

**Written testimony of Lael Chester and Vincent Schiraldi regarding
Legislation to gradually raise the upper age of juvenile jurisdiction for
misdemeanor cases (H.B. 111/133)**

Judiciary – Criminal Committee
Illinois General Assembly
March 16, 2021

Dear Chairperson Slaughter, Vice-Chairperson Cassidy and Members of the Judiciary – Criminal Committee,

We are pleased to have the opportunity to submit this written testimony to share relevant research on emerging adult justice which we hope will be useful as you consider H.B. 111/133, that propose to gradually increase the upper age of the juvenile justice system for youth prosecuted for misdemeanor offenses. We lead the Emerging Adult Justice Project at Columbia University's Justice Lab: Lael Chester is the Director of Emerging Adult Justice Project and Vincent Schiraldi is a Senior Research Scientist and the Co-director of the Justice Lab. We have worked in the field and studied this particular issue for many years, including working as, respectively, Research Fellow and Senior Research Fellow at the Harvard Kennedy School Program in Criminal Justice Policy and Management. Vincent Schiraldi has also led two justice agencies, appointed as Director of the Department of Youth Rehabilitation Services in Washington D.C. and Commissioner of Probation for New York City, while Lael Chester has worked for the Massachusetts Attorney General's Office, served as Executive Director of Citizens for Juvenile Justice, and has been the primary author of two reports on raising the age of youth justice under contracts with government agencies in Connecticut and Vermont.¹ Over the last three years, Schiraldi and Chester have formed and led an Emerging Adult Justice Learning Community with leading researchers, policymakers, and practitioners from around the country, examining policies and practices relevant to emerging adults in the criminal justice system. The Justice Lab has become a national leader in this burgeoning field, and we have published a number of research papers, policy and issue briefs, including an Issue Brief specifically on emerging adult justice in Illinois.²

¹ More detailed biographies can be found at <https://www.eajustice.org/our-team>.

² Selen Siringil Perker, Lael E. H. Chester and Vincent Schiraldi, *Emerging Adult Justice in Illinois: Towards an Age-Appropriate Approach*, January 2019, Columbia University Justice Lab

In this written testimony, we will share with you a summary of the research showing:

- the potential to increase public safety by applying more effective, developmentally appropriate responses, services and opportunities to this distinct age group;
- the benefits inherent in the juvenile justice system to hold youth up to age 21 accountable in a manner that will allow them to reach developmental milestones critical to desistance of crime and to transition into healthy, law-abiding adults; and
- the important policy implications that we have learned through our work.

First, a very brief bit of history: when America's juvenile courts were established in the late 1800's and early 1900's, their founders had very little data and research on which they could rely to set the age of juvenile jurisdiction. Instead of an evidence-based approach, they turned to the customs of the times, picking ages ranging from 16 to 18 to delimit the nascent juvenile courts.

After a wave of existential attacks on juvenile courts for appearing "soft" in its approach to youth in the 1980s and 1990s, robust research activity in developmental psychology and neurobiology emerged to study the differences between youth and adults, confirming that differential treatment between youth and adults in the justice system was indeed warranted. What these researchers found not only verified that the fundamental difference between juveniles and adults strongly affirmed the need for and benefit of separate treatment of juveniles in the justice system, but that there was no "magic birthday," no hard line between adolescence and fully-mature adulthood. The brains of young people continue developing into their mid-20s, much later than previously thought. Adolescence marks the human brain's last major period of what's known as plasticity – or pliability and susceptibility to modification – rendering adolescence, as psychologist Laurence Steinberg has dubbed it, "an Age of Opportunity."

