



# THE DISTRICT'S YOUTH REHABILITATION ACT: An Analysis

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## ABOUT CJCC

The Criminal Justice Coordinating Council (CJCC), an independent agency, serves as the District of Columbia's forum for local and federal members to identify cross-cutting local criminal and juvenile justice system issues and achieve coordinated solutions. CJCC facilitates and supports CJCC member-identified priorities, strategies and initiatives that will improve public safety and the related criminal and juvenile justice services for District of Columbia residents, visitors, victims, and justice-involved individuals.

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## EXECUTIVE SUMMARY

On December 22, 2016, Mayor Bowser requested that the Criminal Justice Coordinating Council (CJCC) conduct analysis on the District's Youth Rehabilitation Act (YRA). The specific questions to be examined include: how is the YRA applied; what is the recidivism rate of those who received it; and, what programming is available to those sentenced under YRA? In addition to the Mayor's research request, on the same day, Councilmember Allen requested that the CJCC address: how many times YRA was applied to felonies, and later resulted in a set aside; how many later committed another felony, particularly with a weapon or a crime of violence; and how are programs identified for these persons, and the details of their supervision. Responses to Councilmember Allen's requests were submitted February 1, 2017, and informed the analysis conducted herein. The research conducted in response to the Mayor's request examines all eligible offenses, cases, and offenders that were convicted in the DC Superior Court in 2010, 2011, and 2012. This timeframe was selected to offer at least two years after the completion of a term in order to gauge reoffending.

### Overview of the YRA

According to the Youth Rehabilitation Amendment Act of 1985, persons convicted of, and sentenced for, an offense under the age of 22<sup>1</sup> are eligible for a set aside,<sup>2</sup> or sealing, of conviction at the successful completion of their term, in addition to potentially different sentencing options. Those with a charge of murder, including murder that is part of an act of terrorism, are not eligible.

When determining a sentence for a YRA-eligible offender, judges have the option to impose a sentence under the YRA based on the information already available, or, prior to imposing a sentence may order a "youth study" performed in order to aid in a determination about whether a YRA sentence is appropriate. It is intended to determine if the person is likely to be rehabilitated, and to give the offender the opportunity to have the conviction set aside at the conclusion of his term. Authority to formally set aside a conviction belongs to the sentencing judge; in the case of a person who is under the jurisdiction of the U.S. Parole Commission, the Commissioner may set aside the conviction sentenced under the YRA.

### YRA Analysis

From 2010-2012, the DC Superior Court handled the disposition of 70,454 cases. Cases eligible for YRA sentencing represented 7% of the disposed cases during this period.

#### How is the YRA applied?

There were 5,166 cases that were eligible, and 3,960 persons who were eligible for a YRA sentence during the three-year period studied. In that time, 53% (2,726 of 5,166) of eligible cases were sentenced under YRA, and 60% (2,384 of 3,960) of eligible persons were sentenced under YRA. The offenders sentenced under YRA are convicted of similar offenses to those seen in the superset of all persons eligible for YRA in 2010-2012. Offenses that carried a mandatory minimum sentence were found for just 6.7% of all eligible

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<sup>1</sup> While a young adult is one who is 18 to 22 years old, those under 18 who are charged as adults are eligible for sentencing under the YRA.

<sup>2</sup> When a conviction is set aside, the information about that conviction can still be used in some circumstances, but the offender does not have to disclose that conviction to a potential employer. This is different from an expungement, which is the removal of a conviction from a person's criminal record.

offenders, and were less likely to be sentenced under YRA, particularly when there were multiple charges that carried a mandatory sentence.

Of those eligible persons who had completed their sentence by April 1, 2017, nearly half (976 of 2,135) successfully had their conviction set aside. Younger persons with less of a criminal history (fewer past arrests and convictions and juvenile commitments) were more likely to be sentenced under YRA. Younger offenders with less of a criminal history who were female, as well as those with weapon offenses, were more likely to have their conviction set aside. In this analysis, weapon offenses include only those offenses of possessing a weapon or ammunition illegally. Also of note, persons convicted of felonies were conversely less likely to be set aside.

#### What is the recidivism rate?

Based upon the analysis, persons whose convictions were set aside were less likely to be re-arrested and/or reconvicted than persons who were sentenced under the YRA but whose convictions were not successfully set aside. This held true when controlling for demographics, criminal history factors, and the offense that resulted in the YRA sentence. This highlights the need for more information, as the impact of interventions used during an offender's sentence is not accounted for, and may be instructive to further improve outcomes.

When comparing similarly situated persons who were and were not sentenced under the YRA, there was no difference in reoffending from the point they were sentenced. The two groups had similar chances of being re-arrested or reconvicted over the next two years, demonstrating that the sentence itself does not act as a point at which behavior changes, but instead that the sentence merely sets the stage for a person to have the conviction set aside at the end of his or her term.

#### What programming is available?

The examination of programming revealed two main points. First, there are no programs targeted to the YRA population. Second, there are programs that a YRA offender might access, such as Court Services and Offender Supervision Agency's (CSOSA) Young Adult Program, Federal Bureau of Prison's (FBOP) standard programming, and the Department of Correction's (DOC) standard programming, but a YRA sentence is not a qualifying criteria for any of the existing programs.

### Findings and Considerations

There is broad consensus that the propensity for youthful offenders to commit crimes desists once they reach their mid-20s. Across the United States, young adult offenders who are able to show an amenability to rehabilitation have been able to receive concessions such as conviction sealing and expungement if they do not reoffend. This is the case both nationwide and locally in the District of Columbia.

Neurological development indicates that young people develop reasoning and maturity starting from adolescence, and are well-developed by eighteen years of age. A person can distinguish right from wrong by their mid-teens; however, persons cannot gauge risk, understand consequences fully, or delay gratification until well into their 20s, a phenomenon referred to as the "maturity gap." The age-crime curve supports biological conclusions in this sense, as persons who are criminally active tend to slow down or stop offending by their mid-20s.

Young adult offender programs utilized across the United States vary widely, including Young Adult Courts, probation and parole programs, district attorney-led programs, community-based partnerships, hybrid

partnerships, and prison-based programs. At the same time, in many jurisdictions there is legislation that directs either courts, government agencies, or both to address young adult offenders in ways distinct from those approaches taken with older adult offenders.

Unfortunately, while there is a national consensus on the need to hone practices specific to the young adult offender population, research identifies best practices thus far for only two distinct groups: juveniles and adults. While programs that are known to be effective with other age groups may also be effective with young adult offenders, the evidence base simply has not caught up.

After a full review of the findings, as well as the testimony from Councilmember Allen's Roundtable on Sentencing in the District of Columbia: Agency Roles and Responsibilities (February 9, 2017), and the relevant national literature, some opportunities emerged. The findings here show that it is possible to improve the utilization of YRA, be more effective in outcomes for young adult offenders and enhance public safety. This can be done through legislation, as well as through appropriate programming, both of which can help better inform decision-making and help better prepare the offender to successfully attain the set aside of his or her conviction at the end of term.

1. Continue to afford the current structure of offenses and offenders for whom a YRA sentence is available; this is consistent with the findings that those receiving the sentence closely mirror offense types of the base of all eligible cases in 2010-2012. Based upon the analysis, YRA sentencing determinations are based upon factors that include age, arrest history, and juvenile commitments. While a surface examination would make it seem that more crimes of violence, weapon, and felony offenses are getting YRA sentences, when controlling for other factors, that finding dissipates.
2. A "youth study" is not mandatory for all those eligible for a sentence under the YRA. Requiring such studies in all felony cases where a YRA sentence is an option, could help further inform judicial decision-making and improve offender outcomes.
  - Rather than placing restrictions on applying YRA, the analysis here, while limited, provides some clues as to the factors that help determine whether a given offender would be successful. This would mean a full scale implementation of this youth study as a tool, with relevant implications that would need to be addressed with partners.
  - Risk assessment instruments or structured decision-making tools should be developed to assist the courts, akin to presentencing investigation recommendations, and for use in the development of appropriate programming that can be calculated from the youth study.
3. There is current discourse over the applicability of mandatory minimums in some offense categories in which persons are eligible for YRA sentencing. In light of the recent passage of the Comprehensive Youth Justice Amendment Act of 2016 (CYJAA), which allows for sentences below the mandatory requirements for juveniles sentenced as adults, further consideration and clarification might be beneficial to determine whether mandatory minimums should be applicable for young adult offenders sentenced under YRA.

4. Targeted programming should be available through specialized caseloads in community supervision, as 59% of YRA-sentenced offenders were initially supervised in the community.
5. Additionally, 34% of YRA-sentenced offenders were initially sentenced to a term of incarceration, and DOC and BOP are critical to the provision of targeted programming for those who may be under their jurisdiction.



# THE DISTRICT'S YOUTH REHABILITATION ACT: AN ANALYSIS

On December 22, 2016, Mayor Muriel Bowser requested that the Criminal Justice Coordinating Council (CJCC) conduct analysis regarding the Youth Rehabilitation Amendment Act (YRA) by July 1, 2017 on the following:

- Provide information regarding how the YRA is utilized in the District of Columbia (District).
- Evaluate the recidivism of those to whom it is applied.
- Provide information on whether or not the rehabilitative programming offered to YRA recipients is successful.

Also on December 22, 2016, Councilmember Charles Allen submitted a request asking CJCC to provide information on the following questions:

- How many times was YRA applied to a felony conviction and, of those, how many resulted in a set aside?
- How many of those receiving the benefit of a YRA later committed another felony, in particular a weapon or violent felony?
- How are programs identified for YRA-sentenced offenders, are they supervised differently, and are programs evaluated?

The responses to Councilmember Allen's questions were submitted February 1, 2017, though both sets of requests are addressed throughout this narrative. This report will provide the history of the YRA in the District and the research conducted pursuant to the Mayor and Councilmember's requests.<sup>3</sup>

## I. OVERVIEW OF THE DISTRICT OF COLUMBIA YOUTH REHABILITATION AMENDMENT ACT

The Federal Youth Corrections Act (FYCA) was enacted in 1950 in order to provide sentencing alternatives for youth offenders ages 18 to 22.<sup>4</sup> In an effort to prevent young offenders from becoming habitual criminals, the Act's purpose was to prevent recidivism by emphasizing rehabilitative treatment, rather than punishment.<sup>5</sup> Through the FYCA, Congress granted the courts discretion to impose probation or specialized treatment to youthful offenders; where courts found that youth would not benefit from these types of measures, regular penalties would be imposed. The FYCA allowed for the automatic expungement of a youth's conviction after discharge from probation or custody prior to the expiration of his or her sentence.

Following Congressional repeal of the FYCA in 1984, the District enacted the Youth Rehabilitation Amendment Act of 1985,<sup>6</sup> which provides for sentencing alternatives similar to those that had been available under the repealed FYCA. These sentencing alternatives may be given to youth under 22 years

<sup>3</sup> Detailed methodology for the analytic portion of the current report can be found in Appendix B.

<sup>4</sup> 18 U.S.C. §§ 5005-26 (*repealed*)

<sup>5</sup> H.R. Rep. No. 2979, 81<sup>st</sup> Cong., 2d Sess. 1, 3 (1950).

<sup>6</sup> DC Code §§ 24-901 – 907 (1985).

of age who are sentenced as adults for any crime other than murder, including murder associated with acts of terrorism.<sup>7</sup>

The objectives of the YRA are to give the court flexibility in sentencing youthful offenders,<sup>8</sup> separate youth from older and more mature offenders, and provide an opportunity for youth to have the sentence “set aside” in the future if the youth satisfies the conditions of the sentence. A set aside is distinct from “expungement,” in that a set aside conviction can still be used in various instances, including in determining whether a person has committed a second or subsequent offense for the purposes of imposing enhanced sentencing, for impeachment if a YRA-convicted offender testifies as a witness, for sex offender registration and notification, and for gun offender registration.<sup>9</sup> The set aside conviction is not publicly available, and the offender does not have to disclose criminal history to potential employers. Appendix C provides a flow chart that outlines the progression of a case that results in a conviction and is then sentenced under the YRA. The flow chart is neither meant to be legally binding nor an exhaustive representation of the application of the YRA. Rather, it is intended to serve as a general guide to the process.

Appendix D provides a list of amendments made to the YRA since its enactment in 1985, including proposed amendments that were ultimately not formally adopted.

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<sup>7</sup> DC Code § 24-901(6); Legislation allows for juveniles sentenced as adults to be eligible for YRA sentencing when sentenced for eligible offenses.

<sup>8</sup> For some offense categories, the Court may have discretion, in some instances, to sentence below mandatory minimum.

<sup>9</sup> DC Code § 24-906(f)

## II. YRA ANALYSIS

### A. How is the Youth Rehabilitation Act (YRA) used? How many times is it applied, and how many set asides occur?

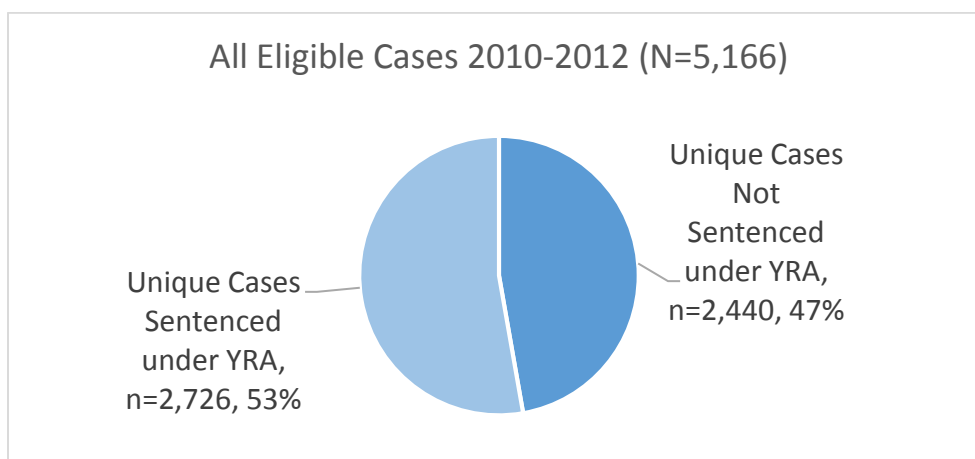
#### 1. How is the Youth Rehabilitation Act (YRA) used?

According to the YRA, 24 D.C. Code §§ 901-907, any offender who is under the age of 22 at the time of conviction for an eligible offense may be sentenced pursuant to the sentencing provisions of the YRA.<sup>10</sup> The YRA allows for a person to receive any lawful sentence (including probation, incarceration, or any combination of them), and in practice that can be the same as a sentence one would receive absent YRA sentencing, or a different sentence; and at the completion of such a sentence, the offender is then eligible to have his or her conviction set aside either by the Court or by the U.S. Parole Commission. A set aside, often referred to as a sealing, means that the conviction is not information that is publicly available, and the offender does not have to disclose criminal history to potential employers, though the government may access this information for limited purposes such as impeachment or considerations of sentencing for later offense convictions.

#### How Many Cases Are Sentenced Under YRA?

The DC Superior Court (DCSC or court) provided information for this study to include all persons under the age of 22 who had been convicted as an adult for an offense during calendar years 2010, 2011, and 2012. This included information on 5,166 unique cases (Figure 1) that did not include a murder conviction<sup>11</sup> for the three year period; these cases accounted for approximately 7.3% of the DCSC Criminal Division caseload during this time period. There were 2,440 unique cases for which a YRA sentence was not imposed. There were 2,726 unique cases for which a YRA sentence was imposed.

**Figure 1. Eligible Cases Sentenced Under YRA**



<sup>10</sup> The law states specifically "'Conviction' means the judgment on a verdict or a finding of guilty, a plea of guilty, or a plea of no contest." For clarification, that conviction is not complete until the sentencing is completed.

<sup>11</sup> Any conviction for 1<sup>st</sup> or 2<sup>nd</sup> degree murder, or murder that constitutes an act of terrorism, is not eligible for YRA.

DCSC reported that in the same years (2010-2012) there were a total of 70,454 cases disposed by the Criminal Division. In 2010, there were 23,227, in 2011 there were 24,944, and in 2012 there were 22,283.<sup>12</sup> These included felonies, U.S. misdemeanors, D.C. misdemeanors, and traffic offenses. These included all cases, both YRA eligible and not eligible, whether the ineligibility was due to the offender's age or the offense of conviction. As context, 7.3% of all cases handled by the Criminal Division in the sampled time period were eligible for YRA.

Answering the Mayor's request for information about how the YRA is used was more complicated than it might appear. In current practice the notable benefit of a YRA sentence is the fact that one's conviction is set aside (sealed) if he or she successfully completes his or her term of supervision and is recommended for set aside.

### Are There Any Differences in Sentencing?

Based upon the analysis of those cases between 2010 -2012, and in part due to the differential in criminal history scores, for certain types of offenses, YRA sentences were slightly shorter and less likely to include incarceration for certain types of offenses. However, for all three years included in the analysis, 96% or more of the sentences imposed were compliant with the Voluntary Sentencing Guidelines.<sup>13</sup> There were differences in sentence length and types of supervision when comparing all YRA to all non-YRA felony sentences, but there was important variation when considering the offense category and the criminal history of the person convicted. A person with a lower criminal history (CH) score was more likely to receive a YRA sentence and also would receive a shorter term.<sup>14</sup>

The Sentencing Commission of the District of Columbia (SCDC) collects and compiles information about felony sentencing practices in the District. And while the remainder of the analysis in this report considers all YRA-eligible offenses and offenders for these years, examining the felony sentences here is instructive as well. The SCDC provided aggregate counts of sentenced felonies,<sup>15</sup> and also delineated terms of incarceration and supervision for different offense categories and categories of criminal history (by CH score)<sup>16</sup> for those sentenced during 2010-2012. The CH score is a numeric score that accounts for prior juvenile adjudications, as well as prior felony and misdemeanor convictions.

