justice system, and (2) the general path that they would take once the proposal to raise the age of jurisdiction to 21 is implemented (note that these charts are slightly simplified and were created by PCJ and reviewed by several JJPOC members).

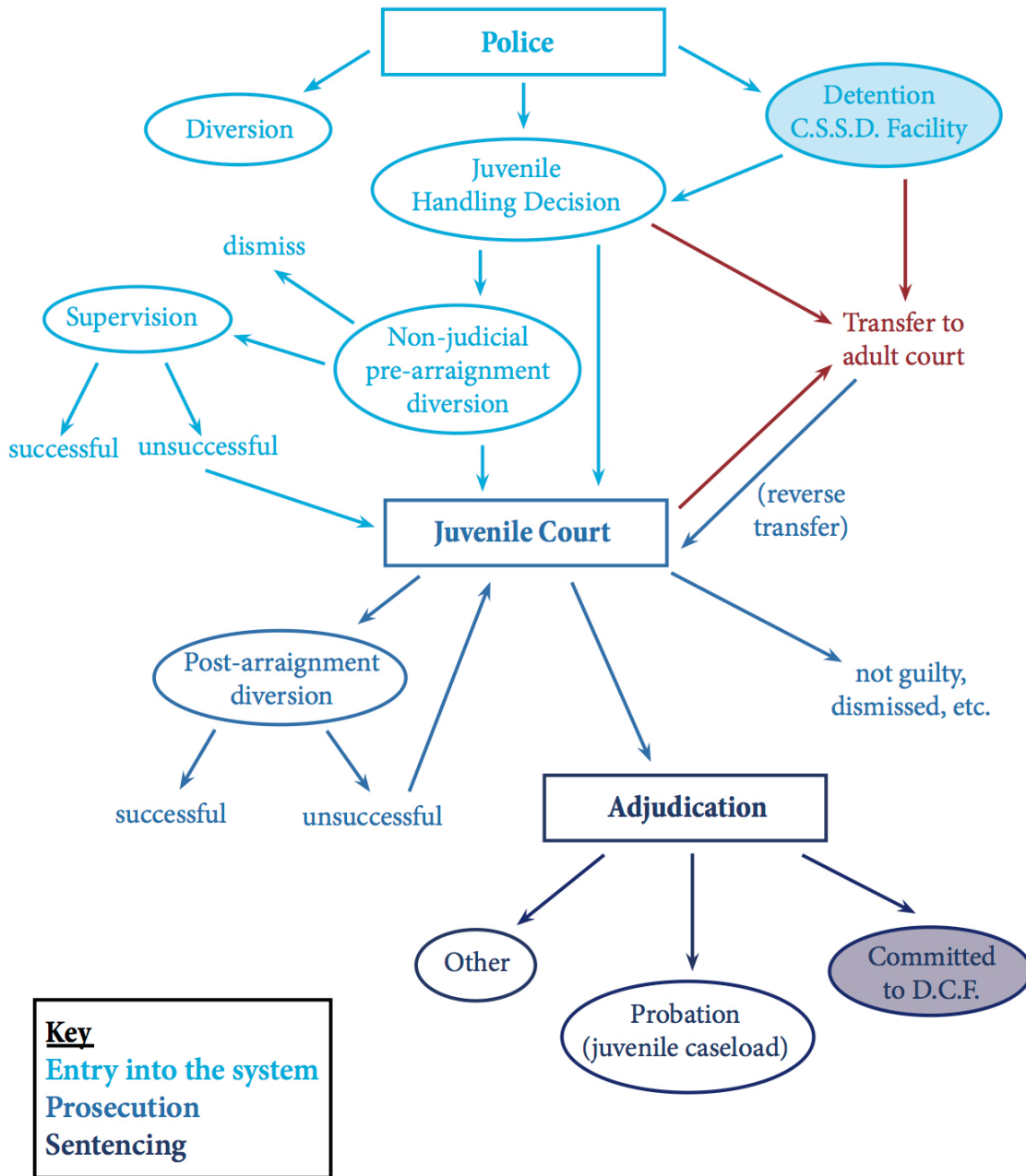
## Current System

Flow Chart of 18, 19 and 20 year olds in the CT justice system



## Proposed System

Flow Chart of 18, 19 and 20 year olds in the CT justice system



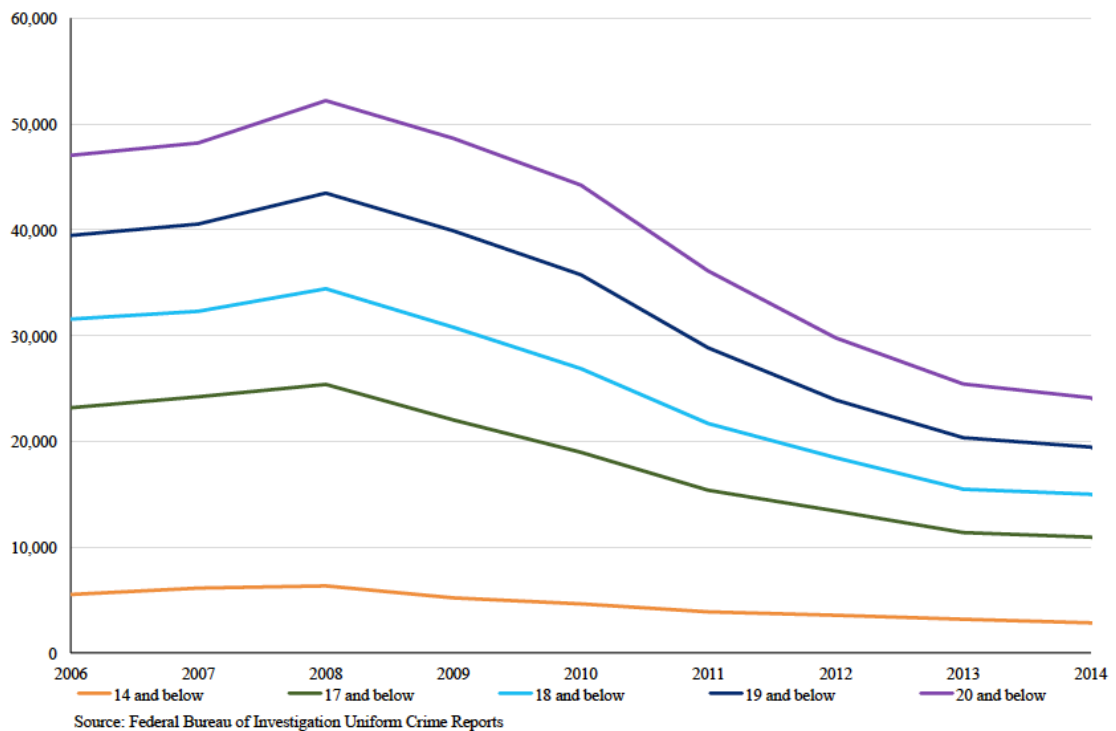
In order to understand how the implementation of the proposal to raise the age of juvenile jurisdiction to age 21 would impact both the juvenile and the adult justice systems, PCJ requested non-identified data on the caseloads and caseload trends (for both juvenile and emerging adults at each major step of the process) from all the relevant state agencies. The sections below include the findings from the data received.

## Arrest

For emerging adults now entering Connecticut's criminal justice system, the first step is typically an arrest by the police, followed directly by a court appearance in the adult criminal court. When this proposal is implemented, police will still most likely be the first point of contact; however, assuming that the police follow the same practice used for youth under 18, emerging adults will usually be summoned to court rather than be sent there directly.

Over the past decade, Connecticut has experienced a dramatic decline in arrests of both youth under 18 and emerging adults, as showcased in the graph below. In 2008, arrests peaked at a high of 177,855 across the State, with 25,369 arrests for all youth under 18 (a time when Connecticut still treated all 16 and 17-years-olds as adults) and 26,831 arrests for emerging adults (ages 18-20). In 2015 (year not shown on chart below), total arrests in the state had dropped to a 10-year low of 99,920, with 8,168 arrests for youth under 18 and 8,994 arrests for emerging adults.<sup>79</sup> This represents a 43.8% decrease in arrests overall, a 67.8% decrease for youth under age 18 and a 66.5% decrease for emerging adults.

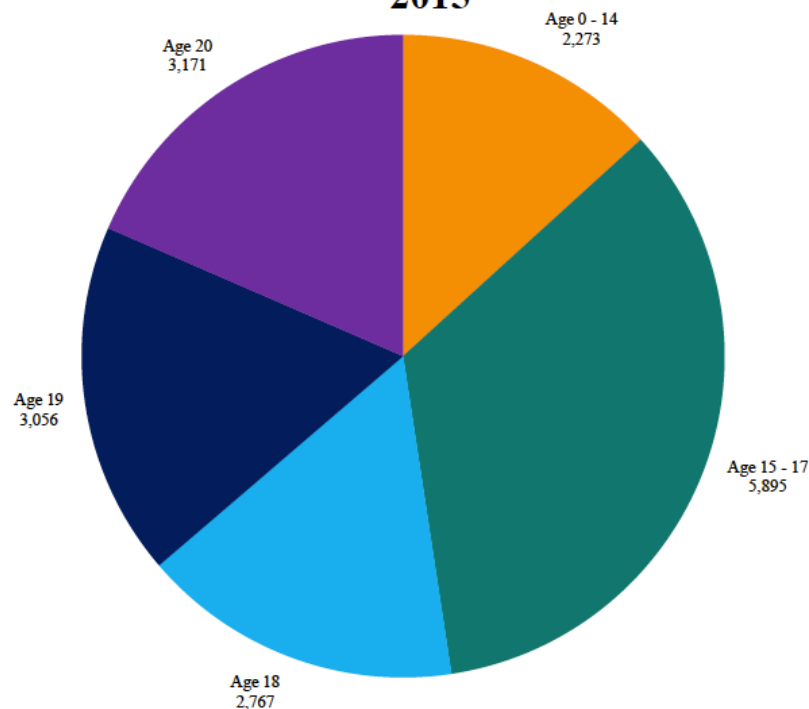
Youth and Emerging Adult Arrests in CT by Age Group



From 2013 (the year *after* Connecticut began including 17-year-olds in its juvenile justice system), arrests for emerging adults have declined by 36.1%. Assuming that this rate of decline continues into 2017, when 18-year-olds would begin to be included in the juvenile justice system, there would be approximately 1,769 18-year-olds arrested that year. Assuming a continuing declining trend, the number of arrests for 19 and 20-year-olds would also be lower, especially by the time they begin to be included in the juvenile system in years two and three of the implementation.

Although the number of arrests will vary for each age group during the implementation, it is likely that the proportion of arrests from each age group will remain relatively stable, unless additional reforms are implemented (such as raising the lower age of juvenile jurisdiction, as discussed below).

### Youth and Emerging Adult Arrests in CT by Age Group 2015



Source: Connecticut Department of Emergency Services and Public Protection, Crimes Analysis Unit. "Crime in Connecticut 2015: Annual Report of the Uniform

Some of the participants of the JJPOC working groups and focus groups that PCJ facilitated over the last few months expressed a belief that emerging adults are arrested for more serious offenses than youth under 18. As the following chart demonstrates, the five most frequently arrested offenses for emerging adults are remarkably similar to the most common arrests for 15 to 17-year-olds. It should be noted that the category "All Other Non-traffic offenses," the most common offense for emerging adult arrests, includes such non-serious offenses as trespass and disturbing the peace; and the category "Other Assault" is for what is otherwise known as "simple assault" in which no weapon is involved and there is no aggravated or serious injury reported. So, although the

numbers of arrests leading to a court referral to juvenile court will increase during the implementation of the expansion of the juvenile court, the types of offenses charged should be quite similar. The one exception worth noting is the increase in drug abuse violations. As one might expect, the prevalence of substance abuse and addiction appears to increase with the age cohort of emerging adults.

### Top Arrest Offenses by Age Group 2014

0 - 14 Year Olds			15 - 17 Year Olds			18 - 20 Year Olds		
Offense	Arrests	Percent	Offense	Arrests	Percent	Offense	Arrests	Percent
Other Assault	763	26.96%	Other Assault	1,629	20.13%	All Other Non-traffic offenses	2,546	19.32%
Disorderly Conduct	600	21.20%	Disorderly Conduct	1,136	14.04%	Other Assault	1,686	12.79%
Larceny	377	13.32%	Larceny	1,006	12.43%	Larceny	1,493	11.33%
All Other Non-traffic offenses	290	10.25%	All Other Non-traffic offenses	926	11.44%	Total Drug Abuse Violations	1,349	10.24%
Vandalism	159	5.62%	Total Drug Abuse Violations	655	8.09%	Disorderly Conduct	1,149	8.72%
<b>Total Arrests</b>	<b>2,830</b>	<b>100%</b>	<b>Total Arrests</b>	<b>8,092</b>	<b>100%</b>	<b>Total Arrests</b>	<b>13,178</b>	<b>100%</b>

Source: Federal Bureau of Investigation Uniform Crime Reports

## Diversion

In the Connecticut juvenile justice system, diversion is a common practice in the “front-end” of the system. Participants at the JJPOC and focus group meetings commonly described three stages of the juvenile justice system when diversion most frequently occurs:

- Police/pre-court diversion: This can be formal or informal but provides an opportunity to find a resolution for the alleged offense without a referral being made to the Juvenile Court.
- Post-court referral and pre-arraignment diversion: This is most commonly referred to as “non-judicial” diversion and occurs after a case has been referred to the Juvenile Court and has been screened by a Juvenile Probation Officer.
- Post-arraignment/judicial diversion: This occurs after a juvenile has been formally charged with a delinquency offense but before there is a formal disposition.

The importance of developing and maintaining an effective and robust diversion system in the justice system has long been recognized but too often fails to be implemented by states.<sup>80</sup> Literature over the past 35 years sets forth five purposes of diversion: reducing recidivism, providing services, avoiding labeling effects, reducing system costs and reducing unnecessary social control.<sup>81</sup> Not only is the implementation of diversion good

public policy, it becomes critically important when a system is facing an increase in caseloads, as it is with the implementation of this proposal. Just as Connecticut expanded diversion when it previously raised the age of juvenile jurisdiction from 16 to 18, the state needs to once again focus on the use and expansion of effective diversion when it includes emerging adults.

In June 2015, the JJPOC set specific target goals for the juvenile justice system, and one of these goals was focused on diversion (the other two were focused on reducing incarceration and recidivism). By June 30, 2018, JJPOC's goal is to increase diversion by 10%. JJPOC's Data Sharing Work Group gave a presentation at the October 20, 2016 JJPOC meeting indicating that Connecticut is well on its way to achieving, if not surpassing, this goal: The Data Sharing Work Group reported that there has been 15% decrease in delinquency referrals to the juvenile courts since 2015 and that referrals to the Juvenile Review Boards increased by 33% from FY08/09 to FY15/16.

But data on exactly when and how diversion is applied in Connecticut's juvenile justice system is limited, making it difficult to assess the impact of including emerging adults in the system with any detail. For instance, there is no data available on how many youth participate in the police/pre-court diversion process in Connecticut each year. PCJ recommends that once emerging adults are included in the juvenile justice system, they be eligible to participate in and benefit from this less formal diversion process and to the same degree as those under age 18. The research is clear that providing limited interventions, like "cautioning" by the police, in less serious, low risk cases (e.g., disorderly conduct) are much more effective (and less costly) than pursuing traditional court processing.<sup>82</sup> In fact, research shows that involvement in the judicial system for these types of cases produces negative outcomes,<sup>83</sup> so to the degree possible, such diversion by police should be encouraged.

There are some data available about the diversion offered by the Juvenile Review Boards, which can take referrals from a number of different sources including the police, schools and the court, but unfortunately these data are also limited. Connecticut is still developing a process to collect information from each JRB in a uniform, comprehensive and timely manner, so JJPOC and others will be able to analyze this data as it becomes available in the future. In the meantime, PCJ did receive and review some of the data from this past fiscal year<sup>84</sup> and was able to identify two important factors:

- Approximately three-quarters of referrals to JRBs are completed successfully; and
- JRBs are handling cases with offenses that largely match the offenses that most frequently lead to arrests for emerging adults:



## Top Juvenile Review Board Referral Offenses July 2015 - June 2016

Offense	Count	Percent
Breach of Peace	401	22.1%
Other	269	14.8%
Larceny	257	14.2%
Disorderly Conduct	196	10.8%
Illegal drug possession	176	9.7%
Assault	162	8.9%
Criminal Mischief	115	6.3%

Once emerging adults are included in the juvenile justice system, they should have the opportunity to participate in this diversion process and should benefit to the same degree as the youth under age 18. Whether the success rate would be the same for emerging adults is unknown, and Connecticut should carefully track outcomes and make adjustment if this recommendation is adopted. Other important issues that cannot be addressed at this time are the current capacity of JRBs and the services and referrals needed to appropriately serve this new age cohort. All of these issues deserve to be studied carefully, emphasizing the need for the data collection process to be firmly established and implemented. But certainly the model of JRBs, the standards established by the Youth Services Association,<sup>85</sup> and the adoption of such principles as Restorative Justice,<sup>86</sup> fit many of the “best practices” that have been established in the field of justice reform.<sup>87</sup>

Data on juvenile diversion that are readily available comes from the Judiciary and shows that a large percentage of juvenile cases are diverted from formal prosecution through the screening process conducted by Probation when a case is referred to the Juvenile Court (some of which may then be referred to JRBs) and designated as “non-judicial handling.” In 2015, there were a total of 10,176 cases disposed in the Juvenile Court. Of these, 36% or 3,640 cases were handled in a non-judicial process and the rest, 64%, were handled in the judicial (traditional) manner.

Although the data does not indicate how many of the judicial cases are diverted after arraignment, the data does show that a majority of these cases (3,988 out of 6,536 judicial cases) were dismissed in some manner (e.g., withdrawal, return to police, discharge, referral to JRB, etc.), ended in a not guilty finding or were otherwise disposed of in a manner that did not involve a guilty finding. This means that of the 10,176 juvenile cases referred to the Juvenile Court in 2015, approximately a quarter resulted in a delinquency finding, while about three-quarters were diverted or were otherwise disposed without any formal finding.

In contrast, the adult criminal justice system has no formal pre-arraignment diversion programs. Once arrested, emerging adults are sent to court to be formally processed. There are a number of special sessions and diversionary programs (e.g., Community Court and drug intervention program)<sup>88</sup> offered to adult defendants but these become available only after the court process has begun.

The data that PCJ received from the Judiciary do not indicate how many of the cases involving emerging adults are diverted using these special sessions and programs. But an examination of the dispositions in 2015 shows there were a total of 27,613 dispositions involving offenses allegedly committed by 18, 19 and 20 year olds, in which 14% resulted in a guilty finding, 29% were categorized as something “other” than a conviction, and 57% were not guilty or dismissed in some manner.

By including emerging adults in the juvenile justice system, the opportunities for front-end diversion, the most useful and effective response to low level and low risk cases, will be provided in a way that does not exist in the adult system. Obviously, diversion will not be appropriate for every case involving an emerging adult – just as it is not for every youth under 18. But as the discussion below on court cases will show, the majority (55%) of cases involving emerging adults are prosecuted for low level misdemeanor offenses, so applying the front-end diversion opportunities in the juvenile justice system should be beneficial by both increasing positive outcomes (and providing long-term savings) and reducing court cases (and lowering short-term expenses). This is particularly important when the juvenile system is expanding, allowing the system to focus its attention and resources on only those who cannot be better served outside of the formal justice system.

