

# **REPORT TO 2017 ILLINOIS PTA CONVENTION ON YOUNG ADULTS INVOLVED IN THE JUSTICE SYSTEM**

## **Background**

In our over 100-year history of advocating for Illinois children and families, the Illinois PTA has made a substantial impact on many issues affecting their lives, health, safety and well-being. This has included one of our earliest successes in advocating for a separate juvenile justice system: the first juvenile court in the United States was established in Illinois in 1899.

Our advocacy in this area continues based upon a Resolve of the Resolution on Young Adults Involved in the Justice System adopted at the 2016 Illinois PTA Convention, stated:

*“That the Illinois PTA establishes a study committee to consider either: providing separate diversion and sentencing options for young adults and/or raising the age of the juvenile court to 21; reporting its findings and recommendations to the 2017 Illinois PTA Convention.”*

This report is in response to that provision.

The Illinois PTA Committee members who contributed to this report are:

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## **Executive Summary**

- I: Research clearly indicates that the brain functions that relate to self-control and reasoning continue to mature into the twenties.
- II: Findings suggest that addressing the issues of this age group might be handled in different ways, as one group, or in subdivisions including 18 to 21 and 22 to 25.
- III: States aside from Illinois and other countries are seeking ways to address the unique issues of this age group.
- IV: Some conclusions appear to be relatively clear in the research and attempts to address this age group which drive the recommendations of this report.

## **I. BRAIN DEVELOPMENT**

### **Maturity by age in years**

The brain, including the prefrontal cortex—the area that regulates self-control and reasoning—continues to develop well into an individual’s twenties. Cognitive function changes throughout adolescence into the mid-twenties. Although cognitive function is more developed in an 18-year-old than in a juvenile, it is not as developed as that in a 24 or 25 year old.

While the original resolution talked about ages 18-21, the science clearly indicates that 18 to 25 is a more appropriate window to consider.

A recent study found that in circumstances where there is a perceived threat or “negative emotional arousal,” those 18 to 21 years old showed diminished cognitive performance—essentially the same judgment as younger teens.

Numerous studies have shown that decision-making capabilities of young adults do not reach the adult level until the early twenties. Psychosocial maturity continues its development through an even later period. However, those areas of the brain concerning emotion, including desire and fear, appear to be developed by the age of 17.

One researcher characterized the difference between an individual’s cognitive/decision-making ability and his or her psychosocial ability as the “maturity gap”. Because of this uneven development, young adults aged 18 to 24 have not yet developed a decision-making process that fully considers the consequences of their actions. They have an increased likelihood of engaging in risk-taking behavior and a greater difficulty in controlling their response to an emotional situation. Each of these factors increases the likelihood of young adults becoming involved in the justice system.

Youths do not instantly transition into adults on their 18<sup>th</sup> birthday. According to research in brain development, the passage from childhood to adolescence to young adult—and the accompanying changes in social responsibility, emotional maturity, risk assessment, and cognitive function—are gradual changes. Young adults are actually closer to juveniles than to older adults, yet the Illinois justice system treats an 18-year-old in the same way that it treats a 30-year-old.

Given these factors, perhaps it is not surprising that while 18 to 25 year olds comprise less than 10% of the total population of Illinois, they account for over 30% of the total arrests of those aged 18 and older.

Some researchers argue that if young adults are developmentally similar to juveniles, differing also from older adults, then the age of juvenile court jurisdiction should be raised accordingly, with gradually diminishing protections for young adults until they reach age 24 or 25.

### **Other contributing factors**

Various detrimental risk factors in connection with social, physical, and cognitive areas are found in a higher percentage in justice-involved individuals. Justice-involved young adults have a higher incidence of being disconnected from the socializing institutions of work, school, and family. In terms of detrimental social factors, there are higher rates of parental incarceration, poverty, involvement in foster care, educational disadvantages, and mental health concerns. Additionally, there are higher percentages of traumatic brain injury, substance abuse, and learning disabilities. Overall, these factors have been shown to delay psychosocial maturity, compounding the difficulties in finding appropriate solutions to the issues faced by young adults involved in the justice system.

## **II. AGE DIVISIONS**

The growing body of research, as encapsulated earlier in this report, clearly demonstrates that the prefrontal cortex of the brain governing the ability to determine the consequences of actions taken is not fully developed until well into the mid-twenties. Also, outside factors, such as educational, emotional, and social considerations, limit the predictability of aberrant behaviors that could put young adults into conflict with law enforcement or determine the rate of recidivism.

However, this evidence does strongly suggest that these young adults would greatly benefit from differentiated adjudication of offenses committed. When analyzing the statistics, it is clear that youthful offenses in those groups least likely to reoffend show a dramatic decline between the ages of 18 and 25.

Studies seem to suggest that establishing a two-tiered adjudication procedure for those 18 to 21 and those 22 to 25 would allow for judicial discretion when determining appropriate sentencing as gradually diminishing protections.