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<sup>12</sup> The DC Superior Court Annual Report for 2013 contains information for all three sampled years, and can be found on page 6 of this document: <http://www.dccourts.gov/internet/documents/Calendar-Year-2013-Statistical-Summary-FINAL.pdf>

<sup>13</sup> The DC Voluntary Sentencing Guidelines represent a structured sentencing system used by the DC Superior Court to sentence adult felony offenders in the District. This system was created to promote consistency and proportionality in sentencing and give judges guidance on how to impose sentences. The goal is that offenders who commit similar offenses and have similar criminal records are sentenced alike while unique differences among offenses and offenders are also appropriately reflected. The Guidelines take into account two important factors in sentencing: offender criminal history and the offense severity of the conviction. More information can be found on the SCDC website: <https://sdc.dc.gov/page/frequently-asked-questions-003>

<sup>14</sup> Data for this report included 2010, 2011, and 2012. In 2010, judicial compliance with the Voluntary Sentencing Guidelines was 96% - for all cases (including YRA). In 2011, it was 97%, and in 2012 it was 98.8%. Downloaded from SCDC Annual Reports (6/13/17): <https://sdc.dc.gov/page/published-scdc-annual-reports>

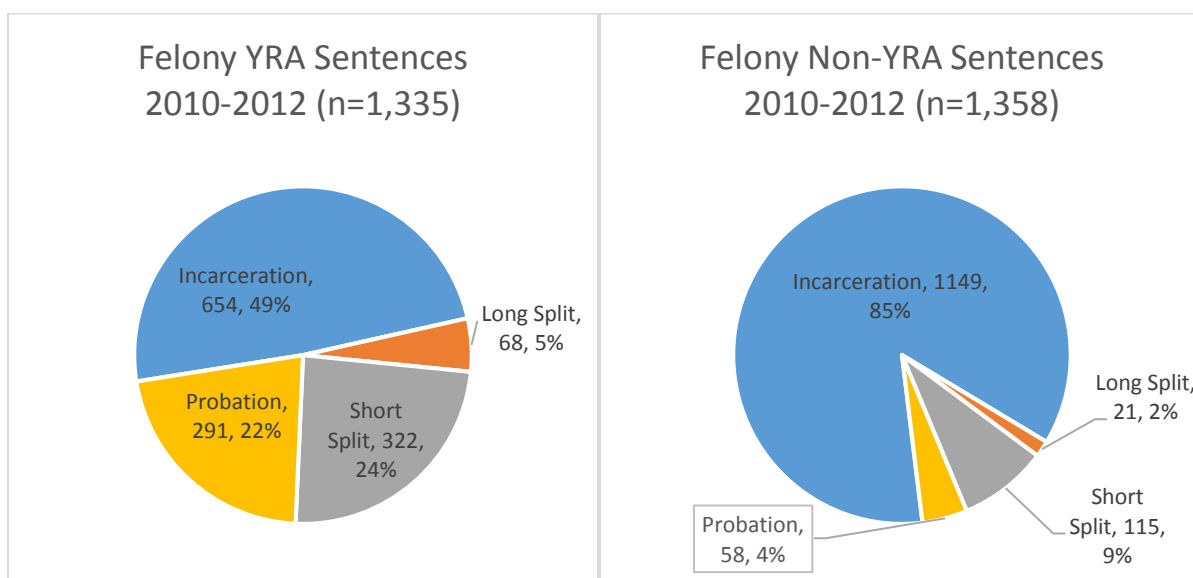
<sup>15</sup> Sentencing Commission data comes from the electronic IJS 12.1 data feed provided by the DC Superior Court, and criminal history information provided by CSOSA. They collect, verify, and validate information on felonies as those are the offenses in which the Voluntary Sentencing Guidelines apply. Misdemeanor sentencing information is collected but it not treated with the same level of rigor.

<sup>16</sup> The criminal history (CH) score is calculated based on criminal history information gathered by the Court Services and Offender Supervision Agency (CSOSA). Prior juvenile adjudications, as well as, prior felony and misdemeanor convictions are used by CSOSA to compute a numeric criminal history score that is provided to the Sentencing Commission upon sentencing of the offender. Under the Sentencing Guidelines, CH scores are classified based on score ranges into A, B, C, D, and E categories. For

When a judge makes a sentencing decision, the judge considers a number of factors, including criminal history score, the facts of the offense under consideration, aggravating and mitigating factors, age, and all of the social information provided in presentencing reports. These factors then play a role when a judge considers the Voluntary Sentencing Guidelines, at which point the sentence is decided.<sup>17</sup> In utilizing aggregates of sentences here, it is important to note that a more detailed examination may be useful.

Overall, offenders sentenced for a felony were more likely to be sentenced to a term of incarceration if they were not sentenced under the YRA than those sentenced for felony offenses under the YRA (Figure 2). YRA sentences were much more likely to include split sentences and probation, rather than incarceration alone. In many felony cases this may be a result of mandatory minimums that may apply for a person who does not receive a YRA sentence.<sup>18</sup> Analysis of this factor follows.

**Figure 2. Sentencing on Felony Offenses**



A sentence can include incarceration, a split sentence,<sup>19</sup> and/or a term of probation. When looking at the entire term for all YRA and non-YRA sentences that were given in these years, there is an average of 23 months for the entire sentence given to a person sentenced under YRA and an average of 31 months for the entire term for a person not sentenced under YRA.

The total sentence lengths across different offense types varied. There were different offense types and offenders that fell into these two very broad categories of those sentenced or not sentenced under YRA,

the purposes of this study, criminal history categories were combined into three groups: Low (A), Medium (B and C), and High (D and E). In some cases a CH score may not be available, but does not indicate the offender did not have a criminal history. More information is available on the Sentencing Commission website within the Guidelines.

<sup>17</sup> Data for this report included 2010, 2011, and 2012. In 2010, judicial compliance with the Voluntary Sentencing Guidelines was 96% - for all cases (including YRA). In 2011, it was 97%, and in 2012 it was 98.8%. Downloaded from SCDC Annual Reports (6/13/17): <https://scdc.dc.gov/page/published-scdc-annual-reports>

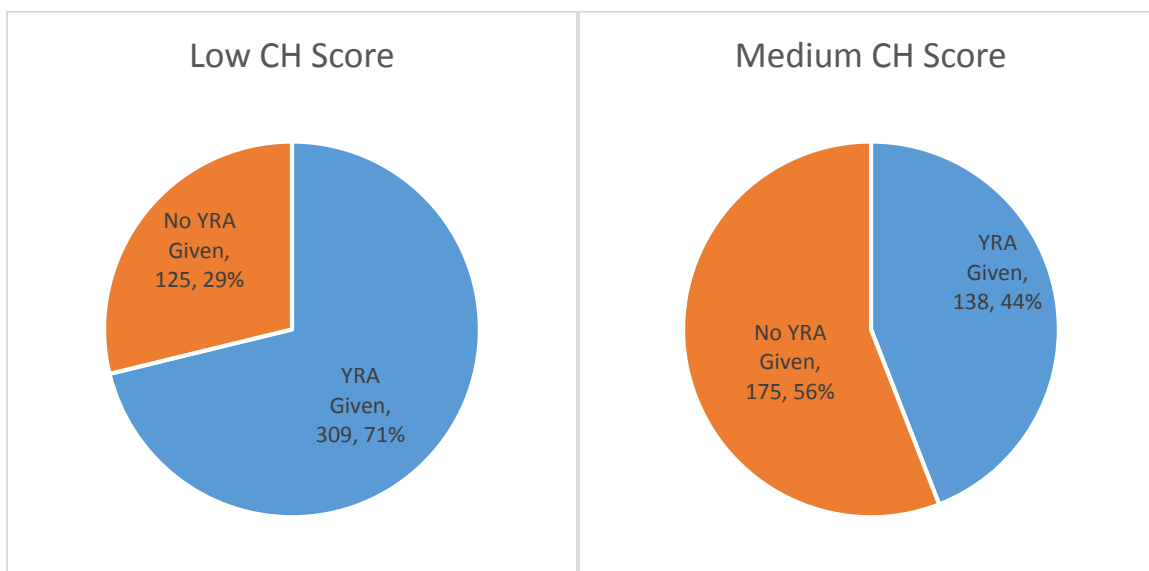
<sup>18</sup> As noted, mandatory minimums may not apply for some offenses when an offender is sentenced under YRA.

<sup>19</sup> According to the SCDC Annual Report, a long split sentence is one where the court imposes a prison sentence and suspends execution of some of the sentence, but requires the offender serve more than six months in prison and then places the offender on probation for a period of up to five years. A short split sentence is a prison sentence in which the court suspends execution of all but six months or less – but not all - of that sentence, and imposes up to five years of probation to follow the portion of the prison term to be served.

and this must be considered when looking at sentence differences. Delineating offender criminal histories provides a more nuanced analysis. For those with a low CH score, incarceration terms for YRA sentences averaged 28.3 months, while incarceration terms for non-YRA sentences and a low CH score averaged 29.8 months. So for those with low CH scores who received a term of incarceration – the length of that term was quite similar. This demonstrates the need to look beyond the simple YRA vs. non-YRA sentencing comparison. While on the surface it appears that YRA sentences are shorter, some of the apparent difference is likely because those sentenced under YRA have lower CH scores – and so even in the absence of YRA, would have received lesser terms when sentenced within the guidelines.<sup>20</sup>

Differences in sentences for YRA and non-YRA felonies may be driven by criminal history scores and by the offense category. SCDC provided total sentence comparisons (noted above) as well as a breakdown of sentences comparing YRA and non-YRA sentences by offense types and for offenders with high, medium, and low CH scores. Those felony offenders with lower CH scores were more likely to be sentenced under YRA (figure 3). Conversely, fewer persons received a YRA sentence for a crime of violence when they had a medium or high CH score. Considering low, medium, and high CH scores, when someone is sentenced under traditional sentencing, the sentence predictably becomes longer as the CH score increases. Total sentences (including incarceration and other forms of supervision) for persons with low CH scores totaled on average 24 months under YRA and 38 months without YRA.<sup>21</sup> Note, there are many factors considered when determining a sentence, and only two of which are presented here. A full analysis would allow controlling for other variables. The differences seen in all those sentenced under YRA versus all those not sentenced under YRA were less pronounced when disaggregating the offense category and offender CH score.

**Figure 3. Number of Charges Receiving a YRA by CH Score – Felony Violence**



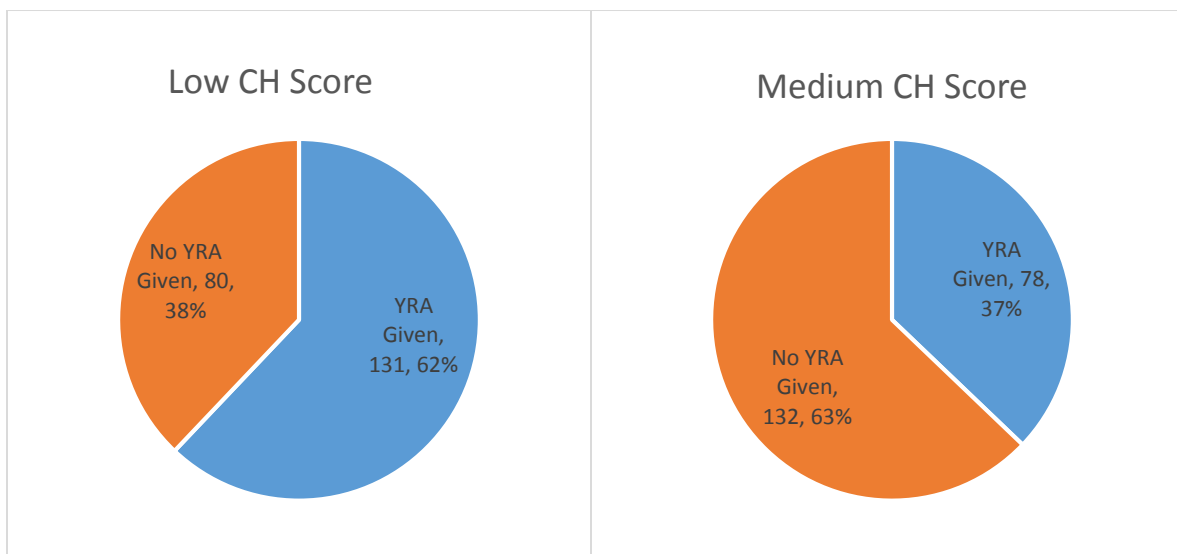
A similar pattern was found when examining sentences for cases with a felony weapon offense. The weapon offenses captured here are nearly identical to those categorized for the remainder of the study,

<sup>20</sup> <https://scdc.dc.gov/page/published-scdc-annual-reports>

<sup>21</sup> Persons with high CH Scores were lower in number, and inclusion in the chart would be a misleading characterization of the data, where 5 high CH persons were sentenced under YRA and 11 were not sentenced under YRA for a crime of violence.

and do not include violent offenses such as assault with a deadly weapon. The category ‘weapon offense’ includes carrying a pistol without a license, unlawful possession of a firearm, and possession of a firearm during a crime of violence (Figure 4).<sup>22</sup> The difference in the number of months assigned was more pronounced for those with a medium CH score and fewer persons were given a YRA with medium and high CH scores.<sup>23</sup>

**Figure 4. Number of Charges Receiving a YRA by CH Score – Felony Weapon**



There were differences in sentence length and type when comparing all YRA to all non-YRA felony sentences, but a person with a lower CH score was more likely to receive a YRA sentence and was, therefore, more likely to receive a shorter term with or without YRA sentencing.

In addition to the analysis provided by the SCDC, it is also important to consider sentencing differences for those cases that have convicted offenses subject to mandatory minimum sentences. The 3,960 individuals who were eligible for a YRA sentence from 2010 – 2012 were convicted of a total of 8,416 offenses, and 774 (9.2%) of those offenses were subject to a mandatory minimum sentence.<sup>24</sup> Figure 5 below demonstrates that few charges carried a mandatory minimum sentence, and those offenses convicted that carried a mandatory minimum were less likely to be sentenced under YRA.<sup>25</sup>

<sup>22</sup> SCDC identifies the categorization of offenses on page 26 of their 2016 Annual Report found here: <https://scdc.dc.gov/sites/default/files/dc/sites/scdc/publication/attachments/Final%202016%20Annual%20Report%20%204-24-17.pdf>

<sup>23</sup> Persons with high CH Scores almost exclusively did not receive a YRA sentence with a weapon offense. Their inclusion in the figure would be a misleading characterization of the data, where 1 high CH person was sentenced under YRA and 8 were not sentenced under YRA for a weapon offense. It is also important to note that many weapon offenses carry a mandatory minimum, which may or may not apply if someone is sentenced under YRA.

<sup>24</sup> The data required some conservative assumptions around mandatory minimum sentences for the offenses in this analysis. Where a charge had a mandatory sentence whose length was determined by past offending and convictions, the analysis assumed the lowest mandatory requirement. For example, if an offense had 5 year mandatory minimum for a first offense and 7 year mandatory minimum for a second offense, the assumption was of a 5 year mandatory. This was unavoidable due to data limitations.

<sup>25</sup> Any offense enhancements such as “while armed” that created a mandatory sentencing requirement were treated equally in the data. Details about weapons were not quantified in the available data, and when someone is armed with anything other than

**Figure 5: All Convicted Offenses Eligible for YRA and Carrying a Mandatory Minimum Sentence 2010-2012**



Cases that had multiple offenses with mandatory minimum sentences were less likely to be sentenced under the YRA (Table 1). Based upon the analysis, 47% of non-YRA cases with mandatory minimums and 24% of YRA cases with mandatory minimums had multiple mandatory offenses. And, as noted above, mandatory sentences were only a factor for a small group (6.7% of all of the offenders that were eligible for a YRA in 2010-2012, and 5.5% of those persons sentenced under YRA).

**Table 1: Number of Persons Subject to Mandatory Minimum Sentences, 2010 - 2012**

	<b>Persons Eligible for YRA Sentencing 2010-2012</b>	<b>Offenses for which Defendants Were Convicted that Carried a Mandatory Minimum</b>	<b>Persons with a Case that Included an Offense with a Mandatory Minimum</b>	<b>Persons that Received the Mandatory Minimum</b>
<b>YRA Sentenced</b>	2384	217	132 (5.5%)	78
<b>Not YRA Sentenced</b>	1576	557	134 (8.5%)	125
<b>Total</b>	3960	774	266 (6.7%)	196

The second element that made a difference was that of criminal history, found throughout this report as a factor in deciding both sentencing under YRA and sentence length. Being sentenced under YRA did not always result in a sentence that was below the mandatory minimum, and instead, analysis shows that

a firearm it would not carry a mandatory (knives, imitation firearms, etc.). This results in a conservative assumption of the number of charges carrying a mandatory sentence.

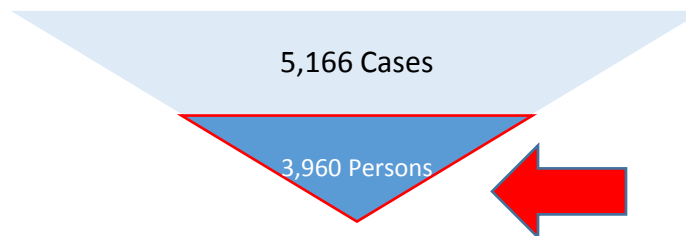


those sentenced under YRA and receiving less than the mandatory had even more limited justice system history than their peers who were sentenced under YRA but who received the mandatory minimum.

### How Many People Receive a YRA Sentence?

This section shifts to an analysis of all cases and persons eligible for sentencing under the YRA.

**Figure 6. All Cases and Persons Eligible for Sentencing Under YRA**



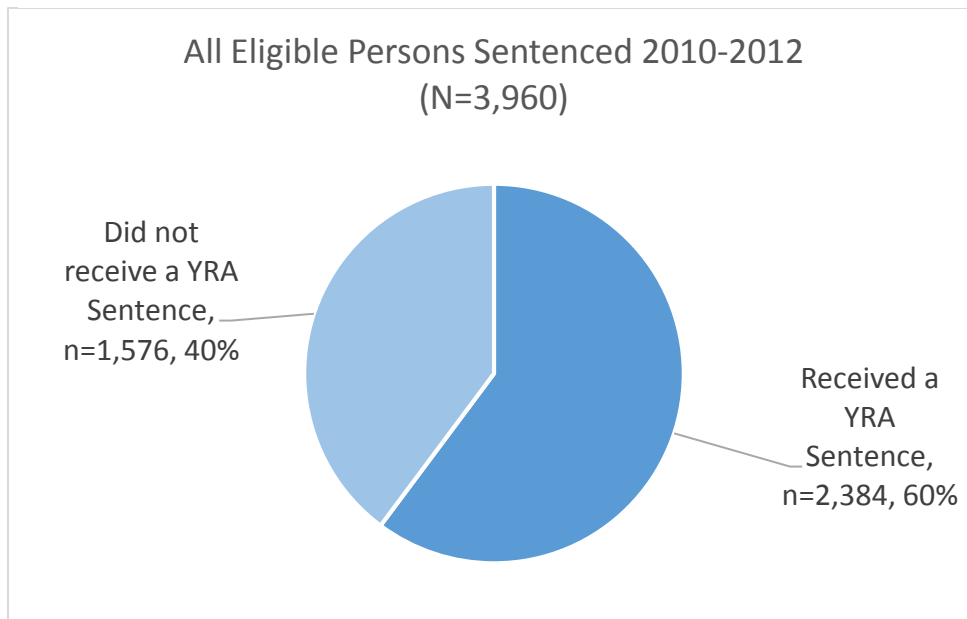
The report begins with the number of cases (N=5,166), which is greater than the number of persons associated with these cases. During 2010-2012, for these 5,166 cases, there were 3,960 unique persons under the age of 22 who were convicted of an eligible offense (Figure 6).<sup>26</sup> Some of those persons received a YRA sentence, and at another point in the 3-year time frame they also received a non-YRA sentence on a different case.<sup>27,28</sup> A total of 2,384 persons were sentenced under YRA at some point during 2010-2012, while 1,576 persons who were eligible for a YRA sentence were not sentenced under the YRA at any point during 2010-2012 (Figure 7). For context, of all 3,960 persons eligible for a sentence under YRA, 53% of the individuals had a felony, 32% had a crime of violence, and 14% had a weapon offense. Examining the subset who received a YRA sentence, 62% of those sentenced under YRA had a felony offense, 37% had a crime of violence offense, and 17% had a weapon offense. And as noted in the analysis provided by SCDC, a person with a lower CH score was more likely to be sentenced under YRA for a felony weapon offense or felony crime of violence.

<sup>26</sup> Persons with a conviction for Murder in the first or second Degree, or Murder involving terrorism are not eligible for a YRA sentence.

<sup>27</sup> The original data sets included 4,004 unique persons convicted and sentenced for any offense. However, there were 44 persons who were convicted on a charge of murder, which is not eligible for the YRA sentencing, resulting in 3,960 persons.

