REIMAGINE JUSTICE FOR EMERGING ADULTS
Lawndale Christian Conference Center; 3750 W. Ogden Ave., 4th Fl., Chicago
FRIDAY, JUNE 16, 2017

AGENDA

10:00 Welcome & Overview – Betsy Clarke, President, Juvenile Justice Initiative

10:15 – 11:15  Panel One – Overview of Emerging Adults in Conflict w. the Law (Moderator- Todd Belcore, Executive Director- Chicago Social Change)
   Brian Minsker, President-Elect of the Parent Teacher Assoc. of Illinois
   Henriette Gratteau, Director, Cook County Jail, Sheriff’s Justice Institute
   Lisa Jacobs – Loyola Univ. Ctr for Criminal Justice Research, Policy & Practice

11:15 – 12:15  Panel Two – What is Changing – Reforms to address Emerging Adults (Moderator- Khadine Bennett, Advocacy & Intergovernmental Affairs Director ACLU of Illinois)
   Amy Campanelli, Public Defender, Cook County
   Mark Vargo – State’s Attorney, Pennington County, South Dakota
   Patrick Keenan-Devlin – Director, Moran Center for Youth Advocacy

12:15 – Break & grab lunch

12:30 – 1:00  Video from Connecticut Gov. Malloy’s Reimagine Justice Summit.  Group comment/discussion

1:00 – 1:30  Judge Colleen F. Sheehan – overview of Restorative Justice Community Court for Young Adults in North Lawndale ( Introduction- Cliff Nellis, Director, Lawndale Christian Legal Center)

1:30 – 2:45 Legislative Panel (Moderator- Garien Gatewood- Director of Policy Advocacy- Juvenile Justice Initiative)
   Sen. Patricia VanPelt

2:45 – 4:00 – small group discussion, reconvene & report out.

CO-SPONSORS – Social Change and Restore Justice.  With gratitude to the M. Denny Hassakis Fund of the Illinois Bar Foundation for support for this summit.
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:

Gretchen McDowell, Illinois PTA Legislative Consultant and Past President
Brian Minsker, Illinois PTA President-Elect
Wendy Powers, Illinois PTA Resolutions Director
Barbara Quinn, Illinois PTA Legislative Consultant and Past President
Darvel Stinson, Illinois PTA Juvenile Safety and Protection Director
Lisa S. Garbaty, Illinois PTA Legislative Advocacy Director

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Table of Contents
I: Executive Summary…….page 2
II: Brain Development……..page 3
III: Age Divisions……………page 4
IV: Other Jurisdictions……….page 5
V: Conclusions……………..page 5
VI: Recommendations………..page 6
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 to 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 18th 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.¹
- **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.²,³
- **Massachusetts:** A bill has been introduced in the current (2017) Senate that would, among other reforms, raise the upper age of juvenile jurisdiction to 21.⁴,⁵
- **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.⁶,⁷

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.⁸
- **Germany:** The maximum sentence for youths ages 14 to 17 and for those ages 18 to 20 is ten years.⁹
- **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 20.⁹
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 as 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.”
References for Section I

References for Section II

References for Section III
You have to be 18 to vote in a general election or join the military without your parents’ consent — and you’ve got to be 21 before you can belly up to the bar. But in some states, if you’re under 18 and you break the law, you’ll be treated as an adult, no matter how slight the crime — even if it’s just jumping a subway turnstile or shoplifting. Sixteen-year-olds in New York and North Carolina are still funneled through adult criminal courts and housed in adult prisons and jails. In Georgia, Michigan, Missouri, Texas and Wisconsin, 17-year-olds are automatically prosecuted as adults.

Raising the age can have a huge impact on the lives of young people. Teens funneled into adult prisons do not have access to rehabilitative services that the juvenile justice system provides. And adult prisons can be extremely dangerous for teens.

Prosecuting minors as adults used to be more common. But the practice has declined amid increasing awareness that young people, with brains that are still developing, may not fully understand the consequences of their actions, as well as evidence that teens are more likely to commit additional crimes if they are prosecuted as adults. Over the past decade, at least seven states have raised the age of criminal responsibility to 18, and today most states set it there. And more changes are on the way.

