



**Testimony of Vincent Schiraldi, Senior Research Fellow, Harvard Kennedy School's Program in Criminal Justice Policy and Management before the Vermont Senate Committee on Judiciary  
March 24, 2016**

My name is Vincent Schiraldi, Senior Research Fellow at the Harvard Kennedy School Program in Criminal Justice. Before I came to Harvard, I was Commissioner of the New York City Department of Probation which supervised 30,000 adults and juveniles and before that, I was Director of Washington, DC's juvenile justice agency, the Department of Youth Rehabilitation Services.

Over the past several years when I was in New York and now at Harvard, I have been focused on issues affecting young adults in the criminal justice system. In addition to the paper that is part of the committee's materials that I co-authored, I have visited young adult programs and systems in Germany, England, California, and Massachusetts; I was and continue to be involved in designing New York City's young adult justice approach; we will soon be consulting with Connecticut on their approach to young, court-involved adults; and we recently hosted eight members of British Parliament who, like yourselves, are inquiring into creating a developmentally appropriate approach to working with young adults in the justice system.

I would like to thank Chair Sears and the Committee on Judiciary for inviting me to testify on this important subject. I'd like to proceed by summarizing the research about the population of what is alternately called "young adults", "late adolescents", "transition-aged adults", and "emerging adults"; then provide some examples of what is going on around the country and internationally with respect to young adults; and finally, discuss some policy implications.

First, a very brief bit of history. When the juvenile court was first established in the late 1800's and early 1900's, its founders had very little data and research to work with in setting the age of jurisdiction. So, based on the customs of the times, they picked ages ranging from 16 to 18 to delimit the age of the juvenile court. Within the first 20 years of establishing the courts, most of the states that picked age 16 raised their court's age to 18. Today, 9 states set the age at below 18 and in all but one of those states – Georgia – there is legislation or expected legislation this year to raise the court's age of jurisdiction to 18.

In the 1980's and 1990's, the juvenile court came under withering attack as being soft-headed and misguided in its distinct approach to court-involved young people. In the 1990's alone, every state in the country made it easier to try juveniles as adults, to incarcerate them in adult facilities, to erode confidentiality protections, or all of the above. The questioning of the need for a separate juvenile court was so intense during this period that the Coalition for Juvenile

Justice's annual report to Congress in 1998 was entitled "A Celebration or Wake: The Juvenile Court After 100 Years?"