<sup>28</sup> Some of the imbalance in numbers occurs because there were 348 persons who appeared in both the YRA file and the non-YRA file. These persons were maintained in the YRA file for the remainder of the analysis. Having one person in both the comparison and treatment groups was illogical and inconsistent with assumptions required to compute our findings.

Figure 7. Eligible Persons: All Eligible Offenses



When deciding on a YRA sentence, judges have the option of gathering additional information to make the determination by ordering a Youth Study. Young adults who are detained while awaiting their sentencing have their Youth Studies conducted by the Correctional Treatment Facility (CTF) staff of the Department of Corrections. Various elements are provided, including psychological evaluation and testing, vocational and educational evaluation and testing, developmental and social history, medical and substance abuse history, social relationships, history of trauma, awareness of consequences, adjustment while detained, and overall impressions. Each person conducting the review provides his or her recommendations around sentencing, including opinions on whether the subject would benefit from sentencing under the YRA.

If a young person is qualified to be sentenced under YRA, but is not detained prior to sentencing, the judge may request that the Public Defender Service (PDS) conduct a Youth Study. PDS may also conduct and submit a Youth Study to the judge on its own initiative, which the judge may consider. This report often differs from that conducted by the CTF in content.

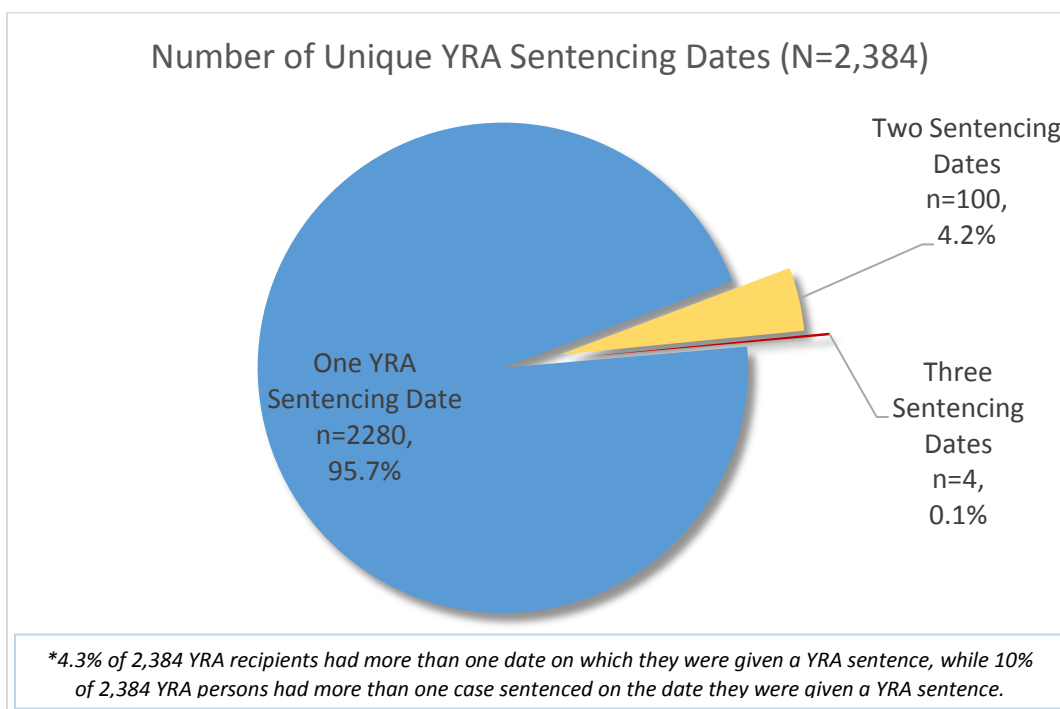
Based on discussions with partners around the Youth Study and its utility, all agreed that the Court requests them in cases that have more uncertainty, specifically as to whether or not someone was going to be successful in the long term. Those who are most likely successful may not require a Youth Study, as their outcomes may be more obvious from the outset. This suggests that comparing outcomes for those who have a Youth Study to those who did not have a Youth Study might be misleading – the things that make a person most likely to succeed are those same things that make a judge less likely to require a Youth Study to make such a decision.

In addition to Youth Studies, the Court has other points at which decision-making is critical. The question has been asked: how many persons sentenced under YRA have been given more than one YRA sentence? Because there were more cases than persons in this analysis, there are important points to note. Of those 2,384 persons sentenced under the YRA during the study period, 95.7% received a YRA sentence, whether in one or more cases, on only one unique sentencing date (Figure 9). This means that only 4.3% of those

given a YRA sentence had more than one YRA sentence. Alternately, 10% of those persons sentenced under YRA were sentenced by one judge, in more than one case, on the same date. While some persons were before the Court at different times for different matters over the three year data selection period, it is common practice for judges to sentence multiple cases on a single date – and in some cases they apply YRA to those multiple cases on that single date. Of the 2,384 persons sentenced under YRA, only 104 of them received a YRA sentence on more than one occasion (Figure 8).

Those 104 persons who were sentenced under YRA on more than one occasion during 2010-2012 were less likely to have been convicted of a crime of violence. There was no significant difference in having been convicted of a felony or weapon offense,<sup>29</sup> and there was a marginally significant difference in the likelihood of having had a conviction for a crime of violence ( $p=.075$ ), where 37.6% of those with just one YRA sentencing date had a crime of violence and 30% of those with two YRA sentencing dates had a crime of violence. This means that those who received a second opportunity to be sentenced under YRA were less likely to be convicted of a crime of violence. The four people that each had three unique sentencing dates appeared to be exceptional, in that their convictions were for offenses such as simple assaults, unarmed attempted robberies, property destruction, misdemeanor drug offenses, theft, and bail violations.

**Figure 8. Unique Sentencing Dates 2010-2012**



<sup>29</sup> Note that weapon offenses here are only those of possessing a weapon, rather than crimes of violence that include a weapon being used. Weapon offenses are: unlawful possession or discharge of a firearm, carrying a concealed weapon, possession of a weapon while committing a crime of violence, altering the identifying marks of weapons, possession of dangerous weapons, and the manufacture, transfer, use, possession, or transportation of Molotov cocktails or other explosives. There were just 3.5% of all YRA cases in which someone had a conviction for both a crime of violence and a weapon offense, a very small group overlapping with no significant impact on the outcomes. This comparison is spelled out in more detail later in the analysis.

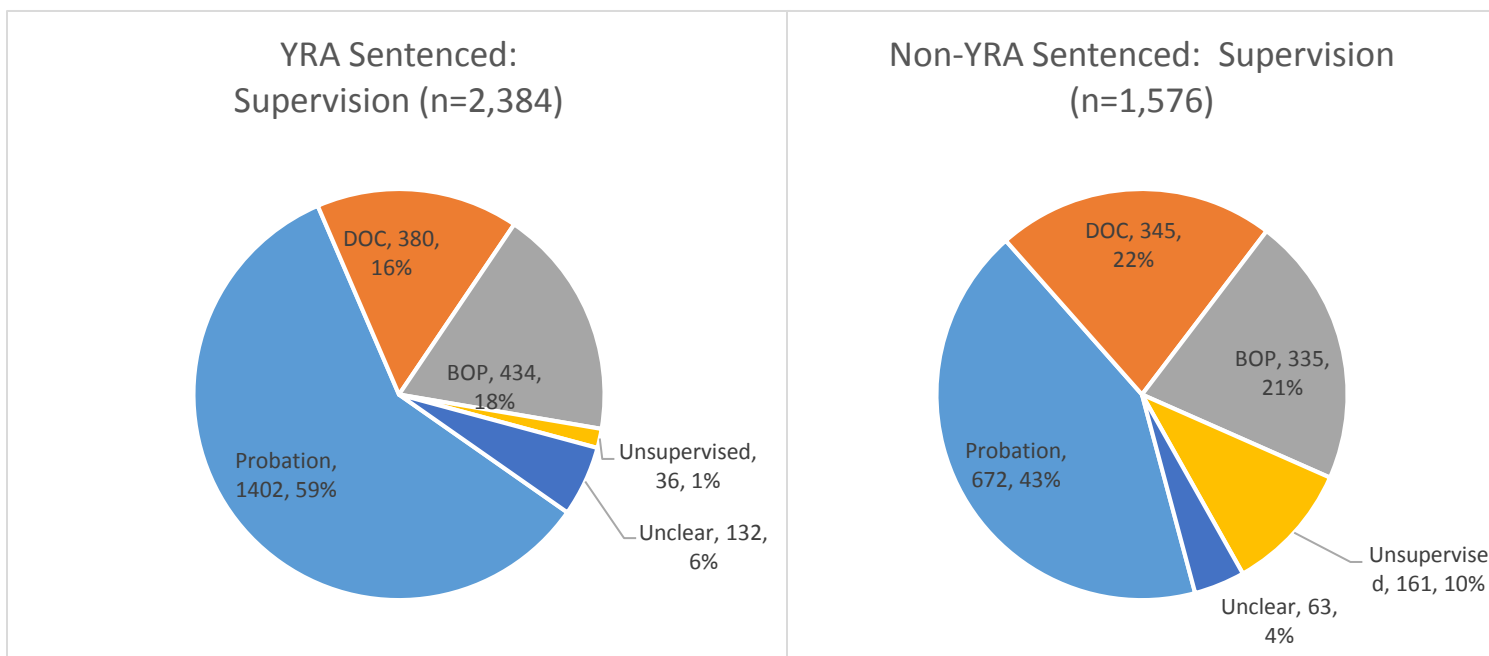
A cursory look at the data and the number of cases for which a person received a YRA sentence may suggest that many people received many opportunities, since nearly 10% of persons in this group of 2,384 had more than one case sentenced under YRA, but that is not the whole story. Nearly 10% of the YRA sentenced persons had multiple cases sentenced under YRA on the same date (216 of the 2,384 persons that received a YRA), while 4.3% (n=104) of the 2,384 persons truly received more than one sentence under YRA within the study period.

Where are they serving their sentence?

It is equally important to examine where offenders served their sentence. This is key, as it helps to better analyze the sentencing differences and to better plan for how and where to offer opportunities for programming. Data were only available on offenders’ initial sentences; the data did not reflect changes in sentencing that may have resulted from violations, revocations, or other reasons.<sup>30</sup> However, information on the initial sentence provides insight on where the first opportunity lies for programming for YRA offenders, as well as for young adult offenders, in general.

According to the initial sentencing data (Figure 9), both YRA and non-YRA offenders were most commonly sentenced to supervised probation by CSOSA.<sup>31</sup> For the offenders sentenced under YRA specifically, 59% were initially sentenced to supervised probation with CSOSA and 34% of them began their terms with DOC, even though about half of those who initially went to DOC were eventually bound for FBOP.

**Figure 9. Where YRA-Sentenced and Non-YRA Sentenced Offenders (2010 – 2012) Initiated Their Sentence**



<sup>30</sup> This is not to infer that they served their entire sentences with this first supervising agency, or that they successfully completed a probation term if they were first placed there, only that it was their first supervising agency. 26.6% of all 3,960 persons and 29.5% of all 2,074 persons placed on probation as their first supervising agency were revoked during their probation sentence.

<sup>31</sup> The first agency to whom a person is sent includes those sent to Probation and verified as such by CSOSA, those sent to DOC, those sent to DOC and were eventually destined for FBOP, and those unsupervised with a specific designation in the DCSC data of having either unsupervised probation or no supervision at all. The category labeled “unclear” are those that were incongruent across partner data sets and verifications.

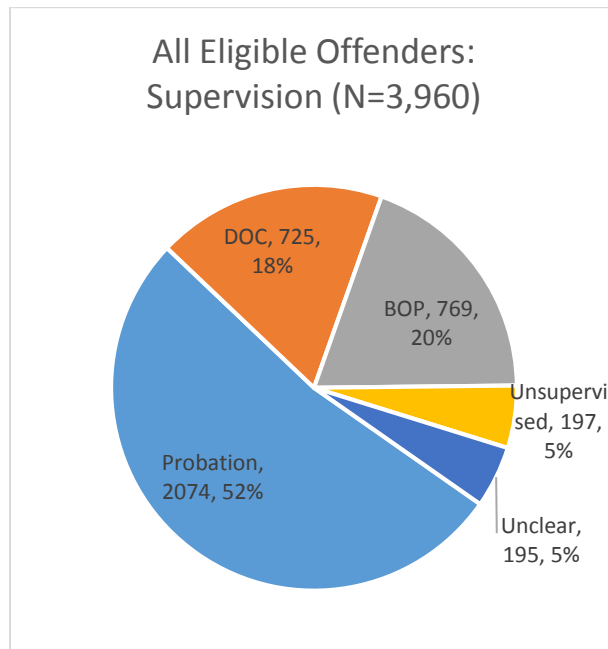
Among YRA-Sentenced offenders who were initially sentenced to probation, a smaller percentage were convicted of crimes of violence compared to those who were sentenced to DOC or FBOP (Table 2). This is also true for weapon offenses, though half of those sentenced to a term of probation were convicted of a felony.

**Table 2: Number of Persons Sentenced to Each Supervising Agency by Offense Category, 2010 - 2012**

	Number of YRA Sentenced Persons	Any Crime of Violence	Any Weapon Offense	Any Felony
<b>Probation</b>	1402	25.7%	13.7%	50.2%
<b>DOC</b>	380	45.3%	15.0%	74.7%
<b>DOC-FBOP</b>	434	76.3%	30.2%	98.6%
<b>No Supervision</b>	36	27.8%	2.8%	36.1%

The first supervising agency for all offenders in Figure 10 (rather than solely those offenders sentenced under YRA) may also be an important point to consider. Programming or changes might be most effective if offered to all young adult offenders equally, since all are in the developmental transition regardless of their offenses or histories. Just over half (52%) of the eligible offenders in this age group were sent first to Probation for supervision, leaving 1,494 who began their sentence at the DOC.

**Figure 10. Where All YRA-Eligible Offenders Initiated Their Sentences**

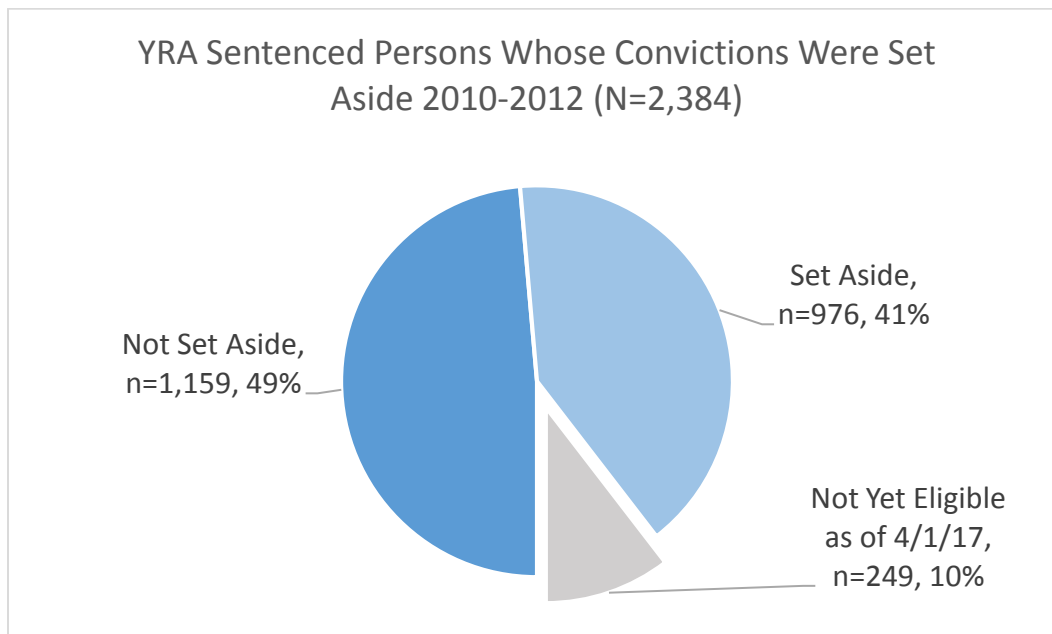


In how many cases is the conviction set aside?

To revisit the breakdown of these cases and persons, there were 5,166 cases in the superset. In these 5,166 cases, there were 3,960 unique persons. There were 1,576 unique persons who did not receive a sentence under YRA. There were 2,384 persons sentenced under YRA 2010-2012, depicted in Figure 11 below, of which 249 persons in this file were not yet eligible, as their terms had not yet expired at the time of the analysis. Of the remaining 2,135 persons, 976 were set aside by the Court, while 1,159 had a term of probation or incarceration that had expired and had not been set aside by the Court or the U.S. Parole Commission. Of the 2,135 eligible persons, 45.7% (976 of 2,135) were set aside.

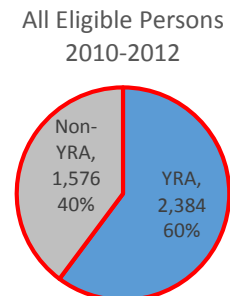


**Figure 11. YRA Sentenced Persons**



**2. How many times is it applied, and how many set asides occur?**

Shifting the analysis to all eligible persons, when controlling for available demographics, and for social and criminal history, those with crimes of violence, felony, and weapon offenses are no more or less likely to receive a YRA sentence. Instead, those factors that played a significant role in whether or not a case would be sentenced under YRA were age and those factors that indicated criminal history, including number of arrests and convictions, and past commitment to the Division of Youth Rehabilitation Services (DYRS).



The research request from Councilmember Allen included specific questions regarding crimes of violence and regarding weapon offenses in felony sentencing. The responses provided earlier have been incorporated in this analysis to measure the impact of crimes of violence, weapon, and felonies on the likelihood one will be sentenced under the YRA. Note, crimes of violence included here are those defined

by statute.<sup>32</sup> Also, weapon offenses are defined by statute, and are: unlawful possession or discharge of a firearm, carrying a concealed weapon, possession of a weapon while committing a crime of violence, altering the identifying marks of weapons, possession of dangerous weapons, and the manufacture, transfer, use, possession, or transportation of Molotov cocktails or other explosives.<sup>33</sup> Approximately 4% of the full cohort of 3,960 people had both a conviction for a crime of violence and a weapon offense.

Considering the differences in those sentenced under the YRA and those who were not, there were 3,960 unique persons eligible for a YRA sentence during the years 2010-2012. Within this group, 2,384 unique persons were sentenced under YRA during 2010-2012, and 1,576 were eligible persons who did not receive a YRA sentence during that same period.<sup>34</sup> The question asked what types of offenses and offenders received a YRA sentence. When examining any factor alone, the impact of interacting variables can be masked. Just as the judges consider more than the current offense, so must the analysis. The types of convicted offenses sentenced under the YRA, as well as those not sentenced under the YRA, alone do not tell the whole story because judges consider more than the current offense when deciding on whether to impose a sentence under the YRA. Therefore, it is also important to understand the backgrounds of those in the cohort who were and were not sentenced under the YRA.

At first glance, many variables appeared influential, but some turned out not to be important once the influence of other factors were controlled in a statistical model. Most young adult offenders in the study frame were African American (71.1%),<sup>35</sup> and a majority were also male (86%). Living in the District was equally represented in both groups – where 71% of both YRA and non-YRA sentenced offenders were District residents.<sup>36</sup> When examined alone, female defendants had a significantly greater chance of receiving a YRA sentence. However, that finding did not hold when controlling for other variables, most notably their criminal histories.