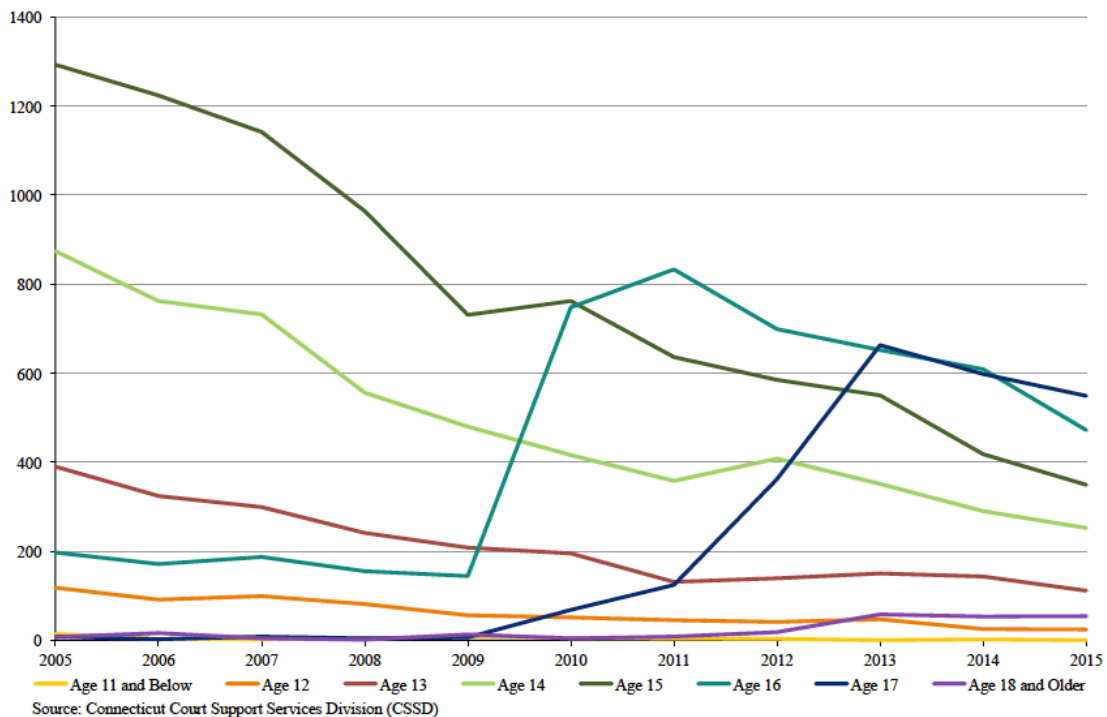
## **Detention**

Currently, youth accused of committing a criminal offense before turning 18 can be detained (held in secure confinement) while the case is pending. Most of these youth (except for those prosecuted as an adult, which will be discussed below) will be held in one of two juvenile facilities, which are operated by CSSD.

Connecticut has experienced a substantial decline in the juvenile detention caseload in recent years. In 2005, there were 2,925 admissions to juvenile detention with an average daily juvenile detention population of 138 youth. In 2015, there were 1,818 detention admissions with an average daily population of 54. This represents an overall decline of 38% in juvenile detention admissions, which is particularly striking when considering the fact that Connecticut added both 16 and 17-year-olds to its juvenile justice system during this time period. It was the steep declines in the detention admissions of the younger youth (approximately 79.7% decline for 12-year-olds, 71.5% for 13-year-olds, 71.2% for 14-year-olds and 73% for 15-year-olds) that more than offset the expansion of the system to the older youth. The following chart shows the detention admissions for the different

age youth over time with the upward spikes up for 16 and 17-year-old reflecting the statutory changes in the age of jurisdiction:

### Juvenile Detention Admissions (CSSD)



All emerging adults who are detained pretrial at the ages of 18, 19 or 20 are currently detained in facilities operated by the Department of Correction (DOC). In addition, some youth under age 18 are also held in adult detention facilities if they have been transferred (either by automatic or discretionary statutory transfer provisions) to the adult system. The DOC collects data on the average daily population rather than the number of admissions, as recorded by CSSD for juveniles (seen in the chart above), and the DOC daily population data for the specific ages includes both unsentenced and sentenced individuals. But when looking at the daily population of the individuals held in DOC detention facilities (including both pretrial and convicted individuals), the data shows a decline: For all ages, there was a 12% decrease in the average daily detention population from 2005 to 2015. For youth under 18, there was a dramatic drop of 76%, which must, in part, reflect the statutory change in the age of jurisdiction, with the 16 and 17-year-olds being included in the juvenile justice system during this time period. For emerging adults, there was a 50% decrease in the average daily population.

Further analysis will be required before the actual number of emerging adults held pretrial in DOC detention facilities can be properly assessed: It is unknown how many of the average population of 729 emerging adults detained in DOC facilities in 2015 were actually pretrial (unsentenced) detainees. Furthermore, it is unknown how many of these

were being held for charges that would subject them to statutory transfer provisions, which means that they would be held in DOC even when the age of jurisdiction is raised to 21.

Even without the availability of the relevant detention data, it is to be expected that moving many of the emerging adults from the adult to juvenile detention systems will have a significant impact on the smaller, juvenile detention system. But there are two factors that make this transition easier than it otherwise could be:

1. Detention admissions have been declining steadily and at a particularly high rate for both youth and emerging adults and, if this trend continues, the populations will be even lower when emerging adults are gradually incorporated in the juvenile system over a three-year period.
2. Detention admissions from the juvenile session should decline at an even greater rate when the new detention law, which passed earlier this year, takes effect in January 2017. Among other things, this law will limit the use of detention to only those who cannot be appropriately placed in a less restrictive alternative and will require CSSD to develop and implement a new detention risk assessment instrument.<sup>89</sup>

Shifting most emerging adults from the adult detention system to the juvenile one is not, of course, just a shuffle of numbers: It is an important shift in philosophy as well. Considerable research and attention has been focused on the use of juvenile detention over the last few decades, and it is now widely recognized that detention is not a benign event, but rather can cause considerable harm.<sup>90</sup> Research shows that detention can negatively impact young persons' physical and emotional well-being, their education and their employment.<sup>91</sup> Pre-trial detention also increases the likelihood that the youth detained will later be sentenced to confinement, with research showing that youth who are detained pre-trial are three times more likely to be committed to custody than youth who remain successfully in the community during the pre-adjudication period.<sup>92</sup> Finally, some studies have shown that detention increases recidivism, especially amongst youth who have a low risk of reoffending.<sup>93</sup>

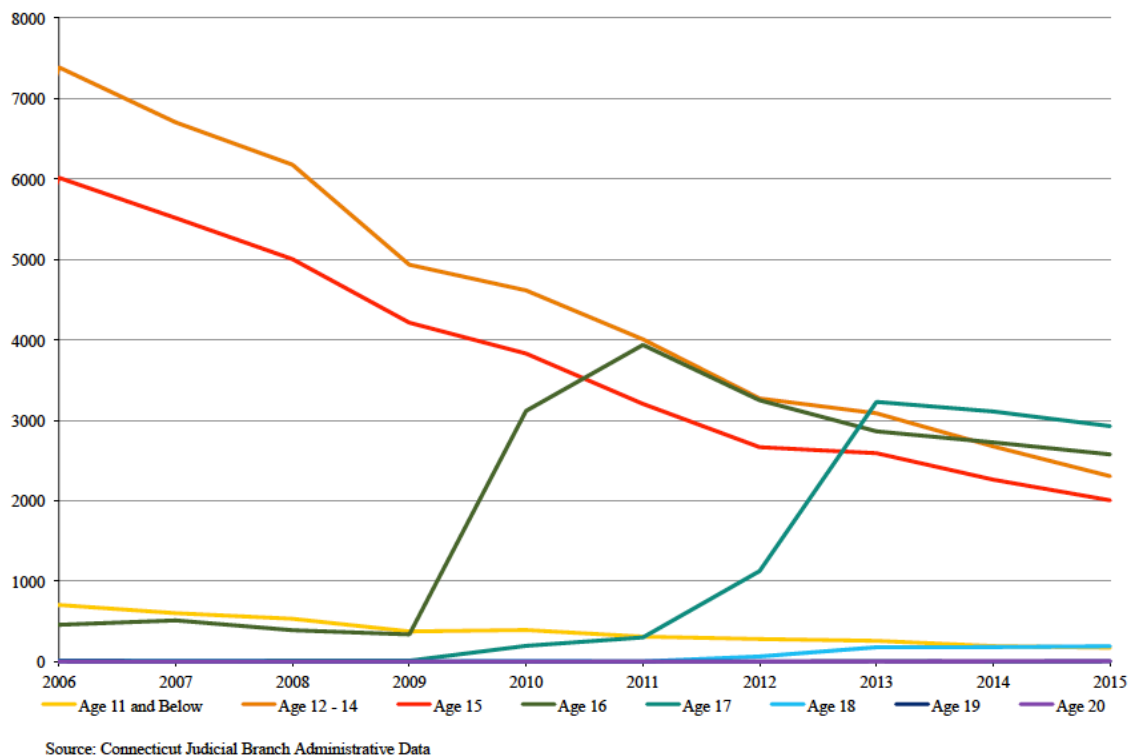
The fact that most emerging adults (except those subject to automatic or discretionary transfer provisions) will be included in the juvenile detention system will increase the juvenile detention caseload. But it should also result in further declines in the total number of detentions in Connecticut (limiting detention to only cases where there are no appropriate alternatives and for as short a period of time as possible), which will reduce long-term costs and improve outcomes.

## **Court Cases**

Over the past decade, the overall number of juvenile dispositions in Connecticut's Juvenile Session decreased 34% (from 15,387 dispositions in 2005 to 10,176 in 2015).

This reduction would be noteworthy under any circumstances, but it is particularly remarkable given that the age of jurisdiction was raised during this time period – meaning that both 16 and 17-year-olds were added to juvenile cases instead of being processed in the adult criminal court. The chart below shows the trends in juvenile cases from 2006 to 2015 (2005 is not included due to missing age category data for that year); it is critical to bear in mind that the dramatic spikes up for the 16 and 17-year-olds mark the two stages of the last “raise the age” reform to age 18.

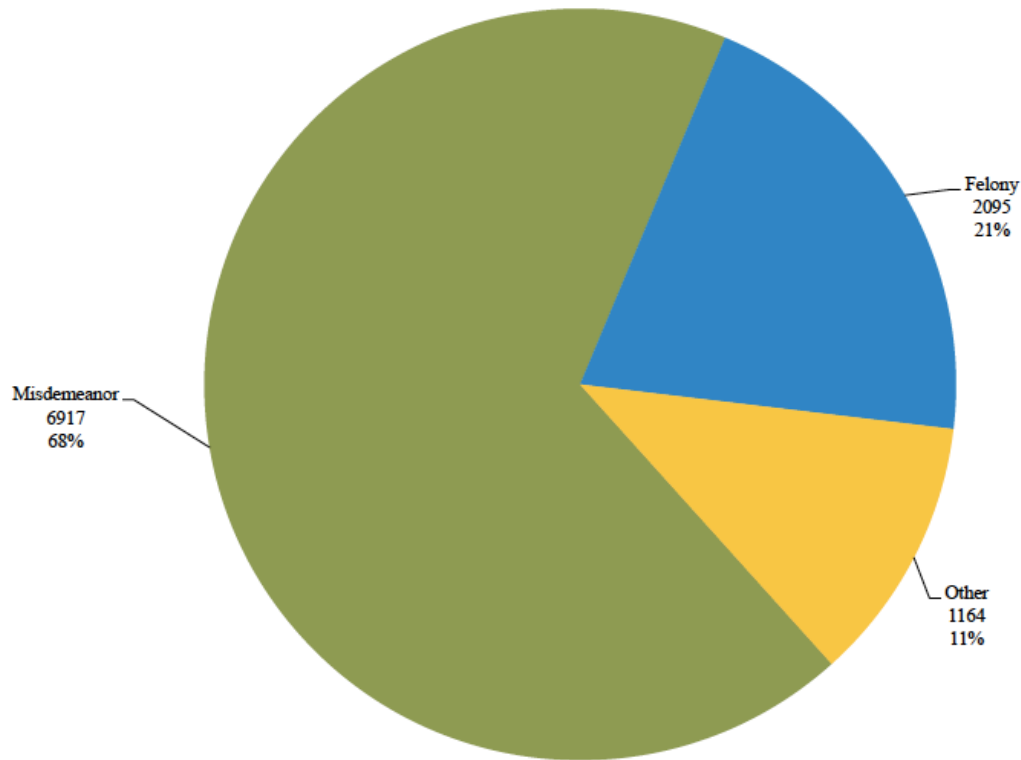
### CT Juvenile Court Cases Disposed



In 2015, there were 182 youth who were transferred to the adult criminal court, either by automatic or discretionary statutory provisions. This was a 36% increase from 2005, when 134 youth were transferred. This increase is not surprising since, again, both 16 and 17-year-olds were incorporated into the juvenile session during this period and thus were subject to these transfer provisions. In 2015, Connecticut passed a new law that raised the minimum age of transfers from 14 to 15 and eliminated automatic transfer for certain class B felonies.<sup>94</sup> This should reduce the number of cases involving youth under 18 from being transferred to criminal court going forward.

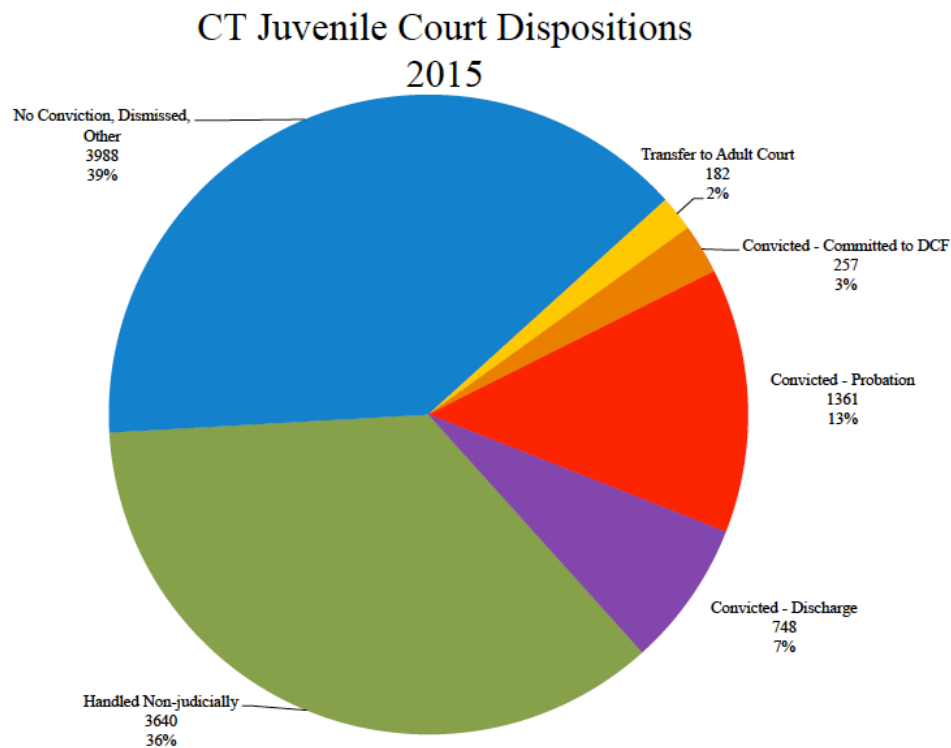
As the chart below shows, more than three-quarters of the 2015 juvenile delinquency cases involved misdemeanor offenses or other minor cases (e.g., infractions) while 21% involved a felony offense as the most serious charge listed.

## CT Juvenile Court Delinquency Cases by Type 2015



Source: Connecticut Judicial Branch Administrative Data

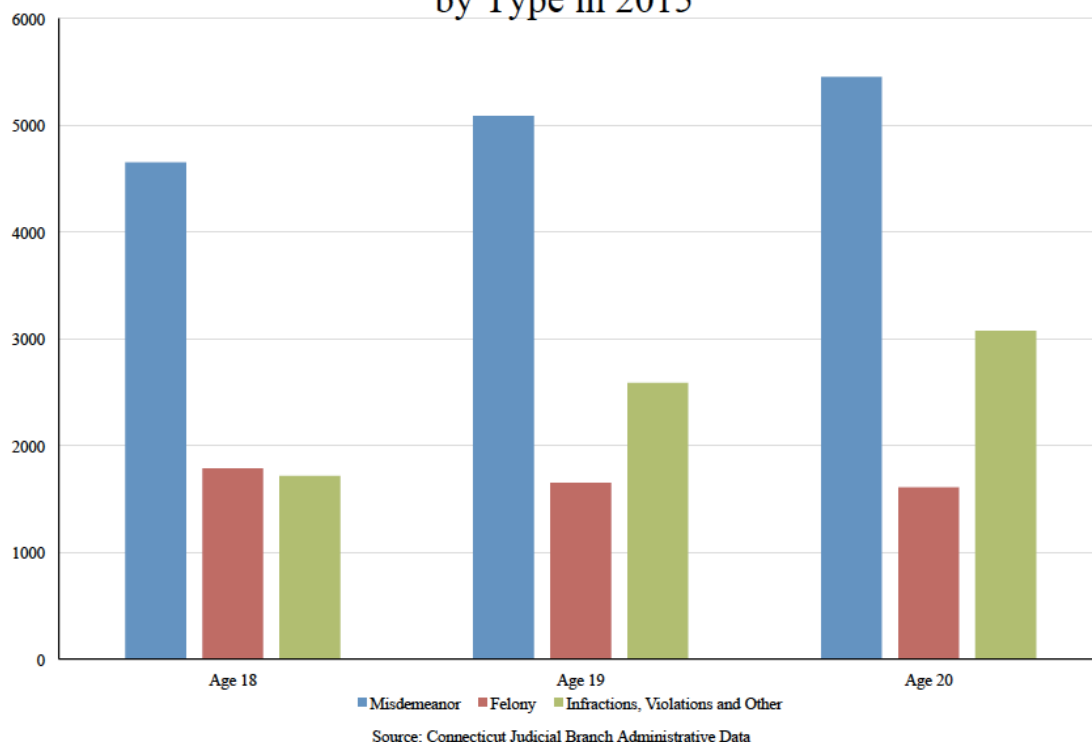
The dispositions of delinquency cases in 2015 show that 36% of the cases were handled non-judicially and another 39% were resolved without a conviction. The 25% of cases that resulted in a delinquency finding were most likely to end with a sentence of probation. Only 3% of all delinquency case dispositions resulted in a commitment to DCF.



