

Young Adults in Conflict with the Law: Opportunities for Diversion

Kanako Ishida
Policy Research Analyst
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Introduction

While in most states (including Illinois) young people are treated as adults by the justice system once they turn 18, research in recent years suggests that people ages 18 – 24 are not yet fully mature adults. The young adult brain is still developing, and young adults are in transition from adolescence to adulthood. Further, the ongoing development of their brains means they have a high capacity for reform and rehabilitation. Young adults are, neurologically and developmentally, closer to adolescents than they are to adults. Prosecuting and sentencing young adults in the adult criminal justice system deprives them of their chance to become productive members of society, leads to high recidivism rates, and high jail and prison populations, and increased costs to society through subsequent incarceration and unemployment.

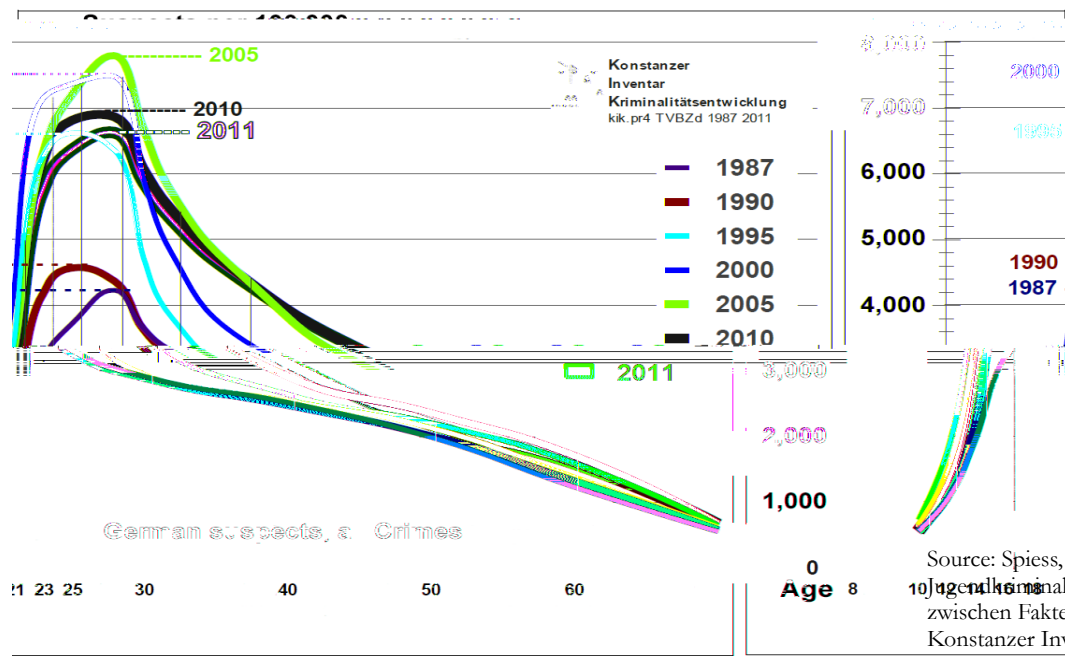
As this report notes, several nations have already extended “juvenile” alternatives to young adults. In order to explore this new frontier, the Juvenile Justice Initiative examined arrests and jail admissions of Illinois’ young adults age 18 – 24 in CY2013. This paper will document the JJI’s analysis of Illinois’ arrests and admissions to the Cook County Department of Corrections (i.e., Cook County Jail), and examine emerging trends in policy and practice to address the issues posed by young adults in conflict with the law.

Research Shows that Criminal Offending Ends During the Young Adult Stage of Life

Research confirms that few juvenile offenders remain life-long criminals. It is well established that age is one of the strongest predictors of antisocial behaviors and criminal activities. Criminal behaviors tend to rapidly increase in late childhood, peak in the late teen years, and decline in the early 20’s throughout adulthood, and the relationship between age and crime has been consistently bell-curved across the western countries. ¹ There are some variations in

the curve depending on the year and offense type. For instance, the peak of property crime tends to come earlier than violent crime. The curve, however, has always indicated that young people grow out of crime naturally with a decrease in impulsivity and an increase in self-control.

This desistance holds true for both minor and serious juvenile offenders. A recent longitudinal study “Pathways to Desistance” ² on young serious juvenile offenders confirmed that young people age out of crime. Following 1,354 serious juvenile offenders ages 14–18 for seven years after their conviction, the authors found that over 90 percent of



serious offenders reported decreased illegal activity. Further, using the data from the same sample of the “Pathways to Desistance”, Sweeten, Piquero, and Steinberg (2013) found that a decline in exposure to antisocial peer pressure had a significant impact on reduction in crime among 15 to 24 year olds. Psychosocial factors such as self-control and aggression contributed to a 24 percent drop in crime, and social variables such as romantic relationships, marriage and employment, which tend to happen in the mid- to late-twenties, accounted for a 26 percent decline in crime as well.³ This suggests that most young adults will desist from crime naturally through the process of maturity – with or without incarceration.