While looking at singular offender variables may seem informative, the impact of one variable by itself does not show how it can have a different effect depending on other factors. Regression allows a control for this. Statistically speaking, when controlling for all of the available and relevant variables that one would think should have an impact did. In a logistic regression predicting whether or not a person received a YRA sentence (N=3,960), the analysis included the following variables: age, gender, race, DC residence, number of non-DC arrests, number of non-DC convictions, history of DYRS commitments, juvenile case counts, juvenile adjudication counts, number of DC arrests, number of DC case convictions, and the current sentenced offense in our analysis (violence, weapon, and/or felony).

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<sup>32</sup> DC Code 13-1331(4) includes aggravated assault, acts of terrorism, arson, felony assault on a police officer, assault with a dangerous weapon, assault with intent to kill, commit first degree sexual abuse, commit second degree sexual abuse or commit child sexual abuse, assault with significant bodily injury, assault with intent to commit any other offense, burglary, carjacking, armed carjacking, child sexual abuse, first degree cruelty to children, extortion or blackmail accompanied by threats of violence, gang recruitment, participation, or retention by the use or threatened use of force, coercion, or intimidation, kidnapping, malicious disfigurement, manslaughter, manufacture of possession of a weapon of mass destruction, mayhem, murder, robbery, sexual abuse in the first, second, or third degrees, use dissemination or detonation of a weapon of mass destruction, or an attempt, solicitation, or conspiracy to commit any of the foregoing offenses.

<sup>33</sup> DC Code 13-1331(3)(A)

<sup>34</sup> For those persons who did not have a YRA sentence during our time frame, the case that was considered for the analysis was the first that occurred for them in the time period. For those that were sentenced under YRA at some point during 2010-2012, their first YRA case was considered for the analysis.

<sup>35</sup> The percentage is likely higher, as the race is unrecorded for 24% of the 3,960 persons here.

<sup>36</sup> More offenders in the file may be DC residents, but the data is missing address information for 6.2% of cases.

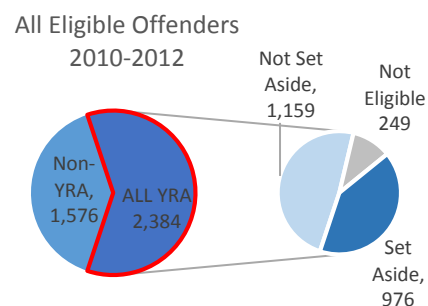
Many of these factors were not significant predictors of receiving a YRA sentence. The factors that had an impact in this cohort are: age, past arrests, DYRS commitment history, and adult convictions (Table 3). Females were no more likely to receive a YRA sentence when controlling for the other relevant factors. Having had a felony, a crime of violence, or a weapon offense also did not have a statistically significant impact on the likelihood of receiving a YRA sentence. Few variables available in this study had a statistically significant impact on whether or not a person was sentenced under YRA.<sup>37</sup>

**Table 3. Logistic Regression – Likelihood of Being Sentenced Under YRA**

Variable	Significance	Interpretation
Age	.000	Being older reduced chance of getting YRA
Gender	Not Significant	
Race	Not Significant	
DC Residence	Not Significant	
Number of non-DC arrests	.003	More non-DC arrests reduced chance of getting YRA
Number of non-DC convictions	Not Significant	
History of commitment to DYRS	.047	Past commitments reduced chance of getting YRA
Number of juvenile case filings	Not Significant	
Number of juvenile case adjudications	Not Significant	
Number of past convictions in DC	.000	Past convictions reduced chance of getting YRA
Number of past arrests in DC	Not Significant	
Current Crime of Violence	Not Significant	
Current Weapon Offense	Not Significant	
Current Felony	Not Significant	

What factors influenced whether YRA-sentenced persons had their convictions set aside?

Next was a comparison of a subset of those sentenced under YRA who were eligible and were set aside measured against those for whom the term expired without being set aside. There were 249 not yet eligible for set aside at the time of this research, with 976 set aside and 1,159 not set aside and having passed their term expiration at the time the data was pulled for this study. This means that of those eligible by data collection (2,135), 45.7% were set aside. Factors that impacted the likelihood of a set aside across all persons sentenced under YRA included age, gender, number of arrests and convictions, number of juvenile adjudications, past DYRS commitments, and current weapon and felony offenses.



<sup>37</sup> It is also important to note that running a test model that included the home Ward of the offender showed no relationship between Ward of residence and whether or not a person is likely to receive a YRA sentence. This held up when controlling for offense type as well as other variables that were impactful.



When considering what increased the likelihood of being set aside, a person's presenting offense for which he or she received the YRA sentence was an important factor, but only one of many as was shown above when examining the likelihood of being sentenced under YRA. To understand the confluence of factors that led to a greater or lesser likelihood of receiving the benefit of a set aside, it was important to also examine all characteristics in addition to the offense that resulted in the conviction.

As noted, there were 2,384 persons who received a YRA sentence at some point in the 3-year cohort. Of those 2,384, when the data was collected 2,135 had reached a point at which the conviction could be set aside or the term would expire. There were 249 who had not reached the end of their term and may be set aside or not in the future, so they were considered "not yet eligible."<sup>38</sup> From the 2,135 persons eligible prior to April 1, 2017, 45.7% were in fact set aside (n=976), while 54.3% were not (n=1,159). Any single factor may appear to have had a significant impact on likelihood to be set aside, creating the need for a model that controls for the effects of all potential factors. For example, when examined alone, females were significantly more likely to be set aside than males (p=.000), where 63.7% of females were set aside where just 42.3% of males were. But taking these factors alone does not account for the types of offenses and histories males have compared to females, so it was important to use regression to control for the impact of other variables on these outcomes.

After one was sentenced under YRA (n=2,384), this analysis shows that many factors play a significant role in a YRA conviction being successfully set aside. For example, when controlling for the other factors, females were more likely to be set aside, even though they were not any more likely to be sentenced under YRA as indicated in the above analyses. The profile of a person who was sentenced under YRA and was later successfully set aside included being female, having had fewer past non-DC arrests, were less likely to have had DYRS commitments, having had a past juvenile adjudication, fewer DC adult convictions, and fewer DC arrests. A person with a felony in the case for which he or she received the YRA sentence was less likely to be set aside than someone with only misdemeanors on that case. And, a person who had a weapon offense in the case for which they received a YRA sentence was more likely successfully set aside than those without a weapon offense, while crimes of violence did not have a significant influence on outcome. It is important to once again bear in mind that crimes of violence "committed with a weapon" were not categorized here as weapon offenses, and only 74 (3.5%) of those persons sentenced under YRA and eligible by the time of this study (n=2,135) had both a weapon offense and a crime of violence (Table 4).

Of note, Ward of residence was tested for its impact on whether the YRA conviction was set aside. This was found to be a significant predictor of success for two Wards (1 and 4). This does not mean that living in Wards 1 or 4 impacts the decision to seal a YRA conviction. Rather, similar to the finding with respect to gender, this may indicate underlying social factors that require data that was not available for this analysis.

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<sup>38</sup> In reality, one is eligible to have your conviction set aside at any point prior to the termination of your sentence. They are referred to as not yet eligible here for simplicity.

**Table 4. Logistic Regression – Likelihood of Being Set Aside for Those Sentenced Under YRA**

Variable	Significance	Interpretation
Age	.000	The younger one is, success increases
Gender	.000	Females were more likely to succeed
Race	Not Significant	
DC Residence	Not Significant	
Number of non-DC arrests	.000	More arrests reduced success
Number of non-DC convictions	Not Significant	
History of commitments to DYRS	.000	Past commitments reduced success
Number of juvenile case filings	Not Significant	
Number of juvenile case adjudications	.030	Juvenile adjudications increased success
Number of past convictions in DC	.029	More convictions reduced success
Number of past arrests in DC	.000	More arrests reduced success
Current Crime of Violence	Not Significant	
Current Weapon Offense	.003	A current weapon offense increased success
Current Felony	.001	A current felony decreased success

### Key Takeaways

- About half of eligible cases and eligible offenders received a YRA sentence, and 4.3% of these persons were sentenced under the YRA on two or more occasions.
- Offense types (felony, violence, weapon) for the superset of 3,960 were very similar to the offense types that were sentenced under the YRA.
- A lower CH score increased one’s chance of receiving YRA, and that sentence was more often a community supervision sentence.
- Few persons eligible for YRA, and even fewer of those who received a YRA sentence, were convicted of an offense that was subject to a mandatory minimum sentence.
- Arrest and conviction history were statistically the best available predictors of receiving a YRA sentence.
- The factors that increased the chance of a successful set aside, the most pronounced benefit of YRA at present, included offense types, criminal history, and some personal attributes.

B. What is the recidivism rate of those who receive the benefit of the YRA? Specifically, how many later commit another felony or misdemeanor, and were they weapon or violent offenses compared to those who do not receive this benefit but are similarly situated?

The benefit as defined in current practice is essentially limited to one having the conviction set aside at the conclusion of his term. While some perceive the sentencing itself as a benefit that must be considered, the most prominent and apparent benefit is that of the conviction set aside. For the period analyzed, there is no detectable difference in supervision, treatment, or programming, making the set aside of a

conviction the only tangible recompense, so it is important to understand how a set aside evolves in the long term. To have the potential to receive a set aside of one’s conviction requires that the sentence be imposed under the Youth Rehabilitation Act.

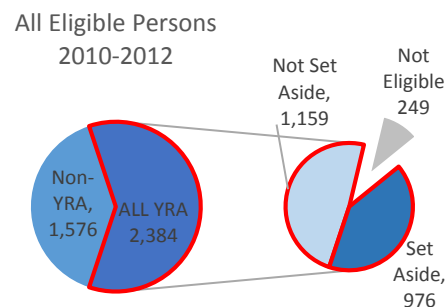
### 1. Set Aside Benefit – What are the Offender Outcomes after a Conviction is Set Aside?

Those who had their conviction set aside were significantly less likely to be re-arrested or reconvicted within 2 years of that set aside when compared to those who received a YRA sentence but were not set aside. These findings held true when looking at specific offender groups. Those with a crime of violence that were later set aside were less likely to reoffend than those with a crime of violence who had a YRA sentence but whose convictions were not set aside. Those with a weapon offense who were later set aside were less likely to reoffend than those with a weapon offense who had a YRA sentence but whose convictions were not set aside. And those with a felony that was set aside were less likely to reoffend than those with a felony offense who had a YRA sentence but were not set aside at its completion. These findings held true when controlling for other factors. The relationship between the set aside of one’s conviction and the likelihood of reoffending (when controlling for demographics, offense type, and criminal history) is noteworthy.



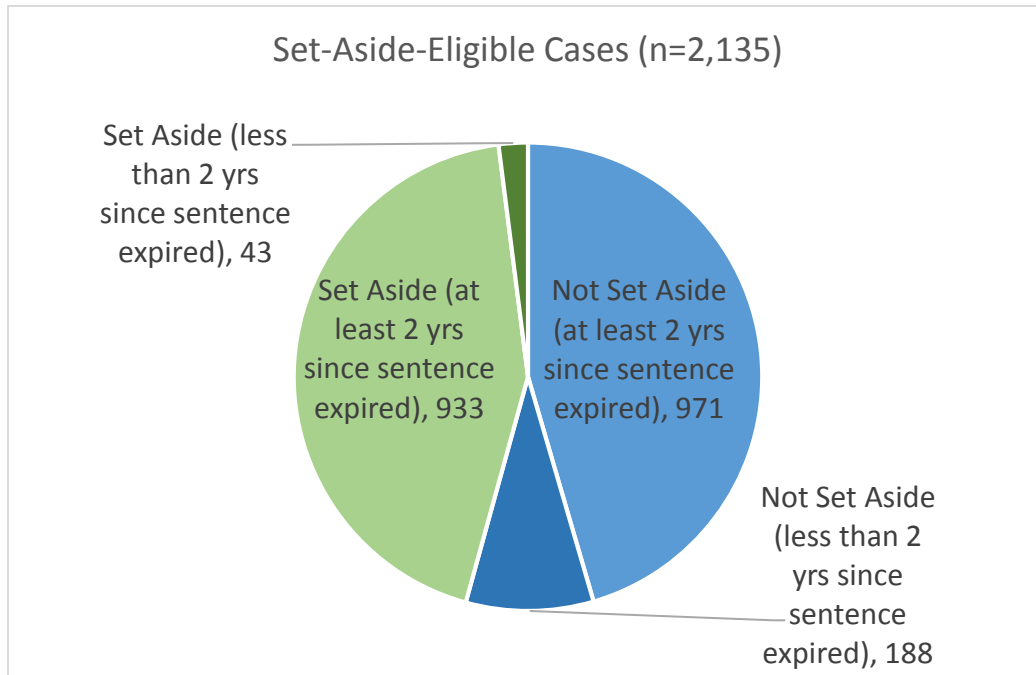
The first comparison was of the persons who were sentenced under YRA and had their conviction successfully set aside versus those persons who were sentenced under YRA whose convictions were not set aside at the expiration of term. This included all persons that were sentenced under YRA (2,384).

The data set included 1,159 persons whose convictions had not been set aside at expiration, and 976 that had been set aside, as well as 249 who had not yet been eligible at the time of the data pull (N=2,384). The dataset then was reduced to include only those persons from the 2,384 who both had reached a point of expiration or set aside, and had done so at least 2 years prior to the data extraction so that an ample follow up time can be measured. Within the subset of those sentenced under YRA, analysis considered only those who had completed their terms 2 years ago to allow for a follow up period. This requirement of 2 years released reduced the data to 971 of the 1159 expired and not set aside, and 931 of the 976 who were set aside. This also left out those who were not yet eligible (249), as they were in neither category (set aside or not) as of April 1, 2017 (the date the data was extracted for this analysis).



Therefore, this data included 971 persons who had their terms expired and had not been set aside at the time of the data extraction, and had been expired at least 2 years, as well as 933 persons who had their conviction set aside and had been expired at least 2 years (total n=1,904). Of the original 2,384 persons who were sentenced under YRA in 2010-2012, 80% of this population is included in this comparison (Figure 12), even after excluding those not yet eligible, and those whose convictions had not been set aside or whose sentences had not been expired for at least 2 years.

**Figure 12. All Cases Eligible for a Set Aside as of 4/1/17**



Publicly available data only includes information on those whose convictions were not set aside (depicted in the blue slices in Figure 12), as information on set aside convictions, by design, is not available to the public. Any public examination of this information would show a high rate of re-arrest and reconviction, because it would only include persons who received a YRA sentence and whose convictions were not set aside. Many were not set aside based upon the nature of the re-arrest and possible reconviction. However, those whose convictions were set aside (n=933, green slices in Figure 12) were less likely to be re-arrested or reconvicted within 2 years of being set aside compared to those who were not set aside at the end of their term (n=971). While 60.9% of those who were not set aside (light blue) had a re-arrest, 37.3% of those set aside (light green) were re-arrested. Also, 38.3% of those not set aside were reconvicted for an offense, while 16.8% of those set aside were reconvicted within 2 years of their case being set aside (Table 5).

**Table 5. New Offending within Two Years of Set Aside or Expiration (n=1,904)**

	<b>Set aside (n=931)</b>	<b>Not Set aside (n=971)</b>
Non-DC Arrests	6.2%	8.5%
Non-DC Convictions	5.3%	7.7%
DC Arrests	34.4%	58.1%
DC Convictions	12.3%	33.4%
<b>All Arrests</b>	<b>37.3%</b>	<b>60.9%</b>
<b>All Convictions</b>	<b>16.8%</b>	<b>38.3%</b>

For persons who were re-arrested, the time to failure was an important finding as well. When a person is released and tries to succeed, it may take them longer to become involved in criminal activity; meanwhile a person with less motivation to change his or her behavior may not take as long to become involved in criminal activity again. This is referred to in research as time to failure, and in this case failure would be

re-arrest. Not only were those set aside less likely to fail, but for someone whose conviction was set aside who did later fail, the time to fail was significantly longer ( $p=.000$ ). The average time to first failure for a person who did not have the conviction set aside was 223 days (just over 7 months), while for those who had a case set aside the average time to failure was 281 days (just over 9 months).<sup>39</sup>

While there were only slight differences in new arrests, there was a higher rate of reconviction on both violent and weapon offenses for those who were not set aside (Table 6).<sup>40</sup> The statistics reveal that the differences in reconviction were significant ( $p=.000$ ), showing the lower reconviction for weapon and violent offenses was unlikely by chance.<sup>41</sup>

**Table 6. New Offending within Two Years of Set Aside or Expiration by Offense Type (n=1,904): Subset of only Those with a New Offense**

	<b>Set aside with New Offenses (n=321)</b>	<b>Not Set aside with New Offenses (n=564)</b>
Arrest for a Violent Offense	45.5%	47.0%
Arrest for a Weapon Offense	15.3%	16.3%
Conviction for a Violent Offense	13.1%	28.2%
Conviction for a Weapon Offense	5.9%	13.3%

There is a great deal of nuance to this point, as it is important to better understand the differences in the likelihood of reoffending. While all of these persons in this subset (n=1,904) were sentenced under YRA, the things that predict reoffending may differ, and those who were set aside may have other things in common besides simply the set aside – such as the offense, offending history, or demographics. It is important to examine if those committing certain types of offenses will reoffend, and also to further examine if the set aside has a relationship with that outcome.

There are two levels of analysis performed to unpack this. First, an analysis is conducted on reoffending likelihood for those who were sentenced under YRA for crimes of violence, weapon, or felony offenses. Second, a model is developed to look at the relationship between the set aside and reoffending while controlling for all of the known factors.

Table 7 further highlights reoffending rates comparing YRA conviction set asides to cases where the YRA conviction was not set aside. Then, in this same table, reoffending rates for persons who had a conviction for a violent offense, reoffending for those whose conviction was for a weapon offense, and reoffending for those whose conviction was for a felony offense are provided. All of these differences in reoffending were statistically significant.

<sup>39</sup> For the current analysis, it was necessary to calculate this as time to first arrest, as date of conviction was not available for non-DC convictions. Arrest was a consistent measure across included data elements.

<sup>40</sup> Re-arrest and reconviction data was not detailed to the level of charge code, so the offenses that are termed “violent” are those that are in the broad and more commonly understood category as such, rather than the legislatively defined term “crimes of violence” that is utilized in the remainder of the report.

<sup>41</sup> An important note – for this analysis of persons sentenced under YRA, it considers a different group of persons than are examined in the comparison of matched persons who were sentenced under YRA and persons who were not sentenced under YRA. The findings for these two sections are separate and distinct, and should not be expected to have similar percentages or findings.

Starting with those who were either set aside or expired at least 2 years before (n=1,904), a subset of those with a crime of violence for which they received a YRA sentence was extracted. The intent was to see if those with a crime of violence and a set aside were less likely to reoffend than those with a crime of violence who did not have their conviction set aside. There were 581 persons in the dataset who received a YRA sentence for a crime of violence during the test period and had been expired or set aside at least 2 years. Looking at likelihood to be reconvicted within 2 years, offenders with a crime of violence set aside were significantly less likely than offenders with a crime of violence who were not set aside (p=.000) to be reconvicted within 2 years of the end of their term (12.1% of those with a YRA sentence for a crime of violence and then set aside were reconvicted, while 38.3% of those with a YRA sentence and not set aside were reconvicted).

