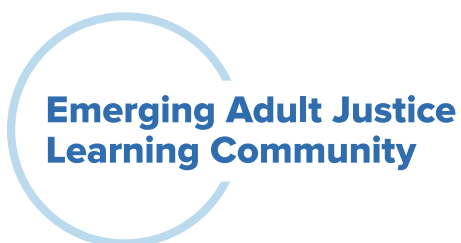


**A ROADMAP TO REFORM:**

# **Key Elements of Specialized Probation for Emerging Adults**



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*The reforms discussed in this series are offered in acknowledgement of the racist origins of incarceration and justice administration in America, and in rejection of a system that subjugates and unfairly penalizes poor people and people of color.*

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## Introduction to the “Key Elements” Series

Building upon a groundswell of voices for change, many jurisdictions are seeking new models for the treatment and care of emerging adults<sup>1</sup> in the criminal justice system. This brief is one in a series of “Key Elements” Issue Briefs produced by the Emerging Adult Justice Learning Community<sup>2</sup> (Learning Community) at the Columbia University Justice Lab that examine specific emerging practices and offer guidance on key elements important to consider in both the design and implementation of innovative practices. The Learning Community is a collaborative learning environment that brought together researchers, practitioners, policymakers, and advocates twice a year over a three-year period to create developmentally appropriate, effective, and fair criminal justice responses for youths ages 18–25 who are navigating the critical transition period from adolescence to adulthood. This series was created to discuss innovations in this burgeoning field and includes a total of three “Key Elements” briefs focusing on: (1) specialized courts, (2) specialized probation; and 3) specialized correctional units. Each brief is designed to support innovative reforms and assist others in the field to identify and build on best policies and practices in emerging adult justice.

The members of the Learning Community acknowledge that while these localized, programmatic reform initiatives have the potential to better address the needs of emerging adults in the adult justice system, they do not substitute for long-term, systemic reform initiatives, such as raising the upper age of juvenile justice jurisdiction<sup>3</sup> and developing a third, hybrid system (via enactment of youthful offender statutes<sup>4</sup>), which would benefit *all* emerging adults and implicate *all* key system actors (and not one, such as courts or probation or corrections, in isolation). The principles outlined in this series can be applied or adapted to guide any such systemic reform efforts as well as other programmatic innovations for emerging adults in the justice system.

The members of the Learning Community identified two major challenges common across all three specialized reform categories for emerging adults at the time of writing this series. First, research focused specifically on emerging adults in the justice system is being cultivated and developed, but comprehensive data and analysis remain in short supply. Thus, outcome measurements and evaluations of emerging adult justice reform initiatives will play a key role in future recommendations. Second, current outcomes for emerging adults in contact with the justice system are bleak and failures of the current system disproportionately impact poor youth of color. The creative efforts of individual jurisdictions to address these challenges will not only benefit local communities, but inform the field as a whole.

## Introduction to Emerging Adult Justice

The current age delineations of the American justice system are inherited from Progressive-era reforms at the end of the 19th Century.<sup>5</sup> Hoping to produce a model in which children could be rehabilitated and not merely punished, reformers urged the creation of a separate juvenile justice system for children. The age of demarcation between the juvenile and adult systems has differed among states over the years, but the vast majority now set it at age 18.<sup>6</sup> While age 18 was once understood to signify developmental maturity, recent research suggests that brain development continues well into the 20s,<sup>7</sup> and that developmental milestones associated with independent, mature adulthood occur well past the 18th birthday for the current generation.<sup>8</sup>

Neuroscience tells us that the cognitive abilities of youth develop more quickly than their executive functioning and psychosocial skills, resulting in a “maturity gap.”<sup>9</sup> This maturity gap means that “young adults are more likely to engage in risk-seeking behaviors, have difficulty moderating their responses in emotionally charged situations, or have not fully developed a future-oriented method of decision-making.”<sup>10</sup> Moreover, cultural expectations around adolescence and adulthood have shifted in the last century.<sup>11</sup> While age 18 once corresponded to an assumption of adult roles, sociological research indicates that contemporary emerging adults experience a more extended transition to adulthood.<sup>12</sup> Due in large part to economic changes, traditional markers of adulthood such as leaving the family home, getting married, and entering into the work force now rarely occur at age 18 in the United States.<sup>13</sup> Accordingly, the 18- to 25-year-old age group might best be seen as a distinct developmental category—one during which adolescents “emerge” into adulthood.<sup>14</sup>

The time it takes to transition to adulthood during late adolescence is sometimes referred to as an “age of opportunity.”<sup>15</sup> During this stage of life, youths are malleable and undergo significant cognitive and social changes. The vast majority of youth will mature and desist or “age out” of crime by the mid-20’s.<sup>16</sup> Involvement in the justice system can interfere with and harm this maturation process. Interactions with the system are “stickier” today than in prior times, as transgressions are more public, digital fingerprints are difficult to erase and can also be fraught with error, and adult criminal records create a host of collateral consequences that further interfere with the healthy transition to adulthood.<sup>17</sup>

Racial and ethnic disparities present throughout the criminal justice system for all ages and are amplified for system-involved emerging adults. These disparities pose serious civil rights issues and create a “crisis of legitimacy” in the criminal justice system.<sup>18</sup> Racial and ethnic disparities in the criminal justice system perpetuate other societal inequalities among vulnerable and minority communities, curtailing the ability to join the workforce, pursue higher education, participate in civic activities like voting, and secure housing.<sup>19</sup> Racial and ethnic disparities magnify the collateral consequences of justice system involvement for emerging adults of color, who are already experiencing challenges inherent in this period of transition to independent adulthood.

Nationwide statistics on racial and ethnic disparities in emerging adult justice are scarce, due in part to the relatively recent acknowledgement of emerging adulthood as a distinct developmental period. Moreover, information on the demographics of people involved in the justice system is not systematically collected or shared among the states. The information that is collected focuses primarily on incarceration, with little information on other stages of involvement with the justice system such as arraignment, sentencing, or probation. Nonetheless, the data that are available paint a picture of extreme disproportionality. **In 2019, Black and Latinx 18- and 19-year-old males were 12.4 times and 3.2 times more likely to be imprisoned than their white peers, respectively.**<sup>20</sup> For Black males ages 20 to 24, the incarceration rate was 8 times greater than for white males of the same age, while Latinx males were three times more likely to be incarcerated than their white peers.<sup>21</sup> When looking at older adults, Black and Latinx men over age 25 are incarcerated at approximately 5 times and 2.5 times the rate of white men, respectively.<sup>22</sup> As such Black and Latinx emerging adults, especially younger cohorts, face the highest racial disparities of any age group in the adult criminal justice system.

These statistics are not accidental but grow from a history of systemic racism and oppression.<sup>23</sup> The American criminal justice system is steeped in this legacy, and expressions of implicit and explicit bias are commonplace.<sup>24</sup> Any reform or wholesale change demands an ongoing reckoning with this history and present-day inequities.<sup>25</sup>

Against this backdrop, members of the Learning Community acknowledge that the localized reform efforts outlined in these issue briefs may not benefit all young people equitably. The reforms discussed here will impact youth in different jurisdictions differently based on access (“justice by geography”).<sup>26</sup> They are also administered within a system based on the perpetuation of racial and class inequalities.<sup>27</sup> Responding to harm caused by crime in a way that advances fairness and justice ultimately requires transformation: the creation of a model that is community-centric and focused on healing. The reforms discussed here are offered in acknowledgement of the racist origins of incarceration and justice administration in America, and in rejection of a system that subjugates and unfairly penalizes poor people and people of color.

# Interest in Specialized Probation for Emerging Adults

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Approximately one million people on probation in the United States are emerging adults (ages 18 to 24).<sup>28</sup> Put differently, about one in four people (23%) under probation supervision in the U.S. is an emerging adult, and about one out of every 31 emerging adults in the U.S. is on probation.<sup>29</sup>

Emerging adulthood is oftentimes marked by a turbulent transition from adolescent to adult needs, capacities, and characteristics. This challenges probation departments designed with older adults in mind.<sup>30</sup> Involvement with typical adult probation departments, which often prioritize surveillance and compliance over individual growth and development, does not serve the needs of this population and can result in emerging adults' reoffending and violating technical conditions of their supervision at higher rates.<sup>31</sup> Yet even those programs created for adults that offer support in areas of particular need to emerging adults, like vocational training and counselling, have been shown to be ineffective for this age group.<sup>32</sup> This failure is in part because emerging adults are at a stage of neurological and psychosocial development in which they are "more behaviorally impulsive in emotionally charged situations; more susceptible to peer influence; less future-oriented; and greater risk takers, especially in the presence of peers."<sup>33</sup> Yet, with access to opportunities specifically targeted at facilitating the development of people in this age cohort, emerging adulthood can also be a period of tremendous emotional and psychosocial maturation.<sup>34</sup>