Other Nations are Extending Juvenile Alternatives to Young Adults

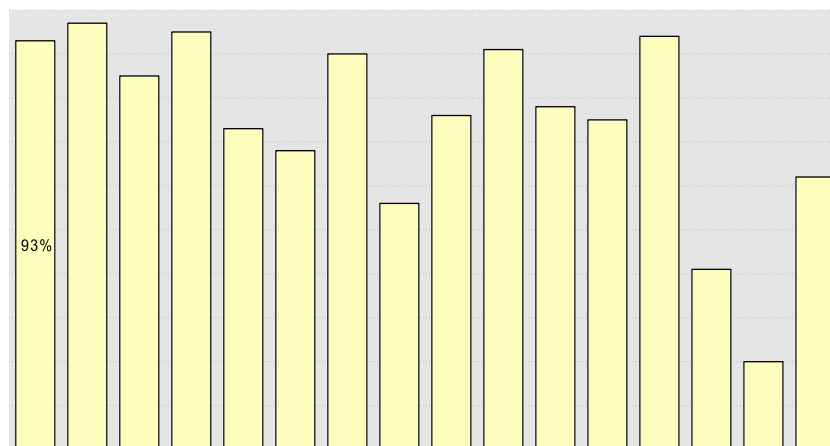
Many European countries have successfully allowed special measures for young adults that are not applicable to older adults by adopting international recommendations⁴ and taking into consideration adolescent development research. In fact, only seven European countries do not have any special measures for young adults for the purpose of prosecution and sentencing.

Germany is one of the leading countries to expand the scope of juvenile justice for young adults ages 18 – 21. Since 1953, all young adults ages 18 – 21 in Germany have been tried in juvenile court, where the judges have an option to sentence them as

juveniles if “a global examination of the offender’s personality and of his social environment indicates that at the time of committing the crime the young adult in his moral and psychological development was like a juvenile” as provided in the Juvenile Courts Act Section 105 (1) No.1 JJA.⁵ The Law also provides that juvenile law has to be applied if it appears that the motives and the circumstances of the offense are those of a typical juvenile crime. The German Supreme Court further ruled that young adults have the maturity of a juvenile if their personality is still developing.

Since 1953, all young adults age 18-21 in Germany have been tried in juvenile court with an option for sentencing as a juvenile.

A large portion of young adult offenders benefit from this expanded juvenile sentencing in Germany. Under juvenile law, the maximum custodial sentence is 10 years in Germany, and juvenile court judges can order rehabilitative programs that are developmentally appropriate for young adults, as opposed to incarceration.⁶ According to Frieder Dünkler at the University of Greifswald, 62 percent of young adults in conflict with the law were sentenced under juvenile laws in 2001. In 2008, 66 percent of them were sentenced as juveniles.⁷ Judges seemed



more likely to sentence young people charged with more serious offenses under juvenile law. For instance, over 90 percent of young adults in Germany ended up sentenced under juvenile law for homicide, rape and serious body injury crimes, as opposed to fraud and traffic offenses (56% and 41% respectively).⁸ This approach has resulted in reduced rates of repeat offending by young adult offenders given juvenile services and sanctions. According to Frieder Dünkel and the T2A Alliance, crime, incarceration and recidivism rates in Germany are reported lower than those of England and Wales and the United States. The imprisonment rate in the U.S. is 716 per 100,000 residents while it is 79 per 100,000 residents in Germany.⁹

In Sweden, young adults can be tried in juvenile court until their 25th birthday, and young adults 18 - 24 years old get different treatment from adults. For instance, statutory minimum sentences cannot be applied for young people age 20 or under. If the offender is between 18 and 20 years of age, fines are reduced to two thirds the full amount and a short prison term may be replaced by a fine.

The Netherlands has joined the trend to provide juvenile alternatives to young adults who were traditionally thought of as fully mature adults in 2011. The Netherlands' focus of juvenile justice system is to reduce criminal behavior of young people by preventing the first offense and avoiding recurrence. Starting in 2011, Dutch young adults ages 18 - 21 are eligible for a juvenile law sanction if the

Court decides that the application of juvenile laws is appropriate or if there are special circumstances relating to the alleged offense according to Article 77c Sr. In the Dutch juvenile justice system, many alternative sanctions to imprisonment are available. For instance, young people may be given a working/learning sanction which includes unpaid community service work, they may work to compensate for the damage they caused and/or they may be placed in an education program. The incarceration rate in the Netherlands is much lower than that of the United States, 82 per 100,000 residents. According to a study conducted by the Ministry of Security and Justice in the Netherlands,¹⁰ recidivism in the Netherlands has been decreasing as well.

