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## **DRAFT EXECUTIVE SUMMARY AND RECOMMENDATIONS**

### **Public Safety and Emerging Adults in Connecticut: *Providing effective and developmentally appropriate responses for youth under age 21***

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

Connecticut, a recognized leader in justice reform, is once again examining a new strategy to improve public safety: *providing effective and developmentally appropriate responses for all individuals under age 21*. This includes a cohort of “emerging adults,” or young people between 18-21 years old.

The proposed legislation, first introduced by Governor Dannel Malloy in 2016, would gradually incorporate 18, 19 and 20-year-olds into the juvenile justice system over a three-year period, affecting approximately 13,000 individuals each year when the law is fully implemented (with an estimated one-third of these emerging adults being diverted and given the opportunity to resolve their cases in an effective but non-judicial manner). While the bill contains provisions to continue to prosecute and sentence youth ages 15 to 21 in the adult criminal justice system for the most serious offenses, it provides the opportunity of an individualized, rehabilitative system for the vast majority of the population in question.

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

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

- What lessons can be learned from other jurisdictions in the United States and abroad about more effective ways to address emerging adults in the justice system?
- What would be the broader impacts of these proposed reforms on Connecticut’s justice system?
- What are the key issues that need to be addressed to ensure the successful implementation of these new reforms in Connecticut?

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

PCJ also examined this proposal in the context of the significant justice reform initiatives that Connecticut has accomplished in the last several decades. This includes the earlier “raise the age” initiative from age 16 to 18 (fully implemented in 2012), which resulted in positive impacts on both public safety and the state budget. Corresponding with these prior reforms, Connecticut has experienced a dramatic decline in crime and incarceration, particularly with respect to emerging adults: From 2005 to 2014, arrest rates for 18, 19 and 20-year-olds dropped by 48%, while the population of emerging adults in Connecticut’s prison system declined by a notable 61%. These substantial reductions in crime and incarceration rates provide Connecticut an exceptional foundation for implementing this new reform proposal.

### **Who are “emerging adults”?**

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

In the United States, emerging adults have generally been treated in our criminal justice systems in the same manner as older, more mature adults. The results of this undifferentiated and generic approach have been demonstrably poor, be it in terms of public safety, individual well-being, or cost effectiveness. Emerging adults comprise a disproportionately high percentage of arrests: In the U.S., emerging adults (ages 18 – 24) make up 10% of the U.S. population but 30% of arrests; in Connecticut, emerging adults (ages 18 – 20) comprise 4% of the state’s population but 10% of

arrests. Emerging adults have the highest recidivism rates of any age group, again both nationally and in Connecticut. Yet this is also an age of opportunity – a time when arrest rates begin to decline and when the life trajectory of young people can be influenced for the better.

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

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

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

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

- A. *Focus and cost-effectiveness*: Ensuring that Connecticut’s formal juvenile justice system (e.g. juvenile court caseload) is reserved for those cases that cannot be otherwise appropriately and effectively served without formal system intervention (Recommendations 1 - 4). These recommendations are designed to increase the likelihood of successful outcomes, lower costs to taxpayers, allow the system to focus on youth and emerging adults truly in need of intervention, and “right-size” the system so that it is better able to absorb the expanded population of emerging adults.
- B. *Breadth of application*: Applying the benefits of the juvenile justice system as much as possible to 18, 19 and 20-year-olds, including the expertise of the professionals within

the juvenile system (Recommendations 4 - 5) in a practical manner that minimizes unnecessary law changes (Recommendations 6 - 7).

- C. *Investment in reforms*: Taking the opportunity of this watershed moment to increase investments in effective programming (e.g., educational services and vocational training) in the community and, when necessary, within residential treatment facilities (Recommendations 8 - 10), and to consider making some other important reforms within the current juvenile justice system to better serve both youth under 18 as well as emerging adults (Recommendations 11 - 13).
- D. *Institutional acceptance of “emerging adults”*: Intentionally fostering a culture shift and philosophically embracing emerging adults within the juvenile justice system, which will require additional training, monitoring, evaluation and leadership (Recommendations 14 - 15).