This research has led to a national trend for states that currently set the age of adult jurisdiction at 16 or 17 to raise it to 18 and to the U.S. Supreme Court

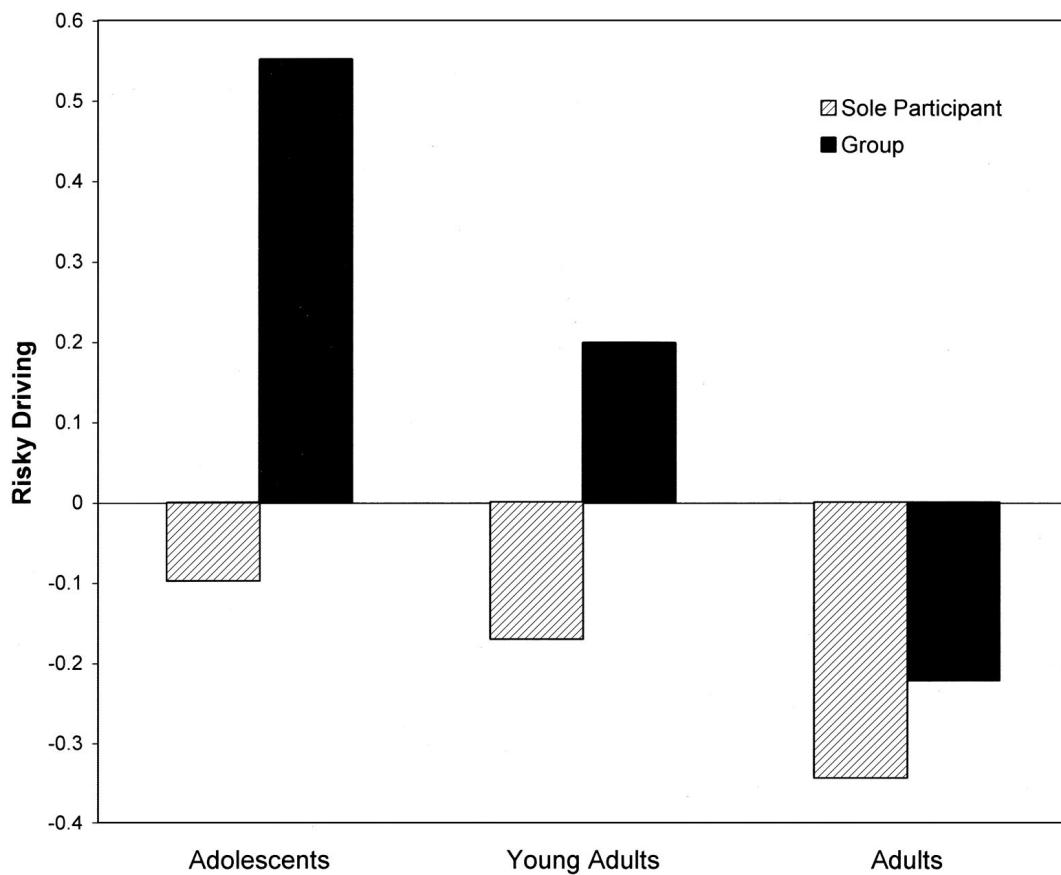
(<https://doi.org/10.7916/d8-fpvw-1t32>). Our other research publications can be found on the online library at the Emerging Adult Justice Project's website:
<https://www.eajustice.org/emerging-adult-justice-library>.

abolishing the death penalty and severely curbing sentences of life without the possibility of parole for youth under age 18. Today, only three states set the age below 18, and these remaining states are actively considering raising the age to 18.

But this research has also shown that there is another, older age group, **emerging adults (ages 18 – 25)**, who share many of the same developmental features with juveniles that are particularly relevant to crime and punishment: both juveniles and emerging adults are more volatile in emotionally charged settings; more susceptible to peer influence; greater risk-takers; and less future-oriented than older, more mature adults. This is especially true for young people who have suffered a traumatic brain injury, a condition that some estimate affects around half of young adults in jails, which often has resulted from childhood abuse.

There is a lot of research in this area – too much to summarize here – but we will provide you one example from the research of the impact of peers on risk-taking for juveniles and young adults. In 2005, researchers Gardner and Steinberg studied three age groups on a simulated driving test – adolescents ages 13-16, young adults ages 18-22, and older adults over age 24, averaging age 37. They tested subjects in each age group on a driving video game with small financial incentives to finish more quickly, losing points for accidents and driving infractions. The subjects in the three age groups were tested in subgroups by themselves or with a group of peers who could give “advice” during the game.