Thus, beginning as early as 1914, some U.S. jurisdictions have accommodated the characteristics of this age group and fostered young peoples' growth by creating alternate probation programs to guide young people through this transitional period in their lives and better meet the needs (and capacities) of emerging adults.<sup>35</sup> A primary goal of providing probation services that offer support and opportunities specifically for this age set is to help facilitate the normative desistance from lawbreaking behavior that occurs during emerging adulthood and is exhibited in the age-crime curve.<sup>36</sup> **By acknowledging and supporting the neurological, psychosocial, and life-course development that occurs during emerging adulthood, probation may be better able to help young people transition into healthy, stable, self-sufficient, and law-abiding adults and avoid the many consequences of incarceration in adult facilities.**<sup>37</sup>



## INNOVATIVE MODELS

### **Harris County, Texas (includes Houston)**

In Harris County, Texas, the Community Supervision and Corrections Department has a separate Young Adult Caseload for 17- to 25-year-olds<sup>38</sup> charged with either felony or misdemeanor offenses who have been assessed (using a combination of risk assessments) and found to be “moderate to high risk” and to “face significant barriers to being successful in the community.”<sup>39</sup> The emerging adults on this specialized caseload receive intensive case management from Community Supervision Officers (CSO) and other supervisors who are selected “based on their skill set, passion to provide support and ability to respond appropriately to the needs of this age group.”<sup>40</sup> These staff are then trained in “cultural competency” and “brain development,” and they “work collaboratively with a Certified Life/Recovery Coach to provide the client continuous encouragement, guidance and support.”<sup>41</sup>

The CSO works with the youth to develop an individualized case plan that is guided by the determined “risk, needs, and responsivity factors” of that youth, and focuses supervision sessions, interventions, and strategies on “areas most impactful to reducing reoffending behavior.”<sup>42</sup> These “responses” may include: “family engagement and/or counseling,” “cognitive programming,” “emotional regulation classes,” “substance abuse, mental health and/or health wellness referrals,” “connection to community agencies for assistance in obtaining food, housing and clothing,” “access to vocational and employment related resources,” “gang intervention programs,” and “mentorship with certified recovery/life coaches specializing in justice involved young adults and/or community members.”<sup>43</sup>

### **Massachusetts**

In the Merrimack Valley of Massachusetts, the Massachusetts Trial Court, through the Massachusetts Probation Service, has initiated a “learning laboratory” focused on effective strategies for 18- to 24-year-olds on probation. Funded through the state, the project contracts with UTEC, Inc., a Merrimack Valley-based organization that offers a variety of programs aiming to promote the growth of court-involved youth ages 18 to 25. The project has begun a “practice as research” pilot program targeting 50 “high-risk” young adults on probation.<sup>44</sup> A specially assigned probation liaison provides probation supervision for the emerging adult population in each of three courts participating in the pilot program. The Liaison Officers refer designated young people to UTEC to complement probation supervision with its asset-based, employment-focused programming. Young people are offered positive

incentives for participation in UTEC's wraparound programming, including a guaranteed job and access to education. To further incentivize participation, the Massachusetts Trial Court has agreed to waive and/or forgive probation-related fees and fines for participants, and to provide behavioral and mental health counseling, as well as childcare, all free of charge.<sup>45</sup> UTEC's unique set of organization-run social enterprises employ participants, a mechanism that provides enrolled young people with repeated opportunities to return to programming if they do not successfully complete the program the first time.

Separately in Massachusetts, the Boston Municipal Court's (BMC) Roxbury Division administers the CHOICE Program, an alternative to incarceration for convicted 17- to 24-year-old emerging adults.<sup>46</sup> The 18-month post-trial program requires young people to receive intensive supervision from a probation officer, to follow intensive in-court compliance requirements overseen by a participating judge, and to participate in both educational and job training programs.<sup>47</sup> The CHOICE Program collaborates with the District Attorney's office, the defense bar, and the clerk's office to provide consistent, supportive responses to both compliance and non-compliance by participants.<sup>48</sup> The CHOICE program focuses on homeless emerging adults, with 95 percent of its participants experiencing homelessness, and the program provides these young people food and clothing.<sup>49</sup>

### **New York City, New York**

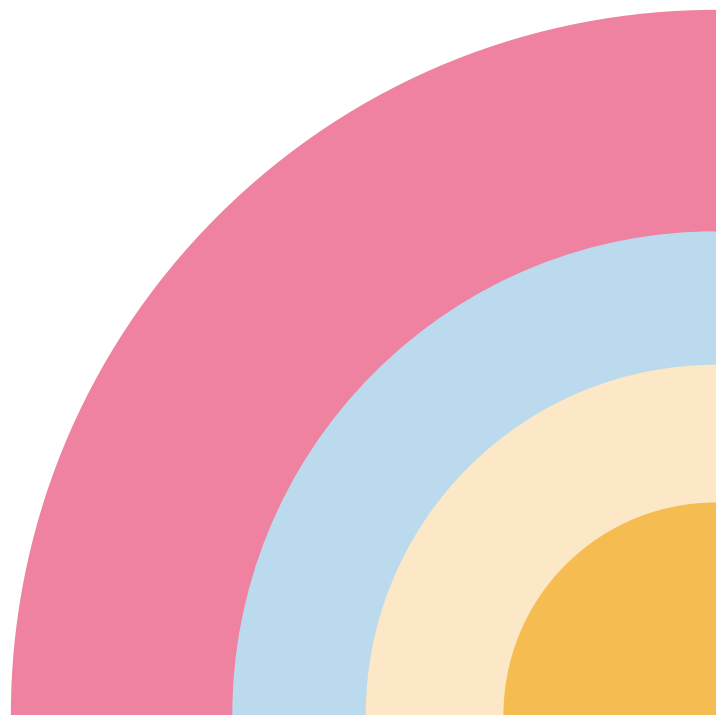
In 2016, New York City's Department of Probation launched the Anyone Can Excel (ACE) adolescent/young adult specialized unit and caseload focused on 16- to 24-year-olds.<sup>50</sup> ACE probation staff receive specialized training in topics particularly relevant to emerging adult justice, including how to effectively engage emerging adults on the topic of violence and the Positive Youth Development (PYD) framework.<sup>51</sup> The individualized, growth-focused approach begins with the creation of an Individual Action Plan (IAP) "made up of realistic, measurable milestones" using a validated risk assessment and incorporating input from the young person and the youth's "circle of care" including family, friends, employers, and teachers.<sup>52</sup> The officer then works with the youth, "us[ing] cognitive behavioral techniques, focusing on areas of highest risk" and "encourage[ing] clients to be active participants in their own growth."<sup>53</sup> ACE helps youth create connections within their community by referring young people to mentors, group mentoring programs, and anti-violence initiatives.<sup>54</sup>

While the New York City Department of Probation does not, as of this writing, have complete outcome data on the impact of ACE, it

reports that probation officers assigned to specialized ACE caseloads utilize Cognitive Behavioral Therapy tools two times more often than probation officers not in ACE.<sup>55</sup> The Department has also found that youth supervised in specialized ACE caseloads to have had 45 percent fewer violations of probation filed than similarly-aged youth not in ACE.<sup>56</sup> Finally, New York City's Department of Probation reports ACE youth are nearly three times more likely to be enrolled in an evidence-based program like Arches, a mentorship-based community program,<sup>57</sup> compared to a similarly-aged group not assigned to ACE.<sup>58</sup>

### **San Francisco, California**

A leader in this field since the unit's formation in 2009, San Francisco's Adult Probation Department's Transitional Age Youth (TAY) unit works on approximately 500 cases of 18- to 25-year-old young people on probation each year.<sup>59</sup> The TAY unit uses a risk-needs assessment to develop case plans and "works with clients to develop individualized treatment and rehabilitation plans (ITRP) based on the risks, needs, and emotional development of each client."<sup>60</sup> TAY aims for successful completion of these plans in the shortest time possible to allow young people to move past their involvement with the system.<sup>61</sup> The program offers a robust set of incentives for completion of goals, including "reduction in reporting requirements, early termination of supervision, or possible expungement of records."<sup>62</sup> The TAY unit works collaboratively with city and county partners, including the Mayor's office, the District Attorney, and the Sheriff's Department, to provide a spectrum of programming and alternatives targeted at the needs of emerging adults, including employment and educational programming.<sup>63</sup> Though comprehensive data from San Francisco's TAY have yet to be released, early data demonstrated a 73 percent rate of successful completion of programming.<sup>64</sup>