England and Wales are expanding juvenile jurisdiction to young adults. Recognizing that young people in the transition to adulthood require specific, tailored support through this process of change, and not an arbitrary cut-off from services at the time of greatest need, a non-profit organization Transition to Adulthood Alliance (T2A) conducted pilot programs in London, Birmingham and West Mercia in order to test different approaches improving services for young adults in the criminal justice system. The pilot program in London, for instance, worked with young adults prior to their release from prison, and during and after their reintegration into the community. Young adult offenders were provided housing support, job training and emotional support for self-esteem and self-perception. Pilot projects successfully

reduced offending – participants had a nine percent reconviction rate, compared to a national recidivism rate of 46 percent – and none of the reoffending was for the most severe offenses. Further, five additional individuals were employed six months after the T2A program.¹¹

Japan has always considered people under age 20 as children, and treated all teenagers age 14 or over in Family Court unless the Family Court determines that the youth should be tried as an adult. Under the Juvenile Act, the youth’s confidentiality is protected. When youth are transferred to adult court, the trial is open to the public, but the media is not allowed to disclose the youth’s identity. Japanese young adults behind bars are often separate from older adults. Children age 14 to 19 tried as juveniles go to youth reform school, which has four different divisions for different age groups. Youth under age 20 tried and sentenced as adults do not go to adult prisons. Instead, they go to youth prison which houses people age 16 to 19 so that the prison can focus more on rehabilitation and separate children from older adults. However, because the number of children tried and sentenced as adults is so low in Japan, the “youth” prison now houses young adults up to age 26 (or sometimes older), who are separated from minors, where they can receive rehabilitative programs. Thus, in Japan young adults age 20 to 26 (or older) are protected from older adults and provided services to facilitate their rehabilitation.

There is rich evidence from these nations that young adults, especially age 18 – 21, are amenable to age-appropriate treatment and rehabilitation. In order to examine the landscape for a new approach to provide juvenile options for young adult offenders in Illinois, the Juvenile Justice Initiative examined statewide arrest records and Cook County jail admission records of young adult offenders age 18 – 21 from CY2013.

Data on Young Adults in Illinois

The Juvenile Justice Initiative examined both statewide arrest data and admissions records of young adults to the Cook County Jail in CY 2013. Aggregate arrest data was retrieved from the Criminal History Record Information (CHRI) by the Illinois Criminal Justice Information Authority (ICJIA). When an arrest was made for various offenses, only the top charge was included in the

analysis. CHRI does not include ethnicity – Hispanic can be coded as any race. Population data was retrieved from the Office of Juvenile Justice and Delinquency Prevention, Easy Access to Juvenile Populations. The Juvenile Justice Initiative took the population data disaggregated by race, not ethnicity, to match the CHRI data.

Cook County jail admission data was provided by the Cook County Sheriff’s Office, which included one offense per case.¹² When a defendant has multiple cases listed for the same admission date, the case associated with the most serious offense class was included in the analysis. Admissions can be based on cases starting in CY2013 or previous years, thus inmates’ records are not necessarily reflected in the CY2013 arrest records. Admissions were counted as many times as the defendant was admitted to the jail on different days.

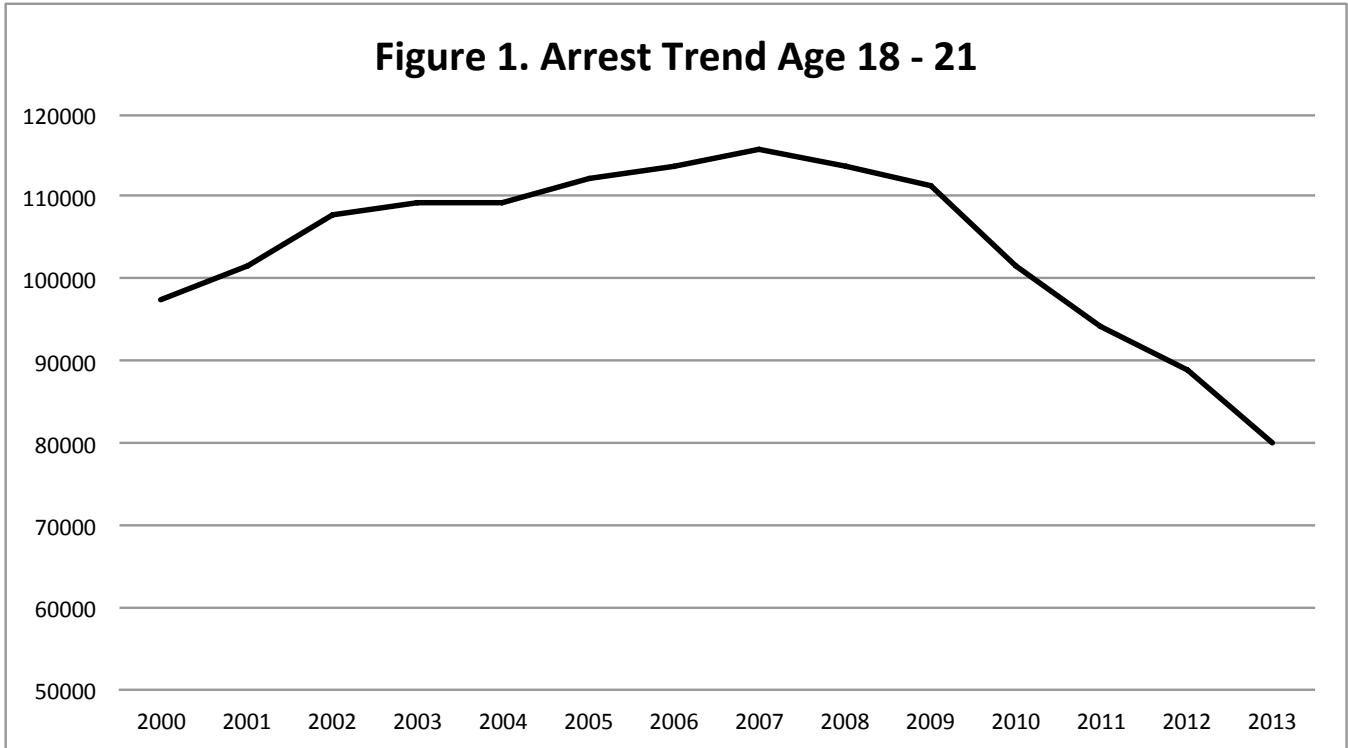
Young Adults’ Involvement in Criminal Justice System in Illinois