The researchers found that, overall, older subjects took fewer risks than young adults, who in turn took fewer risks than adolescents. They also found that the presence of peers affected adolescents and young adults far more than it affected older adults. So younger people, including young adults, were greater risk-takers generally, and particularly in the presence of peers, than fully mature adults. The chart below illustrates how juveniles were the greatest risk-takers and the most peer-influenced, followed by young adults, followed by fully mature adults.



Again, these findings should come as no surprise. This is why it is very difficult to rent a car until you're over age 24, why auto insurance is much more expensive for people under age 25, and why many states don't allow youth below certain ages to drive with peers.

Sociocultural beliefs about adulthood, in addition to neurobiological evidence, support the inclusion of emerging adults in juvenile justice. The transition from childhood to adulthood has changed dramatically over the last generation or two, not to mention since the first juvenile court was created in 1899. Crossing certain key developmental bridges that are associated with maturing out of criminal behavior – most significantly obtaining gainful employment and entering into a stable marriage – are coming later and later for today's young people. Changes in other realms of social life, such as raising the age children can be on their parents' health insurance to 26, acknowledge this extension of adolescence.

Again, the research in this area is voluminous, but one or two examples will suffice. In 1960, 45% of those age 18-24 were married; in 2010, only 9% of young adults were married and those at most risk for crime, namely, poorly

educated minority men, are least likely to be married. Advanced degrees are increasingly important to obtaining steady employment, which is vital to desisting from criminal behavior. While disturbing, it should come as no surprise then that 68% of Black males who don't complete high school go to prison at some point in their lives, compared to 21.4% of those who graduate from high school and only 6.6% of those with a college education.

In summary, the once "normal" pattern of 50-60 years ago for an 18- or 19-year-old – finishing high school, obtaining a steady job, getting married, and moving out of his or her parents' home – has been turned on its ear and is now extended, sometimes over a decade or more. The extension of adolescence, then, stretches the time of highest risk for committing crimes – particularly for young males who haven't completed high school – several years beyond what it once was and during a time of their development when they are more present-oriented and more likely to be influenced by their peers.

This kind of research and data has policymakers throughout the country and internationally experimenting with special approaches to dealing with emerging adults. Four out of five European countries have special laws or treatment for emerging adults, and treaties and advisories of the United Nations, European Union, and Council of Europe have all recommend that the benefits of the juvenile justice system be extended to emerging adults.

Germany and the Netherlands – both of which we have toured and studied – have gone the farthest of all the European countries in this area. The Netherlands raised the age of their family court all the way to 23 starting in April 2014. In Germany, the age of juvenile court has been 21 since World War II. With so many men killed in the war, German officials recognized problematic patterns among teenage males growing to maturity without the stabilizing influence of their fathers, something that is hardly foreign to our current situation, where many young men are raised in single households, often because their own fathers are incarcerated. Because of the horrific recent experience with institutionalization vis-a-vis the Holocaust, German officials did not gravitate towards locking up their misbehaving teenagers. Instead, since 1955, young Germans up to age 21 are tried in juvenile court and housed in separate facilities. Courts are able to sentence youth ages 18-21 to adult court if they feel that the youth's maturity warrants it, but two-thirds of those ages 18-21 are retained in the juvenile system. Ninety percent of those accused of homicides are retained in their juvenile system both because German judges believe that the mandatory punishments in their adult system are too harsh for young adults

and because the juvenile system has greater resources to deal with youth who have committed more serious offenses and who are viewed as in need of greater rehabilitative resources.

Ironically, the U.S. is responsible for much of the best research regarding this population, but there has been more policy innovation in Europe. Recently, U.S. states and localities have been taking steps to catch up. In May 2018, Vermont became the first state to enact a law that raises the age of juvenile jurisdiction beyond a youth's 18th birthday. The new law gradually raises the age of Vermont's juvenile court jurisdiction to a youth's 20th birthday by 2022. The Justice Lab assisted the State in developing a plan for successful implementation.³ Other states appear to be following suit, with similar bills having been filed in Massachusetts, California, Connecticut, Colorado, Washington and Nebraska.

While we do not have research yet on the impact of extending juvenile court jurisdiction to emerging adults in America, we do have research about the next closest population – youth tried in adult courts – and this evidence provides reason for optimism. The Centers for Disease Control did a meta-analysis in 2007 that showed that trying youth in adult courts is associated with higher, not lower, levels of recidivism compared to matched youths who remain in juvenile court.