Isolating those who had received a YRA sentence for a weapon offense (n=270 persons receiving a YRA sentence for a weapon offense), a similar conclusion was reached. A person who received a YRA sentence for a weapon offense and whose conviction then was set aside was significantly less likely to be reconvicted within two years of the end of their sentence than a person who received a YRA sentence for a weapon offense that was not set aside (p=.001) (18.9% of those set aside and 27.8% of those not set aside were reconvicted).

Finally of those who received a YRA sentence for a felony (n=1037), those whose felony conviction was set aside were also significantly less likely to be reconvicted (p=.000) than those whose felony YRA sentence had not been set aside. As reflected in Figure 18, 15.6% of those with a felony conviction that had been set aside were reconvicted, compared to 37.1% of those whose felony conviction had not been set aside. In all three breakouts presented here, those whose YRA convictions had been set aside were significantly less likely to be reconvicted within two years than those with the same offense category whose YRA convictions had not been set aside.

**Table 7. New Offending within Two Years of Set Aside or Expiration within Offense Categories**

	<b>Reconvicted after Any Offense</b>	<b>Reconvicted after Crime of Violence</b>	<b>Reconvicted after Weapon Offense</b>	<b>Reconvicted after Felony Offense</b>
<b><i>Set Aside</i></b>	16.8%	12.1%	18.9%	15.6%
<b><i>Not Set Aside</i></b>	38.3%	38.3%	37.8%	37.1%

The second level of this analysis went beyond the simple comparisons and controlled for other factors. The finding here shows that when controlling for criminal history, demographics, and current offense, there was still a relationship found for the set aside and later offending. Essentially, when controlling for the influence of individual differences in criminal history, demographics, and current offense, persons sentenced under YRA had better outcomes when they successfully had their conviction set aside. This does not, however, control for other variables such as interventions during supervision.

The analysis utilized a model which predicted reoffending based on what was known, including whether a conviction was set aside, and then determined how accurate the prediction was when using the variables that were included. In this case, the model included criminal history, demographics, and current offense,

as well as whether a person’s conviction had been set aside. When using these factors, the model predicted re-arrest with 73% accuracy and reconviction with 76% accuracy. It is important to note, this analysis includes all available data on prior and current offending, as well as demographics. The findings, then, indicate that a person set aside took longer to be re-arrested, and was less likely to be re-arrested or reconvicted.

## 2. Sentencing – Offender Outcomes for those Who Receive a YRA Sentence Compared to those Who Are Not Sentenced under YRA

The findings in this section further highlight that it is the set aside, not the sentence itself, which functions as the benefit. For similarly situated persons, those sentenced under YRA were no more or less likely to reoffend than those who did not receive the sentence. Instead, it is through receiving a sentence under the YRA that an offender is even eligible to earn a set aside.

This second comparison is between those who were sentenced under YRA compared to similarly situated persons who were not sentenced under YRA (N=3,960 as the starting point, with a subset of 1,812 selected out to represent both those sentenced under YRA and those not sentenced under YRA who are similarly situated in Figure 13). This was an important distinction that can help gain an understanding of outcomes based solely on sentencing differences.



Because judicial discretion is such that any judge may choose to sentence under the YRA in any eligible case, there are natural variations caused in its application from one courtroom to the next. Court assignment is also entirely random in the District. An analysis of the impact of random courtroom assignments and the effect of a particular courtroom assignment was not included. However, this random assignment does improve the likelihood of having similarly situated persons receiving both YRA and non-YRA sentences. With this in mind, a matched comparison was created using available information to determine the impact of receiving a YRA benefit compared to its absence. This included those receiving one of the two identified benefits of YRA and compared those who did not receive such benefit but were matched on available variables to create a similarly situated comparison group.<sup>42</sup>

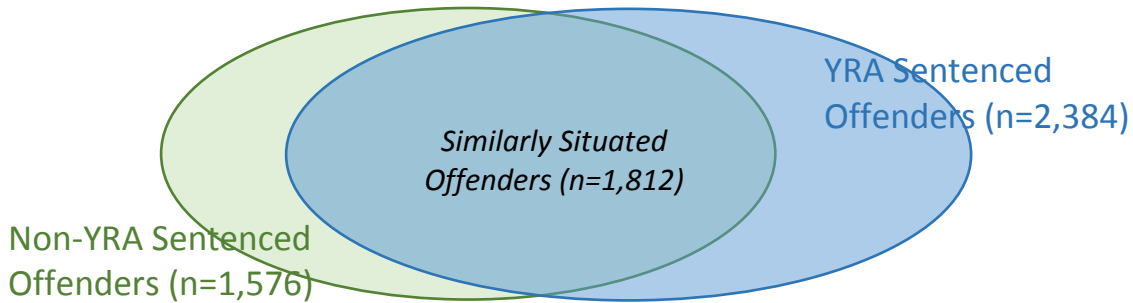
### Creating a Matched Comparison:

The dataset (N=3,960) was augmented with factors that would allow for a matched set of persons. This was done so that the comparison was between similarly situated persons sentenced under YRA and those eligible but not sentenced under YRA. Based upon discussions with DCSC, the US Attorney’s Office, the Office of the Attorney General, and the Public Defender Service, it was established that factors considered in YRA sentencing decisions would be the most relevant of the available data elements on which to match the groups, to include current conviction, adult and juvenile criminal histories, and available social data.

<sup>42</sup> Factors identified in discussion to include offending history, age, type of juvenile offending, rehabilitative opportunities prior to YRA sentence.



**Figure 13. Similarly Situated Persons Offenders from the YRA and non-YRA Sentenced Groups**



Comparing Later Offending of YRA and Non-YRA Sentenced Persons:

Operating on the assumption that the sentence is perceived as a benefit by the offender, then that benefit would have an impact on behavior from that point forward. Additionally, it was important to examine outcomes from release to the community, as many persons in the dataset were in a facility on the sentencing date, so access to criminal opportunity was more limited until release. In short, the reoffending patterns were compared for similarly situated YRA and non-YRA sentenced offenders 2 years from sentencing, as well as 2 years from the date of release to the community.

Reoffending within Two Years of Sentencing for Similarly Situated Matched Comparison:

Within 2 years of sentencing, about half of both groups had been arrested in DC and about a quarter had been convicted in DC. Non-YRA sentenced persons had slightly higher arrest and conviction rates than those sentenced under YRA. More broadly, looking at all reoffending, and not limited to DC, there was a small difference in reoffending. In Table 8, note that 52.6% of YRA sentenced offenders were re-arrested within 2 years, while 57.3% of non-YRA sentenced offenders were re-arrested within two (2) years of that sentencing. Convictions within 2 years were a little more aligned, with 29.8% of YRA persons and 30.2% of non-YRA persons having a new conviction within 2 years of the sentencing date. The statistics also revealed that non-YRA sentenced persons were statistically more likely to be arrested ( $p=.036$ ), but there was no significant difference in their likelihood of being convicted within 2 years of the sentence date from which measurement is made ( $p=.439$ ).

**Table 8. New Offending within Two Years of Sentencing (n=1,812)**

	<b>YRA (n=906)</b>	<b>Non-YRA (n=906)</b>
Non-DC Arrests	11.3%	8.7%
Non-DC Convictions	10%	8.7%
DC Arrests	48.7%	54.1%
DC Convictions	22.4%	24.4%
<b>All Arrests</b>	<b>52.6%</b>	<b>57.3%</b>
<b>All Convictions</b>	<b>29.8%</b>	<b>30.2%</b>



Time to re-arrest revealed no significant difference ( $p=.903$ ), where the non-YRA sentenced persons had an average time to first failure of 215 days (about 7 months), while the YRA sentenced persons failed on average after 219 days, four (4) days later – for those who did in fact have a new arrest and possibly a conviction. This suggests the necessity for our second follow up analysis for this group below, from date of release to community.

The full analysis in this section included the matched set of 906 YRA sentenced persons and 906 similarly situated persons who were not sentenced under YRA ( $N=1,812$ ). Looking at only those who were arrested within 2 years (480 YRA sentenced persons and 519 non-YRA persons), there were no significant differences in the number of weapon or violent offenses on which these persons were later either arrested or convicted.

Types of offenses for which people were re-arrested and reconvicted varied little from one group to the other, shown in Table 9. Of those who were arrested or were also convicted of a new offense in our YRA and non-YRA sentenced matched groups ( $N=1,812$ ), just 2.7% of YRA sentenced persons and 3.5% of non-YRA were convicted of a violent offense within 2 years of the sentence that brought them into the analysis. Arrests were similar, where 9.6% of YRA and 7.3% of non-YRA were arrested anywhere for a violent offense within the first 2 years after their sentence. This comparison was not of all YRA sentenced persons and all those who were not – but instead was a comparison of those similarly situated in each group (see Figure 13, page 31). These findings cannot be generalized to all those sentenced for an eligible offense 2010-2012, but for those who were similarly situated the offending outcomes were not much different whether a person received a YRA sentence or did not.

**Table 9. New Offending by Offense Type within Two Years of Sentencing (n=1,812): Subset of those Re-**

	<b>YRA with New Offenses (n=480)</b>	<b>Non-YRA with New Offenses (n=519)</b>
Arrest for a Violent Offense	9.6%	7.3%
Arrest for a Weapon Offense	2.5%	2.5%
Conviction for a Violent Offense	2.7%	3.7%
Conviction for a Weapon Offense	0.8%	1.2%

Reoffending within 2 years of Release to Community for Similarly Situated Matched Comparison:

As indicated earlier, these findings may have masked reoffending by either those sentenced under YRA ( $n=906$ ) or those similarly situated who were not sentenced under YRA ( $n=906$ ) during the first 2 years following that sentencing because many were still incarcerated at the time of sentencing and were not able to reoffend as readily as someone in the community. The next portion of the analysis considered reoffending for these same 1,812 persons, but that 2-year time frame was measured from the date on which they were released to the community – with or without supervision. Note, some persons were placed in the community at sentencing with probation supervision, while some were incarcerated before being released to the community. Those incarcerated did not have their reoffending measured until after they were once again on the streets. This comparison also showed little difference in outcomes (Table 10). The portion of the 1,812 persons in this matched comparison showed higher re-arrest and reconviction rates when measured from release to the community, which is logical. Analysis revealed that those with a non-YRA sentence were slightly more likely to be re-arrested ( $p=.048$ ) within 2 years of

release to the community, but no statistical significance in their likelihood to be reconvicted within 2 years of release to community (p=.210).

**Table 10. New Offending within Two Years of Release to Community (n=1,812)**

	<b>YRA (n=906)</b>	<b>Non-YRA (n=906)</b>
Non-DC Arrests	10.3%	8.5%
Non-DC Convictions	9.7%	8.1%
DC Arrests	49.3%	55.6%
DC Convictions	26.3%	26.0%
All Arrests	53.4%	58.7%
All Convictions	33.0%	31.1%

An interesting finding surfaced when analysis compared time to first arrest after being released to the community, which was found to be significantly longer for YRA sentenced persons. While there was no real difference found in time to arrest after sentencing as described earlier as “time to failure,” when comparing time to first arrest after release to community, those with a YRA sentence took significantly longer to meet with failure. Non-YRA sentenced comparison persons who were in fact re-arrested (n=536 of 906) were first re-arrested on average 40 days after being released to the community. On the other hand, YRA sentenced persons who were re-arrested (n=500 of 906) were first re-arrested 58 days after being released to the community (p=.042). This amounts to an additional 2.5 weeks that YRA sentenced persons abstained from potentially criminal behavior.

Examining those who were arrested within 2 years (500 YRA persons and 536 similarly situated and matched non-YRA persons), there were also no significant differences in the number of weapon or violent offenses on which they were either arrested or convicted. In Table 11, of those re-arrested and reconvicted, both groups had similarly low rates of re-arrest and reconviction specifically for weapon or violent offenses within 2 years of being released to the community. This finding mirrors what was found in Table 8, examining types of offenses arrested and convicted within 2 years of sentencing.

**Table 11. New Offending by Offense Type within Two Years of Release to Community (n=1,812): Subset of those who were Re-arrested**

	<b>YRA with New Offenses (n=500)</b>	<b>Non-YRA with New Offenses (n=536)</b>
Arrest for a Violent Offense	8.4%	7.6%
Arrest for a Weapon Offense	2.0%	2.4%
Conviction for a Violent Offense	4.0%	4.1%
Conviction for a Weapon Offense	2.0%	1.7%

When considering the similarly situated 1,812 matched persons who were sentenced under YRA (906) and those who were not (906), there were some findings of interest. First, non-YRA sentenced persons who were similar to those in our YRA sentenced group were significantly more likely to be re-arrested. Second, the non-YRA persons were arrested significantly sooner, taking less time to reach that point of failure from the time of release to the community. The groups had comparable rates of reconviction, and both groups

were re-arrested and reconvicted for similarly low numbers of person and weapon offenses. For similarly situated persons – half sentenced under YRA and half not – the outcomes were similar. This indicates that sentencing is not currently a benefit of YRA.

For those who received a set aside, there were long term benefits seen in lower re-arrest and reconviction. While currently there is data available that indicates offending outcomes for those sentenced under YRA based on the original supervising agency, it must be interpreted with caution. As noted earlier, many offenders have sentence modifications, particularly due to violations and revocations of community supervision. Notwithstanding such modifications, based on initial supervision one received in his or her sentencing, those supervised under probation had the lowest re-arrest and reconviction rates. This does not, however, speak to whether that was a result of the currently unanalyzed programming received, or if that outcome was more likely to be positive in the first place and is the reason the Judge placed them in the community to begin with. Next we must consider if there are differences in how persons are supervised or treated after the sentence, since the sentencing is perceived by some as the benefit.

### Key Takeaways

- Those set aside were significantly less likely to be re-arrested. They were also less likely to commit new violent, weapon, and felony offenses specifically.
- The set aside had a significant relationship with this outcome when controlling for other factors such as criminal and social history, and current crimes of violence, weapon, or felony offense.
- Those sentenced under YRA were no more or less likely to reoffend than those who did not receive the sentence. This further highlights that the sentence itself resulted in no changes in behavior, but rather that the set aside is the key benefit that was shown to reduce recidivism.

C. Does the rehabilitative programming offered improve offender outcomes? Specifically, how are programs identified, are YRA offenders supervised differently, and are programs evaluated? Who is tracking this information?

D.C. Code §24-902 – According to statute there are two sources of programming:<sup>43</sup>

- For misdemeanants, the Mayor shall provide facilities and personnel for the treatment and rehabilitation of youth offenders.
- For felons, the FBOP is authorized to provide for the custody, care, subsistence, education, treatment and training for youth offenders.

During the course of developing the statistical analysis to answer the first two research questions, meetings were held with stakeholders in the Office of the Deputy Mayor of Public Safety and Justice, the DC Department of Corrections, and the Federal Bureau of Prisons. The most immediate answer to the question about whether rehabilitative programming improves offender outcomes is that, at present, there are no programs that are specifically developed to supervise or treat those sentenced under the YRA. Being a YRA-sentenced offender does not qualify or classify a person for any program or intervention.

<sup>43</sup> <https://beta.code.dccouncil.us/dc/council/code/titles/24/chapters/9/>

However, that is not to say that partners are not providing any developmentally appropriate programming.

For example, while CSOSA is not statutorily required to provide programming specifically tailored to offenders sentenced under the YRA, they do have programming for young adults with specialized caseloads. This caseload and set of services is intended for any offender who CSOSA deems a good fit for such programming, and participation is not limited to or intended specifically for YRA sentenced persons. In earlier analyses, CSOSA provided a detailed description of that programming:

According to CSOSA “approximately 20% of its population consisted of young adults between the ages of 18 to 25, and their needs were quite different from those of older individuals. To address the specific needs of the young adults, CSOSA developed and launched an innovative Young Adult pilot program in two locations in the District, Northwest and Southeast. Community Supervision Officers (CSOs) on the Young Adult teams (YATs) are specially selected and trained. The program maintains low supervision caseloads with interdisciplinary teams comprised of CSOs and Treatment Specialists. According to CSOSA:

*“The programmatic components of the Young Adult Program consist of an integrated supervision strategy that focuses on risk containment, treatment and employment. The risk containment strategies include rapid identification of each young adult’s specific risk and needs, frequent interdisciplinary staffings, strict offender accountability, compliance monitoring, application of swift and graduated sanctions and incentives. The treatment interventions focus on cognitive distortions, impulsivity, violence reduction, illegal substance abuse, and vocational/educational training and development. Young adults participating in this program often are seen more frequently by staff and are offered more programming, including a cognitive behavioral program (Challenge to Change); Violence Reduction Program (VRP); Vocational Opportunities, Training, Education, and Employment (VOTEE) programs; and the agency’s new Community Engagement and Achievement Center (CEAC) program. Since the program was implemented, the Agency has more successfully closed young adult cases than prior to program implementation. Currently,<sup>44</sup> the agency is expanding this program from two to four Young Adult teams and is considering developing a Young Adult Branch.”<sup>45</sup>*

- Excerpt from CSOSA’s responses to questions from Councilmember Charles Allen, January 2017

The Federal Bureau of Prisons provides programs accessible by young adults, though not separate and distinct for those sentenced under the YRA and not separate from programs for any adult offender. At the FBOP, juveniles who are charged as adults and receive a YRA sentence are housed and served in the same facilities and programs as all juveniles in their custody. Those programs are location-dependent, and the FBOP has specific housing locations for these young persons. FBOP offers all inmates access to appropriate programming, regardless of whether they have been sentenced under YRA. If a location is offering a program for young adults, YRA sentenced offenders have access to it, but they are not programs dedicated solely to YRA-sentenced offenders. There are young adult programs, but like other federal partners, being sentenced under YRA is not an exclusive characteristic of those in young adult programs. All BOP facilities offer GED and literacy programs, as well as English as a Second Language, parenting, drug

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<sup>44</sup> This was the case as of January, 2017.

<sup>45</sup> CSOSA provided response to this question in January 2017, when programming and outcome information was requested by Councilmember Allen.

abuse education, and non-residential drug abuse programs. Additional programs are operated in some facilities in a more specialized way.

The Department of Corrections for the District of Columbia also offers GED and literacy programs. Like FBOP, they do not separate offenders by age or by sentence type. The DOC, instead, practices a unit-based custody model, which means that if one is in the reentry program, the entire unit is geared toward reentry services and all inmates receive those same opportunities and services. In addition to unit-based services, outside programming is available utilizing DOC staff, contractors, volunteers, and professional grant-funded organizations. A person who is committed to the DOC is met by a case manager who assesses his or her needs and determines appropriate programming based on sentence length as well as risk and needs.

While the research question here examined what exists for YRA-sentenced persons, how their supervision differs, and specific program impacts on YRA sentenced offenders, there is a necessary next step to this analysis. It is proposed that a follow up analysis examining the programs and outcomes that have served YRA offenders be conducted to understand the impact of what is currently being offered. This examination will require collaboration between both human service and justice agencies in order to understand what is available.

### **III. FINDINGS AND CONSIDERATIONS:**

During 2010-2012, just over half of eligible cases and eligible offenders received a YRA sentence. The D.C. Sentencing Commission data indicated that those with higher criminal history scores were less likely to receive a YRA sentence. YRA sentenced persons were more likely to receive sentences that included community supervision, and less likely to receive sentences that include incarceration. Of those who were sentenced as such, just under half had their convictions set aside. While the findings indicated that there were few differences in later offending comparing those sentenced under the YRA with those not sentenced under the YRA, there were important differences in reoffending comparing those whose convictions were set aside with those whose convictions were not set aside.