**CHOICE PROGRAM THROUGH THE BOSTON MUNICIPAL COURT'S (BMC) ROXBURY DIVISION**

**"LEARNING LABORATORY" CONTRACT WITH UTEC, INC.**

**ANYONE CAN EXCEL (ACE)**

**TRANSITIONAL AGE YOUTH (TAY) UNIT OF SAN FRANCISCO'S ADULT PROBATION DEPARTMENT**

**YOUNG ADULT CASELOAD**

<b>Program</b>							
<b>Location</b>	Harris County, TX	Massachusetts	Massachusetts	Massachusetts	New York, NY	San Francisco, CA	
<b>Year Est.</b>	2019	2019	2019	2010	2016	2009	
<b>Age Served</b>	17-25	18-24	17-24	17-24	16-24	18-25	
<b>Case Types</b>	Misdemeanors or felonies	Misdemeanors or felonies	Misdemeanors or felonies	Misdemeanors or felonies	Primarily felonies; misdemeanors also eligible	Primarily felonies; misdemeanors also eligible	
<b>Number of Emerging Adults in Program</b>	945 in 2019; 1016 as of 6/15/2020	50	50	20-30 per year	3,954 in CY 2019	500 cases per year	
<b>Specialized Staff</b>	Community Supervision and Corrections Department officers are selected based on skill set, passion, and ability to respond appropriately to the needs of emerging adults. Officers are trained in "cultural competency" and "brain development."	Probation staff are trained in RNR principles, case management and treatment planning. Probation departments designate a probation officer to work with this caseload specifically, and UTEC is working with Probation and the Executive Office of Public Safety and Security (EOPSS) to develop a more defined curriculum to train Probation, Parole, and DOC staff.	Probation staff are trained in RNR principles, case management and treatment planning. Probation departments designate a probation officer to work with this caseload specifically, and UTEC is working with Probation and the Executive Office of Public Safety and Security (EOPSS) to develop a more defined curriculum to train Probation, Parole, and DOC staff.	The probation staff person managing the program has worked almost exclusively with 18-24-year-olds since 2010. She is also trained in RNR principles, case management and treatment matching.	Staff receive specialized training in topics particularly relevant to emerging adult justice, including how to effectively engage young adults on the topic of violence and the Positive Youth Development (PYD) framework.	Officers are selected based on their capacity to create professional alliances and demonstrated passion to support emerging adults. Officers are trained in cultural competency for emerging adults, and the unit offers staff enrichment, officer coaching, and Thinking for Change classes to create a culture that encourages officers to see the challenges young people face and provide opportunities for betterment.	
<b>Intervention</b>	The Officer collaborates with a Certified Life/Recovery Coach and works with the youth to develop an individualized case plan that is guided by the determined risk, needs, and responsibility factors of that youth. Supervision sessions, interventions, and strategies are focused on areas "most impactful to reducing reoffending behavior."	A specially assigned Liaison Officer refers designated probationers to UTEC, Inc. to complement probation supervision with its asset-based, employment-focused programming. Young people are offered positive incentives for participation, including a guaranteed job and access to education. The Massachusetts Trial Court waives and/or forgives probation-related fees and fines for participants, and provides behavioral and mental health counseling and childcare free of charge. Enrolled young people have repeated opportunities to return to programming.	The 18-month post-trial program requires young people to receive intensive supervision from a probation officer, intensive in-court compliance requirements overseen by a participating judge, and to participate in both educational and job training programs. Participants who are parents are required to attend parenting classes at the court. The program focuses on homeless emerging adults, with 95 percent of its participants experiencing homelessness, and the program provides these young people food and clothing.	The individualized, growth-focused approach begins with the creation of an individual Action Plan (IAP) "made up of realistic, measurable milestones" using a validated risk assessment and with input from the young person and their "circle of care" including family, friends, employers, and teachers. The officer works with and encourages the youth "using cognitive behavioral techniques, focusing on areas of highest risk." ACE helps create connections to community by referring young people to mentors, group mentoring programs, and anti-violence initiatives.	The individualized, growth-focused approach begins with the creation of an individual Action Plan (IAP) "made up of realistic, measurable milestones" using a validated risk assessment and with input from the young person and their "circle of care" including family, friends, employers, and teachers. The officer works with and encourages the youth "using cognitive behavioral techniques, focusing on areas of highest risk." ACE helps create connections to community by referring young people to mentors, group mentoring programs, and anti-violence initiatives.	The TAY unit uses a risk-needs assessment to develop case plans and "work(s) collaboratively with each client to develop an individualized treatment and rehabilitation plan (ITRP) based on the risks, needs and potential emotional development" of the client. TAY aims for successful completion of these plans in the shortest time possible. The program offers a robust set of incentives for completion of goals, including "reduction in reporting requirements, early termination of supervision, or possible expungement of records." The unit works collaboratively with city and county partners.	

# Key Elements

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A combination of research and experience serving emerging adults suggests several key ingredients for the creation of a program intended specifically for young people at this developmental stage who are under probation supervision.<sup>65</sup>

## HAVE A THEORY OF CHANGE

Rather than focusing on compliance, providers who root their practice in a theory of change or theory of action believe that young people can change and will do so through seeing the fruits of their own actions, along with positive reinforcement of good choices. A theory of action/change can drive overall programmatic development and guide individual practice.<sup>66</sup> A strong theory of change allows creative and flexible individualized service provision, while ensuring that the most appropriate practices are used to best serve emerging adults. This theory should drive the hiring, training, and oversight of probation personnel, thereby ensuring that quality care is administered by skilled, dedicated staff, and staff must be trained and supervised based on this theory of change.<sup>67</sup> It can also inspire officials to engage emerging adults in the design and implementation of probationary services. The theory should be primarily comprised of the remainder of the key ingredients listed below.

## FORGE COMMUNITY PARTNERSHIPS

A successful emerging adult probation department depends on community resources that provide opportunities for growth and connection within the community in which the young person will ultimately remain.<sup>68</sup> Probation should therefore be located within the communities from which young people come, and when possible, within environments that provide other community resources [See sidebar, “Creating Neighborhood Opportunities for Emerging Adults: New York City’s NeONs”].<sup>69</sup> Probation staff should focus on establishing relationships with community organizations that can foster young people’s interests and prosocial community connections, particularly with peers. Staff should remain up to date on what resources and programming are available from local groups so they can refer young people to those organizations when appropriate. Parents of emerging adults who previously served probation sentences can be recruited (and receive compensation) to

help guide other parents and family members as they navigate the experience.<sup>70</sup> Probation should connect emerging adults with mentors and advocates within their community hired to act in this capacity, so young people can receive ongoing guidance from familiar people as they continue to navigate the path to adulthood beyond their involvement in probation, and so they can serve as young people's advocates vis-à-vis the department.<sup>71</sup> Probation should take a hands-off approach to these relationships and not interfere, so that genuine trust can be built without a threatening presence.

## **EXERCISE PARSIMONY IN SENTENCING EMERGING ADULTS TO PROBATION**

As jurisdictions improve their probation services for emerging adults, they must prevent the undue expansion of probation's reach by reserving it for only those emerging adults who are otherwise likely to face incarceration. Unnecessarily involving low-risk youth in intervention programming has been found to increase recidivism rates as compared to merely cautioning them.<sup>72</sup> Thus, youth with low-level offenses and lower risk levels should be diverted from the system entirely so as to not increase lawbreaking and to also prevent collateral consequences from impeding the normal developmental transition out of delinquent behavior. For this purpose, the assessment of risk can be enhanced through the consistent use of a validated risk-needs assessment instrument. This will also require that jurisdictions invest in and broaden their array of diversionary options for emerging adults who are not at risk of losing their liberty. It is vital that this expansion of diversion programming is community-based and independent of probation.<sup>73</sup>

## **SHRINK CASELOADS AND CASE LENGTHS**

Once youth whose convictions are considered less serious and deemed less at risk of committing additional offenses are diverted from formal probation supervision, caseloads should be limited to 15 or fewer. This limit would help ensure that probation officers have sufficient time and energy to continuously engage themselves in learning and establishing relationships with the youth in their care, available service providers, families, and communities.<sup>74</sup> To shrink caseloads while also improving outcomes, reducing costs, and preventing the unnecessary entrapment of young people in the system, involvement in probation would need to be individualized, with shortened terms as rewards for successful completion, but ultimately limited to a maximum of 9 months.<sup>75</sup> Program conditions and supervision should be limited to "what is absolutely necessary for public safety, accountability, and rehabilitation" and should never be automatic or routine.<sup>76</sup>

## INDIVIDUALIZE

The transitional period between adolescence and adulthood looks different for each person and is influenced by individual factors such as levels of maturity,<sup>77</sup> histories of trauma, and health and mental health needs.<sup>78</sup> As the brain, and particularly the prefrontal cortex, continues to evolve during emerging adulthood at different rates for each young person, and as young people are subject to different life experiences and resiliency factors, they exhibit varying abilities to control impulse, analyze consequences of their actions, consider longer-term outcomes, and process their emotions.<sup>79</sup> Emerging adults who are found to be “high risk” may also contend with issues in multiple life domains. Further, the social lives and “embeddedness” of emerging adults in social roles vary: family involvement in the lives of emerging adults ranges from intensive to non-existent, and youth may be disconnected from “institutions of informal social control” such as school, work, and romantic relationships, while peers and social networks are oftentimes the most influential forces in their decision making.<sup>80</sup>

For an emerging adult probation caseload to achieve the goal of helping with the important developmental transitions to adulthood, it is vital to acknowledge the individual needs, strengths, resources, and goals of each young person.<sup>81</sup> Standard conditions of probation should be avoided, and instead probation officers should work with those on probation to assess each individual and make relevant recommendations. While there is still no evidence-based probation practice exclusively for the emerging adult population, some posit that the risk-need-responsivity model allows for individual considerations such as developmental age and intellectual capacity, mental as well as physical health, and needs such as trauma and substance use, to be understood and responded to in a structured framework that accounts for public and client safety as well as the individual’s civil liberties.<sup>82</sup> Maintaining individualized service provision as a systemic priority may require that probation practitioners have access to funds and/or program slots to purchase services (ex. Multi Systemic Therapy for Emerging Adults (MST-EA) for young people with severe mental illness) on an as-needed basis.<sup>83</sup>