Source: Connecticut Judicial Branch Administrative Data

The court case trend for emerging adults in the adult criminal justice system is similarly encouraging, with a 51% reduction in case dispositions from 2005 to 2015. Examining the case disposition in 2015, it appears that there were 161 cases, or 0.6% of the total cases, that would have been subject to automatic transfer to adult court if the age of juvenile jurisdiction had been 21 instead of 18. In addition, 18% of the dispositions were for felony cases, which are subject to discretionary transfers. Over half of the cases involved misdemeanor offenses and another 27% involved other, less serious offenses (e.g., infractions). As the chart below shows, the breakdown of the types of offenses remains fairly consistent for 18, 19 and 20-year-olds.

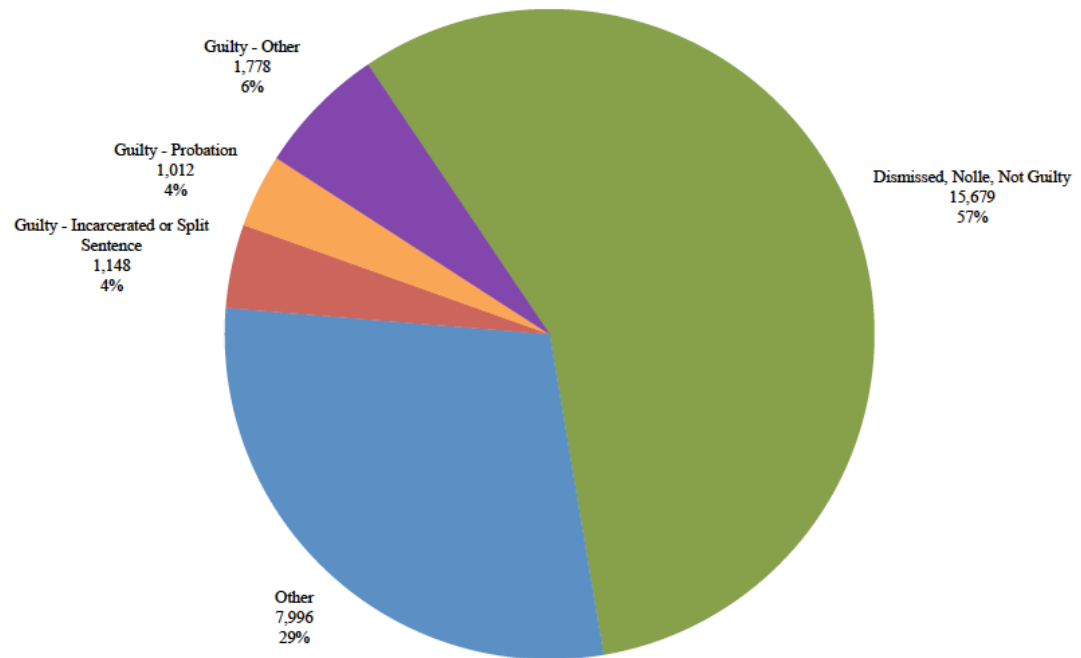
### Emerging Adult Disposed Cases in CT Adult Criminal Court by Type in 2015



Over half (57%) of all emerging adult cases in adult criminal court were disposed without a finding of guilt (e.g., “not guilty” finding or dismissal) and another 29% were resolved in some other manner that also did not result in a guilty finding. Of those cases that resulted in convicted, probation and incarceration sentences were about equally common with each representing 4% of the overall dispositions for emerging adults.



## Dispositions for Emerging Adults in CT Adult Criminal Courts 2015



Source: Connecticut Judicial Branch Administrative Data

### Commitment (DCF) & Incarceration (DOC)

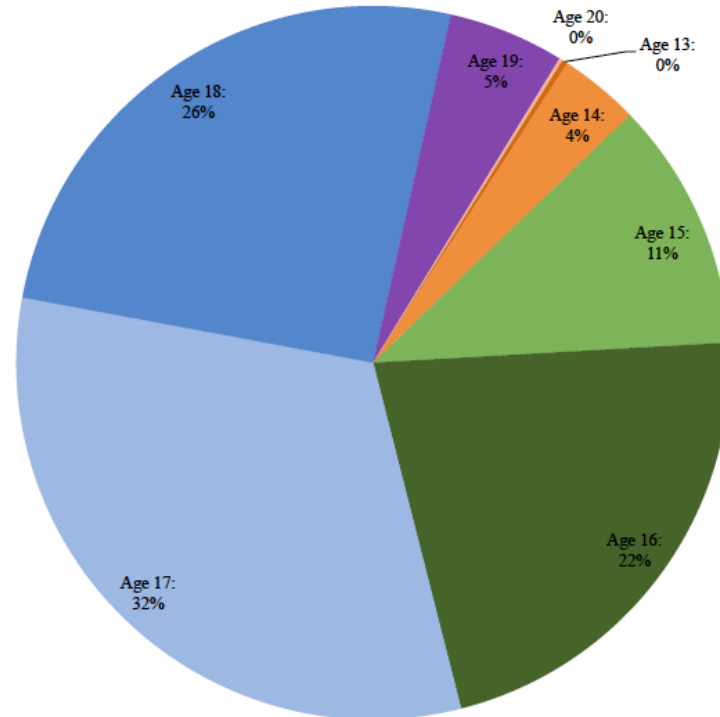
Because DCF and DOC collect data on their caseloads in different ways, it was difficult to compare confinement data in the juvenile and adult systems. As a result, this report uses the sentencing data from the judiciary to track trends but uses “a snapshot” or a head count on a particular day by DCF and DOC to analyze the breakdown of the population of youth and emerging adults in the different types of facilities.

Starting with the trends of youth committed to the Department of Children and Families by a judge from the Juvenile Session, there was a 54% drop in the number of cases that resulted in a commitment to DCF from 2005 to 2015. Similar to the decline in the juvenile detention caseload, the decrease in the committed caseload is particularly noteworthy considering that 16- and 17-year-olds were added to the juvenile justice system during this time period. Once again, the decline in the number of commitments of younger youth more than offset the inclusion of 16 and 17-year-olds in the juvenile justice system.

As might be expected, the older youth (ages 17 and 18) represent the largest share of the DCF caseload with the proportions tracking the ages in a descending order. The

following chart shows the proportion of the different ages as recorded by DCF at the time of placement in 2015:

### DCF Commitments in CT by Age Recorded at Time of Placement 2015



Source: Connecticut Department of Children and Families Administrative Data

The average daily population of committed youth is about 250 but not all of these youth are confined: 44% are in DCF residential programs, 11% are incarcerated or detained for a new crime allegedly committed after their sentence to DCF, and 45% are living at home and being supervised by DCF.<sup>95</sup> For the committed youth being housed in residential programs, these range from the most secure (e.g., the Connecticut Juvenile Training School), to non-secure group homes and foster homes.<sup>96</sup> According to a recent DCF report published in October 2016, of the 109 youth living in a residential setting, 53 were confined in secure facilities with 42 male youth at the CJTS and 11 female youth at Journey House.<sup>97</sup> One of the greatest advantages to including emerging adults in the juvenile system is the much greater degree of flexibility that DCF has both for placement options and length of secure confinement, flexibility that does not exist in adult correctional system. Given the compelling research showing that longer terms of juvenile incarceration have little impact on lowering recidivism rates and, in fact, are associated with increased recidivism risk,<sup>98</sup> this flexibility is critically important.

But DCF does not have custody of all youth sentenced to confinement for offenses committed before their 18<sup>th</sup> birthday, nor will this proposed expansion of the juvenile justice system change this. Because Connecticut has both automatic and discretionary

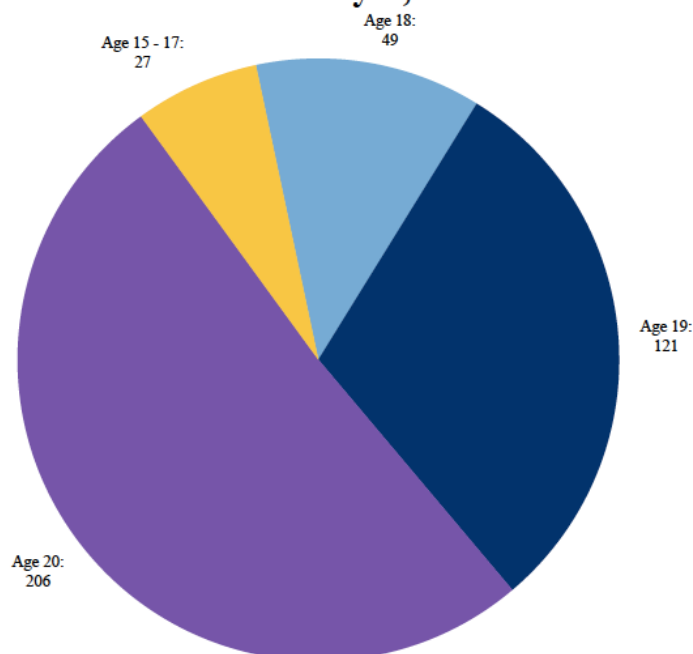
transfer provisions, there is a cohort of 15, 16 and 17-year-olds who are prosecuted in adult criminal court and who sometimes end up being sentenced to adult prison. The caseload of these youth under age 18 who are held in DOC facilities has declined from a high of 175 in 2008 to only 27 in 2015, an 85% drop.

One of the JJPOC working groups has begun to examine this small group of youth in the adult correctional system. Concerns have been raised as to whether public safety would be better served by providing these youth with the individualized, rehabilitative services available in the juvenile justice system and protecting them from the known harms to youth held in the adult prisons. These discussions are timely and important: With the proposed expansion of the juvenile justice system to 21, this group could get “lost in the shuffle” and overlooked.

The cases of emerging adults in the adult criminal court that resulted in a sentence of incarceration, including split sentences, has also decreased from 2005 to 2015 by 43%. The population in the DOC (as counted on the same day of each year) shows a 12.5% decline for all ages but a much greater 57% drop for emerging adults. In 2005, emerging adults made up 6.3% of the overall population of incarcerated people in Connecticut but, because of their greater rate of decline in custody, they made up only 3.1% of the overall prison population in 2015.

The following chart provides information about the age breakdown of the youth and emerging adults incarcerated in DOC prisons in 2015:

### **Youth and Emerging Adult Incarceration in CT Prisons by Age as of January 1, 2015**



Source: Connecticut Department of Correction Administrative Data

## Special Populations

There are three particular populations of youth and emerging adults that deserve some additional discussion:

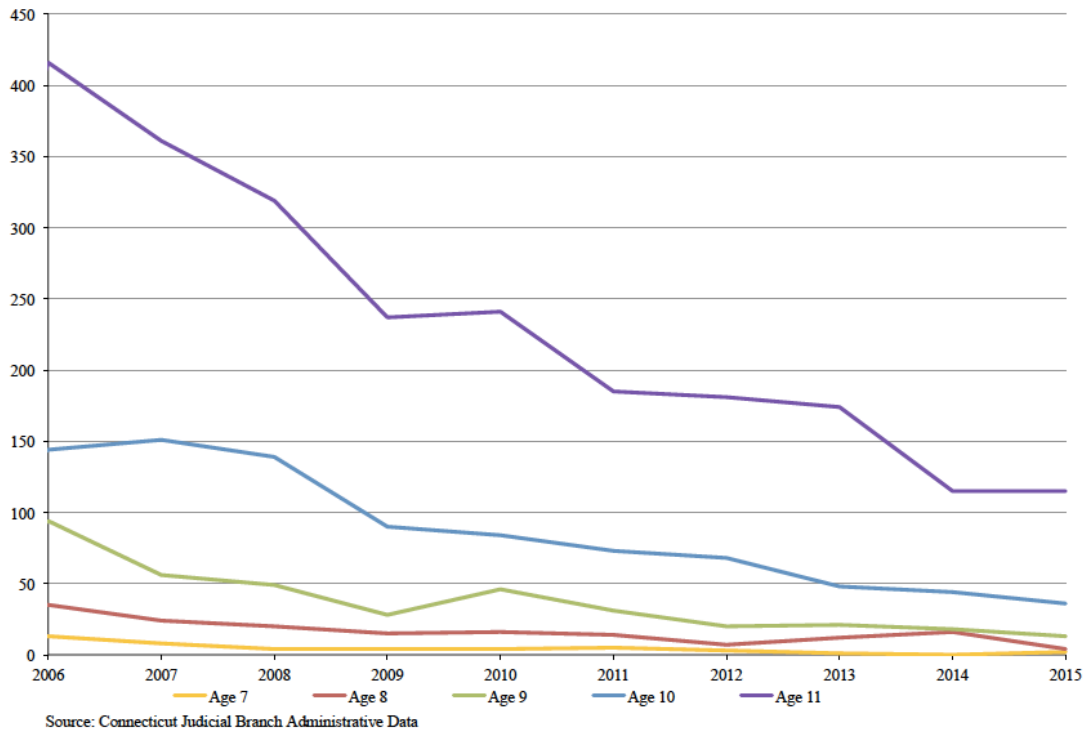
### *Youth Under Age 12*

As Connecticut plans to raise the upper-end of the age of juvenile jurisdiction to include emerging adults, PCJ recommends that it consider simultaneously raising the age of the lower-end of jurisdiction, which is currently at age 7. There have been a number of concerns raised by legal experts and social scientists regarding the capacity of very young children to stand trial.<sup>99</sup> For similar reasons, we might expect that formal prosecution may have a great adverse effect for young children than for older youth. There are other systems (e.g., child welfare system) that could serve these young children more effectively. As Connecticut raises the age juvenile jurisdiction to 21, increasing the juvenile justice caseload and shifting the focus to the older population, it becomes even more important to find more appropriate and effective ways to treat the youngest children.

There is, unfortunately, no clear norm in the United States regarding the age of the lower-end of juvenile jurisdiction: One state sets the age at 6, five states join Connecticut at age 7, three states set the age at 8, 10 states set the age at 10, and 30 states have not established any lower-age of juvenile jurisdiction.<sup>100</sup> However, international norms have been firmly established at age 12,<sup>101</sup> and there have been some recent legislative proposals in some states to try to match these standards,<sup>102</sup> including a bill in Nebraska that was recently passed to set the lower age to 11, effective July 1, 2017.<sup>103</sup>

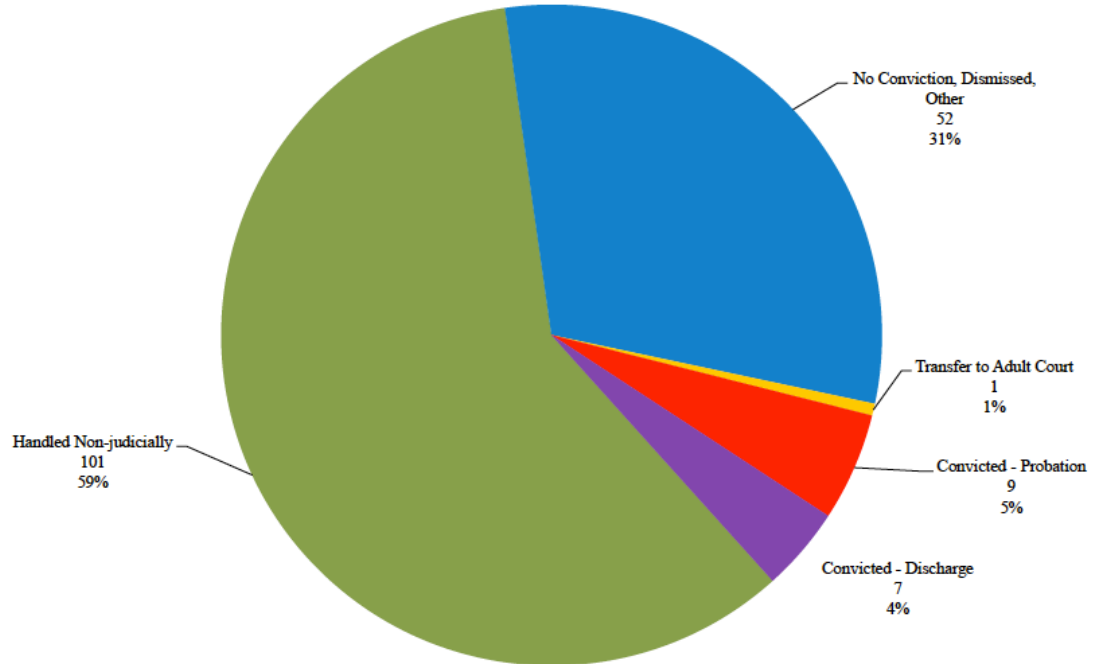
As the chart below shows, the delinquency cases of children under age 12 in the Connecticut juvenile justice system has decreased 75.8% over the past decade:

### CT Juvenile Court Cases by Age (<12 years-old)



When younger children are involved in the juvenile justice system, the vast majority of cases, 90%, are resolved without any conviction or finding. As the chart below shows, 59% of the cases disposed for youth under 12 in 2015 were handled in a non-judicial process and another 31% of the cases were dismissed or disposed in some manner that did not involve a delinquency finding:

## CT Juvenile Court Dispositions (under age 12) 2015



Source: Connecticut Judicial Branch Administrative Data

In 2015, there were two children under 12 held in a CSSD pre-trial detention facility, compared to 45 in 2006, and there were no cases that resulted in a commitment to DCF. PCJ has no detailed information about the one case that was recorded as being transferred to the adult court in 2015. By far, the most frequent dispositional outcome for these youth was the nine youth placed on probation. Probation provides a case management function that could be replaced by child welfare case managers rather than probation supervision, which carries with it a heightened stigma and brings youth under age 12 into contact with older youth in probation offices and programming.

### *Females*

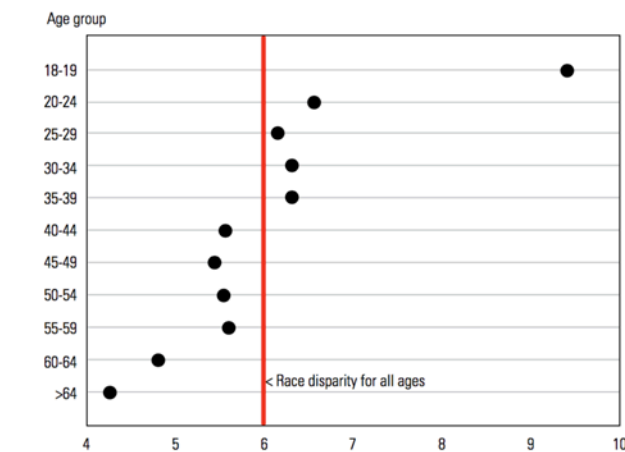
Girls represent a minority in the juvenile justice population (although they are the fastest growing segment of the juvenile justice population).<sup>104</sup> Similarly, female emerging adults represent a relatively small percentage of those involved in the adult criminal justice system: Females made up 23.2% of emerging adult arrests in 2014, 22.4% of the adult criminal court cases in 2015, and 4.2% of the emerging adult incarceration population in prison, calculated by a head count in 2015. As Connecticut expands the juvenile justice system to include juveniles, it must ensure that the needs of female court-involved emerging adults – although only a small minority of the emerging adult population – are nevertheless being appropriately addressed.

