Defining the age of juvenile justice jurisdiction:

Current practices and the need for reform

May 29, 2018

World Congress on Justice for Children, UNESCO, Paris

Lael Chester, Selen Siringil Perker and Yohana Beyene
Rightsizing Juvenile Justice System: AGE MATTERS

- **Child Welfare System**: Formal or informal processing under civil law; community-based family-centered mechanisms.
- **Juvenile Justice (Delinquency) System**: Formal processing with rehabilitation focus.
- **Adult Criminal Justice System**: Formal processing (with harsher sentences).

[http://justicelab.iserp.columbia.edu/emergingAdultProject.html](http://justicelab.iserp.columbia.edu/emergingAdultProject.html)
CHALLENGE: Balancing fixed legal demarcation lines with developmental needs of youth

✓ Dynamic developmental needs of youth

• Childhood → Adolescence → Emerging/Young Adulthood → Adulthood

✓ Growing variation in age of criminal responsibility (lower age) and demarcation line between juvenile justice and adult criminal justice system (upper age):

• Over time:
  - Increasing research evidence on cognitive and emotional development of children and youth
  - U.S.A.: Recent legislative interest to increase both lower and upper age across the states

• By Jurisdiction
  • U.S.A: State-by-state variation

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U.S.A. incarcerates youth at a substantially higher rate than any other country.

International Youth Incarceration Rates (per 100,000 in 2010)

Source: United Nations Office on Drugs and Crime (2011)

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Rightsizing Juvenile Justice System: UPPER AGE

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[Diagram with interlinked circles showing the relationships between the systems]

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In the US, by 18th birthday at the very latest, all youth are automatically tried and sentenced as an adult (same as a 50-year-old).

Youth under 18 can also be tried as an adult depending on the type of offense.

**Emerging Adults:** A term first coined in 2000 by psychologist Jeffrey Arnett. It invokes the critical developmental period, in which a child who is dependent on parents or guardians for supervision and guidance (as well as emotional and financial support) transitions into a fully mature, independent adult who engages as a productive and healthy member of society. In the context of criminal justice, we define “emerging adults” as individuals transitioning from childhood to adulthood, from the age of 18 to 25. This population is also often described as “young adults” or “transition-age youth”.

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Emerging adults have a disproportionately large share in adult criminal justice system with poor outcomes.

Share of Emerging Adults in Criminal Justice, U.S.A.

- **10%** Share in population
- **29%** Share in arrests
- **21%** Share in incarceration


3-Year Recidivism Rates

- **Rearrested (76%)**
- **Non-recidivist (24%)**

Sources: Durose, Cooper & Snyder (2014); Council of State Governments Justice Center (2017).

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Racial and ethnic disparities of emerging adults in the criminal justice system are stark.

- Black male 18-to 24-year olds compromised nearly 40% of all emerging adults admitted to state and federal prisons in the U.S.A. Overall, they are 7 to 9 times more likely to end up in prison compared to their white peers.

- Racial and ethnic disparities are higher for younger cohorts (ages 18-19).

[Incarceration Rates by Race and Ethnicity per 100,000 18-to 19-year olds, United States, 2013]


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Relatively few emerging adults start criminal career after age 25, most “age out” of crime by 25.

Source: FBI Uniform Crime Report

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Developmental factors and milestones in transitional period to adulthood

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Opportunities for positive interventions

- Individualized and effective treatment (e.g., MST-EA)
- Family involvement (w/ family defined broadly)
- Education (special educational services) and vocational training
- Supervision and support
- Community organizations with expertise and experience

Most of these are deeply embedded in the juvenile justice system but not in the adult criminal justice system.
U.S. TRENDS in Emerging Adult Justice

- **Specialized courts** – e.g., San Francisco, CA, and North Lawndale, IL
- **Specialized caseloads** – e.g., San Francisco Probation Dept.
- **Specialized correctional units or facilities** – e.g., T.R.U.E unit in the Cheshire Prison, CT, Middlesex County House of Corrections in Billerica, MA, and Mountain View Youth Correctional Facility, ME
- **Other special procedures/enhanced protections** – e.g., special parole provisions in CA for individuals sentenced for offenses committed before their 26th birthday
- **Hybrid/youthful offender statutes for youths beyond their 18th birthday** – e.g., CT, Washington D.C., NY and VT
- **Expansion of the juvenile justice system** – Legislation filed in 2018 in 4 states: IL, CT, VT (to raise the age to the 21st birthday with IL bill proposing to raise the age for misdemeanors first) and MA (to the 19th birthday)

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European Approaches to Emerging Adult Justice

- **20 out of 35** countries (57%) provide for *either* the application of educational measures/rehabilitation provided by juvenile law *or* special rules concerning specific sanctions for young adults in the general penal law.

- **18 out of 35** countries (51%) provide special rules in the adult criminal law concerning the mitigation of penalties for young adults.

- **10 out of 35** countries (29%) provide for the mitigation of sanctions according to the general criminal law *as well as* the application of juvenile law sanctions.

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GERMANY – interesting emerging adult justice model

- **Age of youth court jurisdiction in Germany**
  - 14th birthday to 21st birthday
  - Since 1953, 18, 19 and 20-year-olds have been treated in youth justice system

- **Case outcomes involving emerging adults in Germany**
  - 67% result in youth sanction; 33% result in adult sanction (mostly cases involving MV offenses)
  - Rape/murder: ~ 90% result in youth sanctions

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Justice Lab’s educational trip to Germany (March 2018)

Massachusetts delegation in Berlin Court House

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Emerging Adult Justice Project

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