Young adults are overrepresented in justice involvement in Illinois. Although 18 – 24 year olds make up about 9.8 percent of total population,¹³ this age group accounts for 33.8 percent of total arrests of people age 18 and over. Although the number of their arrests is high, young adults’ criminal behaviors are overwhelmingly low level with misdemeanor arrests accounting for over 60 percent of the total arrests in this age group, similar to those of youth under 18.

Further, like juvenile arrests across the country and in Illinois, the number of crimes committed by young adults age 18 – 21 has been decreasing (Figure1). Over the course of the past thirteen years, the arrests of young adults age 18 – 21 peaked in CY2007 (115,688 arrests recorded) and have since declined. In CY2013, 79,926 arrests of young persons age 18 – 21 were made, which is a 30.9 percent decrease from CY2007 and a 9.9 percent drop from CY2012 (Figure 1). About a half of the arrests (50.7%) were made in Cook County in CY2013.

The number of arrests of young adults age 18 - 21 has been decreasing – 30.9% decrease from CY2007 and 9.9% decrease from CY2012.

Figure 1. Arrest Trend Age 18 - 21



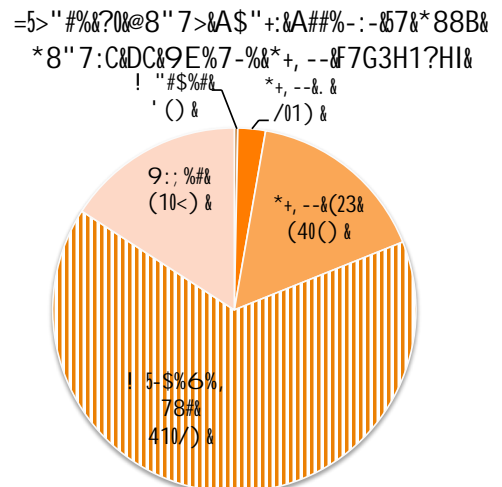
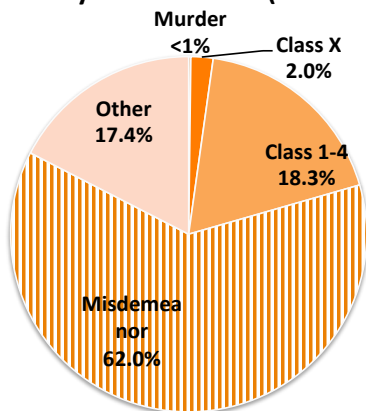
While they face adult prosecution and punishment, 18 – 21 year olds are committing no more serious crimes than juveniles under the age of 18. As seen in juvenile arrests, arrests for murder and Class X felony combined accounted for less than 3 percent of the total arrests both statewide and in Cook County. Misdemeanors, on the other hand, accounted for over 60 percent of the total arrests. All felony arrests including murder and Class X, 1 – 4, accounted for 20 percent of the total arrests of young adults (Figure 2 & 3).

The most common arrest offense statewide and in Cook County was labeled as “other,” followed by drug and property crimes (Figure 4). Drug arrests

accounted for 22.3 percent statewide and for 23.6 percent in Cook County. Property arrests made up 22.0 percent of statewide young adults’ arrests and 21.4 percent of Cook County arrests. Homicide¹⁴ arrests accounted for only 0.3 – 0.4 percent of all the young adults’ arrests statewide.

60% of the arrests of young adults in Illinois in CY2013 were for misdemeanor offenses.