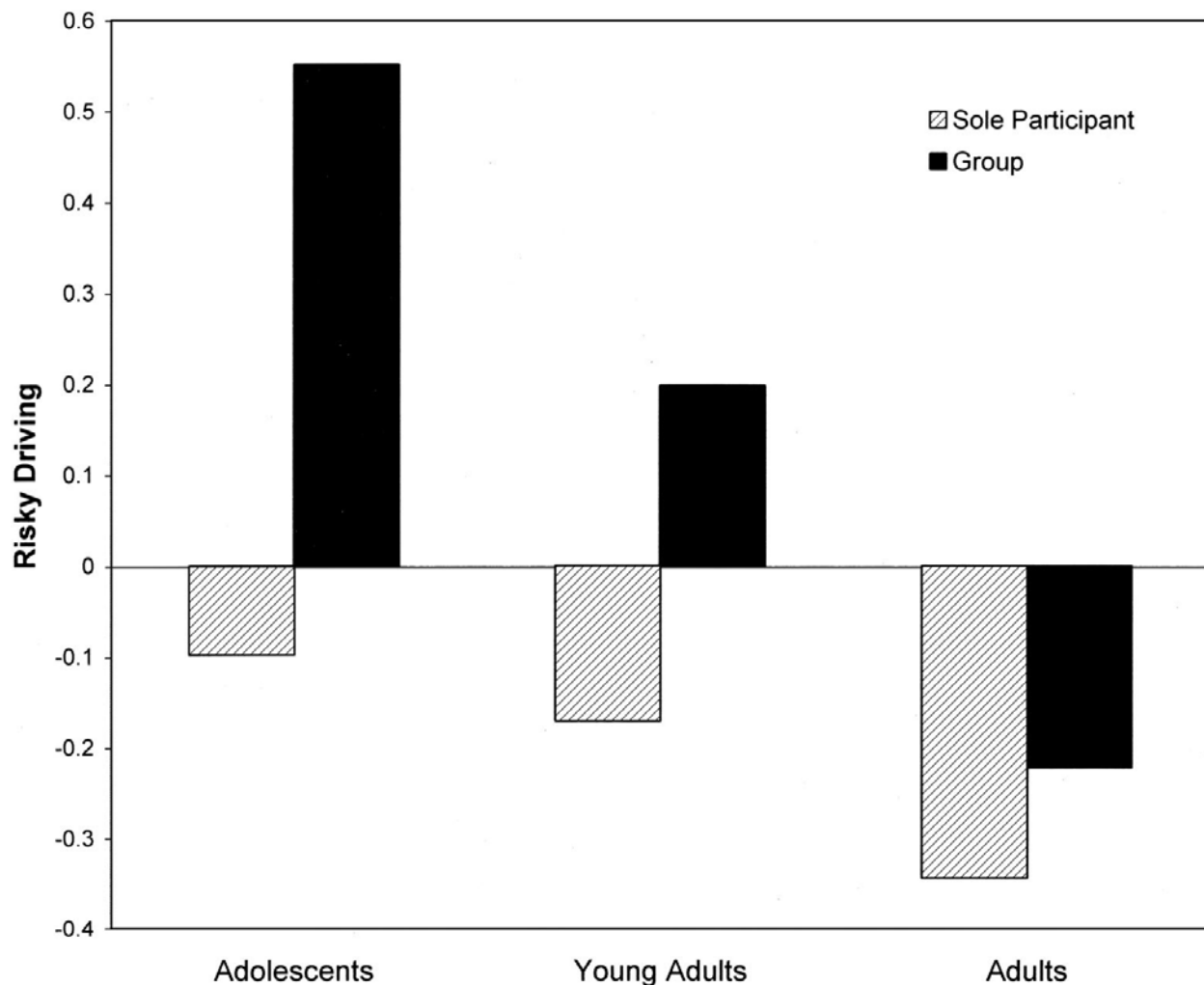
This existential attack on the juvenile court engendered a response from many quarters, including the research community. If, as some suggested, there wasn't enough of a difference between adults and juveniles to warrant a separate court, well that was a testable question to which research could provide some guidance. So entities like the MacArthur Foundation and the Justice Department – among others – began funding research into the developmental psychology and neurobiology – or brain science – around the difference between young people and adults.

What they found not only verified that juveniles were sufficiently different from adults to affirm the need for separate treatment at the hands of the justice system, but that there was no hard line – no magic birthday – between adolescence and fully mature adulthood. The brains of young people continue developing into the 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 modification – rendering adolescence, as eminent psychologist Laurence Steinberg has dubbed it, "An Age of Opportunity."

The research has specifically shown that young adults are more similar developmentally to juveniles than to fully mature adults in some important respects as it relates to crime and punishment. They're more volatile in emotionally charged settings; more susceptible to peer influence; greater risk takers, especially in the presence of peers; and less future-oriented. This is especially true of young people who have suffered Traumatic Brain Injury, which some estimates suggest around half of young adults in jails have, much of which has resulted from childhood abuse.

There is a lot of research in this area – too much to summarize in one presentation – but I'll give 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 – adolescents ages 13-16, young adults ages 18-22, and older adults over age 24, averaging age 37, on a simulated driving test. They tested subjects in each of those age groups 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, this should come as no surprise, this is why it is very difficult to rent a car from Hertz until you're over age 25, why Geico auto insurance is much more expensive for people under age 25, and why many states, including Vermont, don't allow youth below certain ages to drive in groups.

Furthermore, the transition from childhood to adulthood has changed dramatically over the last generation or two, not to mention since the court was founded in the late 1800s. 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 – is coming later and later for today's young people.