In New York, under a law signed by Democratic Gov. Andrew Cuomo in April, 16-year-olds charged with a crime will no longer automatically be prosecuted as an adult after October 2018. A year later, 17-year-olds will no longer automatically be prosecuted as an adult, with that decision left to a judge in felony cases. And this month, after years of debate, the North Carolina House overwhelmingly passed a bill that would raise the age of criminal responsibility to 18. North Carolina state Rep. Duane Hall, a former public defender who sponsored the legislation there, said he’s seen how a permanent adult conviction can destroy a young life. “A kid who gets into a fight at a football game in North Carolina could have an adult conviction,” the Democrat said. Meanwhile, lawmakers in Georgia, Michigan and Missouri are considering legislation that would raise the age of criminal responsibility from 17 to 18. (A similar bill failed to make it to a vote in Wisconsin last year because of concerns over cost.)

Since 2007, Connecticut, Illinois, Louisiana, Massachusetts, Mississippi, New Hampshire and South Carolina have all enacted laws raising the age to 18.

Some states are taking things a step further: In February, Connecticut Gov. Dannel Malloy, a Democrat, introduced a bill that would make the state one of the first to raise the age of criminal responsibility to 21. And last year, Vermont enacted a law that will gradually raise the age of criminal responsibility from 18 to 21 by July 2018 and create a separate prison for incarcerated youth up to age 25.

The goal is to steer older teens into the juvenile court system, where they can participate in counseling and diversion programs such as substance abuse treatment and educational assistance. “There’s a general understanding that teenagers and young adults make bad decisions that shouldn’t prevent them from living their lives going forward,” said Nancy Ginsburg, director of adolescent intervention and diversion for the New York-based Legal Aid Society, a nonprofit advocacy group that helped craft the New York legislation.

By charging and convicting adolescents as adults, Ginsburg said, “you basically create a whole class of people who cannot be employed and cannot obtain housing for no other reason than we decided to hold them accountable for things that they did when they were young.”
There are several reasons behind the nationwide push to raise the age. One is the growing awareness that young brains aren’t fully developed until around age 25 and youth don’t fully understand the consequences of their actions.

Advocates also point to evidence that teens who’ve been arrested are less likely to commit additional crimes if they are prosecuted as minors, and to the fact that young people incarcerated in adult prisons are at a much greater risk of sexual assault than adult offenders.

Funneling more teens to juvenile courts initially may increase costs for state and local governments. But evidence suggests that prosecuting more youthful offenders in juvenile justice courts will save taxpayers money as recidivism rates are reduced and more youth are able to lead successful lives, earn a living, and contributing to the local economy.

But some critics, such as the Brooklyn NAACP, argue the New York law doesn’t go far enough to protect children. Others, such as Bill Fitzpatrick, the district attorney for Onondaga County in upstate New York, argue the measures go too far.

“What are we going to do, raise the age to 26?” said Fitzpatrick, who serves as chairman of the National District Attorneys’ Association. “The overwhelming majority of [prosecutors] recognize there’s a difference between a 16-year-old and a 36-year-old, and we attempt to deal with them appropriately.”

Relatively few young offenders are incarcerated in adult facilities, Fitzpatrick pointed out. In 2015, state prisons held an estimated 1,000 prisoners 17 or younger; federal prisons in April held 21 prisoners under 18 and 2,204 inmates 18 to 21 years old. Meanwhile, in 2015, fewer than 4,000 juveniles were in local jails.

“There’s so much misinformation out there about juveniles being locked up and treated inappropriately,” Fitzpatrick said.

**Rehabilitation, Not Incarceration**

Elizabeth Clarke, executive director of the Juvenile Justice Initiative, an advocacy group based in Evanston, Illinois, that pushed to raise the state’s age of criminal responsibility to 18, said young people do better in the juvenile justice system, where the focus is on individual rehabilitation.

“There’s no good that comes for kids out of adult court,” Clarke said. “It’s not a deterrent. This is really about what works and what’s been shown to work.”