Figure 2. Young Adult Arrests in Illinois by Offense Class (n=79926)



About a half of the arrests for each offense type were in Cook County excluding homicide and status offenses. 99.2 percent of arrests for status offense and 74.1 percent of arrests for homicide were made in Cook County. In Cook County, homicide arrests accounted for only 0.5 percent of the overall arrests.

The relationship between age and arrest is bell-shaped in Cook County and the rest of the state. The age-arrest curves on the next page show the changing age composition of arrests between Cook County and non-Cook counties. The X-axis shows age, and Y-axis shows the number of arrests. As found in other studies¹⁵, the arrests tend to increase as young people reach adolescence and decline in the early 20s. (Figure 5). In Cook County, the number of arrests increased dramatically from age 13 to 14, and from age 14 to 15 (by 123% and 91% respectively). After age 16, the arrests increased gradually and peaked at age 20, and declined thereafter. Arrests in non-Cook counties also continuously decreased after the age 20. This drop in arrests is consistent with the neuroscience finding that the brain is still developing, and impulsivity declines as youth mature into their 20s.¹⁶

The age-arrest curves vary depending on the offense type (Figure 6). For instance, in CY2013, the number of drug arrests increased at a less significant rate from age 13 to 17 than that of property offenses, and the arrests peaked later than arrests of property crimes. The age-arrest curve for person crimes was unlike those for property or drug offenses. The number of arrests for crimes against person offenses increased by 60.2 percent from age 14 to 15, and gradually increased to its peak at the age of 18. After

the age of 18, the arrests remained the same until the age 23. However, across all offense types, **the age arrest curves demonstrate a sharp decrease in criminal conduct in the early twenties.**

As observed in the national data, black young adults are at a higher risk of ending up in the criminal justice system for minor crimes. Black young adults ages 18 – 21 were overrepresented at a level 2.42 times higher than the general population while white young adults were underrepresented (RI=2.42 and RI=0.68).

Further, black young adults were much more likely to be arrested and overrepresented in the criminal justice system across all offenses. In Cook County, black 18 – 21 year olds were 3.44 times more likely to be arrested than white (RRI =3.44), and they were 3.59 times more likely to be arrested statewide (RRI=3.59).¹⁷

Black young adults age 18 - 21 were represented at a level 2.42 times higher than general population, and more than three times likely to be arrested than white peers in CY2013.