## BE IMPROVEMENT AND GOAL-BASED, NOT SANCTION AND TIME-BASED

To maintain a programmatic focus on development and growth during this transitional life period, emerging adult probation case plans need to be oriented around achieving articulated goals, instead of tethering plans to specified time periods.<sup>84</sup> Emerging adulthood is a time when “[n]ormative transitions include completing school or vocational training, obtaining and maintaining gainful employment, developing a social network, and becoming a productive citizen.”<sup>85</sup> Yet, entanglement in the justice system during emerging adulthood is

“a strong predictor of school drop-out, unemployment, low earnings, welfare dependence, and substance abuse problems.”<sup>86</sup> To help young people avoid this trap, goals should be set to help young people build both the “hard” skills needed to transition into adult roles, as well as the “prosocial skills” needed in order to succeed in those roles, such as “exercising impulse control, emotional self-regulation, and better interpreting others’ intentions.”<sup>87</sup> Goals should be individualized, based on the young person’s needs and also their broader visions for their life trajectories. Finally, goals should be SMART: specific, measurable, attainable, relevant, and timely.<sup>88</sup>

Shifting to a goal-based model aligns with research, which has found that “positive reinforcement is more effective in long-term behavior change than sanctions.”<sup>89</sup> Reaching specified programmatic goals can therefore be incentivized by providing rewards such as paid jobs and internships, entry to popular recreational activities, loosening of behavior restrictions, and/or reduced duration of probation.<sup>90</sup>

## **FOCUS ON STRENGTHS, NOT DEFICITS**

Case plans should be driven by goals that are targeted towards building upon young people’s strengths and creating opportunity in those areas, rather than the traditional model that focuses on “fixing” young people and their problems. Within the context of juvenile justice, the Positive Youth Development (PYD) model has successfully focused on young people’s “individual growth and their achievement of key developmental stages.”<sup>91</sup> Because this model is based on adolescent development, which research often extends through emerging adulthood, it can be applied to emerging adult justice. PYD models endeavor to foster attachments to “social resources that facilitate healthy development and discourage harmful behavior.”<sup>92</sup> While the focus for youth tends to be on forming these connections with grown adults, relationships with prosocial peers may be particularly important for emerging adults, as they tend to highly value the influence of their peers.<sup>93</sup> The PYD model suggests that asset development and acquisition occurs in the variety of contexts that are present in young people’s “natural environment:” schools, workplaces, community organizations, social programs, and neighborhoods.<sup>94</sup> Strength-based emerging adult probation should therefore aim to build up the young person by fostering relationships in a variety of spheres, beginning with the young person’s relationship with the probation official who can learn the individual’s assets and passions and help them build connections in those areas.



## USE “CARE-FULL” RESPONSES TO NONCOMPLIANCE

It is normal for the transition from youth to adulthood to be chaotic, and neurological and behavioral sciences suggest that emerging adults’ progress through their case plans should be expected to be nonlinear.<sup>95</sup> This may be particularly true when probation is limited to only those emerging adults deemed “high risk,” as this population has been found to “often reject services, fail to attend programs regularly, and ...not [be] ready to positively engage in programs that advance their skills.”<sup>96</sup> Emerging adults also have the highest rates of problematic substance use and substance use disorders compared to other age groups,<sup>97</sup> and they are the age group “most quickly lost from treatment.”<sup>98</sup> But this loss is not due merely to the increased impulsivity among this population; it is also attributed to the fact that behavioral health issues are common among emerging adults, yet as they age out of child systems, they “often lose access to mental health services” that help treat these behavioral disorders, and they instead “qualify only for adult-oriented care that is not suited to their developmental needs.”<sup>99</sup>

A probation regimen created particularly for emerging adults would therefore need to both assist in this transition, connecting young people with the age-appropriate resources they need, while embracing mistakes and missteps as teaching opportunities instead of as failures that demand punishment. Young people are often found to not meet the goal posts set for them because of multiple systemic failures throughout the life course, including the structural racism unfairly penalizing young people of color. Probation officials need to be encouraged to utilize a spectrum of non-punitive responses to noncompliance, and the resources need to be available for them to do so.

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*Young people should not receive technical violations for merely behaving in ways that are normative for their developmental stage and their individual circumstances.*

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Emerging adult probation needs to eschew sending young people back to court, and young people should not receive technical violations for merely behaving in ways that are normative for their developmental stage and their individual circumstances. Sanctions

for technical violations have not been shown to improve behavior or reduce recidivism at any age group.<sup>100</sup> Technical violations for emerging adults should therefore be eliminated, or at least be limited to willful abscondences and unreasonable refusals to engage in treatment that is connected with the original offense. If an emerging adult is charged with a technical violation, they should be issued a summons (not incarcerated pending determination), should be represented by counsel, and the standard for the proceeding should be clear and convincing or beyond a reasonable doubt, not a preponderance of the evidence. Finally, emerging adults should not be incarcerated for technical violations.<sup>101</sup> Fundamentally, the focus should be on providing opportunities for and rewarding progress, rather than on punishment and limitations on liberty.<sup>102</sup>

Emerging adult probation programs must commit to racial and ethnic equity in their responses to noncompliance. Currently, people of color, and particularly young Black men, are more likely to be placed on probation supervision than white people and tend to be on probation for longer periods of time.<sup>103</sup> Probation is also less likely to function as a true alternative to more severe punishment for people of color than it is for white people, as a result of people of color more often receiving violations of probation and, ultimately, revocations of probation that lead to incarceration, as compared to similarly situated white people.<sup>104</sup> For example, a 2014 study by the Urban Institute examined probation data in four jurisdictions around the United States and found that “[i]n every study site, black probationers had substantially and statistically significant higher odds of revocation than white or Hispanic probationers.”<sup>105</sup> Specialized emerging adult probation therefore needs to acknowledge the existence of systemic racism and actively pursue racial and ethnic justice.

# Creating Neighborhood Opportunities for Emerging Adults: New York City's NeONs

In 2012, the New York City Department of Probation created the first of what would become 14 *Neighborhood Opportunity Networks* (NeONs). NeONs were a de-centralized approach to providing probation services located in New York City's neighborhoods with the highest concentration of people on probation. An early evaluation by the Vera Institution of Justice described NeONs as, "look[ing] quite different from the typical centralized probation office. They have a more welcoming layout, a resource hub with information about benefits and services for which individuals (both probationers and non-probationers) may be eligible, and space where community-based organizations can meet with probation clients."<sup>106</sup>

Launched as part of Mayor Michael Bloomberg's Young Men's Initiative, NeONs had educational, employment, civic engagement and mentoring programs focused specifically on emerging adults. The Vera Institute of Justice found that, even though NeON probation participants of all ages had lower recidivism rates than those on probation who did not report to a NeON office, emerging adults particularly benefitted from NeON participation, with six-month rearrest rates 25.6 percent lower than similar emerging adults who did not report to NeONs.<sup>107</sup> An Urban Institute evaluation of a NeON group mentoring program—Arches—found that felony reconviction rates among Arches participants were 69 percent lower than those of a matched comparison group 12 months after beginning probation.<sup>108</sup>

# Conclusion

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Emerging Adult Justice remains a new area of study, practice, and advocacy, and there has been little research conducted on quantifiable outcomes of the innovations detailed in the Learning Community's *Key Elements* series. Accordingly, designing and collecting outcome measurements is essential to inform and improve future programs and specialized probation. While specialized probation may ameliorate some of the most striking harms of the criminal legal system, specialized probation alone is insufficient to properly serve justice-involved emerging adults. Specialized probation should be adopted in tandem with efforts to reimagine all of the other aspects of the justice system – policing, prosecution, defense practices, sentencing, community-based services, supports and opportunities, parole, and re-entry – with the goal of supporting all justice-involved emerging adults so they can successfully mature into independent, healthy, productive adults engaged in the community.

# ENDNOTES

<sup>1</sup> “Emerging adult” is defined here as the 18–25-year-old cohort, traditionally overlooked in the justice system. For a history of the phrase, see Arnett J.J. (2014). “Presidential Address: The Emergence of Emerging Adulthood: A Personal History.” *Emerging Adulthood* 2(3) 155–162. For an overview of the topic of emerging adult justice, as well as an online library of materials focused on emerging adult justice, see <https://www.eajjustice.org>.

<sup>2</sup> For more information about the Emerging Adult Learning Community, including other publications, see <https://www.eajjustice.org/learning-community>.