Under the adult system, police were limited to two options: Arrest a suspect and send them to court or don’t arrest and send them home. But the Illinois law meant greater leeway for handling 17-year-olds. Because they now are automatically treated as juveniles, police can send them to counseling, make them do community service, or simply make them write a letter of apology.

As a result of the law and other programs focused on rehabilitating troubled teens, the number of youth in the juvenile prison population has dropped from 1,195 to under 400 today, according to a Juvenile Justice Initiative analysis of Illinois Department of Juvenile Justice data. Three of the state’s eight juvenile prisons have closed, and the number of youth held in pre-trial detention also dropped 13 percent between 2011 and 2015, Clarke said.

In a report this year about the potential ramifications of raising the age in North Carolina, Jon Guze, a director of legal studies with the John Locke Foundation, a conservative think tank based in the state, cited research finding that recidivism rates are significantly lower when young offenders are pushed through the juvenile justice system.

Initially, funneling older teens into the juvenile justice system could mean incurring additional costs, from hiring more family court judges, juvenile prosecutors and public defenders to building more courts and detention facilities, said Krista Larson of the Vera Institute, a research organization that advocates for changes in the criminal justice system.

But, she said, “States that have raised the age have not seen their juvenile court systems crushed by the numbers.” A 2011 Vera Institute study found that if North Carolina raised the age to 18, the state would
save $52.3 million a year.

After Connecticut passed its “raise the age” law in 2007, the state ended up spending slightly less on its juvenile justice system than it did before the age was raised, according to the Justice Policy Institute. Arrests of 15- to 19-year-olds decreased 60 percent between 2008 and 2015, according to data compiled by the state’s Office of Policy and Management. The number of 16- and 17-year-olds in the adult prison population dropped by three-quarters between 2009 and 2016. The number of 18- to 21-year-old prisoners fell more than half.

“We can’t prove cause and effect here,” said Mike Lawlor, the state’s undersecretary for criminal justice policy and planning who sponsored the 2007 bill when he was a Democratic state lawmaker. “But you could theorize that if youth are being handled differently, then fewer and fewer are ending up in prisons as adults down the road.”

Haggling in New York
New York’s raise-the-age law is complicated, the result of years of haggling from both sides of the aisle. The legislation ensures young people who commit nonviolent crimes will receive intervention and treatment. Young people will no longer be held at the notorious Rikers Island prison complex after October 2018. And people of all ages who have been crime-free for 10 years can now apply to have their criminal records sealed.
All misdemeanors will be automatically referred to family court, which handles juvenile cases. Youth charged with felonies will be treated a little differently. Their cases will be heard in a special part of adult criminal court where a family court judge will preside. No youth will be housed in adult prison facilities or jails.
“Is it the law that I would’ve written? No. But it’s a political process,” Ginsburg of the Legal Aid Society said. “The vast majority of the kids will be out of the adult system. It’s a strong first step. But there’s certainly more work to be done.”
How Germany Treats Juveniles

Inside the German prison system, day four.

By Maurice Chammah. Posted on Friday, June 19, 2015 at 7:15 a.m.

Neustrelitz Prison is a juvenile facility, but whereas in the United States the word “juvenile” usually refers to those under 18, the 150 men and women at this German institution are almost all between 19 and 25. They’re housed in a collection of small white buildings with pitched, shingled roofs that sit behind a wall in the countryside of Mecklenburg-Western Pomerania, a large but sparsely populated state along Germany’s northern coast about the size of New Hampshire. (It’s even got the same tall trees and crisp air.)

There are horses for the prisoners to ride, and dozens of rabbits, including one that — according to a prisoner who cares for him — has done well in some sort of national rabbit competition.

Wednesday’s tour of Neustrelitz represented another moment in which US corrections officials, prosecutors, activists, and researchers — in the country for a week — could witness the extent to which Germany’s prison system differs from their own. Here, administrators emphasize therapy (the rabbits are part of “animal therapy”) and eschew the retributive impulse that has defined American justice for decades.

But because Neustrelitz houses young men and women who have committed more serious crimes — more than half of them violent — there was a familiarity that made the contrast easier to digest. “This is the place for violence because they are young, they are aggressive, they have no control,” said Jörg Jesse, head of prisons in Mecklenburg-Western Pomerania.