Figure 5. Age-Arrest Curve, CY2013

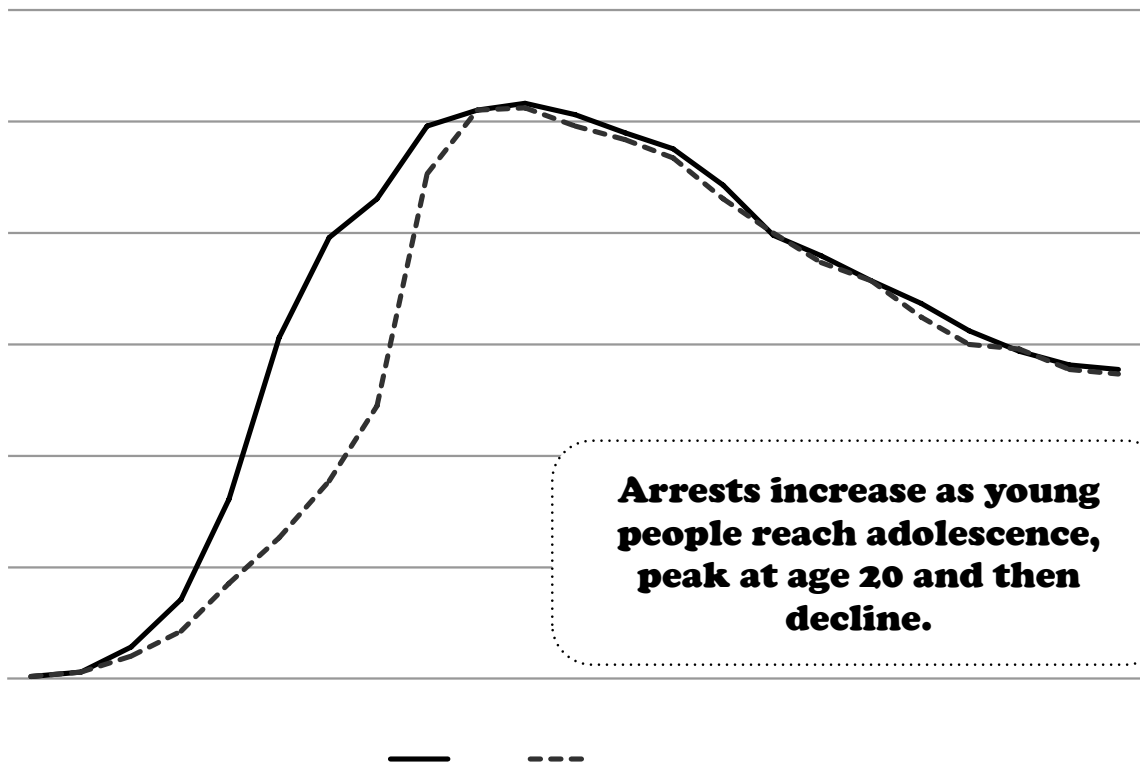
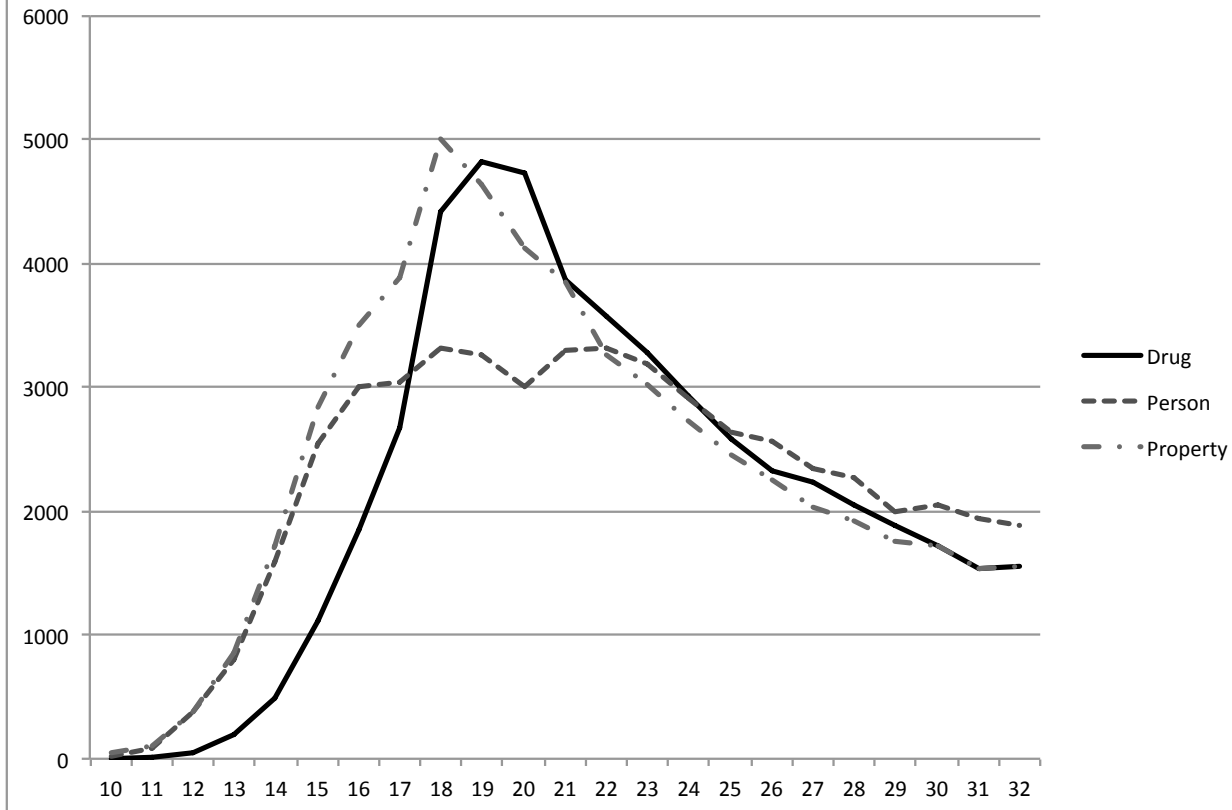


Figure 6. Age-Arrest Curves by Offense Type



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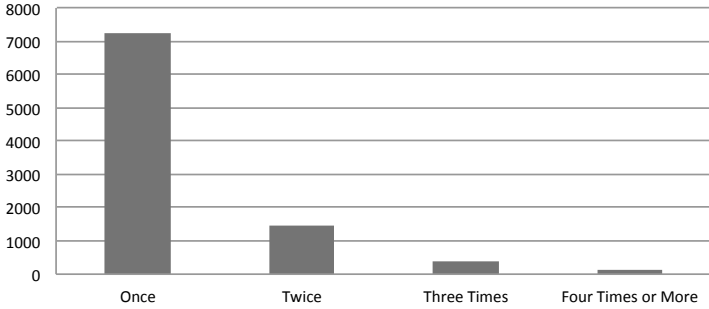
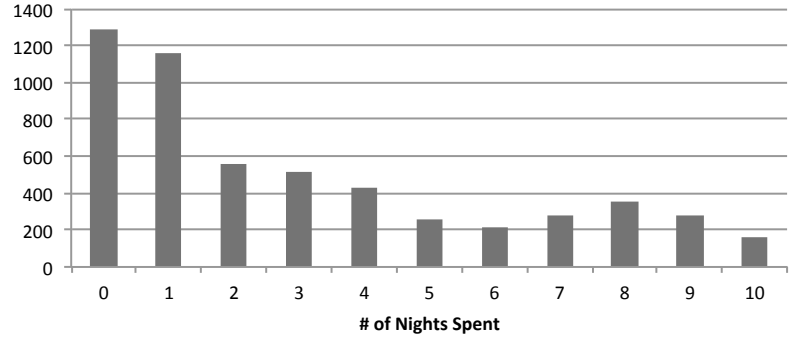