<sup>3</sup> In 2018, Vermont enacted a new law that gradually raises the age of juvenile jurisdiction to a young person’s 20th birthday by 2022. Massachusetts, Illinois, Connecticut, and California legislatures have all been actively considering raising the age of their juvenile court jurisdictions above age 18. Other states (e.g., Colorado) have established task forces. For a discussion of raising the age and other statewide systemic reform efforts: in **Vermont**, see, Vermont Agency of Human Services, “Report on Act 201 Implementation Plan Report & Recommendations.” Available at [https://static1.squarespace.com/static/5c6458c07788975dfd586d90/t/5dd2ebf5ce2b1425d33ae1ef1/1574104062934/Vermont-RTA-DCF-Report-Final\\_EAJP.pdf](https://static1.squarespace.com/static/5c6458c07788975dfd586d90/t/5dd2ebf5ce2b1425d33ae1ef1/1574104062934/Vermont-RTA-DCF-Report-Final_EAJP.pdf); in **Connecticut**, see, Chester, L. and Schiraldi, V. (December 15, 2016). “Public Safety and Emerging Adults in Connecticut: Providing Effective and Developmentally Appropriate Responses for Youth Under Age 21.” Harvard Kennedy School, Harvard University. Available at [https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/public\\_safety\\_and\\_emerging\\_adults\\_in\\_connecticut.pdf](https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/public_safety_and_emerging_adults_in_connecticut.pdf); in **Massachusetts**, see, Siringil Perker, S. and Chester, L. (June 2017). “Emerging Adults: A Distinct Population That Calls for an Age-Appropriate Approach by the Justice System.” *Emerging Adult Justice in Massachusetts Issue Brief*, Harvard Kennedy School, Harvard University. Available at [https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/MA\\_Emerging\\_Adult\\_Justice\\_Issue\\_Brief\\_0.pdf](https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/MA_Emerging_Adult_Justice_Issue_Brief_0.pdf); in **Illinois**, see, Siringil Perker, S. Chester, L. and Schiraldi, V. (February 1, 2019). “Emerging Adult Justice in Illinois: Towards and Age-Appropriate Approach.” *Emerging Adult Justice Research Series*. Justice Lab, Columbia University. Available at <https://doi.org/10.7916/d8-fpvw-1t32> ; in **California**, see, Schiraldi, V. (January 7, 2020). “Young offenders don’t belong in adult prisons. California has a chance to end the practice” *The Los Angeles Times*. Available at <https://www.latimes.com/opinion/story/2020-01-07/young-offenders-dont-belong-in-adult-prisons-and-california-has-a-chance-to-end-the-practice>.

<sup>4</sup> An example of such a hybrid statute is the Youth Rehabilitation Act in Washington D.C. This Act was significantly expanded in 2018 to include youth prosecuted for committing a crime before their 25th birthday. For a description of the District’s decision to expand the Act, see Schindler, M. (January 11, 2019). “Youth Rehabilitation in D.C.: From Controversy to Progress.” *The Washington Post*. Available at [https://www.washingtonpost.com/opinions/youth-rehabilitation-in-dc-from-controversy-to-progress/2019/01/11/d2ea0be6-056a-11e9-b5df-5d3874f1ac36\\_story.html](https://www.washingtonpost.com/opinions/youth-rehabilitation-in-dc-from-controversy-to-progress/2019/01/11/d2ea0be6-056a-11e9-b5df-5d3874f1ac36_story.html).

<sup>5</sup> Schiraldi V., Western B., and Bradner K. (2015). “Community-Based Responses to Justice-Involved Young Adults.” *New Thinking in Community Corrections Bulletin*, Washington DC: U.S. Department of Justice, National Institute of Justice, NCJ 248900. Available at <https://www.ojp.gov/pdffiles1/nij/248900.pdf>.

<sup>6</sup> Over time, states have chosen different upper-age limits for their juvenile justice systems, usually choosing the 16th, 17th, or 18th birthday. Recently, the national trend has been to set the upper age at the 18th birthday, though there are many different types of statutory exceptions that allow or require youth younger than age 18 to be prosecuted and/or sentenced as adults, regardless of the upper age of jurisdiction. The national advocacy group Campaign for Youth Justice (CFYJ) kept up-to-date information about these laws on its website: <http://www.campaignforyouthjustice.org>, although CFYJ closed its campaign in December 2020. As of this writing, the site is being maintained as a resource.

<sup>7</sup> Giedd, J.N., Blumenthal, J., Jeffries, N.O., Castellanos, F.X., Liu, H., Zijdenbos, A., Paus, T., Evans A.C., and Rapoport, J.L. (1999). “Brain Development During Childhood and Adolescence: A Longitudinal MRI Study.” *Nature Neuroscience* 2(10): 861–863; Sowell, E.R., Thompson, P.M., Tessner, K.D., and Toga, A.W. (2001). “Mapping Continued Brain Growth and Gray Matter Density Reduction in Dorsal Frontal Cortex: Inverse Relationships During Postadolescent Brain Maturation.” *Journal of Neuroscience* 21(22): 8819–8829. See also studies cited in Steinberg, L. and Icenogle, G. (2019). “Using Developmental Science to Distinguish Adolescents and Adults Under the Law.” *Annual Review of Developmental Psychology* 1:30–31.

<sup>8</sup> Schiraldi et al., *supra* note 5 at 4-5; Arnett, *supra* note 1 at 156-7.

<sup>9</sup> Icenogle, G., Steinberg, L. Duell, N., Chein, J., Chang, L. Chaudhary, N., Di Giunta, L., Dodge, Kenneth A., Fanti, K.

- A., Lansford, J. E., Oburu, P., Pastorelli, C., Skinner, A. T., Sorbring, E., Tapanya, S., Uribe Tirado, L. M., Alampay, L. P., Al-Hassan, S. M., Takash, H. M. S., Bacchini, D. (2019.) "Adolescents' Cognitive Capacity Reaches Adult Levels Prior to Their Psychosocial Maturity: Evidence for a 'Maturity Gap' in a Multinational, Cross-Sectional Sample." *Law and Human Behavior* 43(1): 69–85. See also Steinberg, L. and Icenogle, G. (2019). "Using Developmental Science to Distinguish Adolescents and Adults Under the Law." *Annual Review of Developmental Psychology* 2019 1:21–40; Cohen, A.O., Breiner, K., Steinberg, L., Bonnie, R., Scott, E.S., Taylor-Thompson, K., Rudolph, M.D., Chein, J., Richeson, J.A., Heller, A.S., Silverman, M.R., Dellarco, D.V., Fair, D.A., Galván, A., and Casey, B.J. (2016). "When Is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Nonemotional Contexts." *Psychological Science* 27(4): 549, 559–60 (finding that 18–21-year-olds have diminished cognitive control in negative emotional situations).
- <sup>10</sup> Schiraldi et al., *supra* note 5 at 3–4.
- <sup>11</sup> Schiraldi et al., *supra* note 5; Shanahan, M. J. (2000). "Pathways to Adulthood in Changing Societies: Variability and Mechanisms in Life Course Perspective." *Annual Review of Sociology* 26: 667–92. <https://doi.org/10.1146/annurev.soc.26.1.667>.
- <sup>12</sup> Scott, E., Bonnie, R., and Steinberg, L. (2016). "Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy." *Fordham Law Review* 85(2): 641, 643 (citing Bonnie, R.J., Stroud, C., and Breiner, H., (Eds). (January 2015). *Investing in the Health and Well-Being of Young Adults*. Washington DC: National Academies Press).
- <sup>13</sup> *Ibid.*; Laub, J.H. and Sampson, R.J. (2020). "Life Course and Developmental Criminology: Looking Back, Moving Forward – ASC Division of Developmental and Life-Course Criminology Inaugural David P. Farrington Lecture, 2017." *Journal of Developmental and Life-Course Criminology*, 6(2): 158-171. Available at <https://doi.org/10.1007/s40865-019-00110-x>.
- <sup>14</sup> Scott et al., *supra* note 12.
- <sup>15</sup> See Steinberg, L. (2014.) *Age of Opportunity: Lessons from the New Science of Adolescence*. New York: Houghton Mifflin Harcourt Trade & Reference Publishers.
- <sup>16</sup> Sampson, R.J., and Laub, J.H. (1993). *Crime in the Making: Pathways and Turning Points Through Life*. Cambridge: Harvard University Press.
- <sup>17</sup> Uggen, C., and Blahnik, L. (2016). "The Increasing Stickiness of Public Labels." Pages 222-43 in *Global Perspectives on Desistance*, edited by Joanna Shapland, Stephen Farrall, and Anthony Bottoms. London: Routledge; Uggen, C., and Stewart, R. (2015). "Piling On: Collateral Consequences and Community Supervision." *Minnesota Law Review* 99: 1871–1910. Available at [https://www.minnesotalawreview.org/wp-content/uploads/2015/09/Uggen\\_4fnt\\_PDF.pdf](https://www.minnesotalawreview.org/wp-content/uploads/2015/09/Uggen_4fnt_PDF.pdf).
- <sup>18</sup> Bobo, L.D., and Thompson, V. (2006). "Unfair by Design: The war on drugs, race, and the legitimacy of the criminal justice system." *Social Research: An International Quarterly* 73(2): 445–471.
- <sup>19</sup> Uggen and Stewart, *supra* note 17; Western, B. (2018). *Homeward: Life in the Year After Prison*. New York: Russell Sage Foundation.
- <sup>20</sup> Data source: Carson, E.A. (October 2020). "Prisoners in 2019." Bureau of Justice Statistics, NCJ 255115. Available at <https://www.bjs.gov/content/pub/pdf/p19.pdf>.
- <sup>21</sup> *Ibid.*
- <sup>22</sup> *Ibid.*
- <sup>23</sup> See, e.g., Thompson, H.A. (2019). "The racial history of criminal justice in America." *Du Bois Review*, 16(1): 221-241; Stevenson, B. (2019). "Slavery gave America a fear of black people and a taste for violent punishment. Both still define our criminal-justice system." *The New York Times Magazine - The 1619 Project*: 80–81. Available at <https://nyti.ms/2SPnPNF>.
- <sup>24</sup> Alexander, M. (2010). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York, Jackson (TN): New Press.
- <sup>25</sup> For one poignant example of the complicated history of mass incarceration policy, see Forman, J. (2017). *Locking Up Our Own: Crime and Punishment in Black America*. New York: Farrar, Straus and Giroux.
- <sup>26</sup> Feld, B.C. (1991). "Justice by Geography: Urban, Suburban, and Rural Variations in Juvenile Justice Administration." *The Journal of Criminal Law and Criminology* 82(1): 156–210.
- <sup>27</sup> Jones, N. (2019). *The Long Shadow: Considering How Racism Shapes Justice System Inequality and Efforts to Disrupt it*. New York: William T. Grant Foundation. Available at <http://wtgrantfoundation.org/digest/the-long-shadow-considering-how-racism-shapes-justice-system-inequality-and-efforts-to-disrupt-it>. Compare Laub, J. (2014). *Understanding Inequality and the Justice System Response: Charting a New Way Forward*. New York: William T. Grant Foundation. Available at <https://wtgrantfoundation.org/library/uploads/2015/09/Inequality-and-the-Justice-System-Response-Charting-a-New-Way-Forward.pdf>.
- <sup>28</sup> According to the most recent available estimates from the Department of Justice. Schiraldi et al., *supra* note 5, at