We saw the familiar sights of incarceration: surveillance cameras, blue sweatsuit uniforms, steel-reinforced bars over windows, and tall, white walls topped by spools of razor wire. And in both Germany and the U.S., there is a widespread recognition that young brains are different: they are less mentally culpable for their crimes, more open to rehabilitation, and more vulnerable to exploitation in the culture of prisons. (That last point has reached the U.S. more slowly; while the 2003 Prison Rape Elimination Act demands that anyone under 18 be separated by “sight and sound” from older prisoners, it has not been fully implemented).

The difference is that in Germany, they take these ideas further. Throughout Europe, juvenile sentencing laws cover people until they are at least 18. In Germany, that age is 21, and there is currently a political debate underway about
extending the juvenile law to cover men and women up to 24. (They already stay in juvenile prisons until they are 24 or 25.) This is in sharp contrast to the U.S., where 16 and 17-year-olds are regularly placed in adult facilities. “We do not transfer juveniles to adult courts,” said Frieder Dünkel, a criminologist at the University of Greifswald in northern Germany, with a brisk matter-of-factness. “It is not possible.”

Kai Schulz is 40 days away from the end of his four-year sentence for attempted murder. He’s 23 and wears his hair shaved on the back and sides with a fashionable little ponytail on top, along with a thin goatee. He’s a brawny guy, a middle linebacker when he plays football — the American version — for recreation. (When someone asked if he tackles, Schulz replied, “Yes, I tackle. I’m 88 kilos [194 pounds].”)

Schulz works in a metal shop, and learned how to weld here. He plans to find a welding job when he gets out. “There’s probably a big demand for this skill in the German economy,” noted Gregg Marcantel, the head of New Mexico’s prison system, referring to the country’s car industry.

When he got here, Schulz was like most violent young men when they enter prison: He was angry. He tried to escape twice, and was forced to stay for short periods in more locked-down rooms. Like many young prisoners I’ve spoken with in the U.S., he was initially afraid and tried to toughen up so nobody would mess with him.

The difference was that he eventually realized he didn’t need to.

SCOTT BUDNICK, LEFT, PRESIDENT OF THE ANTI-RECIDIVISM COALITION, AND KHALIL GIBRAN MUHAMMAD, RIGHT, DIRECTOR AT SCHOMBURG CENTER FOR RESEARCH IN BLACK CULTURE IN HARLEM, CENTER TALKING TO INMATES AT NEUSTRELITZ PRISON ON WEDNESDAY. JULIAN RÖDER

I did not get to see the early version of Schulz or the transition, but the man I met was strikingly self-assured and used words like “re-socialization” while fielding
questions from dozens of curious foreigners. Marcantel joked that the young inmate could probably run the facility.

Schulz’s redemption narrative was so clean and heartwarming that it was easy to be skeptical, and many of the young men who leave this prison do, in fact, return after committing additional crimes. (We did not get the exact figures, though Schulz implied the number was high.)

But you can’t underestimate the power of a success story to push along American efforts to think more seriously and broadly about prison reform. If prosecutors are worried what victims and the general public might think if a man — who attempted to murder someone — got less than five years in prison, they could trot out Schulz, who talks about the letters of apology he sent to his victim. Did she respond? “No,” he said. “I fully understand why she wouldn’t be in touch, and it might influence her for the worst to talk to me. But I know I’ll never forget what I did.”

When Schulz gets out, he plans to move far from his home and the location of his crime, the island of Ruegen, off Germany’s northern coast, to escape his reputation and what he describes as a culture of criminality. The prison will help him find a job and an apartment. He knows he is getting a far better deal than he would in the U.S., and spoke of seeing documentaries on television about solitary confinement, “where you go years without touching even another person’s finger — it’s unimaginable.” (Solitary confinement is used in Germany, but sparingly, and never for more than four weeks at a time).

When asked what advice he would have for the American justice system, Schulz was ready.

“Make prisoners realize, like they do here, that they only have one life,” he said. “I realized through therapy that I had a second chance.”

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