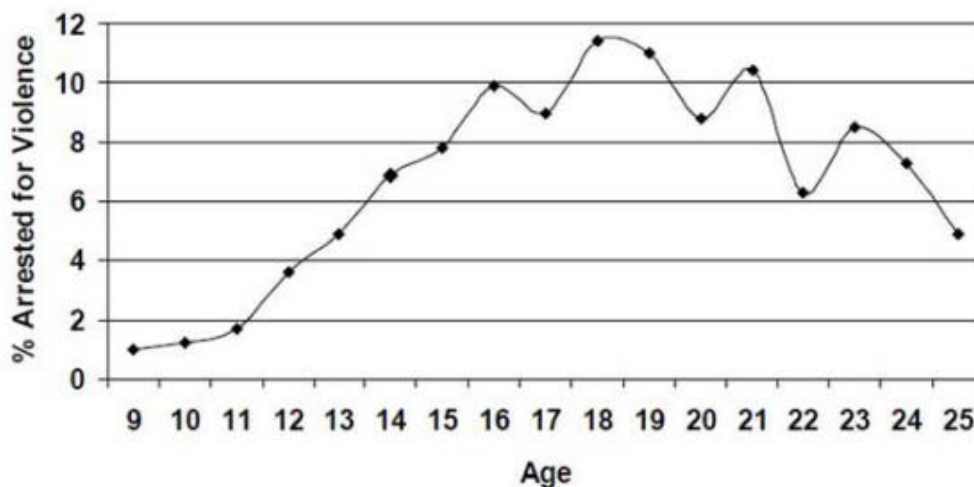
There were significantly lower re-arrest and reconviction rates for persons who were successfully set aside under YRA when comparing them to persons who received a YRA sentence but were not set aside at the end. This is where the opportunities seem to lie – the benefit of the set aside at the end of a YRA term offers the hope of reduced reoffending and improved public safety outcomes. The question is how to improve one’s chances of receiving that set aside, as it is a significant contributor to one’s likelihood of being re-arrested and of being reconvicted.

This examination has included a full analysis of the available data, a review of the relevant literature, an environmental scan of national approaches to young adults, and consideration of testimony provided by

both experts and community members during Councilmember Allen’s February 9, 2017, Roundtable on Sentencing in the District of Columbia.<sup>46</sup>

First, literature and national practice provide some important guidance. While juvenile crime makes up a small percentage of the crime reported across the country, there is a climb in offending seen in the late teens, which abates by one’s mid-20s for a significant portion of young adult offenders. Persons age 18 to 24 years old make up approximately 30% of those arrested nationwide (Council of State Governments, 2015;<sup>47</sup> Justice Policy Institute, 2016<sup>48</sup>). Various factors contribute to this, the least of which is the widely-cited age-crime curve, shown in Figure 14.<sup>49</sup>

Figure 14. The Age Crime Curve



Nationally and in the District, there are various approaches to punishing and rehabilitating young adult offenders, including many model practices for improving outcomes for both offenders and for the communities in which they reside.

Over the last two decades, there has been abundant research examining the physiological and psychological differences between the legal age of adulthood in the U.S. (generally viewed as 18) and the actual age of intellectual maturity (varying between 23 and 25 depending upon individual development), giving rise to discussions of legal culpability and amenability to rehabilitation.<sup>50</sup> Not only has research

<sup>46</sup> For a list of those who provided testimony, please refer to Appendix G. This roundtable at which experts and community members spoke was held on February 9, 2017, and was convened by Councilmember Charles Allen to consider “Sentencing in the District of Columbia: Agency Roles and Responsibilities.” This full day session allowed for interested parties as well as system stakeholders to speak about sentencing generally, as well as the YRA specifically, in an open public forum.

<sup>47</sup> The Council of State Governments Justice Center, *Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems* (New York: The Council of State Governments Justice Center, 2015).

<sup>48</sup> [http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi\\_young\\_adults\\_final.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/jpi_young_adults_final.pdf)

<sup>49</sup> <https://www.nij.gov/topics/crime/Pages/delinquency-to-adult-offending.aspx#noteReferrer5>

<sup>50</sup> According to subject matter experts, “unlike logical-reasoning abilities, which appear to be more or less fully developed by age 15, psychosocial capacities that improve decision making and regulate risk taking – such as impulse control, emotion regulation, delay of gratification, and resistance to peer influence – continue to mature well in to young adulthood” (p.56) [Steinberg, L. (2007). Risk taking in adolescence. *Current Directions in Psychological Science: 16:* 55-59.] Basically, a person can distinguish right from wrong by their mid-teens; however, one cannot gauge risk, understand consequences, or delay gratification – especially under peer pressure – until well into the 20s. This is referred to frequently as the ‘maturity gap’ in the literature. [Steinberg, L.,



changed the common conception of treating someone who looks like a grown-up as someone who is as responsible as a grown-up, it also has changed the way we understand the potential for treatment and rehabilitation of youthful offenders. If someone is still growing and changing, young-adult-isolated offenses may not in fact be a pattern that will be continued once maturation is complete. This likely explains the age-crime desistance curve that has been well documented.

There are three main approaches that have been discussed in the literature and policy assessments. First, raising the age of juvenile jurisdiction to include young adults in the existing juvenile justice systems and to serve them in that system has been considered. Second, some jurisdictions attempt to accommodate the developmental needs of young adults through programming offered in the existing criminal justice system, whether with specifically designed community or facility-based programs (in the same or separate facilities) that are developmentally appropriate and rehabilitative in nature, rather than punitive. And finally, some have discussed creating a separate system that specifically serves the young adult population in developmentally appropriate and rehabilitative programs.<sup>51</sup>

Best practices for young adult offenders, offering the most effective rehabilitative services that are most developmentally appropriate, are still under-researched (CSG, 2015; JPI, 2016). The scans and literature summaries indicate similar themes – 18-to-24-year-olds require developmentally appropriate rehabilitative services that likely mimic those found to be effective for offenders under 18, but tailored to their developmental stage. Also, those scans and summaries indicate that there is little to no research on the most effective programs for this group, though there is currently federal funding available to test these methods to inform this work going forward (CSG, 2015; JPI, 2016).

Programs utilized vary widely, including Young Adult Courts, probation and parole programs, district attorney-led programs, community-based partnerships, hybrid partnerships, and prison-based programs (National Institute of Justice, 2016). Simultaneously, legislation has been enacted in various jurisdictions that requires courts and agencies to address young adult offenders in distinctly different ways than those approaches taken for older adults in their systems.<sup>52</sup> DC is not alone in the conversation, and has the opportunity to write a new chapter by seeking evidence and acting upon it.

At the same time, offender accountability must be balanced with rehabilitation if the District is to pursue its ultimate goal of improving public safety by reducing reoffending behavior. The pillars of success rest on those practices in which the D.C. criminal justice system engages, including but not limited to, swift and certain punishment, cognitive behavior change, and rehabilitation of offenders.

As the system is designed, the intent is to deter criminal behavior in the first place – keep those who would offend from doing so through awareness of consequences. Deterrence, as a theory, points to the need for swift, certain, and severe punishment so that potential offenders will consider the likelihood and type of consequences, and then decide to abide by the law. But research shows that those consequences do not have to be severe. Instead, they must be certain that they will occur and they must be quick (or swift as it is referred to in the literature) so that the offender is not left to make the connection between

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& Scott, E. (2003). Less guilty by reason of adolescence: Developmental immaturity, diminished responsibility, and the juvenile death penalty. *American Psychologist*, 58, 1009–1018.]

<sup>51</sup> The third is considered less viable by policy makers and strategists due to the expense and the capacity required to accomplish program development (JPI presentation, 2016), though such systems can be found in several European countries (Howell, Felds, Mears, Farrington, Loeber, & Petechuk, 2013) [<https://www.ncjrs.gov/pdffiles1/nij/grants/242935.pdf> ]

<sup>52</sup> Examples and findings from a national scan, as well as legislation from around the county can be found in Appendices D & E.

his behavior and the outcome. National research demonstrates that swift and certain consequences are important to improving public safety and offender outcomes. Some programs, such as the Sobriety 24/7 program in South Dakota,<sup>53</sup> are targeted to substance abusers, reducing their violations while in community supervision programs. High risk felons are served by the Swift and Sure program in Michigan, with 36% lower re-offending rates.<sup>54</sup> And Supervision with Intensive Enforcement, Ft. Worth, Texas (SWIFT) demonstrates that swift and certain without severe is effective for a wide range of offenders when supervised in the community, reducing reoffending by 50% and violations by 25%.<sup>55</sup>

In order to promote accountability and the rehabilitation of offenders through cognitive behavior change and through offering choices other than crime, the District does not need to increase the severity of penalties for offenses of young adults. Instead, research suggests that these can be achieved through those vehicles that already exist – community and secure supervision settings alike. The analysis also provides where the offenders are currently being supervised or in custody, so that rehabilitation can be targeted in smarter and more efficient ways through those systems and within those partnerships that already exist.

In addition to the above review of the literature and of national approaches, the themes of the testimony provided during the February 9<sup>th</sup> Roundtable convened by Councilmember Allen converges with this research and conveys several main points:

- Wide acceptance of notions of developmentally appropriate rehabilitation practices;
- A dearth of directly applicable research, with tangents frequently drawn from evaluations of juvenile practice;
- The need for specialized caseloads that are both developmentally appropriate and at the same time promote desistance from crime;
- Findings of same or better outcomes when persons are rehabilitated in their communities; and
- Decision-making and discretion that focuses on the offender, rather than on the offense, in order to achieve long term goals of public safety and other correlates of reduced recidivism.

The literature reveals that while evidence-based approaches for juvenile and criminal justice systems in the United States have been well-established, when it comes to those in their young adult years there is little known about what approaches are most specifically effective. Instead, jurisdictions take what they know about those under 18 and apply it to those 18 to 24 years olds, adjusting for developmental needs. We stand at a crossroads and have the opportunity to find out what works and what does not in the District of Columbia.

## Considerations:

### A. Legal Criteria

In light of the analysis, enhancing information provided to the judges and reconciling legislative language regarding mandatory minimums can further inform decision-making.

1. The current YRA statute permits a sentence under the Youth Rehabilitation Act, including the opportunity to earn a set aside of one's conviction for persons under 22 at the time of a guilty

<sup>53</sup> <https://www.rand.org/health/projects/24-7.html>

<sup>54</sup> <http://courts.mi.gov/Administration/admin/op/problem-solving-courts/Documents/SS-Eval.pdf>

<sup>55</sup> <http://www.swiftcertainfair.com/portfolio/swift-supervision-with-intensive-enforcement-ft-worth-texas/>



plea or verdict if they are convicted of an offense other than first or second degree murder, or murder that is part of an act of terrorism. Also, a sentence under the Youth Rehabilitation Act is not limited to first time offenders. The suggestion here is to continue to afford the current structure of offenses and offenders for whom it is available, which is based upon the findings that those receiving the sentence closely mirror offense types of the base of all eligible cases in 2010-2012. Based upon the analysis, YRA sentencing determinations are based upon factors that include age, arrest history, and juvenile commitments. While a surface examination would make it seem that more crimes of violence, weapon, and felony offenses are being sentenced under YRA, when controlling for other factors, that finding dissipates.

2. Conduct a “youth study” on all those with a felony conviction that is eligible for YRA sentencing, which is already currently done for some persons who are being considered for a YRA sentence in current practice. This would allow a leveraging of information to help inform judicial decision-making and to improve offender outcomes at the same time.
  - a. Rather than placing restrictions on applying YRA, the limited analysis here provides some clues as to the factors that help determine if one would be successful.
  - b. Develop risk assessments instruments (RAIs) or structured decision making tools (SDMs) to assist in decision making by the courts, and in the development of appropriate programming that can be calculated from the youth study.

An approach using risk assessment that includes, where relevant, the current offense where would allow for a focus on the offender. This is in line with the sentiments and positions of many of those who testified and in many conversations with stakeholders, rather than a ‘just desserts’ approach that would limit offenses for which or offenders for whom it might be applied. The analysis shows that, when taken collectively, there are certain factors that are correlated with an offender’s ability to successfully complete his or her term and have their conviction set aside. RAIs and SDMs take these factors into consideration; therefore, if these assessments were provided to the court, they could help determine if someone is likely to succeed if given a YRA sentence and what programming may be appropriate to help improve the offender’s likelihood of success. For example, while females are more likely to succeed when looking at all those sentenced under the YRA, it does not mean that females should be sentenced under the YRA more often than males. This may be a surface indicator for underlying social factors that are more commonly found relative to females, including factors like support systems or more traditional ties to conformity. A deeper examination is thus warranted. If analysis were to find these things proposed around social structure are key, then appropriate interventions for those sentenced under the YRA would include enhancing supports and ties to conformity. Developing predictive measures overall would help not only in decision making tools, but also in the development of effective programming.<sup>56</sup>

The expansion of the use of the Youth Study also carries its own considerations. First is that of resources, both in the form of time and of money. When the Court orders a Youth Study, the recipient of the order is given approximately two months to complete such study. This is the same amount of time allotted for sentencing in felony cases. However, in misdemeanor cases sentencing can occur on the same day as the

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<sup>56</sup> Florida has implemented structured decision making for dispositional decisions in their juvenile justice system which improves decision making objectivity as well as program responsibility: [http://www.djj.state.fl.us/research/latest-initiatives/juvenile-justice-system-improvement-project-\(jjsip\)](http://www.djj.state.fl.us/research/latest-initiatives/juvenile-justice-system-improvement-project-(jjsip)) ; This has also been pursued in Georgia. Both states have a system in which juvenile offenders are committed to the juvenile justice agency, and suitable dispositions are decided by that entity rather than the Judge.

finding of guilt, and adding two months for a Youth Study to be conducted may in some misdemeanor cases unnecessarily extend the time the case takes to be resolved.

The financial resources that are expended to complete a Youth Study are currently absorbed at the Public Defender Service and at the DOC by existing personnel, but expanding its utilization may create a burden. The Public Defender did share that they request it in any case in which there is any room for doubt around sentencing. They also will frequently provide one in such cases even when not compelled to do so by the Court. Various partners noted that the elements of the Study are similar to that provided in a pre-sentencing investigation report, providing only limited additional information.

This limit to the information provided is the second consideration. During interviews, it was noted that while a Youth Study may in fact prove useful in more cases than it is currently being used, that Study is not useful at all if it is not done well and consistently. This circles back to the other points, in that they differ when done by the DOC or by PDS, and the persons conducting them at different places may vary in their abilities to discern an offender's amenability to rehabilitation. It was noted that expanding the youth study could be important as long as that expansion includes quality control.

3. There is current discourse over the applicability of mandatory minimums in some offense categories in which persons are eligible for YRA sentencing. In light of the recent passage of the Comprehensive Youth Justice Amendment Act of 2016 (CYJAA), which allows for sentences below the mandatory requirements for juveniles sentenced as adults, further consideration and clarification might be beneficial to determine whether mandatory minimums should be applicable for young adult offenders sentenced under YRA. There is an opportunity to reconcile the legislative language regarding the application of mandatory minimums.

## B. Programming

If the YRA provides a chance at reducing barriers to employment, then appropriate and effective opportunities to rehabilitate and to desist from crime must be made available. There are opportunities to impact service delivery by formalizing programming and oversight. This can be achieved by making programming available where the offenders are and offering specialized caseloads specific to those who are sentenced under the YRA. Targeted programming can result in desistance while supporting the District's ultimate goal of improving public safety. This analysis provides information about where offenders' sentences were initiated and can be instructive for understanding where these opportunities exist.

1. 59% of YRA-sentenced offenders were initially supervised in the community which suggests community-based programming could be effective since there are evidence-based practices that may support this population.
2. 34% of YRA-sentenced offenders were initially sentenced to a term of incarceration. To this end, the DOC and BOP are critical to the provision of targeted programming for those who may be under their jurisdiction.

The opportunity here is to provide programs for those sentenced under the YRA. This can include cognitive-based therapies, public health models, and other approaches that have been shown effective in

younger populations. Process evaluations and impact assessments can be conducted from the outset to insure that the District determines and follows best practice for this unique population, while at the same time sets a national model for approaches to this age group.

## IV. APPENDICES

## Appendix A

### Youth Rehabilitation Act

District of Columbia Official Code

\*\*\* Statutes current through June 23, 2017 \*\*\*

Division IV. Criminal law and procedure and prisoners.

Title 24. Prisoners and Their Treatment.

Chapter 9. Youth Offender Programs.

Subchapter I. Youth Rehabilitation.

#### **D.C. Code § 24-901 (2017)**

§ 24-901. Definitions.

For purposes of this subchapter, the term:

- (1) "Committed youth offender" means an individual committed pursuant to this subchapter.
- (2) "Conviction" means the judgment on a verdict or a finding of guilty, a plea of guilty, or a plea of no contest.
- (3) "Court" means the Superior Court of the District of Columbia.
- (4) "District" means the District of Columbia.
- (5) "Treatment" means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders.
- (6) "Youth offender" means a person less than 22 years old convicted of a crime other than murder, first degree murder that constitutes an act of terrorism, and second degree murder that constitutes an act of terrorism.

HISTORY: (Dec. 7, 1985, D.C. Law 6-69, § 2, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(a), 47 DCR 7249; Oct. 17, 2002, D.C. Law 14-194, § 157, 49 DCR 5306.)

Division IV. Criminal law and procedure and prisoners.

Title 24. Prisoners and Their Treatment.

Chapter 9. Youth Offender Programs.

Subchapter I. Youth Rehabilitation.

**D.C. Code § 24-902 (2017)**

§ 24-902. Facilities for treatment and rehabilitation.

(a) The Mayor shall provide facilities and personnel for the treatment and rehabilitation of youth offenders convicted of misdemeanor offenses under District of Columbia law and sentenced according to this subchapter.

(b) (1) The Mayor shall periodically set aside and adapt facilities for the treatment, care, education, vocational training, rehabilitation, segregation, and protection of youth offenders convicted of misdemeanor offenses.

(2) Insofar as practical, these institutions maintained by the District of Columbia shall treat committed youth offenders convicted of misdemeanor offenses only, and the youth offenders shall be segregated from other offenders, and classes of committed youth offenders shall be segregated according to their needs for treatment.

(c) The Federal Bureau of Prisons is authorized to provide for the custody, care, subsistence, education, treatment, and training of youth offenders convicted of felony offenses and sentenced to commitment.

HISTORY: (Dec. 7, 1985, D.C. Law 6-69, § 3, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(b), 47 DCR 7249.)

Division IV. Criminal law and procedure and prisoners.

Title 24. Prisoners and Their Treatment.

Chapter 9. Youth Offender Programs.

Subchapter I. Youth Rehabilitation.

**D.C. Code § 24-903 (2017)**

§ 24-903. Sentencing alternatives.

(a) (1) If the court is of the opinion that the youth offender does not need commitment, it may suspend the imposition or execution of sentence and place the youth offender on probation.

(2) The court, as part of an order of probation of a youth offender between the ages of 15 and 18 years, shall require the youth offender to perform not less than 90 hours of community service for an agency of the District government or a nonprofit or other community service organization, unless the court determines that the youth offender is physically or mentally impaired and that an order of community service would be unjust or unreasonable.