## *Racial and Ethnic Minorities*

The federal Juvenile Justice and Delinquency Prevention Act requires states to collect race and ethnicity data at all the major decision points in the juvenile justice system (from arrest to confinement) and to adopt strategies to reduce any disparities found.<sup>105</sup> In almost every state in the country, disparities have been found to exist and these differences cannot be explained by a difference in criminal history and offending behavior of different racial and ethnic groups.<sup>106</sup> According to the last assessment completed by Connecticut in 2009, racial and ethnic disparities not only exist but actually increased in some of the key stages of its juvenile justice system. Connecticut's own study also found that disparities existed even when white and minority youth were similarly charged.<sup>107</sup> A recent report published by DCF showed that the committed caseload included 26.7% Caucasian youth and 73.3% youth of color.<sup>108</sup>

National data shows that the disparities also exist for court-involved emerging adults: 18 and 19-year-old Black males were found to be imprisoned at a rate over nine times greater than Caucasians.<sup>109</sup>

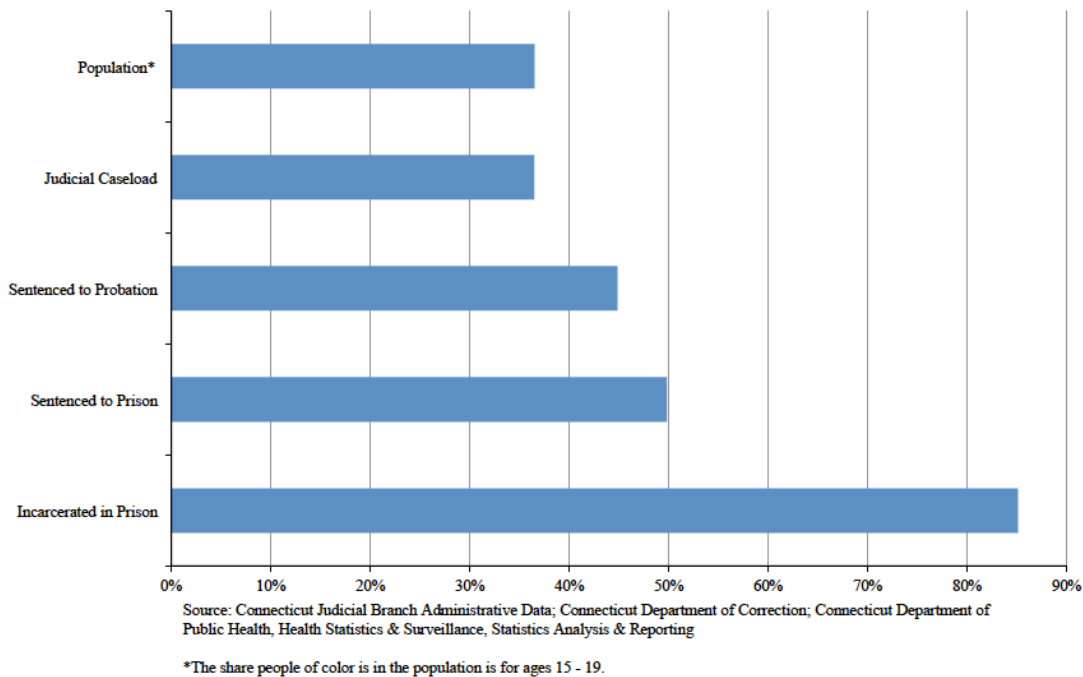
**Figure 3. The ratio of black to white male imprisonment rates, by age group, 2012**



Source: Carson and Golinelli (2013, table 18).

The data on emerging adults in the Connecticut adult criminal justice system shows that racial and ethnic minorities are also over-represented and that the disparities increase as cases move deeper into the justice system. While emerging adults of color make up roughly 36% of Connecticut's overall population and youth in criminal court, they are 45% of those sentenced to probation, 50% of those sentenced to prison, and a staggering 85% of those incarcerated in Connecticut prisons as of the head count on January 1, 2015.

### % of Emerging Adults of Color in CT 2015



Racial and ethnic disparities are extremely troubling and raise questions about the fundamental fairness of the justice system and they can undermine the perceived integrity of the system. As described in a recent report on Connecticut youths' perspective of the justice system, youth "...were acutely aware of how a young person's race, ethnicity and socioeconomic status not only determine a young person's access to opportunities but also how he or she is treated within the justice system."<sup>110</sup>

One of the advantages of Connecticut's proposal to raise the age of juvenile jurisdiction to 21 is that the state will be required to collect and analyze the race and ethnicity data for emerging adults as well as youth under 18. In addition, efforts to reduce the disparities will target youth and emerging adults, both groups that show high rates of disparity.



#### **QUESTION #4:**

***What are the key issues that need to be addressed to ensure the successful implementation of these new reforms in Connecticut?***

The implementation of this proposal will have several legal, policy, operational, and fiscal implications for Connecticut. This section of the report discusses four issues that PCJ believes deserves extra attention from policy makers in preparing for the implementation of the expansion of the juvenile justice system to include emerging adults.

#### **How This Proposal Intersects with Federal Laws and Rules**

PCJ has identified the following three specific federal programs or statutes that could be directly implicated by the proposal to include young adults ages 18 – 21 in the Connecticut juvenile justice system and offers an analysis of the potential impact.<sup>111</sup>

##### *The Juvenile Justice Delinquency Prevention Act*

The Juvenile Justice and Delinquency Prevention Act (JJDP A), first enacted in 1974, requires states to abide by four core requirements in order to receive federal funding. One of those requirements involves the sight and sound separation of juveniles from adults.<sup>112</sup> Specifically, the JJDP A provides that “juveniles alleged to be or found to be delinquent...will not be detained or confined in any institution in which they have contact with adult inmates.”<sup>113</sup> The application of this provision is further laid out in a Guidance Manual for facilities under the JJDP A, which states that “[i]t is important to note that the separation requirement prohibits a state from transferring adult offenders to a juvenile correctional authority for placement in a juvenile facility. For example, an adult could not be transferred to a juvenile detention center to alleviate overcrowding in an adult facility.”<sup>114</sup> The purpose of this requirement is straightforward and important: to prevent children and youth from both psychological and physical harm that could be caused by older, developmentally more sophisticated and sometimes more serious adult offenders. The question that arises, however, is whether Connecticut would violate the JJDP A by including 18, 19 and 20 year olds in the juvenile system.

While the JJDP A bans the mingling of criminally charged adults with juveniles, it does not appear to bar the housing of *adjudicated* youth over 18 with those under 18. Under the JJDP A, “adult inmate” is defined as “an individual who a) has reached the age of full criminal responsibility under applicable State law; and b) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal charge offense.”<sup>115</sup> Under the Connecticut proposal, emerging adults (unless transferred to adult court), would be tried in the juvenile session and adjudicated, not convicted. Therefore, they would not be classified as an “adult inmate” and would not need to be separated from younger youth who also are being prosecuted in the juvenile system.<sup>116</sup>

Nationally, age mingling of youth under and over age 18 in juvenile facilities is a common practice. The maximum extended age of juvenile jurisdiction in most states is over 18, extending in some states as far as 24.<sup>117</sup> A 2012 Bureau of Justice Statistics report found a mixture of youth under age 15 and over age 18 in fully half of the 322 facilities surveyed in 2012.<sup>118</sup> In a quarter of the facilities surveyed, more than a third of their population was over age 18.<sup>119</sup> Connecticut already houses youth under and over the age of 18 together: For instance in the Connecticut Juvenile Training School, 9 of the 48 held on December 12, 2016, were over the age of 18.<sup>120</sup>

There is movement in some states towards a more mixed population. In Oregon, for instance, facilities have begun housing youth not based on age or charge but on other social factors. Yet there are no indications that compliance with JJDPa has become an issue in Oregon or other such states that mix the age populations within their juvenile systems. The important factor with regards to JJDPa is the designation of youth (or in Connecticut, emerging adults) in the juvenile system, rather than a specific cut-off age.

### *The Prison Rape Elimination Act (PREA)*

The Prison Rape Elimination Act (PREA), passed in 2003, establishes a zero-tolerance standard for sexual violence in prison, jails, juvenile facilities and other criminal justice institutions.<sup>121</sup> Under the law, the Department of Justice was required to issue “a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape,”<sup>122</sup> which it accomplished in 2012.<sup>123</sup> “In 2015, more than 7,600 prisons, jails, community-based facilities, and juvenile correctional facilities nationwide were covered by PREA.”<sup>124</sup> Failure to comply with PREA standards results in the loss of 5% of federal funding provided to the state for prison-related purposes.<sup>125</sup>

The rules and regulations promulgated under PREA establish particularly strict standards for “youthful inmates,” a category defined as youth under age 18 who are held in adult facilities. Such youthful inmates may not be housed anywhere in which they will “have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters.”<sup>126</sup> Sight and sound separation must also be maintained outside of housing units absent direct staff supervision.<sup>127</sup> Similarly, in lockups, “[j]uvenile and youthful detainees shall be held separately from adult detainees.”<sup>128</sup> Similar to the sight and sound separation requirement of the JJDPa, the question arises of whether Connecticut would (unintentionally) violate PREA by including 18, 19 and 20-year-olds in its juvenile system.

PREA, however, makes a critical distinction between adult and juvenile facilities, and it is this distinction that provides leeway for Connecticut and other states to house emerging adults with those under 18. A “juvenile facility” is defined as “a facility *primarily* used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system.”<sup>129</sup> This definition is intended to include group homes and halfway houses that house juveniles.<sup>130</sup> A “juvenile” is defined as “any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail.”<sup>131</sup> Subpart D

of PREA, which outlines the standards for juvenile facilities, makes no mention of age factors or requirements for separation.<sup>132</sup> But reading these definitions and standards together, it is clear that the PREA rules contemplate the housing of those under and over 18 in a single juvenile facility, without requiring age segregation. This impression is confirmed by the Department of Justice commentary on the PREA standards, as published in the Federal Register:

Some commenters recommended that the definition of juvenile include persons over the age of 18 who are currently in the custody of the juvenile justice system, because some state juvenile justice systems hold persons beyond that age who were originally adjudicated as juvenile delinquents. The final rule does not make that change. The set of standards for juvenile facilities refers throughout to “residents.” A “resident” is defined as “any person confined or detained in a juvenile facility.” Thus, the standards already cover over-18 persons confined in a facility that is primarily used for the confinement of under-18 persons, and the commenters’ proposed change is not needed.<sup>133</sup>

Connecticut will need to define clearly the status of the facilities that will house emerging adults as they are gradually included in the juvenile system. As long as the facilities are designed primarily for juveniles in the juvenile system, and emerging adults are newly included in the juvenile system, it should not be subject to PREA age restrictions.

Concerns have been raised, however, that even if PREA does not provide any legal or financial obstacles to treating emerging adults in juvenile facilities with those under age-18, the mere presence of older youth would increase the risk of sexual violence. The Bureau of Justice Statistics (BJS) recently released a report that sheds some light on this issue;<sup>134</sup> providing an in-depth statistical analysis of data collected in 2012, the BJS sought to identify rates of sexual victimization of youth in facilities, and what characteristics of youth and facilities were associated with this victimization.<sup>135</sup> One of the factors by which the report explored vulnerability was “age mixture.”<sup>136</sup> The report noted that age mixture was associated with staff-on-youth sexual misconduct, with facilities with a mix of young minors and adults (under 15 and over 18) reporting the highest rates of misconduct.<sup>137</sup> However, age mixture was not a significant factor in the rates of youth-on-youth sexual assault.<sup>138</sup> Factors such as gender composition and staffing instability were deemed to be more substantive in facility-level attributes associated with sexual victimization than age mixture.<sup>139</sup> These findings should make the training and supervision of the staff at the residential treatment facilities a high priority for Connecticut as emerging adults gradually are incorporated into its juvenile system.

### *Pell Grants*

Pell Grants are need-based grants awarded by the federal government to students who have not earned a bachelor’s or professional degree.<sup>140</sup> The amount awarded to an individual student is based on the student’s financial need, the cost of attendance, and the type and length of schooling.<sup>141</sup> For the 2016-17 award-year, the maximum award is

\$5,815.<sup>142</sup> A student may receive Pell Grants for no more than twelve semesters, or around six years.<sup>143</sup> Students may use their grants at any of 5,400 postsecondary institutions.<sup>144</sup> These include not only undergraduate institutions but also technical and vocational schools.<sup>145</sup>

Under the law, students “incarcerated in a federal or state penal institution,”<sup>146</sup> are ineligible for Federal Pell Grants, except for the few fortunate students who are in states that are participating in a limited, federal pilot program (which includes Connecticut).<sup>147</sup> In 2014, the Department of Education clarified the definition of “incarcerated” in a “Dear Colleague Letter,” stating clearly that this prohibition does not apply to students housed within juvenile justice facilities, because these facilities are not “penal institutions.”<sup>148</sup> The term “juvenile justice facility” was defined within the Letter as “all public or private residential facilities that are operated primarily for the care and rehabilitation of youth who, under State juvenile justice laws, (1) are accused of committing a delinquent act; (2) have been adjudicated delinquent; or (3) are determined to be in need of supervision.”<sup>149</sup>

Moreover, the Letter clarified that it is the status of the facility that renders a student eligible, rather than individual criteria of age or offense:

This Federal Pell Grant Eligibility applies for students who are confined in juvenile justice facilities regardless of the student’s age, the type of sentence the student received (such as a blended sentence), the length of the sentence the student is serving, and whether the student was adjudicated as a juvenile or convicted as an adult.<sup>150</sup>

In addition, a Questions and Answers document attached to the “Dear Colleague Letter” laid out the logistics of applying for aid from a juvenile justice facility.<sup>151</sup> For students held in juvenile facilities, the cost of attendance does not include living expenses, but does include tuition and fees, as well as books and supplies if required.<sup>152</sup> Students may obtain funding for programs that extend beyond the length of their stay in a juvenile facility.<sup>153</sup>

Given the careful wording of the Letter and the strong emphasis on the status of the facility rather than the individual, it can be concluded that Connecticut would not be jeopardizing the awards of Pell Grants to youth in the juvenile system by implementing this proposal. In fact, the proposed reforms would have the beneficial effect of increasing the number of youth in Connecticut who could take advantage of Pell Grants. At the moment, the only reason any 18, 19 and 20 year olds who are convicted and sentenced to incarceration in the adult Connecticut Department of Correction can use Pell Grants is because the state is participating in a federal pilot program. Once included in the juvenile system, these emerging adults would be eligible simply by being treated in the juvenile system.

In conclusion, JJDP, PREA and Pell Grants do not appear to pose any substantial obstacles to Connecticut’s proposal to raise the age of juvenile jurisdiction. In fact,

including emerging adults ages 18, 19 and 20 in the juvenile justice system is likely to render them eligible for Pell Grants if confined when they would not normally be eligible if incarcerated in an adult facility. Nonetheless, the definitions of categories such as “juvenile” and language used such as the word “primarily,” play a significant role in evaluating how the federal laws and rules will be applied to the Connecticut justice system. Legislation should clearly state the fact that emerging adults will be processed in the “juvenile” docket and treated in the juvenile justice system in facilities “primarily” designed for the rehabilitation of juveniles (unless such emerging adults are formally transferred to the adult system).

### **Identifying Needs and Providing Developmentally Appropriate Services to Emerging Adults**

In order to successfully implement the inclusion of emerging adults in the juvenile justice system, Connecticut will need to provide developmentally appropriate services and treatment targeted specifically to this age cohort. Unfortunately, due to the longstanding practice of lumping emerging adults with all adults in the criminal justice system, researchers do not have a great deal of information to offer about this group. Specifically, studies have generally not broken out samples of adolescents, emerging adults, and older adults using the same measures for all age categories.<sup>154</sup> This should change, however. As Connecticut and other jurisdictions innovate and advance laws, policies and practices in the justice system to specifically address emerging adults, researchers will be given significant incentives to focus future studies on the category of emerging adults—a group that attained significant public policy attention.

PCJ has identified four specific categories of services that Connecticut will need to enhance and tailor specifically to emerging adults: (1) educational/vocational services, (2) mental health/substance abuse, (3) housing, and (4) family involvement/parenting. These categories were based on several data and information sources, including: the most current research available; the key elements of the “positive youth development” framework (which focuses on protective factors and strengths rather than solely risk factor and problems);<sup>155</sup> and thoughtful input provided by experienced practitioners who work with court-involved emerging adults both inside and outside the Connecticut justice system.

The following provides only a brief overview of the issues under each of the four categories. It will be imperative for Connecticut, with the assistance of the JJPOC, to study each category to determine what services are now available for emerging adults in Connecticut, whether connected or independent of the adult criminal justice system. After a preliminary environmental scan, a determination can be made of (1) whether these services can be accessed for emerging adults involved in the juvenile justice system, and (2) whether there are gaps that need to be filled with an expansion of current services or the development of new services. Involvement in the justice system can interrupt and prevent the development of strong social networks and support systems needed to successfully transition into adulthood. Consequently, providing these services to

emerging adults in the community, or in the least restrictive setting as possible, should be the goal.

### *Educational/Vocational Services*

Court-involved emerging adults are often significantly behind their peers in educational attainment and job readiness. Less than 20% of people incarcerated nationally have a high school diploma or GED, compared to approximately 75% of all males age 18 – 24.<sup>156</sup> This is not only disconcerting in terms of the low probability that these emerging adults will be able to secure stable and well-paid jobs, but also in terms of the increased risk to public safety, given the research demonstrating the effectiveness of education (as well as supportive work opportunities) in reducing recidivism.

Broadly speaking, our society assumes that 18-year-olds are finishing high school and that 19 and 20-year olds are studying in college. Under either of these circumstances, emerging adults find themselves in a physically and emotionally safe environment—with at least four years within such an environment to mature. Unfortunately, for the population of emerging adults being swept into the justice system, these circumstances rarely apply.

Under the current juvenile justice system, many problems have arisen in the delivery of high quality educational and vocational services, and a number of specific reforms have been identified, including in Connecticut.<sup>157</sup> Despite these challenges to the current juvenile justice system, emerging adults will undoubtedly benefit from the focus and attention on educational services that have been emphasized in the design of the juvenile justice system—and largely ignored in the adult justice system. As just one example of how the difference is built into the legal structure, the “Raise the Grade” Act (Public Act 14-99) that was passed in 2014 requires that “each youth who is in a secure facility run or contracted for by the Court Support Services Division shall have a case plan that describes the youth’s educational needs and grade-level performance and identifies what supports or services will or are being provided to support academic performance.” In contrast, there is no equivalent requirement applied to adult prisoners.

Under the Governor’s proposal, there is also a better chance that emerging adults will receive specialized educational services. Adjudicated youth are three to four times as likely to require special education and/or related aids and services than students in community schools.<sup>158</sup> Under federal law, these students with disabilities are entitled to special education until the end of the school year following their 21<sup>st</sup> birthday or when the students accept a high school diploma, whichever comes first. These rights are not extinguished in any way by being an emerging adult involved in the justice system.

Although PCJ is not endorsing any particular program in Connecticut, we note that a number of participants who attended PCJ’s facilitated discussions referred to the Hartford-based Options Education Services (OES) program as a useful model. Serving youth and emerging adults through age 21, this program provides both educational and vocational services with the goal of independent living. Through an environmental scan,

Connecticut can identify any extant educational and vocational programs that are similar to OES, and then assess the capacity and scope of these existing programs to serve appropriately the court-involved emerging adult population.