For example, in a federally-funded study in Florida, researchers were able to carefully match a young person in one county who was retained in juvenile court to a very similar youth in another county who was tried in adult court, and then observe the recidivism outcomes. Using sophisticated statistical techniques, the researchers matched 315 pairs of youth, or a total of 630 youth, on a variety of relevant factors like current and prior offense severity and frequency, age of onset of delinquency, etc. The study showed that youth transferred to adult criminal courts were more likely to commit a felony in the years following their

³ Karen Vastine, Lael Chester, Maya Sussman, Naoka Carey, and Vincent Schiraldi, Report on Act 201 Implementation Plan Report & Recommendations, November 1, 2019, https://static1.squarespace.com/static/5c6458c07788975dfd586d90/t/5dd2ebfce2b1425d33ae1ef1/1574104062934/Vermont-RTA-DCF-Report-Final_EAJP.pdf VT

first arrest, and when they did, they committed more serious crimes than matched youth who were originally retained in juvenile court.⁴

Systemically treating 18-, 19- and 20-year-olds in the juvenile justice system rather than in the adult system has important legal and practical implications for public safety and life-course outcomes of impacted youth. While both juvenile and adult justice systems seek to hold individuals accountable, Illinois' juvenile system offers individualized, rehabilitative services appropriate for youth. Also, a key distinction between the juvenile and adult justice systems is the disposition of court proceedings. In the juvenile system, youth charged as delinquents are "adjudicated" rather than being "convicted" in adult court. This can help alleviate the long-term collateral consequences that flow from a conviction, that include barriers to employment, higher education, civic engagement, and housing that flow from a conviction, all critical for a youth's healthy transition to adulthood. The COVID-19 pandemic is amplifying the harmful impact of these collateral consequences on emerging adults, who are becoming increasingly detached from mainstream institutions, such as school and employment, and at historically high levels.⁵ Raising the age of juvenile jurisdiction would not only relieve some pressure on the adult correctional system but would also help reduce such harm caused by adult criminal records and amplified by the pandemic while tapping into the greater flexibility inherent in the juvenile system.

It is our opinion that this is an area particularly ripe for policy innovation. That is why we are heartened to see the legislative proposal in Illinois and other states, as well as the law passed in Vermont to raise the age of juvenile jurisdiction over the 18th birthday.

- We believe that raising the age of juvenile court to 21 is a policy option that is warranted based on the research, the collective experience of the countries that have already done so and the critical need to address systemic racial and ethnic inequities.
- We believe it would favorably impact recidivism, would improve outcomes for young people and set them on a course towards becoming

⁴ Lonn Lanza-Kaduce, Charles E. Frazier, Jodi Lane, and Donna M. Bishop, Juvenile Transfer To Criminal Court Study: Final Report. January 8, 2002.

<https://www.prisonpolicy.org/scans/juveniletransfers.pdf>

⁵ Lewis K. A decade undone: youth disconnection in the age of coronavirus. 2020. Available at: <http://measureofamerica.org/youthdisconnection-2020>.

the kind of adults we would like them to be. This is a conclusion that was shared in a report by Vincent Schiraldi, Bruce Western, and Kendra Bradner published by the National Institute of Justice and the Harvard Kennedy School, as well as by a National Institute of Justice panel chaired by Rolf Loeber and David Farrington.⁶

- Our belief that the adult criminal justice system does not sufficiently address the developmental needs of emerging adults should not be construed as a criticism of the adult system or the professionals working in the adult system. Rather, the adult criminal justice system's structure, resources, and laws fail to recognize and effectively address the **developmental needs of emerging adults**. Fortunately for Illinois, its juvenile justice system already has many of the key elements needed to provide developmentally appropriate programming as well as experience with working with this age group.

Please feel free to contact us if you have any questions.

Respectfully submitted



Lael Chester, Director of the
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⁶ Schiraldi, Vincent, Bruce Western and Kendra Bradner. 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, 2015. NCJ 248900. Loeber, Rolf, David Farrington, and David Petechuk. From Juvenile Delinquency to Young Adult Offending, United States: July, 2013. www.ncjrs.gov. National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, July 2013.