7. (citing Bonczar, T.P. (1997). "Characteristics of Adults on Probation, 1995." *Special Report*. Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics. NCJ 164267; and Maruschak, L.M., and Bonczar T.P. (Dec. 2013). "Probation and Parole in the United States, 2012." *Bulletin*. Washington, D.C.: U.S. Department of Justice. NCJ 243826).

<sup>29</sup> Pew Center on the States (March 2009). *One in 31: The Long Reach of American Corrections*. Washington, DC: The Pew Charitable Trusts. Available at [https://www.pewtrusts.org/-/media/assets/2009/03/02/pspp\\_1in31\\_report\\_final\\_web\\_32609.pdf](https://www.pewtrusts.org/-/media/assets/2009/03/02/pspp_1in31_report_final_web_32609.pdf).

<sup>30</sup> Livingstone, I., Amad, S., and Clark, L. (August 2015). *Effective Approaches with Young Adults: A Guide for Probation Services*. London: Transition to Adulthood and Clinks 11. Available at <https://www.issuelab.org/resources/26981/26981.pdf>.

<sup>31</sup> *Ibid.*

<sup>32</sup> Uggen, C. (2000). "Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism." *American Sociological Review* 65(4):529-546.

<sup>33</sup> Baldwin, M., Chablani-Medley, A., Marques, L., Schiraldi, V., Valentine, S., and Zeira, Y. (April 24, 2018). "Cognitive Behavioral Theory, Young Adults, and Community Corrections: Pathways for Innovation." *Executive Session on Community Corrections, Program in Criminal Justice Policy and Management, Harvard Kennedy School, Harvard University*, 2. Available at [https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/cbt\\_young\\_adults.pdf](https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/cbt_young_adults.pdf).

<sup>34</sup> Hughes, N., & Strong, G. (2016). "Implementing the evidence on young adult neuromaturation: the development of a specialist approach in probation services." *Probation Journal*, 63(4): 452-459.

<sup>35</sup> See, e.g., Braude, J.M. (1948). "Boys' Court: Individualized Justice for the Youthful Offender." *Federal Probation* 12:9-12 (describing "supervision"). For a recent survey of emerging adult probation, see Hayek, C. (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.

<sup>36</sup> Baldwin, M. and Zeria, Y. (2017). "From Evidence-Based Practices to a Comprehensive Intervention Model for High-Risk Young Men: The Story of Roca." *New Thinking in Community Corrections Bulletin*, Washington D.C.: U.S. Department of Justice, National Institute of Justice, NCJ 250143. Available at <https://www.ojp.gov/pdffiles1/nij/250143.pdf>; Loeber, R., Farrington, D.P., and Petechuk, D. (2013). "Bulletin 1: From Juvenile Delinquency to Young

Adult Offending." *Series: Study Group on the Transitions between Juvenile Delinquency and Adult Crime*, Washington D.C.: U.S. Department of Justice, National Institute of Justice, NCJ 242931.

<sup>37</sup> Several comprehensive publications on juvenile probation have recently been released by national organizations. For example, see Harvell, S., Love, H., Pelletier, E., & Warnberg, C. (2018). "Bridging Research and Practice in Juvenile Probation: Rethinking Strategies to Promote Long-Term Change." The Urban Institute. Available at <https://www.urban.org/research/publication/bridging-research-and-practice-juvenile-probation>; The Annie E. Casey Foundation. (2018). "Transforming Juvenile Probation: A Vision for Getting it Right." Available at <https://files.eric.ed.gov/fulltext/ED585997.pdf>. This report refers to these (and other) resources on juvenile probation, which are primarily written with youth under 18 in mind, because they, for the most part, apply to emerging adults. Where necessary, this report makes accommodations to account for emerging adult development. Where possible, this report relies on research and practice that specifically applies to youth between the ages of 18 and 25.

<sup>38</sup> The upper age of juvenile court jurisdiction in Texas is the 17th birthday, at which point adult criminal jurisdiction begins. Texas Fam. Code § 51.02(2)(B).

<sup>39</sup> May, T. and Dean, W. (2020a). "Strategic Plan: Harris County Community Supervision and Corrections Department." Program Overview FY2020-2021, Houston, TX: Texas Department of Criminal Justice. In 2017, "Peers" and "Attitudes" were identified by the Council of State Governments as domains in which risk for 17- to 25-year-olds was significantly higher (compared to criminal history, education/employment, family support, neighborhood, and substance use). May, T. and Dean, W. (2020b). "Presentation on Specialized Caseloads, Programming, Services, and Community Partnerships for Young Adults." Houston, TX: Texas Department of Criminal Justice.

<sup>40</sup> See May and Dean (2020a), *supra* note 39.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> Editorial Board (January 22, 2019). "In the Merrimack Valley, a vital experiment in criminal justice reform" *The Boston Globe*. Available at <https://www.bostonglobe.com/opinion/editorials/2019/01/22/opinion-editorial-merrimack-valley-vital-experiment-criminal-justice-reform/TkT8G0AFortEQB4HuznlzM/story.html>. Based on probation's administration of the Ohio Risk Assessment System (ORAS), UTEC receives referrals of all emerging adults deemed high risk.

<sup>45</sup> *Ibid.*

<sup>46</sup> See Massachusetts Probation Service. (March 7, 2017). “Roxbury Probation Officer and Judge are recognized by legislator for their work with CHOICE.” Massachusetts Court System, March 7. Available at <https://www.mass.gov/news/roxbury-probation-officer-and-judge-are-recognized-by-legislator-for-their-work-with-choice>.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

<sup>50</sup> At the time of its creation, New York law stated that the upper age limit of juvenile jurisdiction was the 16th birthday. See S.B. 2009C, 239th Leg., Budget Bill, at Part WWW (N.Y. 2017) for New York law raising the age of juvenile jurisdiction, passed in 2017. N.Y.C. Probation. “Anyone Can Excel – The ACE Model.” Available at <https://www1.nyc.gov/site/probation/services/ace.page>. The ACE Model was preceded by the Young Men’s Initiative, which launched in 2011 to offer developmentally appropriate programming in addition to regular adult probation to emerging adults in New York City. See also N.Y.C. Young Men’s Initiative. Available at <https://www1.nyc.gov/site/yymi/index.page>. When this initiative began, the age of majority in New York was 16.

<sup>51</sup> See N.Y.C. Probation, *supra* note 50; see also section on “Positive Youth Development” below.

<sup>52</sup> See N.Y.C. Probation, *supra* note 50.

<sup>53</sup> See N.Y.C. Probation, *supra* note 50.

<sup>54</sup> See N.Y.C. Probation, *supra* note 50.

<sup>55</sup> As communicated by electronic mail from Lily Shapiro, Senior Policy Advisor to Ana M. Bermúdez, Commissioner of the New York City Department of Probation, on June 3, 2019.

<sup>56</sup> *Ibid.* Overall, the N.Y.C. Department of Probation files violations at a rate that is nearly half of the rest of state, and technical violations at a rate of more than 14 times less than the rest of state. Data presented represents Calendar Year 2017 and is sourced from the New York State Division of Criminal Justice Services. (March 27, 2018). Integrated Probation Registrant System (IPRS), Office of Probation and Correctional Alternatives.