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. 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 over a decade or more. The extension of adolescence, then, stretches the already strained ability of older adolescents – particularly young, urban 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 policy makers throughout the country and internationally experimenting with special approaches to dealing with young adults. Four out of five European countries have special laws or treatment for young adults, and treaties and advisories of the United Nations, European Union, and Council of Europe recommend that the benefits of the juvenile justice system be extended to young adults. In Finland, mandatory sentences don’t apply to young adults and young adults get enhanced good time for participating in rehabilitative programs. In the United Kingdom, maturity is a statutory mitigating factor for young adults and probation is required to offer the courts maturational guidance in their pre-sentence reports

Germany and the Netherlands have gone the farthest of all the European countries in this area. Officials in the Netherlands raised the age of their family court to 23 in April of 2014, so there is not yet much information as to how that approach is proceeding.

The age of juvenile court in Germany has been 21 since after World War II. With so many men killed in the war, German officials had a problem of teenage males growing to maturity without the stabilizing influence of their fathers, something that is hardly foreign to our current situation. Because of the horrific experience they had just had 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 waive youth ages 18-21 to adult court if they feel that the youth’s maturity warrants it, but two-thirds of those age 18-21 are retained in juvenile court. Ninety percent of those accused of homicides are retained in their juvenile system 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.

Germany has also developed some highly innovative and rehabilitative correctional facilities for its young adults, including the Neustrelitz prison near Berlin. I’ve visited that facility and it was the most decent and rehabilitative prison I’ve ever been in. For those of you who are interested, on the Marshall Project’s and Vice’s web site, there is an article entitled “[How Germany Treats Juveniles](#)” describing the German system through the eyes of a delegation of elected and correctional officials from numerous U.S. states who visited Neustrelitz this past June.

Ironically, the U.S. is responsible for much of the better research regarding this population, but there has been more policy innovation in Europe, something I hope Vermont can help rectify. That said, I’ll mention some promising practices from the U.S. that can be informative as you move forward.

New York City is in the process of developing a network of programmatic and policy responses to offending by young adults. In 2012, under Mayor Bloomberg, the City launched the Young Men's Initiative devoted to improving outcomes for African American and Latino youth in four domains, one of which was the Justice system. The Probation Department that I was Commissioner of at the time developed a network of mentoring, service learning, workforce development, and education programs that we implemented out of newly-opened probation offices in the seven New York City neighborhoods in which most of the people on probation live. We found that the 16 – 24 year olds who were medium- or high-risk and who went to those seven neighborhood offices, had rearrest rates that were 23% lower than those who were seen in the central offices and didn't participate in those programs. Based on this experience, the City's Probation Department launched specialized young adult caseloads earlier this year, with smaller caseloads, using evidence based probation practices, and offering education and workforce development training.

Finally, with funding from the Annie E. Casey and MacArthur Foundations, the City is examining the justice system at every stage, from arrest to the last day of reentry – to create a more developmentally appropriate response to young adults, including young adult police diversion, specialized alternatives to incarceration, expanded specialized courts for young adults, and specialized pretrial release programming for young adults.

The last jurisdictions I'll mention – Connecticut and Illinois – are poised to go the furthest in this area. As they considered raising the jurisdiction of their family court to age 18, policy makers in both states grappled with similar issues. Many in their states predicted that raising the age would overwhelm their courts and juvenile facilities and increase crime by teenagers.