Connecticut could become the first state to implement a comprehensive legal framework to specifically address emerging adults in the juvenile justice system (as well as reforms in the adult criminal justice system for 21 – 25 year olds, which is beyond the scope of this report). However, it is not the only state considering such reforms; both Illinois and Vermont held legislative hearings this past year with similar proposals. Moreover, specialized court sessions, probation and parole caseloads, and correctional housing units targeting emerging adults have been increasingly sprouting up and expanding across the country, a phenomenon thoroughly documented and catalogued in the National Institute of Justice’s June 2016 report, *Environmental Scan of Developmentally Appropriate Criminal Justice Responses to Justice-Involved Young Adults*.

As former Assistant Attorney General Laurie O. Robinson stated in the influential publication, *From Delinquency to Adult Crime* (Oxford University Press, 2012):

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

In sum, effectively implementing Connecticut’s proposal to provide emerging adults with developmentally appropriate responses within an expanded juvenile justice system will provide a better understanding of what works, and the country will be watching closely.

## **RECOMMENDATIONS:**

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

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

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

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

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

In 2015, there were 171 delinquency referrals to the Connecticut juvenile court for children younger than 12, consisting of about 2% of Connecticut's overall delinquency caseload. There is no clear norm regarding the appropriate age of the lower end of jurisdiction in the United States: one state sets the age at 6, five states join Connecticut at age 7, three states set the age 8, ten states at age 10, and 30 states have not established a lower age of juvenile jurisdiction. However, international norms have been firmly established at age 12. Within the United States, there appears to be growing concern that young children lack the competency to understand the complicated legal concepts needed to meaningfully exercise their rights. Research also points to the harm that can be caused by

formal prosecution of young children and indicates that other systems (e.g., child welfare) may serve young children more effectively. By raising the lower-end of juvenile jurisdiction, Connecticut would more appropriately serve the very young children and enable the juvenile justice system to more effectively focus on adolescents and emerging adults.

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

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

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

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

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

Rules have already been established in Connecticut regarding the admission, confession or statement of children 15 and under (requiring the presence of a parent or guardian who has been informed of their rights) and individuals 16 to 17 (requiring that "reasonable efforts" to contact a parent or guardian of the child be made). Emerging adults 18 and over have been governed by *Miranda v. Arizona* and its progeny, and there is no known precedent or consensus from stakeholders that would suggest a change.

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

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

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

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

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

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

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

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

examining the current services available to emerging adults, as well as best practices that could be adopted. It would be helpful to officially expand the scope of a JJPOC work group to formally incorporate this work going forward.

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

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

**12. Develop a full continuum of care for all youth and emerging adults sentenced to the Department of Children and Families through a regionalized network of small, therapeutic facilities for the small number who need to be confined, and a network of community-based programs in youth's neighborhoods.**

This is an opportune moment for Connecticut to restructure its juvenile correctional system: Not only will the system need to accommodate emerging adults who are committed to the custody of DCF from the juvenile court, but Connecticut must plan on this expansion without the Connecticut Juvenile Training School (CJTS), a large hardware-secure prison that was built for 230 beds but now holds less than 50 youth. Based on the growing national consensus over research showing that such large youth prisons are ineffective and even harmful to the youth, as well as the high costs of maintaining such a facility (\$34,913,439 in operating costs for CJTS in FY 2017 as of September 30, 2016), Connecticut plans to close CJTS in 2018. A new, model approach would include a statewide network of small treatment facilities (e.g., 15-40 beds each, with the youngest youth housed in the smallest facilities) that provide a full range of placement options from high-end, hardware and staff secure, to low-end placement, such as foster care and supported independent living. Facilities could be state-run, contracted out to non-profits, or a combination of public and private, would be licensed by an independent agency, and would be spread across the state for closer proximity to families and communities. States such as neighboring Massachusetts and New York have had success in contracting with private, non-profit organizations to operate some of their treatment facilities, including the most secure ones.

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



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

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

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

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

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

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

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

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

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