(2A) A positive test for use of marijuana, or a violation of § 48-1201, shall not be considered a violation of an order of probation unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.

(3) Within 120 days of January 31, 1990, the Mayor shall develop and furnish to the court a youth offender community service plan. The plan shall include:

(A) Procedures to certify a nonprofit or community service organization for participation in the program;

(B) A list of agencies of the District government or non-profit or community service organizations to which a youth offender may be assigned for community service work;

(C) A description of the community service work to be performed by a youth offender in each of the named agencies or organizations;

(D) Procedures to monitor the attendance and performance of a youth offender assigned to community service work;

(E) Procedures to report to the court a youth offender's absence from a court-ordered community service work assignment; and

(F) Procedures to notify the court that a youth offender has completed the community service ordered by the court.

(4) If the court unconditionally discharges a youth offender from probation pursuant to § 24-906(b), the court may discharge the youth offender from any uncompleted community service requirement in excess of 90 hours. The court shall not discharge the youth offender from completion of the minimum of 90 hours of community service.

(b) If the court shall find that a convicted person is a youth offender, and the offense is punishable by imprisonment under applicable provisions of law other than this subsection, the court may sentence the youth offender for treatment and supervision pursuant to this subchapter up to the maximum penalty of imprisonment otherwise provided by law. The youth offender shall serve the sentence of the court unless sooner released as provided in § 24-904.

(c) Where the court finds that a person is a youth offender and determines that the youth offender will derive benefit from the provisions of this subchapter, the court shall make a statement on the record of the reasons for its determination. The youth offender shall be entitled to present to the court facts that would affect the decision of the court to sentence the youth offender pursuant to the provisions of this subchapter.

(d) If the court shall find that the youth offender will not derive benefit from treatment under subsection (b) of this section, then the court may sentence the youth offender under any other applicable penalty provision.

(e) If the court desires additional information as to whether a youth offender will derive benefit from treatment under subsection (b) of this section, the court may order that the youth offender be committed for observation and study at an appropriate classification center or agency. Within 60 days

from the date of the order or an additional period that the court may grant, the court shall receive the report.

(f) Subsections (a) through (e) of this section provide sentencing alternatives in addition to the options already available to the court.

HISTORY: (Dec. 7, 1985, D.C. Law 6-69, § 4, 32 DCR 4587; Jan. 31, 1990, D.C. Law 8-61, § 2, 36 DCR 5798; July 17, 2014, D.C. Law 20-126, § 405, 61 DCR 3482.)

Division IV. Criminal law and procedure and prisoners.

Title 24. Prisoners and Their Treatment.

Chapter 9. Youth Offender Programs.

Subchapter I. Youth Rehabilitation.

### **D.C. Code § 24-904 (2017)**

§ 24-904. Conditional release; unconditional discharge.

(a) A committed youth offender may be released conditionally under supervision whenever appropriate.

(b) A committed youth offender may be unconditionally discharged at the end of 1 year from the date of conditional release.

(c) Notwithstanding any other provision of law, subsections (a) and (b) of this section shall not apply to a youth offender convicted of any offense committed on or after August 5, 2000.

HISTORY: (Dec. 7, 1985, D.C. Law 6-69, § 5, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(c), 47 DCR 7249.)

Division IV. Criminal law and procedure and prisoners.

Title 24. Prisoners and Their Treatment.

Chapter 9. Youth Offender Programs.

Subchapter I. Youth Rehabilitation.

### **D.C. Code § 24-905 (2017)**

§ 24-905. Determination that youth offender will derive no further benefit; appeal.

(a) If the Director of the Department of Corrections ("Director") determines that a youth offender will derive no further benefit from the treatment pursuant to this subchapter, the Director shall notify the youth offender of this determination in a written statement that includes the following:



(1) Notice that the youth offender may appeal the Director's determination to the sentencing judge in writing within 30 days of the youth offender's receipt of the Director's statement required by this section;

(2) Specific reasons for the Director's no further benefit determination; and

(3) Notice that an appeal by the youth offender to the sentencing judge will stay any action by the Director regarding a change in the youth offender's status until the sentencing judge makes a determination on the appeal.

(b) The decision of the sentencing judge on the appeal of the youth offender shall be considered a final disposition of the appeal and shall preclude further action by the Director to change the status of a youth offender for a 6-month period from the date of the sentencing judge's decision.

(c) Notwithstanding any other provision of law, subsections (a) and (b) of this section shall not apply to a youth offender convicted of any offense committed on or after August 5, 2000.

HISTORY: (Dec. 7, 1985, D.C. Law 6-69, § 6, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(d), 47 DCR 7249.)

Division IV. Criminal law and procedure and prisoners.

Title 24. Prisoners and Their Treatment.

Chapter 9. Youth Offender Programs.

Subchapter I. Youth Rehabilitation.

### **D.C. Code § 24-906 (2017)**

§ 24-906. Unconditional discharge sets aside conviction.

(a) Upon unconditional discharge of a committed youth offender before the expiration of the sentence imposed, the youth offender's conviction shall be automatically set aside.

(b) If the sentence of a committed youth offender expires before unconditional discharge, the United States Parole Commission may, in its discretion, set aside the conviction.

(c) Where a youth offender is sentenced to commitment and a term of supervised release for a felony committed on or after August 5, 2000, and the United States Parole Commission exercises its authority pursuant to 18 U.S.C. § 3583(e)(1) to terminate the term of supervised release before its expiration, the youth offender's conviction shall be automatically set aside.

(d) In any case in which the youth offender's conviction is set aside, the youth offender shall be issued a certificate to that effect.

(e) Where a youth offender has been placed on probation by the court, the court may, in its discretion, unconditionally discharge the youth offender from probation before the end of the maximum period of

probation previously fixed by the court. The discharge shall automatically set aside the conviction. If the sentence of a youth offender who has been placed on probation by the court expires before unconditional discharge, the court may, in its discretion, set aside the conviction. In any case where the court sets aside the conviction of a youth offender, the court shall issue to the youth offender a certificate to that effect.

(f) A conviction set aside under this section may be used:

(1) In determining whether a person has committed a second or subsequent offense for purposes of imposing an enhanced sentence under any provision of law;

(2) In determining whether an offense under § 48-904.01 is a second or subsequent violation under § 24-112;

(3) In determining an appropriate sentence if the person is subsequently convicted of another crime;

(4) For impeachment if the person testifies in his own defense at trial pursuant to § 14-305;

(5) For cross-examining character witnesses;

(6) For sex offender registration and notification;

(7) For gun offender registration pursuant to subchapter VIII of Chapter 25 of Title 7, for convictions on or after January 1, 2011; or

(8) In determining whether a person has been in possession of a firearm in violation of § 22-4503.

HISTORY: (Dec. 7, 1985, D.C. Law 6-69, § 7, 32 DCR 4587; June 28, 1991, D.C. Law 9-7, § 2, 38 DCR 1978; Aug. 17, 1991, D.C. Law 9-15, § 2, 38 DCR 3382; June 8, 2001, D.C. Law 13-302, § 9(e), 47 DCR 7249; June 3, 2011, D.C. Law 18-377, § 17, 58 DCR 1174.)

Division IV. Criminal law and procedure and prisoners.

Title 24. Prisoners and Their Treatment.

Chapter 9. Youth Offender Programs.

Subchapter I. Youth Rehabilitation.

### **D.C. Code § 24-907 (2017)**

§ 24-907. Rules.

The Mayor may issue rules to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2.

HISTORY: (Dec. 7, 1985, D.C. Law 6-69, § 8, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(f), 47 DCR 7249.)

## Appendix B

### Analytic Methodology

Consistent with the research plan, data was requested from partners to fulfill the requirements for the approved analysis.

#### How is YRA applied and how many are set aside?

A base cohort was created extracting charge level data for any charge that was convicted in DCSC during 2010, 2011, and 2012 for any person who was convicted and sentenced before turning 22 years old. This charge level information was utilized to create a cohort of eligible persons, and criminal and social history data for these eligible persons was requested from partner agencies in order to examine all available relevant information.

In order to determine how many cases were included, data was flattened to the case level, resulting in 5,166 unique cases. Sentencing information was requested at this time from the SCDC to examine also the felony sentencing practices for cases with YRA-eligible offenses and persons. This data was provided to the CJCC in aggregate form.

To determine how many persons were eligible during the 3 years, the data set of 5,166 cases was further flattened to the person level, leading to a finding of 3,960 persons across these 5,166 cases. In this data set it was then determined that 2,384 were in fact sentenced under YRA for at least one case during the 3 year time period, where the other 1,576 persons had an eligible case during that time but were not sentenced under YRA.

- Examining factors related to being sentenced under YRA, analysis included logistic regression in order to look at what available variables had a significant relationship with one's likelihood to be sentenced under YRA or not.
- Examining factors related to being set aside once sentenced under YRA, analysis included logistic regression in order to look at what available variables had a significant relationship with one's likelihood to be set aside at the end of his term.

Both of these regressions looked at the impact of the following variables:

- Age at sentencing
- Gender
- Race
- DC Residence
- Number of non-DC arrests
- Number of non-DC convictions
- History of commitment to DYRS
- Number of juvenile case filings
- Number of juvenile case adjudications
- Number of past convictions in DC
- Number of past arrests in DC
- Current Crime of Violence

- Current Weapon Offense
- Current Felony

What is the recidivism after YRA is applied?

The second major section of the report deals with outcomes following one receiving the benefit of YRA – and this is addressed in two main ways. First, the main benefit is the set aside, and second, the sentence is perceived by some to be, in and of itself, a benefit of YRA.

*Set Aside as Benefit – Creating Comparison Groups*

If the benefit of YRA is the set aside, then reoffending must be examined for those sentenced under YRA (n=2,384), comparing those who were eventually set aside with those who were not set aside, following their outcomes from the end of their terms for 2 years.

**YRA SET ASIDE GROUP:** Persons sentenced under the YRA whose convictions were set aside.

**COMPARISON GROUP:** Persons sentenced under the YRA, who, at the expiration of their term, no action is taken.

**The follow up period** includes 2 years of follow up from the point at which the set aside occurred for those in our YRA set aside group, and from the expiration of term for the comparison group.

The dataset of persons sentenced under YRA for the purposes of this section of the analysis starts with the 2,384 persons sentenced under YRA, but then must be reduced to separate 1) those who were formally set aside (n=976), 2) those who had their term expire but did not have their case set aside at that time (n=1,159), and 3) those who – at the time our data was pulled – had not reached a point where they were to be set aside or had expired (n=249), termed ‘not yet eligible’ in the analysis.

Because a person who is not set aside is simply no longer supervised (without notation in the Court’s record), calculations were made to estimate the end of supervision for persons not set aside based on available Court data. If a person was sentenced under YRA and that sentence did not include any time incarcerated (or additional time if they received credit for time served), then the date that the sentencing occurred was the starting point, and the sentence that was incurred in the community was added to that sentencing date. This was then considered the end of supervision. This also included an accounting for changes (such as extensions) in their probation term by checking the most recent probation term, as the Court tracks both the original term as well as the most current because there can be modifications made for probation supervision. For those who went directly to community supervision at sentencing as above and then had a violation that resulted in a formal revocation of probation. If this occurred, the date of revocation was recorded, then was cross referenced with the DOC and FBOP datasets for any incarceration that coincided with this revocation. The release date associated was then taken as their start of community supervision, and any supervised release was added to that release from incarceration date. This became the expiration of term. If a person was sentenced under YRA and went into incarceration, their release date was taken from the DOC and FBOP datasets, and any term of supervised release (or probation in the case of short split sentences) was added to that release date. This was considered the expiration of term for these persons.

The analysis in this section includes several elements. First, simple comparisons were conducted on new arrests and new convictions 2 years from the end of term. Chi-square was conducted and showed significant differences in reoffending likelihood. Time to failure was calculated in an independent samples T-test and led to the finding that there was a significantly longer time to fail for those set aside. Of those who did fail, a subset was tested, and chi square again revealed significant differences in reconviction for later weapon offenses and for later violent offenses.

The second test was to try to isolate the impact of the set aside on the reoffending. Simple Chi-square was conducted comparing those with a weapon offense set aside and those with a weapon offense that was not set aside, and their reconviction rates were significantly different. The same was conducted for those set aside for a weapon offense compared to those not set aside for a weapon offense, and again for those set aside with a felony compared to those not set aside for a felony. All findings in these subgroups showed Chi-square significant differences in reconviction – those set aside had lower likelihood of reconviction.

Finally, a third test was done to isolate the impact of the YRA set aside. In a logistic regression predicting re-arrest, and in a separate one predicting reconviction, the impact of various factors were included to attempt to accurately predict the outcome of re-offense. For both models, the variables were the same as before:

- Age at sentencing
- Gender
- Race
- DC Residence
- Number of non-DC arrests
- Number of non-DC convictions
- History of commitment to DYRS
- Number of juvenile case filings
- Number of juvenile case adjudications
- Number of past convictions in DC
- Number of past arrests in DC
- Current Crime of Violence
- Current Weapon Offense
- Current Felony

The logistic regression included the above variables, as well as one being set aside or not, and when holding all factors constant as such, the set aside still has a significant impact on predicting re-arrest and on predicting reconviction.

#### *Sentencing – Creating Comparison Groups*

In the dataset there are 3,960 unique persons. Of those persons, this examines outcomes of those sentenced under YRA (2,384) versus those who are not (1,576), with matched subsets within this 3,960.

**YRA SENTENCE GROUP:** Persons sentenced under the YRA for a set period.

**COMPARISON GROUP:** Persons who are under 22 at sentencing for a qualifying offense, but did not receive a YRA sentence.

**The follow up period** for this group is twofold. First, reoffending is assessed both in DC and outside of DC 2 years after the sentence is imposed. Second, reoffending is assessed two years from the time the offender is released from any secure facility, whether entering any form of community supervision or not.<sup>57</sup>

- Comparison on their reoffending 2 years after being sentenced
- Comparison on reoffending 2 years after release to the community (with or without community supervision)

The elements that were included for creating these matched groups included: 1) Social Data: Basic demographic information including gender, race, and home Ward/District; Self-reported education level; Self-reported employment information; Self-reported physical and emotional health issue indicators; 2) Offending and Delinquency Data: Non-DC arrest history with offense type; Non-DC conviction history with offense type; DC adult and juvenile arrest history with offense type; DC conviction history with offense type; DYRS commitment history; DC juvenile adjudication history; Current conviction for which they were eligible for YRA.

While randomized matching at the outset is the gold standard in any analysis, propensity score methods create an approximation of what randomly matched groups would yield, while realizing that no set of data elements would be exhaustive enough to make the groups completely identical. Based on the above information, a propensity score was calculated for members of both the YRA and non-YRA sentenced groups in order to create two groups that were similarly situated with respect to social and criminal history.

To create a matched sample, the procedure involves calculating a predictive score on a scale of zero to one, which predicts the likelihood of one receiving a YRA sentence.

- 2,384 YRA> 2,292 Released to Community as of 4/1/2017> 2,117 Released at least 2 years as of 4/1/2017> 906 with a matched nearest neighbor
- 1,576 Non-YRA> 1,456 Released to Community as of 4/1/2017> 1,398 released at least 2 years as of 4/1/2017> 906 with a matched nearest neighbor in the above group

Each person in the YRA sentenced group that was released to the community at least 2 years (n=2,117) has a calculated score that predicts their likelihood of having a YRA on a scale of 0 to 1, as do the persons in the non-YRA group who had been released to the community at least 2 years (n=1,398). The two groups are then compared and matched on these scores, referred to as nearest neighbor matching. These 2,117 YRA and 1,398 non-YRA persons were matched on their predictive scores (values 0 to 1) and by only keeping those who had a matched partner within .0003 of their score, a group of similarly situated persons was created that may not represent all persons who are sentenced under each structure, but do represent those in the “area of shared variance” on relevant variables – the comparison groups include only those persons who are similarly situated in the two groups. It is important to note that this subgroup is not

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<sup>57</sup> This second comparison allows us to look at time on the street as time they are at will to commit new offenses, so it will begin for a probationer from the moment he or she is sentenced, and for someone who is incarcerated at DOC or at BOP it will begin from their facility release date.

representative of all persons who are sentenced under YRA and is not representative of all persons not sentenced under YRA, but rather represents a comparison of those similarly situated (Figure 10, page 20). Balance tests such as comparisons of means and variances showed little to no differences in the comparison groups created. For example, while age showed a difference between our two groups after the matching was done, in a practical sense the differences were less notable as the non-YRA group was on average just a few months older than the YRA group. It allows for a look at the impact of being sentenced under YRA on similarly situated persons.

### Mandatory Minimum Sentences

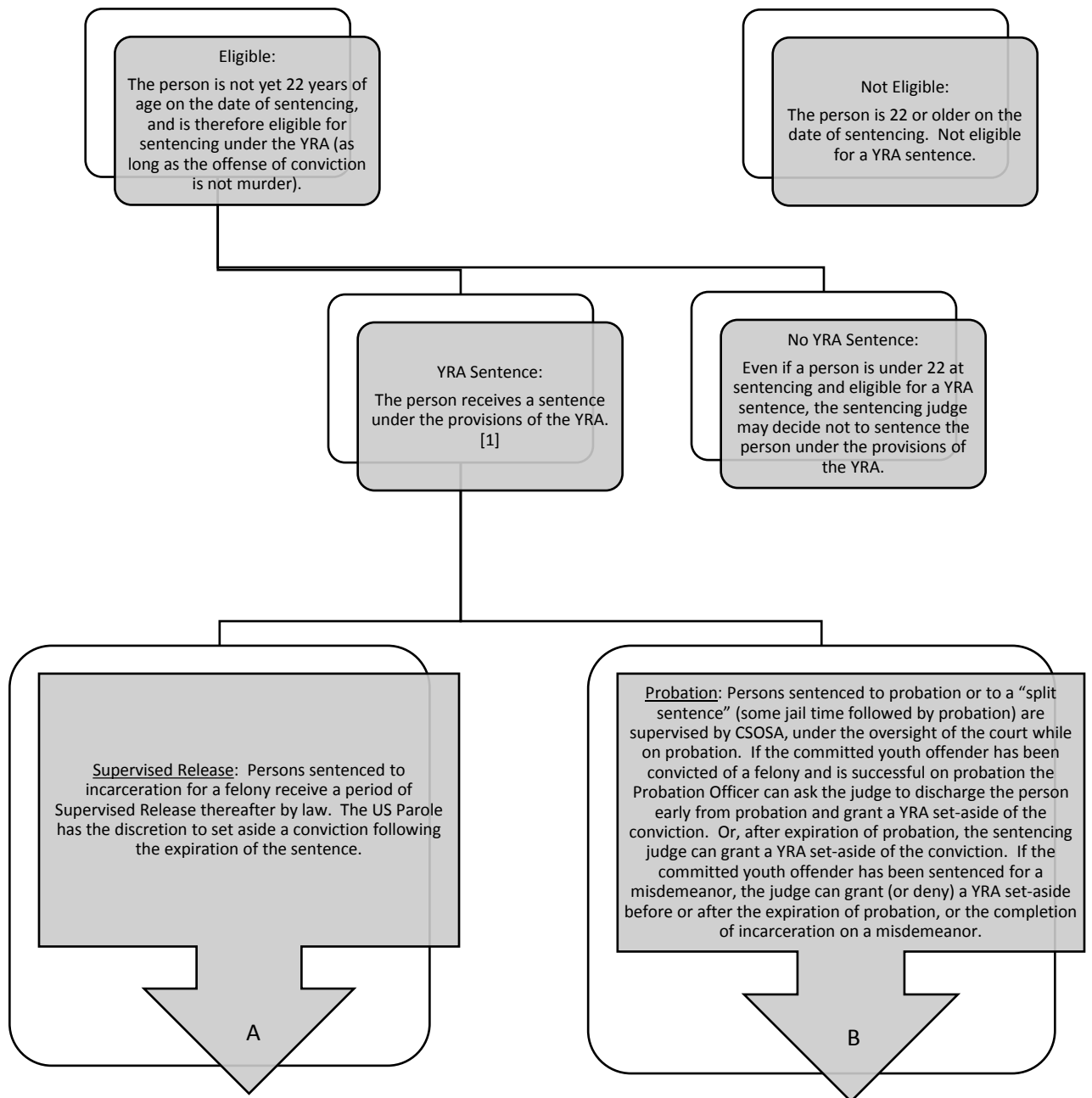
Subsequent to the initial analysis, further discussion raised the issue of sentencing and the impact that YRA sentences had on one receiving a mandatory minimum sentence in those cases where it was applicable. To create this variable, it was first determined that neither the DCSC nor the SCDC quantitatively tracked which offenses and cases included offenses that were subject to a statutory mandatory minimum.