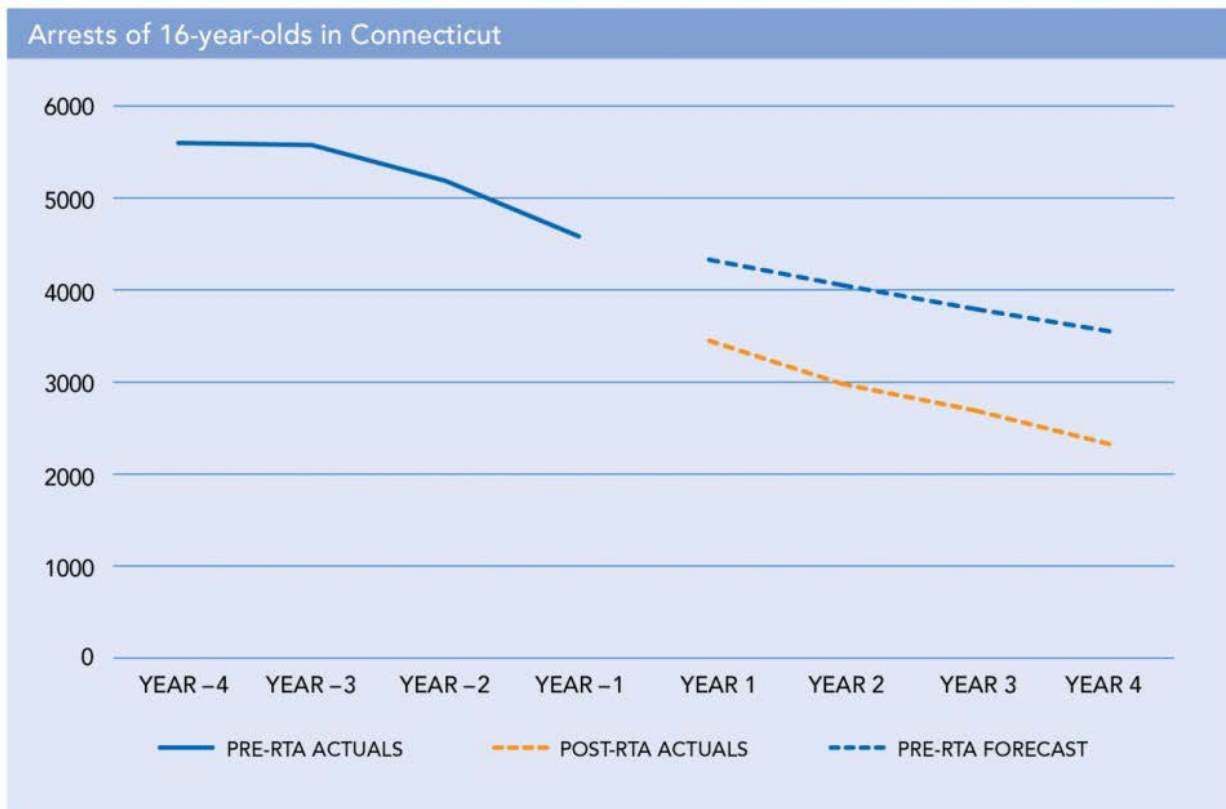
Thankfully, none of those concerns were born out when Connecticut and Illinois gradually raised the age of juvenile court over a period of some years. Connecticut which, like New York, had set the jurisdiction of its family court to age 16, raised the age first from 16 to 17 in 2006, and then from 17 to 18 in 2012. Illinois, which had set 17 as the age of its juvenile court, initially raised the age to 18 for misdemeanants in 2007; then for felons in 2014.

Research in Connecticut found that 16-year-olds tried in family court were rearrested at a rate almost 39 percent lower than matched youths their same age who had been previously tried as adults. Furthermore, Connecticut policy makers have done fascinating analyses showing that, as the first cohort of young people who came of age when the juvenile court's age was raised aged into young adulthood, their crime and admission rates to prison were substantially lower than the previous generation of young people who grew to adulthood when the juvenile court's age was 16 and 17. In other words, raising the age of family court for *juveniles* was associated with lower rates of crime and imprisonment for that age cohort as they became *young adults*.