<sup>57</sup> See N.Y.C. Probation. “Arches.” Available at <https://www1.nyc.gov/site/probation/services/arches.page>.

<sup>58</sup> As communicated by electronic mail from Lily Shapiro, Senior Policy Advisor to Ana M. Bermúdez, Commissioner of the New York City Department of Probation, on June 3,

2019.

<sup>59</sup> Baldwin, M. and Zeria, Y. (2016). *Pioneers in Young Adult Justice: 10 Initiatives and Programs Improving Criminal Justice for Young Adults*. Roca, Inc.: Massachusetts. Available at <https://rocainc.org/wp-content/uploads/2017/01/Pioneers-in-Young-Adult-Justice-Roca.pdf>; Miller, K.W. (2016). “Changing the Life Trajectory of Justice-Involved Young Adults in San Francisco.” *Program in Criminal Justice Policy and Management, Harvard Kennedy School, Harvard University*. Available at <https://www.hks.harvard.edu/centers/wiener/programs/criminaljustice/research-publications/young-adult-justice/developments-in-young-adult-justice/changing-the-life-trajectory-of-justice-involved-young-adults-in-san-francisco>; see also City and County of San Francisco (May 7, 2020). “Specialized Service Division: Transitional Aged Youth (TAY).” Adult Probation Department, Intensive Supervision Services. Available at <https://sfgov.org/adultprobation/ab109taysourealignment-community-services-division#TAY>.

<sup>60</sup> Miller *supra* note 59.

<sup>61</sup> Schiraldi et al., *supra* note 5, at 11.

<sup>62</sup> Schiraldi et al., *supra* note 5, at 11; see also sections below on goal-based programming and “Positive Youth Development.”

<sup>63</sup> Schiraldi et al., *supra* note 5, at 11.

<sup>64</sup> Miller *supra* note 59.

<sup>65</sup> It is important to note that no complete consensus regarding best practices has been drawn. This list is an overview of the key elements that are suggested by research and experience.

<sup>66</sup> In a recent report, Annie E. Casey Foundation provides the following example of a Theory of Change for youth probation: “Transform juvenile probation into a purposeful intervention targeted to youth who pose significant risk for serious reoffending. Partner with families and communities to promote personal growth, positive behavior and long-term success (as opposed to surveillance and compliance), as a means to protect public safety – and do so in ways that promote racial and ethnic equity.” See the Annie E. Casey Foundation, *supra* note 37, at 5.

<sup>67</sup> This means that staff need training in both the science of adolescent development and how to use a Positive Youth Development approach (see “Positive Youth Development” section below) in their work.

<sup>68</sup> Cuddy, J., Smith, D., and Linder, L. (August 2018). “Young Adults and Community Supervision: The Need for a Developmentally Appropriate Approach to Probation.” *One Size Fits All Report Series, Texas Criminal Justice Coalition*: 9-12. Available at <https://www.texasjc.org/>



system/files/publications/Young%20Adults%20and%20Community%20Supervision%20Report.pdf.

<sup>69</sup> For example, see section on New York's Neighborhood Opportunity Network (NeON). McGarry, P., Yaroni, A., and Addie, S. (January 2014). "Adult Probation and Neighborhood Opportunity Network Initiative." *Innovations in NYC Health and Human Services Policy*, Vera Institute of Justice. Available at <https://www1.nyc.gov/assets/opportunity/pdf/policybriefs/neon-policy-brief.pdf>. ("NeON sites look quite different from the typical centralized probation office. They have a more welcoming layout, a resource hub with information about benefits and services for which individuals (both probationers and non-probationers) may be eligible, and space where community-based organizations can meet with probation clients.").

<sup>70</sup> See The Annie E. Casey Foundation, *supra* note 37, at 16.

<sup>71</sup> For an example of a community probation model that incorporates a curriculum delivered by mentors with backgrounds similar to those of the mentees, also known as "credible messengers," see New York City's Arches Transformative Mentoring Program. NYC Mayor's Office for Economic Opportunity. "Findings at a Glance: Evaluation of Arches Transformative Mentoring Program." Available at [https://cmjcenter.org/documents/arches\\_findings\\_at\\_a\\_glance.pdf](https://cmjcenter.org/documents/arches_findings_at_a_glance.pdf); for the full report, see Lynch, M., Astone, N.M., Collazos, J., Lipman, M., and Esthappan, S. (February 2018). "Arches Transformative Mentoring Program: An Implementation and Impact Evaluation in New York City." New York: The Urban Institute. Available at [https://www.urban.org/sites/default/files/publication/96601/arches\\_transformative\\_mentoring\\_program\\_0.pdf](https://www.urban.org/sites/default/files/publication/96601/arches_transformative_mentoring_program_0.pdf).

<sup>72</sup> Wilson, H. A., & Hoge, R. D. (2013). "The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review." *Criminal Justice and Behavior* 40(5): 497-518.

<sup>73</sup> See The Annie E. Casey Foundation, *supra* note 37, at 13: "Probation should have no role in administering diversion or overseeing the cases of diverted youth."

<sup>74</sup> See The Annie E. Casey Foundation, *supra* note 37, at 15, recommending 8-12 youth per officer; see also "Forge Community Partnerships" section above.

<sup>75</sup> See The Annie E. Casey Foundation, *supra* note 37, at 18, suggesting 6-9 months as the appropriate period of probation for youth); see also Muhammad, D. (February 28, 2019). "To Build a Positive Youth Justice System, Follow These Three Steps." *The Imprint*. The Imprint. Available at <https://imprintnews.org/opinion/to-build-a-positive-youth-justice-system-follow-these-three-steps/33900> (recommending capping juvenile probation at 10 months for youth without new arrests); see also Executive Session on Community Corrections. (2017).

"Toward an Approach to Community Corrections for the 21st Century: Consensus Document of the Executive Session on Community Corrections." *Program in Criminal Justice Policy and Management*, Harvard Kennedy School, Harvard University, 4. Available at [https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/Consensus\\_Final2.pdf](https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/Consensus_Final2.pdf) (recommending a maximum of 1-2 years of supervision for adults who require it).

<sup>76</sup> Fair and Just Prosecution (2019). "Young Adults in the Justice System," *Issues at a Glance*, 13. Available at [https://fairandjustprosecution.org/wp-content/uploads/2019/01/FJP\\_Brief\\_YoungAdults.pdf](https://fairandjustprosecution.org/wp-content/uploads/2019/01/FJP_Brief_YoungAdults.pdf).

<sup>77</sup> Hughes, and Strong *supra* note 34 at 452, 454. ("levels of maturity continue to vary greatly between individuals during young adulthood")(internal citation omitted). For a more detailed template for incorporating level of maturity into case planning, see Transition to Adulthood. (2013). "Taking Account of Maturity: A Guide for Probation Practitioners." University of Birmingham: Transition to Adulthood. Available at [https://www.t2a.org.uk/wp-content/uploads/2013/07/T2A-Maturity-Guide\\_online.pdf](https://www.t2a.org.uk/wp-content/uploads/2013/07/T2A-Maturity-Guide_online.pdf).

<sup>78</sup> See Livingstone et al., *supra* note 30.

<sup>79</sup> See Hughes and Strong, *supra* note 34.

<sup>80</sup> Sheidow, A. J., McCart, M. R., and Davis, M. (2016). "Multisystemic Therapy for Emerging Adults with Serious Mental Illness and Justice Involvement." *Cognitive and Behavioral Practice* 23:356, 359, 366.

<sup>81</sup> See Livingstone et al., *supra* note 30.

<sup>82</sup> For a full description of the risk-needs-responsivity model, see Bonta, J. and Andrews, D.A. (2007). "Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation, 2007-06." Public Safety Canada, Government of Canada. Available at <http://www.courtinnovation.org/sites/default/files/documents/RNRModelForOffenderAssessmentAndRehabilitation.pdf>. Bonta and Andrews state that the foundation of the R-N-R Model focuses on "match[ing] the level of service to the offender's risk to re-offend... [a]ssess[ing] criminogenic needs and target[ing] them in treatment... [and m]aximizing the offender's ability to learn from a rehabilitative intervention by providing cognitive behavioral [sic] treatment and tailoring the intervention to the learning style, motivation, abilities and strengths of the offender" (1). For more on this model and the importance of both fidelity to the model in implementation and proper "dosage," see Carter, M. and Sankovitz, R. (January 2014). *Dosage Probation: Rethinking the Structure of Probation Sentences*. Silver Spring: Center for Effective Public Policy, National Institute of Corrections. Available at <https://s3.amazonaws.com/static.nicic.gov/Library/027940.pdf>.

<sup>83</sup> See The Annie E. Casey Foundation, *supra* note 37.

<sup>84</sup> *But see* Shrink Caseloads and Case Lengths section above.

<sup>85</sup> Zajac, K., Sheidow, A. J., and Davis, M. (2015). “Juvenile Justice, Mental Health, and the Transition to Adulthood: A Review of Service System Involvement and Unmet Needs in the U.S.” *Children and Youth Services Review* 56:139.