Figure 10. Number of Nights Spent



within the same calendar year (Figure 9). This means that **21.2 percent of the unique individuals admitted to the jail accounted for 38.8 percent of the overall young adult admissions in CY2013.**

Length of stay in the jail can be determined by multiple factors – some young adults may be released after posting a bond, others may be released when the case is dismissed. Or some may leave the jail after the case is disposed, and others may be transferred to state prison. As of mid-January 2015, when the JJI obtained the dataset, 428 young adults admitted in CY2013 were still detained in the jail. The average length of time¹⁹ served by 11,388 young adults admitted and released in CY2013 was 51.5 nights, including those people who were booked and released within the same day. The median, on the other hand, shows that half of the young adults remained detained for 12 nights or less, and the other half spent more than 12 nights in the jail. 1,285 inmates (11.3% of 11,388 released individuals) were released on the same day, 1,157 inmates (10.2%) were released next day, and 560 inmates (4.9%) stayed two nights in the jail (Figure 10). 239 inmates (2.1%) spent 365 nights or more in the jail.

A majority of the young adult admitted to Cook County Jail in CY2013 were admitted only once. Half of the young adults spent 12 nights or less in the jail, and nearly a quarter of the young adults were released on the same day (11.3%), released next day (10.2%), or stayed only two nights (4.9%).

Diversion Options in Illinois

Illinois has a unique set of effective diversion options in the Illinois Juvenile Court Act. These range from police diversion to probation adjustments, and include prosecutorial led community mediation panels. Recent experience with the extension of these diversion mechanisms to seventeen year old misdemeanants demonstrated the strength and effectiveness of these diversion mechanisms as nearly 18,000 arrests of seventeen year old misdemeanants were successfully diverted from formal court processing within the first year of raising the age of juvenile court.

1. Diversion by Police - Station Adjustments

Station adjustments in the Illinois Juvenile Court Act (405/5-301) give police broad discretion to release a minor with reasonable conditions including no contact with specific persons, restrictions on entry into geographic areas, school attendance, up to 25 hours of community service, restitution, peer court, or community mediation. Failure to follow the conditions may result in modification of the conditions or additional conditions (including reporting to police) or referral to court.

2. Diversion by Probation - Probation Adjustments

Probation officers have the ability to divert cases from court processing through probation adjustment (405/5-305), a process that involves a preliminary conference with the minor, parents and the victim. An adjustment plan is developed as an alternative to court processing. The plan may include counseling, informal probation supervision, community service, and even referral to residential treatment.

3. Diversion by Prosecutor with Community - Community Mediation

Finally, the Juvenile Court Act includes community mediation (405/5-310) as a third alternative to court processing. Community mediation panels are set up by prosecutors. Cases referred to community mediation panels may include station adjustments or probation adjustments that have not succeeded and are referred as a last alternative to court processing. Counseling, substance abuse treatment, community service and restitution are all available options.

Diversion Success Demonstrated by Impact on 17 Year Old Misdemeanants

While there are no state reports on the use of the above-referenced juvenile court diversion mechanisms, Illinois recently had a unique opportunity to test the effectiveness of diversion.

On Jan. 1, 2010, seventeen year olds charged with misdemeanors were moved from adult to juvenile court jurisdiction. Thus, for the first time, seventeen year old misdemeanants were eligible for the diversion mechanisms of the Juvenile Court Act. The Illinois Juvenile Justice Commission reviewed the impact of the age change in a report on the impact during the first full year of raising the age.²⁰

The Commission's report documented up to 18,000 arrests statewide of youth age seventeen and charged with misdemeanors. The expectation was that the influx of so many thousands of new cases would overwhelm the juvenile court as well as detention and prisons. In fact, during the first full year of raising the age, detention admissions went down and juvenile prison admissions went down, and juvenile crime decreased. The state of Illinois was able to close two state juvenile prisons.

One can only surmise that the diversion mechanisms of the Juvenile Court Act worked successfully to divert the bulk of the 18,000 seventeen year olds arrested on misdemeanor charges. Thus, the review of the 18,000 misdemeanor arrests of seventeen year olds in the first year that they fell under the jurisdiction of the Juvenile Court Act reveals a vigorous impact from the application of juvenile court diversion alternatives to formal court processing.

Conclusion

Illinois, the home of the world's first juvenile court, has a particularly broad range of diversion options within its juvenile court act.

The Juvenile Court Act gives the police discretion to informally dispose of cases at the stationhouse. Police have a range of options within their discretion that involve the minor agreeing to conditions (counseling/education/community service/restitution) in lieu of referral to juvenile court.