In addition, there are programs outside of Connecticut that may be useful models to consider:

1. Roca is an organization in Massachusetts that focuses on engaging young adults wrapped in cycles of incarceration and poverty. The non-profit works to develop young adult education and employment skills for young mothers, gang affiliated and other high-risk youth. Data shows that upon completing the two years of Roca programming, participants' criminal behaviors reduced significantly: 93% are not re-arrested, 95% are not re-incarcerated, and 88% of those on probation adhered to their conditions.<sup>159</sup> Roca is now the subject of a rigorous, independent randomized clinical trial as part of one of the nation's largest social innovation bonds.
2. United Teens Equality Center (UTEC) serves "impact youth" between the ages of 17 and 25-years-old who are seriously gang- or criminally-involved. Priority for UTEC programming is given to those who are exiting prison with a felony conviction, who lack high school credentials, and who are young parents. Outcome measurements from UTEC have also been positive: Of those who completed the programming, 83% had not been arrested since leaving the program and 82% were currently employed.<sup>160</sup>
3. The Neighborhood Opportunity Network (NeON) in New York was launched as part of Mayor Michael Bloomberg's Young Men's Initiative, focusing policy changes and programming on young adults in New York City. NeONs are neighborhood based probation offices that provided probation clients ages 16 to 24 with academic support, supported work, mentoring and employment preparation. An initial evaluation shows a 23% lower re-arrest rate for the mid- to high- risk youth in NeONs versus probation clients in non-NeON neighborhoods who received standard probation services.<sup>161</sup>

### *Mental Health/Substance Abuse*

Mental health and substance abuse are prevalent problems throughout the juvenile and criminal justice systems. A national study of correctional facilities in 2005 found that over half of all incarcerated individuals had a mental health problem, identified by a recent clinical diagnosis or treatment by a mental health professional and/or recent self-reported symptoms of depression, mania, or psychotic disorders based on the criteria in the *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition (DSM-IV).<sup>162</sup> Young adults (age 24 and younger) had the highest rate of mental health problems of any age group.<sup>163</sup> Furthermore, it is estimated that 75-95% of system-involved youth exhibit symptoms of trauma due to exposure to violence,<sup>164</sup> and it would seem consistent that similar rates would be found in the population of court-involved emerging adults.

In addition, young adults have some of the highest rates of alcohol and substance abuse. For example, in 2014 rates of binge drinking (drinking five or more drinks on a single

occasion) were 28.5% for people ages 18 to 20 and 43.3% for people ages 21 to 25. In terms of illicit drug use, the highest rate is for emerging adults ages 18-20, exceeding just slightly the second highest rate for young adults ages 21-25.<sup>165</sup> It is not surprising, therefore, that drug abuse violations constituted the fourth most frequent reason for arrest for emerging adults in Connecticut in 2014 (year with most recent data available), representing about 10% of arrests for this age group.<sup>166</sup>

In the PCJ-facilitated discussions on the proposal to include emerging adults in the juvenile justice system, many participants expressed particular concern about some of the differences in the types of mental health diagnoses for this age group. The first onset of schizophrenia, for example, usually occurs in late adolescence and young adulthood (early 20's).<sup>167</sup> Mental health professionals now working in the juvenile justice system may not have experience or expertise in treating this chronic and severe mental illness.

These are significant concerns. Fortunately, Connecticut has an existing institutional resource at-hand that it can and should use as it prepares to serve emerging adults in the juvenile justice system. This is the Young Adult Services Division of Connecticut's Department of Mental Health and Substance Abuse Services. The Division serves 18-25-year-olds with a history of mental health problems and/or substance abuse to whom it applies trauma sensitive treatment.<sup>168</sup> With both expertise and experience about how best to serve this age group, the Young Adult Services Division should be able to assist JJPOC identify the gaps in services that will need to be addressed.

Finally, the development of the evidence-based program Multisystemic Therapy (MST) has recently been adapted specifically for emerging adults (MST-EA) and has shown impressive results. In a study in the *Journal of Behavioral Health Services and Research*, the majority of 41 participants aged 17-20 who had mental health diagnosis and recent arrest and incarceration successfully completed the interventions. Moreover, client satisfaction with MST-EA implementation was high and pre-post-analyses showed significant reductions in clients' mental health symptoms, further involvement in the justice system, and associations with antisocial peers. MST-EA is now the subject of a rigorous, independent randomized clinical trial.<sup>169</sup>

### *Housing*

The critical role of stable and safe housing should be self-evident regarding school attendance, employment, mental and physical health, social well-being and many of the protective factors associated with a reduction in recidivism. Accordingly, stable and safe housing was flagged by many in PCJ's facilitated sessions as an area that needs much greater attention with the implementation of the inclusion of emerging adults in the juvenile justice system. By extension, this means that housing stability is currently under-addressed for this age cohort in the criminal justice system.

Today in the United States, there are more young adults living at home than at any time recorded in the past 130 years.<sup>170</sup> It is likely that the vast majority of court-involved emerging adults are still dependent on their families for housing (as well as for food and



finances). But the housing situation could be more complicated for emerging adults than youth under 18, especially for those who are transitioning out of the foster care system. It will be important to conduct a careful assessment of the housing needs for emerging adults at all stages of the legal process and a common assessment measure should be adopted and integrated into existing tools used by juvenile justice professionals. In addition, Connecticut, through the JJPOC, should commission a study to examine the housing needs of court-involved young adults with a particular focus on ensuring that a sufficient array of services is available to support this age cohort (whether that means engaging in family mediation so the emerging adult can stay with family, or finding other suitable alternatives).

### *Family Involvement/Parenting*

Because most emerging adults are still very much dependent on their families for financial, physical and emotional support, the engagement of the families should produce better outcomes for emerging adults—just as research has shown how important family engagement is for youth in the juvenile justice system.<sup>171</sup> But as was noted by many of the Connecticut-based professionals currently working with emerging adults outside of the juvenile justice system, the definition of “family” needs to be broadened for this age group. Engagement of “family” should include not just parents and legal guardians, but other responsible adults that play an important role in the emerging adults’ life, including older siblings, mentors, grandparents, coaches, etc.

Another aspect of family involvement that will need more attention under the proposal will be providing services and support to the emerging adults who are themselves parents. In 2007, 44.1% of young adults aged 24 or younger in state prisons were estimated to be parents.<sup>172</sup> Although research on the impact of parental incarceration on parents and their children has not focused on emerging adults, research on the broader population has found parental incarceration associated with a number of negative outcomes for both the parent and the child, including family economic hardships, instability of parental relationships and increased risk of child behavior problems.<sup>173</sup>

### **The Proposal’s Impact on the Department of Children and Families**

Although the inclusion of emerging adults will have an impact on all of the justice system agencies (e.g., police departments, courts, etc.), the effect on the Department of Children and Families (DCF) will be particularly significant. While the most obvious factor will be the projected increase in the caseload of committed youth, DCF is facing a range of other current and prospective challenges. Notably, at almost every meeting facilitated by PCJ in Connecticut over the last few months, participants raised numerous concerns about how DCF would be able to successfully incorporate emerging adults in their juvenile correctional services. Consequently, PCJ believes that this topic deserves extra attention when planning for the implementation of the expansion of the juvenile justice system.

DCF has an enormous statutory mandate inasmuch as it oversees the following protections:

- the child welfare system, including protection from abuse and neglect and status offense cases;
- children’s mental health, including behavioral health and substance abuse services; and
- the juvenile justice system, including both residential and non-residential services and treatment for youth found to have committed delinquency offenses and then sentenced by a judge to the custody of DCF.

With such a wide purview, DCF can be involved at any time in a child’s life from birth to his or her 21<sup>st</sup> birthday due to a host of different reasons. At the same time—for the very same reasons—DCF has minimum control over its own caseload.

Connecticut is one of the few states to designate a single agency to handle all three types of cases – child welfare, children’s mental health and juvenile justice. In regard to the practices of other states around the country, the 2015 report of the Council of Juvenile Correctional Administrators (CJCA)<sup>174</sup> found that:

- eleven states included juvenile corrections within a larger human services agency;
- eight states had divisions within the adult corrections system; and
- the remaining thirty states had either free-standing agencies in the executive branch or distinct agencies under a human services umbrella.

Within the broad mandate of DCF, juvenile justice represents a tiny fraction of its work, with the juvenile justice committed population making up just 3% of the agency’s overall caseload.<sup>175</sup> This 3% also includes “cross-over” youth, who are being simultaneously served in both the child welfare system and the juvenile justice systems, meaning that the percentage of youth being served only for juvenile justice is even smaller.<sup>176</sup> Consequently, although the implementation of the Governor’s proposal to include emerging adults in the juvenile justice system will increase the caseload at DCF (especially in the short-term), the overall percentage of juvenile cases will nonetheless remain a small fraction of the agency’s work.

These facts raise a number of questions, all of which were expressed by participants at the meetings facilitated by PCJ:

- Will emerging adults receive the attention they deserve under the current organizational structure at DCF?
- Will DCF be able to focus on the needs of emerging adults, a population with which they have had comparatively less experience?
- Can DCF make the necessary culture shift from working with younger youth to working effectively with emerging adults?
- How will the incorporation of emerging adults fit in with all the competing and important issues facing DCF, including efforts to successfully meet the

compliance standards being actively overseen by a court monitor after decades of federal oversight of DCF and child protective services?<sup>177</sup>

Clearly, for DCF to successfully include emerging adults, Connecticut will need to devote considerable attention and focus to sort out these important issues – and to put forth strong leadership in the process. But the timing for this proposed reform is particularly opportune since Connecticut is already setting plans for other substantial reforms in the “deep-end” of the juvenile justice system. This provides DCF with a unique opportunity to redirect resources and to redesign the overall juvenile correctional system, ultimately creating a system that will serve both youth and emerging adults as effectively as possible.

One of the reform efforts currently underway is the planned closure by July 2018 of the Connecticut Juvenile Training School (CJTS), the State’s most secure facility for boys.<sup>178</sup> A large 230-bed facility that now holds less than 50 youth, CJTS is a substantial drain on the state coffers. As of September 30, 2016, the operating costs for CJTS for FY 2017 had reached \$34, 913,439.<sup>179</sup> CJTS’s very design – modeled after a large maximum-security prison in Ohio for adults – has been shown by research to be ineffective and even harmful to youth housed in such a facility.<sup>180</sup> And reports from Connecticut’s Office of the Child Advocate (OCA) have recently exposed safety concerns at CJTS, including improper handling of youths’ suicidal behavior as well as the overuse of restraint and seclusion practices, among other critical issues.<sup>181</sup>

Connecticut’s decision to close the Connecticut Juvenile Training School (CJTS) – its large juvenile prison – is supported by both research and historic evidence demonstrating that attempts to renovate and improve youth prisons are futile; they should be closed and replaced with effective and available alternatives:

“The failure of youth prisons to help young people get back on track, as well as their failure to protect public safety, flows from inherent flaws in the model itself. Adult-style prisons that emphasize confinement and control are devoid of the essentials required for healthy adolescent development – engaged adults focused on their development, a peer group that models prosocial behavior, opportunities for academic success, and activities that contribute to developing decision-making and critical thinking skills [citation deleted]. At the same time, these facilities provide too many of the elements that exacerbate the trauma that most confined youth have already experienced and reinforce poor choices and impulsive behavior.” Patrick McCarthy, Vincent Schiraldi and Miriam Shark, *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*.<sup>182</sup>

With the future planned closure of CJTS, along with the recent closure of DCF’s secure facility for girls (Pueblo Unit) that the OCA also found to have safety concerns, Connecticut can shed outdated approaches to juvenile corrections, turning instead to the design and implementation of a new and model approach. This would include a statewide network of small treatment facilities (e.g., 15-40 beds each, with the youngest youth housed in the smallest facilities) that provide a full range of placement options,

ranging from high-end facilities that are hardware and staff secure to less secure placements such as foster care and supported independent living. Connecticut could use both state-run facilities, as they have done with CJTS, and also contract with non-profit providers. Although there is no evidence indicating that either the government or private sector is more effective, private contracts do provide greater flexibility. Connecticut can either increase or decrease the number of beds “purchased” in the annual (or periodic) contracts based on future fluctuations in the committed population, as has been done effectively in New York City. The Administration of Children’s Services in New York City contracts with non-profits to run both hardware and staff secure facilities. When the caseloads declined from over 500 youth to under 180, the City was able to quickly reduce the number of beds by cancelling or trimming these contracts.<sup>183</sup> Over the last several months, there have been some discussions at JJPOC meetings that non-profits might not be interested in contracting for secure facilities or might “reject” certain youth to be placed in the facilities that they operated. However, Connecticut can look to such neighboring states as Massachusetts and New York that have a history of successfully contracting with private, non-profit organizations to operate some of their treatment facilities, including the most secure ones.

Both the publicly and privately run facilities should be subject to licensing by an independent agency to ensure that minimum standards of care are being met and that there is proper oversight. Models for such a licensing process can be found in two neighboring states. In Maine, residential treatment facilities – all run by the private sector – are required to be licensed by the Department of Health and Human Services.<sup>184</sup> In Massachusetts, all residential treatment facilities – whether operated by the Department of Youth Services or a private organization – must be licensed and are overseen by the Department of Early Education and Care in the Executive Office of Education.<sup>185</sup>

As noted above, another advantage to the current reform proposal would be in regard to the location and number of facilities treating juveniles and emerging adults. Although Connecticut is not a geographically large state, having only one secure facility rather than a number spread across the state is not ideal. In this regard, it is worth noting that CJTS is located in Middletown rather than in any of the three largest cities of Bridgeport, Hartford and New Haven. By adopting a network of smaller residential treatment facilities, Connecticut can spread them out across the state for closer proximity to families and communities.

In addition to geographic considerations, another major advantage of having smaller residential facilities with a range of care is the ability to thoughtfully and carefully place youth together based on key factors such as age, maturity, sophistication, type of service needs and educational attainment. This will become particularly important when emerging adults become incorporated into the DCF committed population, who will have a greater need for particular services generally expected by an older population, such as post-high school education, vocational training and, in some cases, preparation for independent living.

In the same manner that Connecticut should design a statewide network of residential treatment services, the state should also create and expand the range of community-based options that can safely keep youth and emerging adults at home and/or more actively engaged with the services in their own communities. Again, these options can be provided by both public and private entities to provide for as much flexibility as possible. Many of the youth and emerging adults committed to DCF may not need to be confined or confined for long periods of time. In fact, research shows that lengthy confinement fails to reduce recidivism, fails to produce better outcomes than alternative sanctions and, in some instances, can actually be counterproductive.<sup>186</sup>

A topic that to date has rarely been raised, but which PCJ believes is important for Connecticut policy makers to consider, is whether the legislative proposal to raise the age of juvenile jurisdiction should include a complementary provision to raise the age of commitments to DCF above age 20 for emerging adults. It would be possible, for instance, to have a 20-year-old prosecuted in juvenile court and sentenced to the custody of DCF and, if no other changes were made to the law, then DCF's involvement would end within months (or even days), depending on how close the 20-year-old is to his or her 21<sup>st</sup> birthday. It would seem reasonable, therefore, to increase the upper-age of DCF custody for emerging adults to age 22. There is considerable national precedent and experience for extending juvenile corrections beyond 20, with at least four states having extended youth-facility placements past age 21 (as discussed earlier in the report). Oregon, for instance, retains custody in the Oregon Youth Authority up to age 24.

Providing strong leadership to undertake the expansion of the committed population to include emerging adults, and perhaps retaining custody beyond the current age limit, could be accomplished within DCF. It would be imperative, however, for the agency to designate a leader to focus exclusively on the design and implementation of the new model system, overseeing both the full continuum of residential facilities and community-based services. This leader would also need to assist the agency in making a cultural or identity shift; although DCF has worked with emerging adults for many years (again, custody can continue up to age 21), the numbers of emerging adults in the caseload are so small that the needs of this age cohort have not been thoroughly evaluated or made a top priority.

An alternative approach that Connecticut should consider is to unify all juvenile corrections within one agency, either as a division of DCF or as a separate agency. Currently, the responsibility and oversight of juvenile corrections is split by two different state agencies: CSSD oversees detention and DCF oversees commitments. A newly created youth/emerging adult services agency could potentially work in a more efficient manner to improve conditions of confinement for the limited number of youth and emerging adults who will require confinement and improve service delivery needs and community supervision for the rest. In addition, many of the efforts to reduce unnecessary confinement, such as the Juvenile Detention Alternative Initiative, can be successfully implemented to reduce both the detention and commitment populations, and having one agency oversee these efforts may produce greater results.

Again, there are numerous models for Connecticut to consider. Massachusetts, for instance, has all juvenile corrections overseen by the Department of Youth Services, an agency within the Executive Office's Health and Humane Services where other child serving agencies are housed, such as the Department of Children and Families that handles all child welfare cases. New York, on the other hand, has one state agency that handles both child welfare and child protection cases (the Office of Children and Family Services), but the juvenile justice piece is directed by a Deputy Commissioner and assisted by three Associated Commissioners to each oversee community partnerships, facilities management and youth programs and services on a statewide level. New York has one added layer of complexity to its juvenile justice oversight: Because of the Close to Home Initiative, youth from the City who are placed in secure or staff secure care are committed to the custody of the New York City Administration for Children's Services (ACS) for both residential services and aftercare.

In principle, having a single agency that handles both child welfare and juvenile justice is appealing. There is tremendous overlap of youth in the juvenile justice system and youth who have been swept in to the child welfare system, either as a victim of abuse or neglect or as a "status offender" (a youth who is allegedly acting out against his or her own best interest, e.g. a runaway). The youth involved in both the child welfare and juvenile justice systems are commonly referred to as "dual status." Research shows that being abused or neglected as a child increases the likelihood of arrest as a juvenile by 59%, as an adult by 28%, and for a violent crime by 30%.<sup>187</sup> By housing both child welfare and juvenile justice within one agency, there is arguably a greater capacity for the full range of child services to be better coordinated and integrated. In addition, combining child welfare with juvenile justice within one agency should, theoretically, prevent the child welfare system from the well-documented phenomenon of "dumping" a difficult child into the juvenile justice system, by involving law enforcement in response to behavior that most families would manage to handle themselves, as a way to effectively get rid of a problematic child welfare case.

But at least anecdotally, PCJ heard complaints by some in Connecticut that this type of "dumping" of child welfare cases has been happening under the current structure. Having both functions under one agency hardly guarantees intra-agency collaboration. Many have also expressed a lack of confidence in DCF's ability to serve the committed youth in its care now, in part because juvenile justice is such a small part of the Department's overall mission and it is difficult to garner focused attention except in moments of crisis. At this watershed moment for Connecticut policy makers when the state is poised to provide developmentally appropriate services to justice-involved emerging adults, designating one agency to focus exclusively on detention and commitment (including aftercare and community programming) may be the most appealing model to follow.