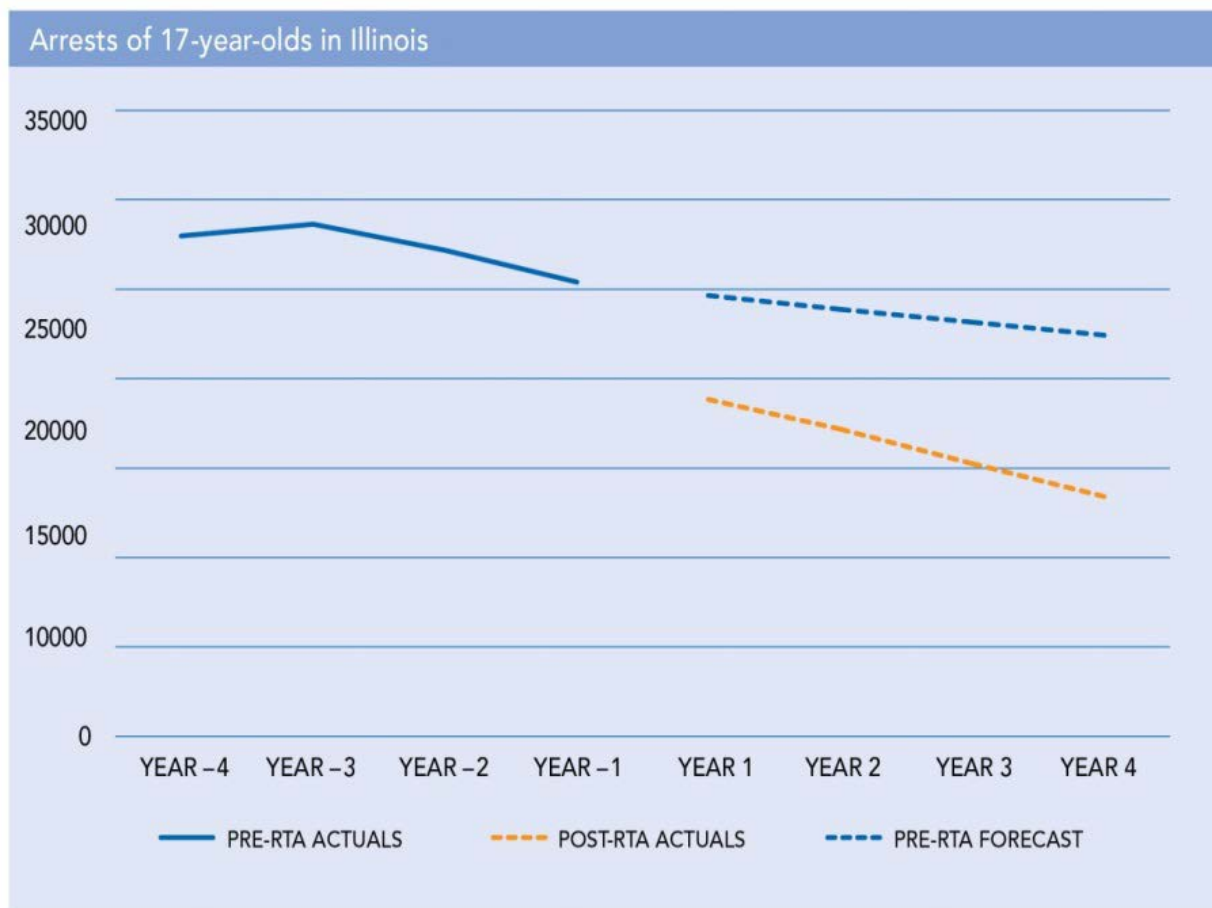
After raising the age of its family court to 18, Connecticut now has its lowest number of juveniles in pretrial detention, its lowest population in juvenile correctional institutions, and the lowest number of young adult prisoners ages 18 to 21 in its adult prisons in a quarter-century — down 51 percent over the last six years.

Illinois has enjoyed similar successes. The Illinois Juvenile Justice Commission concluded that its reforms enhanced public safety because adult convictions put youths at greater risk of re-offense by inhibiting education and employability. The commission also found that the juvenile justice system had gotten smaller now than it was before it included 17-year-olds. The population of Illinois' juvenile institutions has declined by 43 percent since the reforms began.

In preparing a report about raising the Family Court age for New York Governor Andrew Cuomo, the Vera Institute of Justice looked specifically at the impact of similar reforms in Connecticut and Illinois. In both states, they found a “raise the age” affect in which juvenile arrests for the affected age groups dropped more than expected. In Connecticut, as the graph below shows, arrests declined an average of six percent per year (the dotted blue line depicts arrests if that trend had persisted at a rate of six percent). However, after the reform was implemented, arrests of 16-year-olds were actually 28 percent lower than the projected trend (dotted orange line).



The data in Illinois reveal a similar pattern, as shown in the figure below. Prior to the reforms, arrests declined an average of three percent per year (the dotted blue line depicts the number of arrests, had that trend continued). After the reforms were implemented, arrests of 17-year-olds were 32 percent lower than the pre-RTA trend (dotted orange line).



While we don't have research on the impact of applying juvenile court to young adults in America, because no state has yet done so, when we look at research about the next closest population – youth tried in adult courts – there is 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 vs. matched youths who remain in juvenile court.