A cited study, *Community-Based Responses to Justice-Involved Young Adults*, Vincent Schiraldi, et al, indicates that emerging adults between the ages of 18 to 21 are more likely to respond negatively to perceived threats and anger than older emerging adults. Further evidence demonstrates that 30% of arrests are of emerging adults ages 18 to 25, and that there is a sharp decrease in first-time arrests after age 25.

Methods for developing this tiered adjudication could include a variety of venues: extension of the juvenile court up to age 25; specialty courts that are part of the adult court system, a hybrid model that provides partnerships with community based response opportunities to allow for more rapid adjudication and more effective rehabilitation programs. Based on programs currently being employed and explored both nationally and internationally, the benefits to both the individual and the community are evident.

Recognition of the need for a justice system that addresses these developmental differences has begun in Illinois. Recently, House Bill 2628 was introduced and sought to amend the Juvenile Court Act of 1987, by providing that persons under 21 rather than under 18 who commit misdemeanors would be subject to proceedings under the Act for Delinquent Minors—a legislative recognition that emerging adults should receive treatment in accordance with their level of psychosocial development. While this bill not currently active, we anticipate that bills will continue to be introduced in the near future that will seek change in this area.

### III. OTHER JURISDICTIONS

As the science regarding youth brain development has advanced, many legislative bodies, both domestic and international, are considering increasing the age for which a youth offender is directed away from the adult justice system.

#### **United States**

Over 75% of states, including Illinois, use 18 as the age at which an offender is tried in adult court, with exceptions for certain violent crimes. Several states have recently had legislation submitted to increase this age.

- **California:** A law enacted in 2016 creates a three-year pilot program in five counties that would give low-level, nonviolent felons ages 18 to 21 with no criminal history the opportunity to use the educational and support services of the juvenile justice system rather than serving their time in adult prison. Those participating in the program would serve one year of their sentence in a juvenile facility, and their offense would be expunged from their record if they successfully complete the program.<sup>1</sup>
- **Connecticut:** A bill introduced in 2016 (SB18) and supported by the governor would gradually increase the age at which an offender is automatically tried as an adult from 18 to 21 over three years. The bill passed out of committee, but was not voted on by the Connecticut Senate.<sup>2,3</sup>
- **Massachusetts:** A bill has been introduced in the current (2017) Senate that would, among other reforms, raise the upper age of juvenile jurisdiction to 21.<sup>4,5</sup>
- **Vermont:** Act 153 was signed by the governor on June 1, 2016 that will allow criminal defendants up to age 21 who are not charged with certain serious crimes to apply for youth offender status.<sup>6,7</sup>

#### **International**

Information on how foreign countries handle youthful offenders ages 18 to 25 is more difficult to come by, as such reporting is not necessarily in English.

- **Italy:** A report on the Italian juvenile justice system notes that approximately half of the youth incarcerated in the juvenile facilities are actually between the ages of 18 and 21, as those sentenced to detention before age 18 can continue to serve their sentence in a juvenile facility until age 21. The report also notes that this is in line with international recommendations about young adult maturation processes.<sup>8</sup>
- **Germany:** The maximum sentence for youths ages 14 to 17 and for those ages 18 to 20 is ten years.<sup>9</sup>
- **Sweden:** “Young offenders” are those who have turned 15 but have not turned 21. The age of majority has recently been reduced from 21 to 18, but special circumstances still apply to offenders between 18 and 20.<sup>9</sup>

#### **IV. CONCLUSIONS**

Youth/young adults between the ages of 18 and 25 are sometimes referred to as “emerging” adults. There seem to be two commonly identified divisions in the age group: 18 to 21 and 22 to 25.

The research and studies of the human brain, in relation to the brain maturity of emerging adults between the ages of 18 to 25, indicate the brain continues to mature during these years.

The features of the brain such a malleability, responsibility, susceptibility to peer influence, and the ability to control impulses and keep responses in check continue to mature during these years.

Fully mature reasoning capacities are not developed until the mid-twenties.

In several States, and in several countries, a recognition of this understanding of the maturing, emerging adult population is resulting in a movement to have this age group be adjudicated separately from the adult (over age 24) population when they come in contact with the law.

At the present time, (March 2017) there does not seem to be a clear preference among the experts as to how these should be handled. For the 18 to 21 ages, some options being considered include:

- keeping misdemeanor cases only in present juvenile system;
- including this age in the present juvenile system;
- handling them in a separate division of the juvenile system.

There is less consensus about where to address the 21 to 25 ages.

#### **V. RECOMMENDATIONS**

**While the resolution creating this study committee was directed at young adults ages 18 to 21, the committee believes that the science on the topic merits differentiation in consideration from adults up to age 25.**

- 1. That the Illinois PTA recognizes that youth from the age of 18 to 25 have a different maturity level from that of adults over that age, and that should affect their treatment within the justice system.**
- 2. That the Illinois PTA will take positions on legislation as it is introduced to address the age cohort, based on a study of their needs and our policies.**
- 3. That the Illinois PTA amend the Legislation Platform of the Illinois PTA, by adding a new Item 11-e. “Support of laws and regulations in our justice system that address the differing needs of youth as they continue to mature from age 18 through and including age 24.”**

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