## **Fiscal Impact**

PCJ was not requested to conduct a budget analysis for the implementation of the proposal, and the relevant budgetary information was not provided. But like all reform initiatives, the budgetary implications of this proposal deserve some discussion—especially when Connecticut has been experiencing difficult budgetary challenges, including significant cuts to the state agencies involved in the justice systems as well as cuts to the contracts with private agencies that closely partner with the state agencies in this work.<sup>188</sup>

The incorporation of emerging adults in the juvenile justice system will, to a large extent, involve the re-allocation of resources rather than additional funding. This is because emerging adults are already being arrested, prosecuted, defended, detained, tried, sentenced, supervised on probation and sentenced to incarceration. So for emerging adults that will be processed in the juvenile justice system in the future, there will be a corresponding reduction in the adult criminal justice caseload. For example, the overall caseload for adult probation officers will decline slightly and the overall caseloads for juvenile probation officers will increase. Although personnel will need to be transferred to cover the shift in population, the changes can all be handled internally by CSSD.

In addition, the automatic and discretionary statutory provisions now used for 15, 16 and 17-year olds will be similarly applied to emerging adults. As a result, the cases with the most serious charges that use up a greater share of justice system resources will be processed in the adult criminal justice system, and will not significantly impact the juvenile justice system's resources.

By increasing the jurisdictional age gradually over a three year period, with 18-year-olds included in year one, 19-year-olds in year two, and 20-year-olds in year three, state agencies such as CSSD will be able to adapt over time and will benefit from the naturally occurring attrition process. Specifically, as staff retire or leave for other reasons, CSSD will be able to fill the open positions with new juvenile probation officers.

This does not mean, however, that there will not be some costs associated with the implementation of this reform initiative. The costs to run the juvenile justice system is typically higher than the adult system, partly because it is a smaller system with smaller caseloads (economy of scale) and partly because it provides individualized, rehabilitative treatment with more intensive supervision and professional involvement. Certainly the biggest cost differential involves incarceration. In Connecticut, the average cost for a day of incarceration at a DOC adult prison in FY15 was \$178 and it was higher, \$336, at the Manson Youth Institution where the male youth are held.<sup>189</sup> The average cost for a day of commitment at CJTS in FY15 was \$1,682.<sup>190</sup>

But this still does not mean that the short-term costs will be large or unmanageable. This is because the juvenile justice system offers much greater opportunities for diversion (see discussion in Section entitled “Diversion” above). By raising the age of juvenile jurisdiction to 21, PCJ estimates that approximately one-third of the emerging adult court

cases that would otherwise be formally prosecuted in the adult system will be successfully handled in a non-judicial—and, consequently, less expensive—manner in the juvenile system.

Furthermore, even in those cases when confinement is necessary, the juvenile justice system provides much greater flexibility and opportunities to reduce the burden and costs to taxpayers. For example, as of January 1, 2017, juvenile detention will be limited by law only to those who cannot be appropriately placed in a less restrictive alternative, a change that should significantly reduce the already shrinking juvenile detention caseload.<sup>191</sup> Once emerging adults are included in the juvenile system and are subject to the detention reform law, Connecticut will reduce the detention caseload of this age cohort to a much greater degree than would have been the case had all emerging adults been processed in the adult criminal justice system.

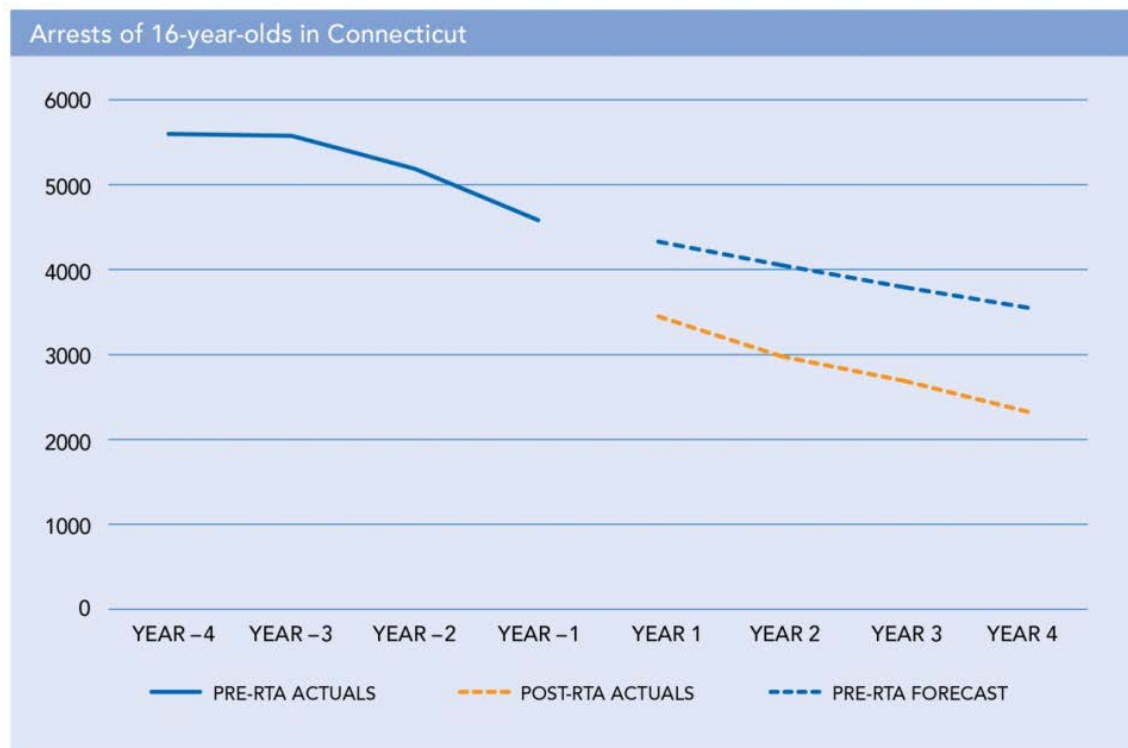
Similarly, it seems likely that the emerging adults sentenced to DCF custody under the juvenile justice system will serve less time in the most costly secure confinement facilities than they would have had they been sentenced to an adult DOC prison. DCF has discretion over the placement of youth in its custody and, by closing CJTS and instituting a more effective and less expensive network of small residential facilities and community programs, DCF will be able to use a full-range of appropriate and less-expensive placement options.

Finally, there is reason to cautiously believe that there may be a salutary effect on criminal and juvenile justice populations from raising the age of juvenile court jurisdiction. When Connecticut raised the age of juvenile court jurisdiction to 17 in 2010, arrests of 16-year-olds declined more than was expected by previous years' trends. As the chart below depicts, arrests of 16-year-olds had been declining by an average of 6% per year in the years leading up to 2010 (the dotted blue line depicts arrests if that trend had persisted at a rate of 6% annual decline). However, after 16-year-olds were included in the juvenile justice system, arrests of 16-year-olds were actually 28% lower than the projected trend (dotted orange line).

While further study of this phenomenon is warranted, data like these (and similar findings from Illinois) led the Vera Institute of Justice to dub this a deflationary “raise the age effect.”

Research in Connecticut has also found that 16-year-olds tried in Juvenile Session were rearrested at a rate almost 39% lower than matched youths their same age who had been previously tried as adults.<sup>192</sup> After raising the age of juvenile jurisdiction to 18, Connecticut now has its lowest number of juveniles in pretrial detention, its lowest number of committed youth in the Connecticut Juvenile Training School, and the lowest number of emerging adult prisoners ages 18 to 21 in its adult prisons in a quarter-century.<sup>193</sup> These data offer a hopeful picture in two ways – they portend that the potential impact of these changes may be less significant than might be feared, and they raise the possibility that the juvenile system, writ large, has some unused capacity that can help cushion the impact of this initiative.





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There are, however, two foreseeable short-term costs that cannot be avoided and are essential for the success of the implementation:

1. *Additional services for emerging adults:* It would be inconsistent and ineffective to include emerging adults in the juvenile system and then fail to provide them with individualized and developmentally appropriate services. Although many of the services already offered in Connecticut's juvenile justice system can be applied to emerging adults, the variety and quantity will need to be enhanced. For instance, there will need to be more post-high school educational, vocational and independent living services than what is currently available.
2. *Professional training:* Working with emerging adults will be different than working with either juveniles or mature adults. Professionals and staff in the juvenile justice system must be given information to better understand this special, in-between stage of development in order to provide the most effective treatment, services and supervision.

Overall, in considering the budgetary ramifications of the Governor's proposal, a critical point is that any and all of these short-term costs incurred by its successful implementation may be offset by greater long-term savings for Connecticut. The cost to society when just one court-involved young person grows up to engage in a lifetime of serious and chronic crime is staggering: Factoring in lost wages, unpaid taxes, harm to victims and criminal justice expenditures, the estimated cost for one person is \$3.8 million.<sup>195</sup> Research has found that evidence-based programs such as multi-systemic

therapy, already being used in Connecticut and which can be adapted for the emerging adult population (MST-EA), provides financial benefits to taxpayers as well important benefits to victims – both tangible (e.g. property damage) and intangible (emotional harm and reduced quality of life). Researchers have calculated the cumulative benefits for each MST participant to range between \$75,100 to \$199,374<sup>196</sup> or, measured another way by different researchers, each dollar spent on MST accrues a benefit of \$13.36.<sup>197</sup>

The public strongly supports treatment and services over confinement. A nationally representative poll found that “3 in 4 voters believe that juvenile offenders should receive treatment, counseling, and supervision to help them avoid reoffending, even if it means that they spend no time in a correctional facility.”<sup>198</sup>

Connecticut knows better than almost any State the perils of trying to accurately predict the costs of a Raise the Age initiative. In February 2004, a high level panel led by the state’s chief juvenile judge issued a report estimating the cost of adding 16 and 17-year-olds to the juvenile system would be \$84 million in operating costs and an additional \$81 million in new construction costs.<sup>199</sup> Fortunately, these predictions never bore fruit: After including both 16 and 17-year-olds in the juvenile system, Connecticut enjoyed a lower juvenile caseload than before the reform, lower juvenile crime rate, and with no additional financial costs.<sup>200</sup> At the same time, it is important to note that Connecticut did not raise the age in a vacuum; the change in jurisdictional age was tied to a slew of other critically important reform initiatives including, most importantly, the expansion of diversion. This is an experience worth replicating as Connecticut plans the implementation of this proposal to further expand the juvenile justice system.

## CONCLUSION

Over the last decade, the United States has experienced a wave of reforms in crime control policies, with many states reexamining “the ways in which they respond to offenders at every stage of the criminal justice process, from arrest and punishment to reentry and rehabilitation.”<sup>201</sup> This change has been described as a “turning tide,” within which an unusual synergy has formed between evidence-based scholars and fiscally conservative politicians, among others, to push for more effective laws, policies and practices in the justice system.

But until recently, the idea of “emerging adults” was not recognized as a distinct developmental stage with important implications for improving our justice system. As explained by Former Assistant Attorney General Laurie O. Robinson:

...we have not paid enough attention to the later teenage and early adult years as a discrete period of social and behavioral development... If we hope to gain a complete understanding of what works to prevent delinquency from evolving into persistent criminal behavior, we need to look more closely at this critical stage of life and develop our sense of effective interventions and categories of appropriate sanctions.<sup>202</sup>

Connecticut is on the forefront of this movement to recognize and serve the needs of emerging adults. By recognizing and identifying justice-involved emerging adults as a specific population in need of age-appropriate services—and then presenting a concrete proposal to provide developmentally appropriate responses within an expanded juvenile justice system—Connecticut is ultimately ensuring a positive impact on public safety.

In addition to the review and analysis contained in this report, PCJ offers 15 specific recommendations for how the state can implement this proposal over the coming years. These recommendations can be summarized in the following four categories:

- E. *Focus and cost-effectiveness*: Ensuring that Connecticut’s formal juvenile justice system (e.g. juvenile court cases) is reserved for those cases that cannot be otherwise appropriately and effectively served without formal system intervention (Recommendations 1 - 3). These recommendations are designed to increase the likelihood of successful outcomes, lower costs to taxpayers, allow the system to focus on youth and emerging adults truly in need of intervention, and “right-size” the system so that it is better able to absorb the expanded population of emerging adults.
- F. *Breadth of application*: Applying the benefits of the juvenile justice system as much as possible to 18, 19 and 20-year-olds, including the expertise of the professionals within the juvenile system (Recommendations 4 - 5) in a practical manner that minimizes unnecessary law changes (Recommendations 6 - 7).
- G. *Investment in reforms*: Taking the opportunity of this watershed moment to increase investments in effective programming (e.g., educational services and vocational training) in the community and, when necessary, within residential treatment facilities (Recommendations 8 - 10). Also, to consider making some other important reforms within the current juvenile justice system to better serve both youth under 18 as well as emerging adults (Recommendations 11 - 13).
- H. *Institutional acceptance of “emerging adults”*: Intentionally fostering a culture shift and philosophically embracing emerging adults within the juvenile justice system, which will require additional training, monitoring, evaluation and leadership (Recommendations 14 - 15).

This report does not provide answers and guidance for every issue that was raised during the course of this action research project, and there undoubtedly will be other issues that will arise during the actual implementation. Further study and planning will be necessary, especially regarding some of the more practical operational issues (e.g., transportation). But Connecticut has led the way on a number of significant justice reforms in the past decades and has a well-respected cadre of experienced and dedicated leaders in both the public and private sectors to oversee and assist in the implementation of this proposal. The country will be watching closely.

## RECOMMENDATIONS

### **1. Invest in and expand the diversion system, especially diversion at the front-end of the system:**

Perhaps the most significant of the many advantages of expanding the juvenile justice system to include emerging adults would be the increased opportunity for 18-20 year-olds to participate in diversion. In Connecticut's juvenile justice system, cases can be diverted from the formal judicial process with successful outcomes at numerous stages of the system by the police, schools, probation (even before an arraignment), Juvenile Review Boards, prosecutors, and judges. This wide range of diversion options – especially options used at the front-end of the system before a case is formally heard in court, and which research shows to be a particularly opportune time to divert – does not exist in the adult criminal justice system. The 18-20 year-olds who are arrested by the police are formally charged in court, and only after does some diversion become available. In contrast, within the juvenile court more than one-third of all cases are resolved in a non-judicial manner, and more than 50% of all court referrals conclude without any finding of adjudication. There is reason to believe that a similarly significant percentage of referrals for 18-20 year-olds would also be appropriately resolved if this cohort were given the same wide-range of diversion options, resulting in short-term fiscal benefits (e.g., reducing the court caseload) as well as long-term savings (by increasing positive outcomes).

### **2. Invest in and expand alternatives to pre-trial detention.**

Research shows that incarcerating youth and emerging adults is not only expensive, but often a traumatizing and counter-productive experience that should be used only when there are no safe and less-restrictive alternatives available. Connecticut has considerable experience and expertise in developing alternatives to pre-trial detention for those in the juvenile system. Due in part to Connecticut's efforts to provide alternatives to detention (along with decreasing crime rates), the juvenile detention population decreased to such a degree that Connecticut was able to close one of its three juvenile detention centers in 2012. Since then, juvenile detention admissions have continued to decline by 10% (2012-2015). By expanding detention alternatives to emerging adults, detaining only the few emerging adults who require secure confinement in facilities operated by CSSD when there are no appropriate alternatives, and then holding them for the shortest time period possible, Connecticut would simultaneously improve outcomes and cut costs.

### **3. Raise the lower-end of juvenile jurisdiction from age 7 to age 12.**

In 2015, there were 171 delinquency referrals to the Connecticut juvenile court for children younger than 12, consisting of about 2% of

Connecticut's overall delinquency cases. There is no clear norm regarding the appropriate age of the lower end of jurisdiction in the United States: one state sets the age at 6, five states join Connecticut at age 7, three states set the age 8, ten states at age 10, and 30 states have not established a lower age of juvenile jurisdiction. However, international norms have been firmly established at age 12. Within the United States, there appears to be growing concern that young children lack the competency to understand the complicated legal concepts needed to meaningfully exercise their rights. Research also points to the harm that can be caused by formal prosecution of young children and indicates that other systems (e.g., child welfare) may serve young children more effectively. By raising the lower-end of juvenile jurisdiction, Connecticut would more appropriately serve the very young children and enable the juvenile justice system to more effectively focus on adolescents and emerging adults.

**4. Assign Juvenile Probation Officers to the emerging adult cases.**

Currently, probation officers supervise emerging adults in the adult criminal court session. But as emerging adults gradually migrate into the juvenile justice system, it would make sense for juvenile probation officers – who have the training for and experience of working with adolescents in the juvenile court – to supervise this population. This would be a re-allocation of resources, with negligible additional costs.

**5. Protect identities of emerging adults from the public during prosecution in the juvenile system (whether Connecticut decides to have open or closed courtrooms).**

In the information-gathering sessions facilitated by PCJ regarding the value of prosecuting emerging adults in open or closed sessions in juvenile court, many of the key stakeholders expressed divergent views. However, there was overwhelming consensus for protecting the emerging adults' identity if the proceedings are held in Juvenile Court (and not transferred to the adult criminal session). When an emerging adult takes positive steps forward (e.g., searching for a job), the benefits of having been "adjudicated" or convicted of a delinquency offense in a juvenile session rather than "convicted" of a criminal offense in an adult session would lose much of its value if the identity of the emerging adult were widely disseminated.

**6. Maintain the current rules governing police interrogations for emerging adults.**

Rules have already been established in Connecticut regarding the admission, confession or statement of children 15 and under (requiring the presence of a parent or guardian who has been informed of their rights) and individuals 16 to 17 (requiring that "reasonable efforts" to contact a parent or guardian of the child be made). Emerging adults 18 and over have been governed by *Miranda v. Arizona* and its progeny, and there is

no known precedent or consensus from stakeholders that would suggest a change.

**7. Continue to process motor vehicle cases in adult court.**

When Connecticut previously raised the age of juvenile jurisdiction from 16 to 18, motor vehicle offenses were kept in adult court. The law does allow the judge to move a motor vehicle case to juvenile court if the disposition could include jail time. With the further gradual expansion of the juvenile justice system to 21, following this precedent for emerging adults should reduce the impact of an increase in cases in the juvenile court without adding any confusion to the established system.

**8. Clarify the roles of the Department of Children and Families (DCF) and the Department of Mental Health and Addictive Services (DMHAS) and develop a closer partnership between these two agencies.**

Currently, DCF provides mental health services to children up to 18 and DMHAS provides services for those 18 and over, with the special Young Adult Services unit focusing on 18 to 25-year-olds with the highest needs and a history of involvement with DCF. With the gradual inclusion of 18, 19 and 20 year-olds into the juvenile system, clarity would need to be provided about which agency provides the mental health services for court-involved emerging adults, especially if an emerging adult is prosecuted in the juvenile system and sentenced to a DCF residential treatment facility. In addition to establishing clear delineation of the roles and responsibilities, these agencies would also need to develop an even closer partnership in order to ensure the smooth transition of services.

**9. Elevate the importance of housing stability for emerging adults by developing a common assessment measure for these services, integrating that measure into existing assessment tools, and then planning for housing stability at all stages of the justice system.**

Stable, safe housing is an essential element for reducing recidivism. Housing stability provides emerging adults the ability to benefit from education and employment opportunities. As the majority of emerging adults live with their families (or, if fortunate, at college), it is to be expected that the vast majority of emerging adults who are involved in the justice system are still dependent on their families for housing (as well as food and finances). But a careful assessment of housing needs for emerging adults must be conducted at all stages of the legal process and a common assessment measure should be adopted and integrated into existing tools used by juvenile justice professionals. Furthermore, Connecticut (through the Juvenile Justice Policy and Oversight Committee) should commission a study to examine the housing needs of court-involved emerging adults with a particular focus on ensuring that a sufficient array of services is available to support this age cohort (whether

that means engaging in family mediation so the emerging adult can stay with family, or finding other suitable alternatives).