In March 2015, the Crime Research Group conducted a recidivism analysis of Vermont youth tried in either the Family Division or Criminal Division of Vermont's courts. Both the criminal conviction rates and the recidivism rates for youth convicted in the Criminal Division were substantially higher than for youth adjudicated delinquent in the Family Division, in fact, the 47% three-year recidivism rates for Criminal Division youth was nearly double the 25% Family Division rate. But as the researchers were careful to point out, this was correlational, not meant to imply causation, and it didn't control for factors that might explain that difference in recidivism rates.

One federally-funded study of direct file in Florida was particularly interesting because it did just that. Because Florida's prosecutors had broad direct file powers, rates of trying juveniles in adult courts varied widely in Florida's counties, allowing researchers to carefully match a young person in County X who was retained in juvenile court to a very similar youth in County Y who was tried in adult court, and then observe the recidivism outcomes. Using sophisticated statistical matching 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, and when they did, they committed more serious crimes than matched youth who were retained in juvenile court.

Data like these have prompted policy makers in both states to propose to raise the age of their family courts to 21 in similarly graduated approaches. Governor Malloy in Connecticut is proposing to raise the age to 21 one year at a time over three years starting in 2017; and Representative Laura Fine, Chair of Illinois' Young Adult Committee, has proposed to raise the age of Illinois' juvenile court for misdemeanants to 21 before moving on to felons.

Governor Malloy has also proposed providing special confidentiality protections for youth ages 22-25; and providing separate correctional facilities for youth ages 22-25, similar to the Senator Sears' proposals for Vermont. The Governor has referred these broad-brush proposals to the state's Juvenile Justice Policy and Oversight Committee – the same committee that developed the staged recommendations for raising the age of Connecticut's juvenile court from 16 to 17 and then to 18. The Kennedy School's Program in Criminal Justice at which I work will be collaborating with the University of New Haven to provide research on model approaches to that committee in the coming months as they develop recommendations for the Governor to consider as he crafts legislation.

It is my opinion that this is an area ripe for policy innovation. That is why I am heartened to see the experimentation that places like New York City, Connecticut, Illinois and Vermont are engaging in or proposing. I offer these final thoughts on the direction of that experimentation before I conclude.

I believe that raising the age of juvenile court to 21 – and providing special programming, housing and confidentiality protections for youth up to age 25 – is one policy option that is warranted based on the research and the collective experience of the countries that have done so. I believe it would favorably impact recidivism, would improve outcomes for young people and set them on a course towards becoming the kind of adults we would like them to be. In our report, Bruce Western, Kendra Bradner, and I recommend doing so, as does a National Institute of Justice panel chaired by Rolf Loeber and David Farrington.

As a practitioner who ran two different departments that would be charged with the duty of implementing such a recommendation, I lean towards a gradual implementation schedule, similar to what policy makers in Connecticut and Illinois are considering. Both states' measured approaches to raising the age of juvenile court to 18 have yielded improved outcomes for public safety and for young people when they undertook them. I hasten to add that the numbers of young people in Vermont are much smaller than in those other states so your implementation



schedule and approach could rightly differ from the schedule and approach of those other states. That is why I also applaud the provision of the proposed legislation to refer this matter to the Joint Committee on Criminal Justice Oversight to study and make recommendations on this important reform

If this body decides to raise the age of juvenile court to 21, I suggest you also not overlook slightly older young adults, as Senator Sears has proposed. Last year, Michigan raised the age of its youthful offender act to age 23 and, as mentioned earlier, Connecticut is proposing to provide special confidentiality protections and housing up to age 25. Expanding the youthful offender law to certain young adult offenders up to age 24 would allow them to be held accountable for their youthful misbehavior without permanently staining their lives with a criminal conviction. I would also suggest that, if you decide to extend youthful offender protections to age 24, that your judiciary consider developing specialized courts with court personnel, lawyers, and probation staff trained in adolescent development to be able to make use of these new tools in ways that dispenses justice with greater legitimacy, something that young people, particularly young people of color, seem increasingly concerned is lacking in our justice system.

Thank you and I am happy to take any questions you might have.