<sup>86</sup> Davis, M., Sheidow, A. J., McCart, M. R., and Perrault, R. T. (2018). “Vocational Coaches for Justice-Involved Emerging Adults.” *Psychiatric Rehabilitation Journal* 41(4):266(internal citations omitted).

<sup>87</sup> See Schiraldi et al., *supra* note 5, at 8 (citing Chung, H.L., Little, M., and Steinberg, L. (2005). “The transition to adulthood for adolescents in the juvenile justice system: A development perspective.” In Osgood, D.W., Foster, M., and Flanagan, C. (Eds.), *On Your Own Without a Net: The Transition to Adulthood for Vulnerable Populations* (pp. 68-91). Chicago, IL: University of Chicago Press.). Other analyses similarly show that success in emerging adulthood requires development of one’s sense of agency, integration of identity, and development of competencies such as critical thinking and the ability to collaborate. See also Nagaoka, J., Farrington, C.A., Ehrlich, S.B., and Heath, R.D. (June 2015). “Foundations for Young Adult Success: A Developmental Framework.” The University of Chicago Consortium on Chicago School Research, The University of Chicago. Available at <https://www.wallacefoundation.org/knowledge-center/Documents/Foundations-for-Young-Adult-Success.pdf>.

<sup>88</sup> See The Annie E. Casey Foundation, *supra* note 37, at 16.

<sup>89</sup> See McGarry et al., *supra* note 69, at 6: “Evidence shows that incentives are a better motivator of behavior change than punishments or threats of punishment, and early discharge is a powerful incentive.” (internal citations omitted); see also National Institute of Corrections. (2013). “Get Smart About . . . Rewards and Sanctions: The Facts about Contingency Management.” Available at <https://nicic.gov/get-smart-about-rewards-and-sanctions-facts-about-contingency-management>.

<sup>90</sup> See The Annie E. Casey Foundation, *supra* note 37, at 4.

<sup>91</sup> Butts, J., Mayer, S., and Ruth, G. (2005). “Issue Brief: Focusing Juvenile Justice on Positive Youth Development.” Chapin Hall Center for Children, University of Chicago; see also Harvell et al., *supra* note 37; see also Barton, W. and Butts, J. (2008). “Building on Strength: Positive Youth Development in Juvenile Justice Programs.” Chapin Hall Center for Children, University of Chicago; see also youth.gov. (2020). “Positive Youth Development.” Interagency Working Group on Youth Programs. Available at <https://youth.gov/youth-topics/positive-youth-development>; see also Butts, J., Vazemore, G., and Meroe, A.S. (2010). “Positive Youth Justice: Framing Justice Interventions

Using the Concepts of Positive Youth Development.” *Coalition for Juvenile Justice* 11, NCJ 240186. (“Youth justice agencies traditionally focus their treatment efforts on the problems and deficits that affect justice-involved youth, including drug use, mental health problems, violence, and anger. Positive youth development on the other hand, focuses on protective factors and building new social assets for youth. It is a general model for crime prevention and reduction that calls for a broad range of services, supports, and opportunities. In a PYD model, development is the goal. Other treatments may be needed, but they are used on a prescriptive basis rather than on a programmatic basis.”).

<sup>92</sup> See Butts et al. (2005), *supra* note 91, at 1.

<sup>93</sup> See Sheidow et al., *supra* note 80, at 358.

<sup>94</sup> See Butts et al. (2005), *supra* note 91, at 5.

<sup>95</sup> See Fair and Just Prosecution, *supra* note 76, at 13. (“Recognize that ‘failure’ is an expected step, and zero-tolerance policies are counterproductive. Young adults—particularly justice system-involved young adults—can be expected to resist authority for reasons related to both their brain development and their histories of trauma and victimization.”).

<sup>96</sup> See Baldwin et al., *supra* note 33, at 3 (citing Baldwin and Zeira, *supra* note 36).

<sup>97</sup> See Siringil Perker, S. and Chester L. (2021). “The Justice System and Young Adults with Substance Use Disorders.” *Pediatrics* 147(S2):S249. DOI: <https://doi.org/10.1542/peds.2020-023523H>.

<sup>98</sup> Davis, M. (2017). “Behavioral Health for Young Adults: Considerations for Justice Settings.” Presentation to the *Emerging Adult Justice Learning Community (EAJLC): Community-based Services, Opportunities and Supports, Program in Criminal Justice Policy and Management*. Harvard Kennedy School, Cambridge, MA. (citing Institute of Medicine, 2015).

<sup>99</sup> Zajac et al., *supra* note 85, at 140.

<sup>100</sup> See The Pew Charitable Trusts. (2019). “To Safely Cut Incarceration, States Rethink Responses to Supervision Violations.” Available at <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/07/to-safely-cut-incarceration-states-rethink-responses-to-supervision-violations>

<sup>101</sup> As of this writing, more than 150 of the United States’ leading prosecutors and probation and parole commissioners have signed onto a statement issued by EXiT, Executives Transforming Probation and Parole, which demands that jurisdictions “Eliminate incarceration for technical violations, and reduce reincarceration for low-

level new offenses by those under supervision.” EXiT: Executives Transforming Probation and Parole. (2019). “Statement on the Future of Probation & Parole in the United States.” New York: Columbia Justice Lab. Available at [https://static1.squarespace.com/static/5d2cd5943236f70001aeee14/t/5d542707f7644e00019a38d4/1565796110837/EXiT\\_Statement.pdf](https://static1.squarespace.com/static/5d2cd5943236f70001aeee14/t/5d542707f7644e00019a38d4/1565796110837/EXiT_Statement.pdf).

<sup>102</sup> See also Executive Session on Community Corrections, *supra* note 75, at 3.

<sup>103</sup> Phelps, Michelle S. (2018). “Mass Probation and Inequality: Race, Class, and Gender Disparities in Supervision Revocation.” In Ulmer, J.T. and Bradley, M.S. (Eds.) *Handbook on Punishment Decisions: Locations of Disparity* (pp. 43-66). New York: Routledge. (citing Lerman, A.E. and Weaver, V.M. (2014). *Arresting Citizenship: The Democratic Consequences of American Crime Control*. Chicago: The University of Chicago Press: “Lerman and Weaver (2014) find that fully 46% of young (24 to 32 years old) black men without a high school degree report having been on probation at some point in the past.” (47)). See also Eaglin, J. and Solomon, D. (2015). “Reducing Racial and Ethnic Disparities in Jails: Recommendations for Local Practice.” New York, NY: Brennan Center for Justice. Available at <https://www.brennancenter.org/our-work/policy-solutions/reducing-racial-and-ethnic-disparities-jails> (finding African American and Hispanic people to remain on probation longer than similarly situated white probationers (7)); See also, Smith, H., Rodriguez, N., and Zatz, M. (2009). “Race, Ethnicity, Class, and Noncompliance with Juvenile Court Supervision.” *Annals of the American Academy of Political and Social Science* 623:108 (showing Black-white disparities in incarceration are highest among the 18-19 and 20-24 age cohorts); See also Carson, E.A. and Golinelli, D. (December 2013) “Prisoners in 2012: Trends in Admissions and Releases, 1991-2012.” Washington, DC: Bureau of Justice Statistics. NCJ 243920. (25). Available at <https://www.bjs.gov/content/pub/pdf/p12tar9112.pdf>.

<sup>104</sup> See Phelps, *supra* note 103.

<sup>105</sup> Jannetta, J., Breaux, J., Ho, H., and Porter, J. (2014). “Examining Racial and Ethnic Disparities in Probation Revocation.” Washington, D.C.: Urban Institute. Available at <https://www.urban.org/sites/default/files/publication/22746/413174-Examining-Racial-and-Ethnic-Disparities-in-Probation-Revocation.PDF>.

<sup>106</sup> See McGarry et al., *supra* note 69; see also NYC Department of Probation. (2018). *Evaluation of the Neighborhood Opportunity Network (NeON) Arts Program*. Available at <https://www1.nyc.gov/assets/probation/pdf/press/neon-arts-evaluation-report-december-2018.pdf>. New York City launched NeONs simultaneously with Mayor Bloomberg’s Young Men’s Initiative; see also N.Y.C. Young Men’s Initiative, *supra* note 50.

<sup>107</sup> See McGarry et al., *supra* note 69, at 9.

<sup>108</sup> See Lynch et al., *supra* note 71, at 6.



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## **Emerging Adult Justice Learning Community**

The Emerging Adult Justice Learning Community is a carefully organized collaborative learning environment that brings together researchers, practitioners, policymakers, and advocates twice a year over a three-year period in order to create more developmentally appropriate, effective and fairer criminal justice responses for youths ages 18 – 25. Participants of the Learning Community are all engaged in some aspect of this work in their professional pursuits.

Despite the fact that emerging adults experience some of the worst criminal justice outcomes in our justice system, little attention has been paid to the research that would support new and improved justice system responses. The Learning Community's goals are to provide researchers and policymakers access to one another in order to increase learning, practice and policy innovations by translating academic research into effective policies and developing opportunities to research burgeoning practices that contribute to a more equitable treatment of this population.