**10. Invest in educational and vocational services targeted specifically for emerging adults.**

Court-involved emerging adults are often significantly behind their peers in educational attainment and job readiness. For instance, national data shows that the majority of court-involved emerging adults between the ages of 18-24 have not graduated high school or obtained a GED, disturbing data that are undoubtedly higher for the younger cohort of 18-20 year-olds. However, research also shows that education and employment are both effective in reducing recidivism. A number of useful examples from both inside and outside the justice systems can provide guidance to Connecticut on ways to successfully engage and support the educational and job skill needs of this age cohort. JJPOC, largely through its active work groups, has done some significant work already examining the current services available to emerging adults, as well as best practices that could be adopted. It would be helpful to officially expand the scope of a JJPOC work group to formally incorporate this work going forward.

**11. Provide victim services for cases prosecuted in the juvenile court session.**

Some have rightly raised concerns that victim services that are offered in adult court might not be always offered in juvenile court. We recommend that victim services be available for victims of offenses committed by both youth under age 18 as well as emerging adults who are prosecuted in the juvenile session. There should be no diminution of victims' services under this reform and the types of services offered to victims should never depend on the particular age of the offender.

**12. Develop a full continuum of care for all youth and emerging adults sentenced to the Department of Children and Families through a regionalized network of small, therapeutic facilities for the small number who need to be confined, and a network of community-based programs in youth's neighborhoods. Further consider the best organizational structure to oversee all juvenile corrections that can effectively serve both youth and emerging adults in a single agency.**

This is an opportune moment for Connecticut to restructure its juvenile correctional system: Not only will the system need to accommodate emerging adults who are committed to the custody of DCF from the juvenile court, but Connecticut must plan on this expansion without the Connecticut Juvenile Training School (CJTS), a large hardware-secure prison that was built for 230 beds but now holds less than 50 youth. Based on the growing national consensus over research showing that such large youth prisons are ineffective and even harmful to the youth, as well as the high costs of maintaining such a facility (\$34,913,439 in operating costs for CJTS in FY 2017 as of September 30, 2016), Connecticut plans to

close CJTS in 2018. A new, model approach would include a statewide network of small treatment facilities (e.g., 15-40 beds each, with the youngest youth housed in the smallest facilities) that provide a full range of placement options from high-end, hardware and staff secure, to low-end placement, such as foster care and supported independent living. Facilities could be state-run, contracted out to non-profits, or a combination of public and private, would be licensed by an independent agency, and would be spread across the state for closer proximity to families and communities. States such as neighboring Massachusetts and New York have had success in contracting with private, non-profit organizations to operate some of their treatment facilities, including the most secure ones.

In addition, Connecticut should consider creating and expanding the range of community-based options that can safely keep youth and emerging adults at home and/or more actively engaged with the services in their own communities. By creating such a statewide network of both facilities and community-based services that are run by both state and private entities, there will be much greater flexibility in accommodating emerging adults and their treatment needs.

Currently, the responsibility and oversight of juvenile corrections is split by two agencies. CSSD oversees detention and DCF oversees commitments. With the addition of 18, 19 and 20-year-olds to the mix, Connecticut should consider unifying all of juvenile corrections (residential facilities for detention and commitment and community supervision) as well as the procurement of a continuum of community-based care into one agency focused exclusively on youth and emerging adults in the juvenile justice system. A newly created youth/emerging adult services agency could focus on the unique needs of this population, the creation of the continuum of care, and small rehabilitative facilities for the few youth who require confinement. Models of such a consolidated organizational structure are discussed in the full report.

### **13. Reconsider the automatic transfer of 15 – 17 year olds.**

In 2015, there were 180 youth (ages 15, 16 or 17 when they allegedly committed an offense) who were transferred to adult court. With the proposed expansion of the juvenile justice system to 21, this group could get “lost in the shuffle” and overlooked, with little assessment of whether they could be appropriately treated in the individualized, rehabilitative approach offered by the juvenile justice system. Connecticut should take this opportunity to consider limiting or eliminating the list of offenses that require automatic transfer to adult court for this age group, creating instead a judicial waiver process that provides the opportunity for cases to be heard in the juvenile court and where a judge can assess whether the case can be appropriately resolved in the juvenile system or needs to be judicially waived to the adult court.



**14. Expand training of professionals working in the juvenile justice on the specific developmental needs of emerging adults and effective interventions.**

Connecticut has made a number of significant improvements to the juvenile justice system in the last 20 years; this success is largely dependent on the professionalism of the juvenile justice community in Connecticut, which will need support as it expands its attention to emerging adults. Specific training should be provided to all the professionals who will be working with emerging adults in the juvenile system, including police, judges, probation officers, staff in residential facilities, prosecutors, defense attorneys, providers and contractors.

**15. Assign to the Juvenile Justice Policy and Oversight Committee (JJPOC) the responsibility of providing the needed leadership, strategic planning and oversight of the implementation of this proposal.**

The JJPOC is a unique resource and the envy of many other states around the country with its impressive membership and staff support that have managed to produce a long list of accomplishments. JJPOC successfully led the earlier “Raise the Age” campaign and played a critical role evaluating the outcomes of the reform, including making further suggested changes in both laws and policies. JJPOC has both the experience and expertise to work in close partnership with the three branches of government to implement this proposal to further expand the juvenile justice system to also include emerging adults.

Finally, JJPOC could play an important role in helping Connecticut seek funding assistance from philanthropy to conduct a rigorous, independent evaluation of this unprecedented change. Marking a watershed in the evolution of the juvenile justice system, Connecticut would be the first state in the country to include emerging adults in the juvenile justice system. Measuring and sharing the outcomes of this initiative will be critically important not only to Connecticut, as it continues its work to improve its justice system, but to the entire nation.

## APPENDIX A

### The Program in Criminal Justice’s “Listening Tour”:

The following is a list of meetings facilitated by PCJ and organized by TYJI to gather information and feedback about the implementation of the proposal to include emerging adults in Connecticut’s juvenile justice system

- A. Meetings with the Juvenile Justice and Policy Oversight Committee Members
  - 7/7/16: Co-chairs of all the JJPOC work groups (via phone)
  - 7/8/16: Cross-Data Sharing Work Group (held in Wethersfield).
  - 7/11/16: Recidivism Work Group (Hartford)
  - 7/13/16: Incarceration Work Group (New Haven)
  - 7/15/16: Diversion Work Group (Middletown)
  - 11/28/16: Co-chairs of the JJPOC work groups (Hartford)
- B. Meetings with “focus groups” consisting of staff from key stakeholders in the justice system:
  - 7/28/16: Judicial Branch Court Support Services Division and Court Operations (Hartford)
  - 8/10/16: Department of Children and Families (Hartford)
  - 8/17/16: State Department of Education (Middletown)
  - 8/17/16: Department of Correction (Wethersfield)
  - 9.8.16: Department of Mental Health and Addiction Services (Middletown)
  - 9/15/16: Legislators (Hartford)
- C. “Ad hoc” meetings open to the community:
  - 7/28/16 in Hartford
  - 7/29/16 in New Haven
- D. Presentations to and discussions with the *full* JJPOC:
  - 4/21/16 JJPOC meeting
  - 11/17/16 JJPOC meeting

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- <sup>2</sup> The Youth Justice Institute at the University of New Haven is also legally designated to staff the JJPOC. See, <http://www.newhaven.edu/lee-college/institutes/Tow-Youth-Justice-Institute/juvenile-justice-policy-oversight-committee/>
- <sup>3</sup> The Connecticut Juvenile Justice Alliance and Youth First held four listening sessions in the spring and summer of 2016 with 40 youth from Bridgeport, New Haven and Hartford, to gather input and feedback from system-involved youth about community reinvestment, alternatives to incarceration and what young people need to be successful. Although the project was not focused on emerging adults involved in the justice system, it is safe to assume that some of the participants were emerging adults at the time of the sessions and that the experiences and opinions they expressed are also relevant and informative for the purposes of this report. Findings from the listening sessions and eight policy recommendations are included in the report: "Walk in Our Shoes: Youth Share their Ideas for Changing Connecticut's Juvenile Justice System." <http://www.ctjja.org/resources/pdf/YFCTpaper.pdf>
- <sup>4</sup> Mendel, Richard (2013). "Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth." Justice Policy Institute, p.1. [http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi\\_juvenile\\_justice\\_reform\\_in\\_ct.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi_juvenile_justice_reform_in_ct.pdf)
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- <sup>6</sup> Mendel, Richard (2013). "Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth." Justice Policy Institute. [http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi\\_juvenile\\_justice\\_reform\\_in\\_ct.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi_juvenile_justice_reform_in_ct.pdf)
- <sup>7</sup> MST Institute (2015). "Multisystemic Therapy." <http://mstsolutions.com/what-is-mst/what-is-mst>
- <sup>8</sup> National Institute of Justice (2011). "Program Profile: Functional Family Therapy (FFT)." <http://www.crimesolutions.gov/ProgramDetails.aspx?ID=122>
- <sup>9</sup> Note: The inclusion of 17 year olds was delayed by an amendment passed in 2009 to give Connecticut more time to prepare and plan for the change.
- <sup>10</sup> Restorative is based on the principles that crime is injury, which creates an obligation to make things right, and the offender should accept responsibility and act to repair the harm done. Bilchik, Shay (1998). "Guide of Implementing the Balanced and Restorative Justice Model." Office of Juvenile Justice and Delinquency Prevention. <https://www.ojjdp.gov/pubs/implementing/contents.html>
- <sup>11</sup> Connecticut Public Act No. 16-147. "An Act Concerning The Recommendations Of The Juvenile Justice Policy And Oversight Committee." <https://www.cga.ct.gov/2016/act/pa/pdf/2016PA-00147-R00HB-05642-PA.pdf>
- <sup>12</sup> Connecticut Code Chapter 170§10-233c: Suspension of pupils. [https://www.cga.ct.gov/current/pub/chap\\_170.htm#sec\\_10-233c](https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-233c)
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- <sup>15</sup> State Education Resource Center (March 2009). "Positive Behavior Support Data Report and Summary: A Look at Connecticut." <http://www.pbis.org/common/cms/files/pbisresources/0309pbsdataCT.pdf>
- <sup>16</sup> The Council of State Governments Justice Center. "Connecticut." <https://csgjusticecenter.org/jr/ct/>
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- <sup>20</sup> *Ibid*, p.2.
- <sup>21</sup> Department of Emergency Services and Public Protection (2014). "Mission Statement of the Department of Emergency Services and Public Protection." <http://www.ct.gov/despp/cwp/view.asp?a=4156&q=487896>
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- <sup>23</sup> Willrich, Michael (2003). *City of Courts: Socializing Justice in Progressive Era Chicago*, New York, N.Y.: Cambridge University Press, p.209.
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<https://www.ncjrs.gov/pdffiles1/nij/242653.pdf>
- <sup>27</sup> Adams, Erica J. (July 2010). "Healing Invisible Wounds: Why Investing in Trauma-Informed Care for Children Makes Sense." Justice Policy Institute. [http://www.justicepolicy.org/images/upload/10-07\\_REP\\_HealingInvisibleWounds\\_JJ-PS.pdf](http://www.justicepolicy.org/images/upload/10-07_REP_HealingInvisibleWounds_JJ-PS.pdf)
- <sup>28</sup> Scott, E.S. and Steinberg, L. (2010). *Rethinking Juvenile Justice*, Cambridge, Mass: Harvard University Press, p.53.
- <sup>29</sup> Five states set the upper age of juvenile jurisdiction at 17: GA, MI, MO, TX and WI. Two states set it at 16: NC and NY. In the last legislative session (2015-6), legislation was proposed to raise the age of juvenile court jurisdiction to 18 in six states, successfully passing in Louisiana and South Carolina. It should be noted that even in states that set the age of juvenile jurisdiction to 18, there are still provisions to allow youth under 18 to be prosecuted as adults in certain circumstances (usually depending on the severity of the alleged offense), similar to the current proposal in Connecticut that would allow some youth between the ages of 15 – 20 to be prosecuted as adults.
- <sup>30</sup> *Roper v. Simmons*, 543 U.S. 551 (2005) held that the Eighth and Fourteenth Amendments forbid the imposition of the death penalty on anyone under 18 when the crime was committed. *Graham v. Florida*, 560 U.S. 48 (2010) found that the Constitution also prohibits life-without-parole sentences for youth (under 18) in non-homicide cases. *Miller v. Alabama*, 132 S.Ct. 2455 (2012) ruled that the Eighth Amendment forbids mandatory juvenile life-without-parole sentences. *J.D.B. v. North Carolina*, 131 S. Ct. 2394 (2011) once again grounded constitutional principles in evolving developmental and scientific research, this time in the context of the Due Process Clause, holding that the age of a child must inform a Miranda custody analysis. Referencing prior decisions (including those in the context of the Eighth Amendment), the Court observed, "our history is replete with laws and judicial recognition' that children cannot be viewed simply as miniature adults" (citations omitted). *Id.* at 2404.
- <sup>31</sup> Schiraldi, V., Western, B., and Bradner, K. (September 2015). "Community-Based Responses to Justice-Involved Young Adults." New Thinking in Community Corrections Bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 248900.  
<https://www.ncjrs.gov/pdffiles1/nij/248900.pdf>
- <sup>32</sup> *Ibid*.

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<sup>33</sup> *Ibid.*

<sup>34</sup> Loeber, R., Farrington, D., and Petechuk, D. (July 2013). "From Juvenile Delinquency to Young Adult Offending." Study Group on the Transitions Between Juvenile Delinquency and Adult Crime. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. <https://www.ncjrs.gov/pdffiles1/nij/grants/242931.pdf>

<sup>35</sup> *Ibid.*, Figure 2.

<sup>36</sup> *Ibid.*, p.4.

<sup>37</sup> *Ibid.*, p.7.

<sup>38</sup> Schiraldi, V., Western, B., and Bradner, K. (September 2015). "Community-Based Responses to Justice-Involved Young Adults." New Thinking in Community Corrections Bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 248900.

<https://www.ncjrs.gov/pdffiles1/nij/248900.pdf> and; The Council of State Governments Justice Center (November 2015). "Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems." <https://csgjusticecenter.org/wp-content/uploads/2015/11/Transitional-Age-Brief.pdf> and; Hayek, Connie (June 2016). *Environmental Scan of Developmentally Appropriate Criminal Justice Responses to Justice-Involved Young Adults*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 249902. <https://www.ncjrs.gov/pdffiles1/nij/249902.pdf> and; Zeira, Y., and Baldwin, M. (February 2016). "Pioneers in Young Adult Justice: 10 Initiatives and Programs Improving Criminal Justice for Young Adults." Roca, Inc. and; Loeber, R., Farrington, D., and Petechuk, D. (July 2013). "From Juvenile Delinquency to Young Adult Offending." Study Group on the Transitions Between Juvenile Delinquency and Adult Crime. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. <https://www.ncjrs.gov/pdffiles1/nij/grants/242931.pdf> and; Forman, B. and Yee, S. (December 2015). "Viewing Justice Reinvestment Through a Developmental Lens: New Approaches to Reducing Young Adult Recidivism in Massachusetts." MassINC. [http://massinc.org/wp-content/uploads/2015/12/young.offenders.brief\\_.pdf](http://massinc.org/wp-content/uploads/2015/12/young.offenders.brief_.pdf)

<sup>39</sup> Schiraldi, V., Western, B., and Bradner, K. (September 2015). "Community-Based Responses to Justice-Involved Young Adults." New Thinking in Community Corrections Bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 248900, p.7. <https://www.ncjrs.gov/pdffiles1/nij/248900.pdf>

<sup>40</sup> Information provided to the Program in Criminal Justice by Elizabeth Clark, President and Founder of the Juvenile Justice Initiative. Elizabeth Clark, personal communication, November 30, 2016.

<sup>41</sup> Jonathan Kozol focused on North Lawndale in one of his chapters in his well-known book *Savage Inequalities: Children in America's Schools*, published in 1991. He quoted one resident who poignantly described this community as "an industrial slum without the industry." Although North Lawndale has experienced some revitalization since Kozol's book, the community is still struggling economically, with high rates of poverty and unemployment, and is "notorious for the number of its youth who are in trouble with the law." "North Lawndale Today." *Steans Family Foundation*. [http://www.steansfamilyfoundation.org/lawndale\\_today.shtml](http://www.steansfamilyfoundation.org/lawndale_today.shtml).