But this broad police discretion for informal disposition of cases at the stationhouse abruptly ends when adult court begins at age 18. This cutoff ignores all that research tells us about young adult offenders, who have a great capacity for rehabilitation. It also ignores research that demonstrates that criminal offending peaks in late adolescence, and then dramatically declines beginning in the early twenties – in other words, that most youth grow out of

criminal offending as they mature and take on adult responsibilities.

The JJI research in this report confirms that most young adults come into contact with the justice system for minor offenses. The majority (over 60%) of young adults arrested in Illinois are charged with a misdemeanor offense. Yet, they are within the adult system where police have only two options – to refer the case to court or to let the young adult go free. There is no middle ground, no authority for police to informally adjust the case at the stationhouse.

Illinois could see a dramatic impact from simply allowing police the discretion to informally divert cases involving young adult offenders. This report documents that in CY2013, there were 4,011 admissions of young adults (age 18-21) to the Cook County Jail charged with misdemeanor offenses. Allowing police to use the same discretion they now use with 16 and 17 year olds, with young adult offenders could significantly reduce the jail population while improving the outcomes of cases involving young adult misdemeanants.

Recommendation: Allow police the discretion to use their diversion authority under the Juvenile Court Act for young adult offenders.

Acknowledgement

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Questions?

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3. Sweeten, G., Piquero, A. R., & Steinberg, L. (2013). Age and the Explanation of Crime, Revisited. *Journal of Youth and Adolescence*, 42, 921-938.
4. International treaties and conventions have been urging to treat young adults, especially 18 – 21 year olds, like juveniles. On November 29, 1985, the United Nations Standard Minimum Rules on the Administration of Juvenile Justice, known as “Beijing Rules,” was adopted by the United Nations General Assembly. The Rules provide guidance to States for the protection of children's rights (e.g., the rights to counsel and confidentiality) and respect for their needs in the development of separate and specialized systems of juvenile justice, and provide that the purpose of juvenile justice system is to enhance the well-being of the juvenile and to ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of the offender and the offense. And the Rules recommend that young adults be granted the same rights and treatments as written in the Rules “efforts shall also be made to extend the principles embodied in the Rules to young adult offenders.” In 2003, the Council of Europe, which includes 47 nations that all have signed up to the European Convention on Human Rights, announced its recommendation concerning new approaches to deal with juvenile delinquency and the role of juvenile justice. The Council recommended, in Rule 11 “Reflecting the extended transition to adulthood, it should be possible for young adults under the age of 21 to be treated in a way comparable to juveniles and to be subject to the same interventions, when the judge is of the opinion that they are not as mature and responsible for their actions as full adults.”
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11. <http://www.t2a.org.uk/wp-content/uploads/2012/05/T2A-Summative-Evaluation-Catch22-2012.pdf>
12. Mark Some inmates had more than one offense listed for the same case and same admission. Juvenile Justice Initiative only included the more serious offense per case per admission.
13. Easy Access to Juvenile Populations available on: <http://www.ojdp.gov/ojstatbb/ezapop/>
14. Homicide includes not only murders but also attempted murder, manslaughter etc. Some homicide arrests are included in Class X felony as opposed to “murder.” Class X and murder are mutually exclusive.
15. Farrington, D. P. (1986). Age and crime. In M. Tonry, & N. Morris (Eds.), *Crime and justice: An annual review of research*

Appendix A. Arrests of Young Adults by Offense Class

	Statewide	Cook	Non Cook
Age	18 - 21	18 - 21	18 - 21
Murder			
Class X			
Class 1-4			
Misdemeanor			
Other			
Total			

Appendix B. Young Adult Arrests and Population by Race, CY2013

Table B. Arrests and Population by Race						
	Arrests (Age 18-21)			Population (Age 18-20)		
	Cook	Out of Cook	Statewide	Cook	Out of Cook	Statewide
Black						
White						
Other						
Total						

Appendix C. Violent and Non-Violent Admission Charges by Offense Type and Gender

Table C. Violent and Non-Violent Admission Charges by Offense Type and Gender			
	Violent	Non Violent	Total
Offense			
D			
H			
Gender			
F			
Total			

About Juvenile Justice Initiative

J J I

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Contact Information

E D I

JJI

Read JJI's Other Publications

- Snapshot of Illinois Juvenile Arrests, CY2013 <http://goo.gl/6MHiJU>
 - Automatic Adult Prosecution of Children in Cook County, Illinois. 2010-2012. <http://goo.gl/Zf72Gc>
 - Issue Brief: Court Commitments of Young Drug Offenders to IDJJ <http://goo.gl/yzHaer>
 - Impact of Illinois' Statutory Change: Mandating the Least Restrictive Alternative Standard (Models for Change) <http://goo.gl/Thbchv>
 - Changing Course: A Review of the First Two Years of Drug Transfer Reform in Illinois <http://goo.gl/jjl8bB>
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Juvenile Justice Initiative
518 Davis Street, Suite 211
Evanston, IL 60201

www.jjustice.org