<sup>42</sup> Circuit Court of Cook County. (April 4, 2016). *Circuit Court Wins Grant to Create Community Court* <http://www.cookcountycourt.org/MEDIA/ViewPressRelease/tabid/338/ArticleId/2458/Circuit-Court-wins-grant-to-create-Community-Court.aspx>

<sup>43</sup> Vermont No. 153. "An Act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court." <http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT153/ACT153%20As%20Enacted.pdf>

<sup>44</sup> Vastine, Karen (November 1, 2016). "Youthful Offenders Report." Report to the Vermont Legislature. <http://legislature.vermont.gov/assets/Legislative-Reports/Youthful-Offenders-Report-12-10.28.16.pdf>

<sup>45</sup> State of Maine Department of Corrections. "Mountain View Youth Development Center." <http://maine.gov/corrections/juvenile/Facilities/MVYDC/index.htm>

<sup>46</sup> The Superior Court of California: County of San Francisco. "Young Adult Court." <http://www.sfsuperiorcourt.org/divisions/collaborative/yac>

<sup>47</sup> Preska, L. and Friedland, E. (August 17, 2015). "SDNY Young Adult Opportunity Program." Office of the District Court Executive: United States District Court Southern District of New York. <http://www.nysd.uscourts.gov/docs/SDNY%20Young%20Adult%20Opportunity%20Program.pdf>

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- <sup>48</sup> “The process of identifying programs that are focused on addressing the developmental needs of young adults in the criminal justice system has proven to be neither straightforward nor simple. Programs tend to be localized, with limited publication outside the local jurisdictions.” Hayek, Connie (June 2016). *Environmental Scan of Developmentally Appropriate Criminal Justice Responses to Justice-Involved Young Adults*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 249902. <https://www.ncjrs.gov/pdffiles1/nij/249902.pdf>
- <sup>49</sup> Mason, Karol V (July 15, 2015). “Catching Up with Science: A Forum on Transition-Aged Youth in the Criminal Justice System.” Speech, New York, NY. <http://ojp.gov/newsroom/speeches/2015speeches/ojp07152015.pdf>
- <sup>50</sup> de la Cuesta, J.L., and Cordero, I.B. (Eds.) (2015). “Resolutions of the Congresses of the International Association of Penal Law (1926-2014).” v.86, p. 405-7.
- <sup>51</sup> *Ibid*, p.406-7.
- <sup>52</sup> *Ibid*, p.406.
- <sup>53</sup> *Ibid*.
- <sup>54</sup> Council of Europe: Committee of Ministers. (Adopted September 24, 2003). “Recommendation Rec 20 of the Committee of Ministers to member States concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.” 853<sup>rd</sup> meeting of the Ministers’ Deputies.
- <sup>55</sup> *Ibid*, p.3.
- <sup>56</sup> *Ibid*.
- <sup>57</sup> Council of Europe: Committee of Ministers (November 5, 2008). “Recommendation CM/Rec (2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures.” 1040<sup>th</sup> meeting of the Ministers’ Deputies.
- <sup>58</sup> Council of Europe: Committee of Ministers (2008). “Commentary to the European Rules for juvenile offenders subject to sanctions or measures.” [http://www.coe.int/t/dghl/standardsetting/prisons/Commentary\\_Rec\\_2008\\_11E.pdf](http://www.coe.int/t/dghl/standardsetting/prisons/Commentary_Rec_2008_11E.pdf)
- <sup>59</sup> Ito, Masami (May 23, 2015). “Shifting the Scales of Juvenile Justice.” *The Japan Times*. <http://www.japantimes.co.jp/news/2015/05/23/national/social-issues/shifting-scales-juvenile-justice/#.V5-5fqJM29U>
- <sup>60</sup> Ishida, Kanako (February 2015). “Young Adults in Conflict with the Law: Opportunities for Diversion.” Juvenile Justice Initiative, p.4. <http://jjustice.org/wordpress/wp-content/uploads/Young-Adults-in-Conflict-with-the-Law-Opportunities-for-Diversion.pdf>
- <sup>61</sup> *Ibid*.
- <sup>62</sup> *Ibid*.
- <sup>63</sup> *Ibid*.
- <sup>64</sup> Clarke, Elizabeth (March 17, 2015). “Op-ed: Germany’s ‘Normalized’ Juvenile Facilities a Success.” Juvenile Justice Information Exchange. <http://jjie.org/op-ed-germanys-normalized-juvenile-facilities-a-success/108482/>
- <sup>65</sup> Ishida, Kanako (February 2015). “Young Adults in Conflict with the Law: Opportunities for Diversion.” Juvenile Justice Initiative, p.2. <http://jjustice.org/wordpress/wp-content/uploads/Young-Adults-in-Conflict-with-the-Law-Opportunities-for-Diversion.pdf>
- <sup>66</sup> Pruin, I. and Dunkel, F. (March 2015). “Better in Europe? European Responses to Young Adult Offending.” Transition to Adulthood, p. 42. [https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A\\_Better-in-Europe\\_Report-online.pdf](https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-online.pdf)
- <sup>67</sup> The reasons for prosecuting motor vehicle offenses and other less serious crimes in the adult criminal justice system include less cost to system, ability to impose and collect fines, as well as less need for rehabilitative services; Pruin, I. and Dunkel, F. (March 2015). “Better in Europe? European Responses to Young Adult Offending.” Transition to Adulthood, p.43-44, 46. [https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A\\_Better-in-Europe\\_Report-online.pdf](https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-online.pdf)
- <sup>68</sup> “During my visit to Germany earlier this year, I was surprised that German courts treat all arrestees under the age of 21 as juveniles. I believe that we can learn from their system.” Gov. Malloy’s Prepared Remarks Today on Criminal Justice Reform, Press Release, Friday, Nov. 6, 2015.
- <sup>69</sup> Röder, Julian (June 19, 2015). “How Germany Treats Juveniles.” *The Marshall Project*. <https://www.themarshallproject.org/2015/06/19/how-germany-treats-juveniles#.mVwm3X2t5>
- <sup>70</sup> One was for young men (1937-1975) and another was for young women (1937-1953). Pruin, I. and Dunkel, F. (March 2015). “Better in Europe? European Responses to Young Adult Offending.” Transition

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<sup>71</sup> Pruin, I. and Dunkel, F. (March 2015). “Better in Europe? European Responses to Young Adult Offending.” Transition to Adulthood, p. 57. [https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A\\_Better-in-Europe\\_Report-online.pdf](https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-online.pdf)

<sup>72</sup> van Walsum, Sarah (2008). *The Family and the Nation: Dutch Family Migration Policies*. Cambridge, UK: Cambridge Scholars Publishing, p.43.

<sup>73</sup> Hoeve, M. and van der Laan, P.H. (2012). *Persisters and Desisters in Crime from Adolescence Into Adulthood*. Surrey, UK: Ashgate Publishing, p.161.

<sup>74</sup> Pruin, I. and Dunkel, F. (March 2015). “Better in Europe? European Responses to Young Adult Offending.” Transition to Adulthood, p. 57. [https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A\\_Better-in-Europe\\_Report-online.pdf](https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-online.pdf)

<sup>75</sup> *Ibid.*

<sup>76</sup> Ishida, Kanako (February 2015). “Young Adults in Conflict with the Law: Opportunities for Diversion.” Juvenile Justice Initiative, p.3. <http://jjjustice.org/wordpress/wp-content/uploads/Young-Adults-in-Conflict-with-the-Law-Opportunities-for-Diversion.pdf>

<sup>77</sup> Pruin, I. and Dunkel, F. (March 2015). “Better in Europe? European Responses to Young Adult Offending.” Transition to Adulthood, p. 63. [https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A\\_Better-in-Europe\\_Report-online.pdf](https://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-online.pdf)

<sup>78</sup> Garza, Frida (March 22, 2016). “The Netherlands Keeps Having to Close its Prisons Due to a Lack of Prisoners.” *Quartz*. <http://qz.com/644914/the-netherlands-keeps-having-to-close-its-prisons-due-to-lack-of-prisoners/>

<sup>79</sup> The arrest data for 2015 comes from the State’s own reporting:

<http://www.dpsdata.ct.gov/dps/ucr/data/2015/Crime%20in%20Connecticut%202015.pdf>. This data is not included in the chart above since the data source for the earlier years comes from the FBI’s Uniform Crime Report Data, which appears to be slightly different than the data reported on the Connecticut government’s website.

<sup>80</sup> See e.g., Citizens for Juvenile Justice (November 2016). “Less Crime for Less Money, Why Massachusetts should reduce unnecessary and harmful court processing for children and teens.” [http://www.cfjj.org/pdf/Diversion\\_White\\_Paper.pdf](http://www.cfjj.org/pdf/Diversion_White_Paper.pdf) and; Models for Change Juvenile Diversion Workgroup (March 2011). “Juvenile Diversion Guidebook.” [www.modelsforchange.net/publications/301](http://www.modelsforchange.net/publications/301)

<sup>81</sup> Models for Change Juvenile Diversion Workgroup (2011). “Juvenile Diversion Guidebook.” p.8. <http://www.modelsforchange.net/publications/301>

<sup>82</sup> Wilson, Holly A. and Hoge, Robert D. (2013). “The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review.” *Criminal Justice and Behavior*, v.40(5): p.497-518.

<sup>83</sup> *Ibid*, p.514.

<sup>84</sup> PCJ received data from Barry Goff by email on November 23, 2016. The overall JRB caseload for the most recent fiscal year appears to be approximately 2,200 (when reported by age, the total was 2,234 but when reported by gender, the total number was 2,115). Since a substantial number of the caseload had data missing on race and ethnicity (over 10%), PCJ did not include this information in this Report. However, the efforts being made to increase the accurate reporting and collection of JRB is critically important to being able to provide an accurate estimate of the caseloads when emerging adults are included in to the juvenile system.

<sup>85</sup> Rosenberg, J., Montes, C., and Carino, F. (2010). “Recommended Best Practices Connecticut’s Youth Service Bureau Service Delivery Model For Juvenile Review Boards. Connecticut Youth Services Association. <http://www.ctyouthservices.org/Content/WWW/CMS/files/CYSAJuvenileReviewBoardBestPracticesFinalApproved1-10.pdf>

<sup>86</sup> Regional Youth Adult Social Action Partnership. “Restorative Justice.” [www.ryasap.org/restorative-justice/](http://www.ryasap.org/restorative-justice/)

<sup>87</sup> Models for Change Juvenile Diversion Workgroup (2011). “Juvenile Diversion Guidebook.” <http://www.modelsforchange.net/publications/301>

<sup>88</sup> See e.g. Lists of the different programs offered in the Connecticut Superior Court Criminal Division can be found at <https://www.jud.ct.gov/Publications/cr137P.pdf>

<sup>89</sup> Under the new law, no child may be placed in detention unless a judge of the Superior Court determines, based on the available facts, that (A) there is probable cause to believe that the child has committed the acts

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alleged, (B) there is no less restrictive alternative available, and (C) there is (i) probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition, (ii) a need to hold the child in order to ensure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court process, or (iii) a need to hold the child for another jurisdiction. See e.g. <http://www.ct.gov/opm/cwp/view.asp?Q=383628>

<sup>90</sup> See e.g., Holman, B. and Ziedenberg, J. (2007). "The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities." Justice Policy Institute.

[http://www.justicepolicy.org/images/upload/06-11\\_rep\\_dangersofdetention\\_jj.pdf](http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf)

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

<sup>94</sup> Orlando, James (October 21, 2016). "Automatic Transfer of Juveniles from Juvenile to Criminal Court." Connecticut Office of Legislative Research. <https://www.cga.ct.gov/2016/rpt/pdf/2016-R-0214.pdf>

<sup>95</sup> Muniz, Fernando J. (October 18, 2016). "Plan for Closure of the Connecticut Training School."

Department of Children and Families, p.6.

[http://www.ct.gov/dcf/lib/dcf/cjts/pdf/cjts\\_closure\\_plan\\_\(final\).pdf](http://www.ct.gov/dcf/lib/dcf/cjts/pdf/cjts_closure_plan_(final).pdf)

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*, p.6-7.

<sup>98</sup> Bonnie, R.J., Johnson, R.L., Chemers, B.M., and Schuck, J., (Eds.) (2013). *Reforming Juvenile Justice: A Developmental Approach*. Washington, D.C.: The National Academies Press.

<sup>99</sup> See e.g., Grisso, Thomas et al. (August 2003). "Juveniles Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacity as Trial Defendants." *Law and Human Behavior* v.27(4): p.333-63.

<sup>100</sup> The National Juvenile Defender Center (NJDC) provides an up-to-date graphic documenting the minimum age (or lack of limits) of juvenile jurisdiction in various states: <http://njdc.info/practice-policy-resources/state-profiles/multi-jurisdiction-data/minimum-age-for-delinquency-adjudication-multi-jurisdiction-survey/>

<sup>101</sup> See e.g., UN Committee on the Rights of the Child (2007). "Convention on the Rights of the Child General Comment No. 10: Children's Rights in Juvenile Justice." Paragraph 32.

<http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>

<sup>102</sup> See e.g., Citizens for Juvenile Justice (2016). "Keeping Young Children on Track to Success Raising the Lower Age of Juvenile Jurisdiction Sections 4, 6-10, and 13 of S.905 (Sen. Spilka) and H.1436 (Rep. Khan)." <http://www.cfjj.org/pdf/FACTSHEETRaisingLowerAge.pdf>

<sup>103</sup> Brooks, Pansing et al., Legislative Bill 894. 104<sup>th</sup> Legislature of Nebraska.

<https://files.acrobat.com/a/preview/e29324c6-efbb-4318-920f-afa63e6eab7f>

<sup>104</sup> Office of Juvenile Justice and Delinquency Prevention (December 2014). "Meeting the Educational Needs of System-Involved Youth," p.2. <https://www.ojjdp.gov/programs/commitment120814.pdf>

<sup>105</sup> For a description of DMC and the requirements within JJDP, see

<https://www.ojjdp.gov/Programs/ProgSummary.asp?pi=18>

<sup>106</sup> National Council on Crime and Delinquency (January 2007). "And Justice for Some: Differential Treatment of Youth of Color in the Justice System."

[http://www.nccdglobal.org/sites/default/files/publication\\_pdf/justice-for-some.pdf](http://www.nccdglobal.org/sites/default/files/publication_pdf/justice-for-some.pdf)

<sup>107</sup> Ricketelli, D.M., Hartstone, E.C., and Murphy, K.L. (May 15, 2009). "A Second Reassessment of Disproportionate Minority Contact."

[http://www.ct.gov/opm/lib/opm/cjppd/cjjyd/jjydpublishations/final\\_report\\_dmc\\_study\\_may\\_2009.pdf](http://www.ct.gov/opm/lib/opm/cjppd/cjjyd/jjydpublishations/final_report_dmc_study_may_2009.pdf)

<sup>108</sup> Muniz, Fernando J. (October 18, 2016). "Plan for Closure of the Connecticut Training School."

Department of Children and Families. [http://www.ct.gov/dcf/lib/dcf/cjts/pdf/cjts\\_closure\\_plan\\_\(final\).pdf](http://www.ct.gov/dcf/lib/dcf/cjts/pdf/cjts_closure_plan_(final).pdf)

<sup>109</sup> Schiraldi, V., Western, B., and Bradner, K. (September 2015). "Community-Based Responses to Justice-Involved Young Adults." New Thinking in Community Corrections Bulletin. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 248900, p.7.

<sup>110</sup> Connecticut Juvenile Justice Alliance (2016). "Walk in Our Shoes: Youth Share their Ideas for Changing Connecticut's Juvenile Justice System," p.12. <http://www.ctjja.org/resources/pdf/YFCTpaper.pdf>

<sup>111</sup> It should be noted that in addition to reviewing federal statutes, regulations, guidance documents and case law for this section of the research report, PCJ also spoke to several experts in the field to explore the intersection of these three federal mandates with Connecticut's proposed reforms. PCJ wishes to express



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<sup>112</sup> The JJDPDA was first enacted in 1974 and now includes four “core requirements.” In addition to sight and sound separation, JJDPDA requires: the deinstitutionalization of status offenders, the removal of juveniles from adult jail and lockup and reducing disproportionate minority contact. *See* Coalition for Juvenile Justice. “History of the JJDPDA.” <http://www.juvjustice.org/federal-policy/juvenile-justice-and-delinquency-prevention-act>

<sup>113</sup> 42 U.S.C. § 5633 (a)(12)(A).

<sup>114</sup> Office of Juvenile Justice and Delinquency Prevention (October 2010). “Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002.”

<sup>115</sup> 42 U.S.C. § 5603.

<sup>116</sup> Although it is not relevant to this discussion of emerging adults in the Connecticut juvenile system, it is worth noting that the status of the youth (as criminally charged rather than adjudicated in the juvenile system) is not the only factor that implicates the separation requirement of the JJDPDA (which may have an impact on other aspects of the Connecticut justice system). The Administrator of the Office of Juvenile Justice and Delinquency Prevention, in a clarifying memo released in 2008, states that juveniles charged as adults who have not yet reached the state’s maximum age of extended juvenile jurisdiction can be housed in juvenile facilities without sight and sound separation. However, once a criminally charged youth reaches the maximum age of juvenile jurisdiction, his or her presence would violate the separation requirement, even if they had not served the full length of their sentence.

<sup>117</sup> Office of Juvenile Justice and Delinquency Prevention (October 2010). “Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002.” Appendix K: Age of Full Criminal Responsibility and Maximum Age of Extended Juvenile Court Jurisdiction—50-State Survey.

<sup>118</sup> Beck, A.J., Cantor, D., Hartge, J., Smith, T. (2013). “Sexual Victimization in Juvenile Facilities Reported by Youth, 2012: National Survey of Youth in Custody, 2012.” Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/svjfry12.pdf>

<sup>119</sup> *Ibid*, p.60.

<sup>120</sup> Information provided by Fernando J. Muñoz, Deputy Commissioner of the Department of Children and Families, in an email to PCJ on December 7, 2016.

<sup>121</sup> 42 U.S.C. § 15602.

<sup>122</sup> 42 U.S.C. § 15607 (a)(1).

<sup>123</sup> 28 C.F.R. pt. 115 (2012).

<sup>124</sup> Bureau of Justice Statistics (June 2016). “PREA Data Collection Activities 2016.” Bureau of Justice Statistics.

<http://www.bjs.gov/content/pub/pdf/pdca16.pdf?ed2f26df2d9c416fbddddd2330a778c6=mluuuvsivk-mxnfxvfs>

<sup>125</sup> The PREA rules are often considered a new minimum standard of care, and a state’s failure to comply raises some concern for potential liability.

<sup>126</sup> 28 C.F.R. § 115.14 (2012)

<sup>127</sup> *Ibid*. In those states in which the age of adult criminal responsibility is under 18, raising the age to a minimum of 18 makes sound financial sense, as PREA compliance is costly. *See, e.g.,* Henneke, Elizabeth A. (May 14, 2015). “Raise the Age Leads to PREA Compliance in Texas,” Campaign for Youth Justice Blog. <http://campaignforyouthjustice.org/news/blog/item/raise-the-age-leads-to-prea-compliance-in-texas>

<sup>128</sup> 28 C.F.R. § 115.114 (2012)

<sup>129</sup> *Id.* at § 115.5 (emphasis added).

<sup>130</sup> National Standards to Prevent, Detect, and Respond to Prison Rape, 77 Fed. Reg. 37106, 37114 (June 20, 2012) (to be codified at 28 C.F.R. pt. 115).

<sup>131</sup> 28 C.F.R. § 115.114 (2012)

<sup>132</sup> *See id.* at §§ 115.311 - 115.393. For a discussion of the application of PREA to Connecticut juvenile facilities with regards to transgender inmates, as well as the intricacies of adult transfer in juvenile cases, see *In re Doe*, No. F04JV32912660A, 2014 WL 2600505 (Conn. Super. Ct. May 6, 2014).

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- <sup>179</sup> Information provided to PCJ by OPM October 27, 2016. Although still a high cost, the cost of operating CJTS has been reduced in the last couple of years with layoffs and other actions. In FY15, the budget for CJTS was just under \$53 million.
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<sup>189</sup> Information provided by email to PCJ from the Office of the State Comptroller on December 14, 2016.

<sup>190</sup> *Ibid.*

<sup>191</sup> Connecticut Public Act No. 16-147. "An Act Concerning The Recommendations Of The Juvenile Justice Policy And Oversight Committee." <https://www.cga.ct.gov/2016/act/pa/pdf/2016PA-00147-R00HB-05642-PA.pdf>

Under this new law, no child may be placed in detention unless a judge of the Superior Court determines, based on the available facts, that (A) there is probable cause to believe that the child has committed the acts alleged, (B) there is no less restrictive alternative available, and (C) there is (i) probable cause to believe that the child will pose a risk to public safety if released to the community prior to the court hearing or disposition, (ii) a need to hold the child in order to ensure the child's appearance before the court, as demonstrated by the child's previous failure to respond to the court process, or (iii) a need to hold the child for another jurisdiction.

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<sup>193</sup> Governor Dannel P. Malloy (November 6, 2015). "Gov. Malloy's Prepared Remarks Today on Criminal Justice Reform." Connecticut Law Review Symposium. <http://portal.ct.gov/Office-of-the-Governor/Press-Room/Press-Releases/2015/11-2015/Gov-Malloys-Prepared-Remarks-Today-on-Criminal-Justice-Reform?>

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<sup>195</sup> Mendel, Richard (2013). "Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth." Justice Policy Institute, p.28. [http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi\\_juvenile\\_justice\\_reform\\_in\\_ct.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi_juvenile_justice_reform_in_ct.pdf)

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