CJCC consulted the most recent Voluntary Sentencing Guidelines to attain a complete list of those offenses that were subject to a mandatory minimum, and then verified that list with the SCDC staff. From that point, starting at the charge level, CJCC conducted coding to first isolate the offenses that were convicted and carried a mandatory minimum. Then, CJCC assigned to those offenses in the data set a value indicating the lowest mandatory minimum that would apply to an offense convicted – some offenses require one sentence if the offender has no prior history, and a different and longer term based on more extensive criminal history. Because there were incongruent findings in the datasets, CJCC decided to assume the lowest applicable mandatory minimum for any charge in the data set, and determined if the sentence assigned by the Court was below, equal to, or greater than the assigned mandatory minimum. It is also important to note that there are some instances in which a simple examination of the offenses convicted and those applicable enhancements are not enough information to make a determination – where a mandatory might not apply, though this examination of two variables would make it appear so. This is likely represented equally in those offenses convicted with and without YRA equally, and account for a small margin of those offenses counted as carrying a mandatory minimum, making the estimate conservative.

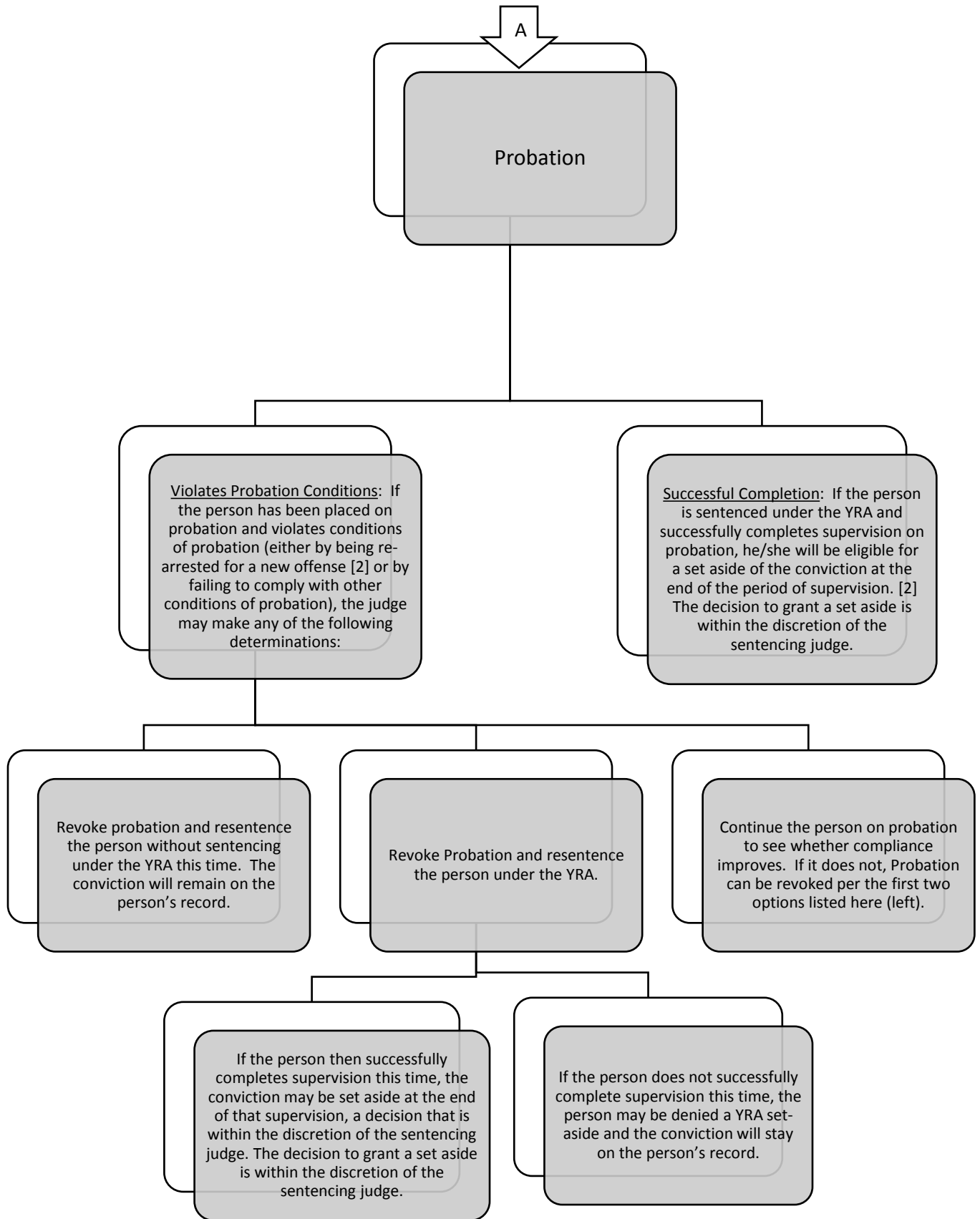
In order to examine criminal history differences for those offenders sentenced under YRA, comparing those who met the mandatory and those who did not, Independent Samples T-Tests were utilized, and three factors were identified as having significantly different means – number of juvenile adjudications ( $p=.02$ ), and number of prior DC arrests ( $p=.001$ ).

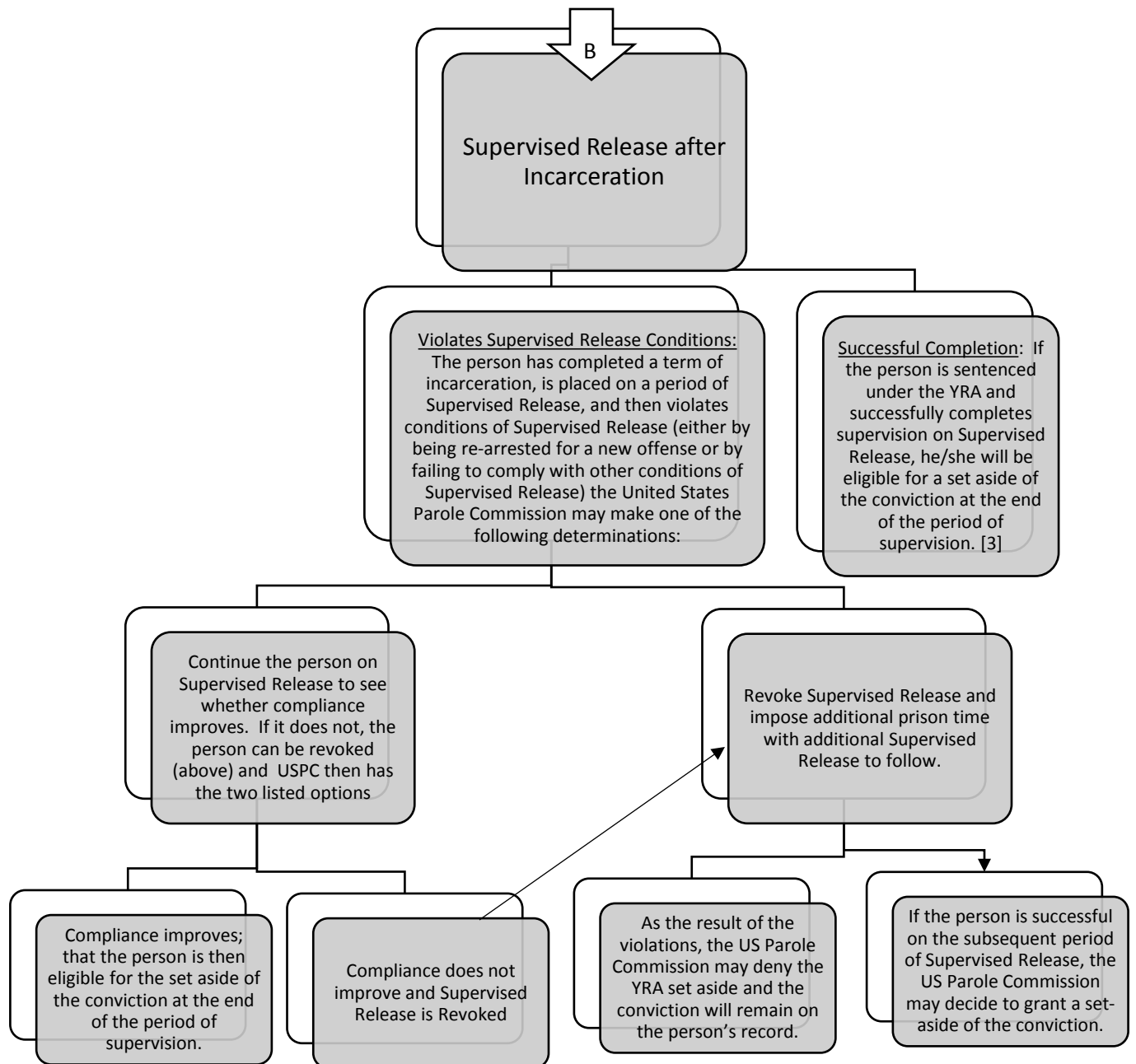
Appendix C

Flow Chart of the Youth Rehabilitation Act from Conviction to End of Term









[1] This does not mean the sentence is shorter than otherwise; it just means that in the future, the person, if successful, will be eligible for a set aside of the conviction. The exception to this general statement is that for some offenses that have mandatory minimum statutory penalties, the YRA may permit the judge to sentence to a term shorter than the mandatory minimum sentence. This is an unsettled area of the law, so the exception is not a clear rule.

[2] CSOSA does not make determinations that result in the set aside of any conviction. Rather, CSOSA makes recommendations that may or may not lead to a set aside, as the final decision is made by the judge in cases of probationers, and by the USPC in the cases of those under supervised release and of parolees.

[3] The YRA sentence in the old case does not affect the prosecution or sentence in the new case, which could be before a different judge and is a wholly separate proceeding.

## Appendix D

### Proposed Amendments to the Youth Rehabilitation Amendment Act

#### Proposed Amendment: Youth Rehabilitation Amendment Act of 1985 Repealer Act of 1994

This amendment proposed repealing the YRA, arguing that the Department of Corrections, not DC Superior Court judges, were in the best position to determine which offenders, regardless of age, are non-violent, non-dangerous, and non-predatory, and, therefore, more amendable to education and treatment. Accordingly, the Department of Corrections is in a better position to separate non-dangerous youthful offenders from others.<sup>58</sup> This amendment was not adopted into law.

#### Sentencing Reform Amendment Act of 2000<sup>59</sup>

In 1997, Congress enacted the Revitalization Act, which set the stage for major changes to the District's criminal justice system. Among other things, the Revitalization Act established the District of Columbia Truth in Sentencing Commission, directed with making recommendations to the DC Council for Amendments to the DC Code with respect to the sentences to be imposed for felonies committed after August 5, 2000. The Sentencing Reform Amendment Act of 2000 enacted many of the recommendations presented by the Truth in Sentencing Commission, including proposed changes to the YRA.

The YRA originally called for the segregation of all youthful offenders; the Sentencing Reform Amendment Act eliminated the age segregation requirement for felons, stating that only youthful offenders convicted of misdemeanor offenses were required to be segregated from other offenders.

The Act also spelled out the circumstances under which a set-aside conviction may be used by the Courts and the U.S. Parole Commission.

#### Omnibus Terrorism Act of 2002

This act amended the YRA to provide that “a person convicted of first degree murder that constitutes an act of terrorism and second degree murder that constitutes an act of terrorism” does not meet the definition of “youth offender”.<sup>60</sup>

#### Criminal Code Amendment Act of 2010

This act amended the YRA to require gun offender registration for a youth whose conviction for a gun offense was set aside under the YRA.<sup>61</sup>

#### Simple Possession of Small Quantities of Marijuana Decriminalization Amendment Act of 2013<sup>62</sup>

This act amended the YRA to state that a positive test for use of marijuana shall not be considered a violation of an order of probation, unless a judge expressly prohibited the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.<sup>63</sup>

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<sup>58</sup> DC Council Bill B10-562 (1994), <http://lims.dccouncil.us/Download/2941/B10-0562-INTRODUCTION.pdf>

<sup>59</sup> DC Law 13-302 (2000), <http://lims.dccouncil.us/Download/8155/b13-0696-INTRODUCTION.pdf>

<sup>60</sup> DC Law 14-194

<sup>61</sup> DC Law 18-377

<sup>62</sup> DC Law 20-126, <http://lims.dccouncil.us/Download/29565/B20-0409-SignedAct.pdf>

<sup>63</sup> DC Code §24-903(2A)

## Appendix E

### Examples of Practices Employed Nationally for Young Adult Offenders

#### Best Practices for Young Adults

There are many examples of programs and interventions that are being employed across the US, and evaluations of these programs are in the early stages (JPI, 2016). The National Institute of Justice (NIJ) outlines Young Adult Courts, probation and parole programs, district attorney-led programs, community-based partnerships, hybrid partnerships, and prison-based programs. These all utilize interventions that have already been proven effective on other populations.

Problem solving courts are being used across the country for various purposes, such as veterans' courts, drug courts, gun courts, and in this case Young Adult Courts. The models vary, but generally there is multi-agency case management and monitoring of persons who are legally an adult at the time of sentencing, including those who are first time misdemeanants up to violent felons with past conviction histories.

In Nebraska, there is a Young Adult Court for misdemeanants and non-violent felons 16 to 22 years old. Utilizing a full risk and needs assessment, as well as case management, the program costs approximately \$12,000 per year per person. Program capacity is low, as are the number that have completed, but few drop out. Of the 31 persons through the program by April 2011, 18 were initially charged with a felony. Participants reported a lower rate of alcohol or drug use and a lower rate of education than those in traditional criminal court; they also reported working more hours than criminal court clients. With 31 admissions over four years, just 5 were terminated, and only 2 were for new offenses.<sup>64</sup>

Colorado established a Young Adult Court in 2015. It is currently being evaluated, and uses a Transitional Age Youth (TAY) model for probation, as well as alternative sentencing and mental health services. The program includes intensive case management, drug counseling, and trauma informed care. In its first 6 months, the program received 63 referrals, and just six were terminated by the end of that six months. Their linked TAY probation model has a 73% successful completion rate.<sup>65</sup>

Other notable examples are found in San Francisco, CA, Kalamazoo, MI, and Brooklyn, NY. The work being done in New York, according to the Center for Court Innovation, served over 500 young adults in 2015 “with 94% of participants successfully completing their court mandates.”<sup>66</sup>

Probation and parole agencies are also employing distinct approaches to young adult populations. The NIJ outlines several examples of this, including Des Moines, IA. This program has been in place since 1995 and sets aside specific practices to be utilized with young adult offenders, including weekly case management meetings, cognitive therapies, education, and skills training. South Carolina implemented a probation and parole program in 2011 when they noted greater than 50% recidivism for their young adult group. After revising their services and taking a proactive role with misdemeanants and low-level felons under 25, they found a return-to-prison rate for new offenses and violations of just 13.5% (NIJ, 2016). Other examples highlighted are Boston, MA, San Francisco (highlighted above), and Multnomah, OR. The NIJ report also outlines the Young Adult Initiative here in the District established by the Court Services and Offender

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<sup>64</sup> Fact sheet: <http://www.dc4dc.com/young-adult-court>;  
<https://supremecourt.nebraska.gov/sites/supremecourt.ne.gov/files/reports/courts/drug-court-report-final-report.pdf>

<sup>65</sup> [http://cdpsdocs.state.co.us/ors/docs/reports/2014\\_YOS.pdf](http://cdpsdocs.state.co.us/ors/docs/reports/2014_YOS.pdf)

<sup>66</sup> <http://www.courtinnovation.org/sites/default/files/documents/BJIFactSheetJune2016.pdf>

Supervision Agency (CSOSA), which serves young adults who meet the agency-determined criteria for inclusion.

There are also several jurisdictions implementing programs within facilities, including segregated units for young adults. Charleston, Maine has a medium security facility that was once a juvenile facility. This is used to house 18 to 26 year olds and is based almost entirely on the juvenile system model of treatment and rehabilitation. Similar is that of Greenbrier County, West Virginia, which serves 18 to 25 year olds. And the Youthful Offender System in Colorado is another. Colorado had a separate facility for juveniles convicted as adults, and recently added the admission of those up to 25 so that the benefits of the developmentally adjusted programming could be gauged for all of these young adults. Florida operates three different young adult facilities for 19 to 24 year olds (NIJ, 2016).

Legislation:

*Raising the Age:*

In 2015, Maryland’s Governor proposed legislation that would raise the age of juvenile court jurisdiction to 21 (NIJ, 2016). Then in 2016, Connecticut’s Governor proposed legislation to raise the age of juvenile jurisdiction to 21 (NIJ, 2016), which notably immediately followed their raising the age to 18. While these attempts did not pass, it signals focus on balancing justice alongside the developmental stages of offenders with the punishments meted out. Other states have made similar attempts (NIJ, 2016).

**Table 1. State Laws:**

State	Age	Can be used Multiple Times?	Allows for Felonies?	Expungement?	Set Aside or Seal?	Specialized Programming?	Sentencing Lengths Shorter?	Court Decision?
<i>Alabama</i>	Under 21	Unspecified	Yes	No	Yes	No	Yes	Yes
<i>California</i>	Under 23	Unspecified	Yes	No	No	No	Yes	Yes
<i>Colorado</i>	18-21	Yes	Yes	Unspecified	Unspecified	Yes	Yes	Yes
<i>Florida</i>	18-21	No	Yes	No	Yes	Yes	Yes	Yes
<i>Georgia</i>	17-25	No	Yes	No	Yes (ltd)	Yes	Yes	No
<i>Hawaii</i>	18-21	Yes	Yes	Unspecified	Unspecified	Yes	Yes	Yes
<i>Mass.</i>	14-17 wv	Unspecified	Yes	Unspecified	Unspecified	Yes	Yes	Yes
<i>Maine</i>	Unspecified	Unspecified	Unspecified	Unspecified	Unspecified	Yes	Yes	Yes
<i>Michigan</i>	17-24	Unspecified	Yes	Yes	Unspecified	Unspecified	Unspecified	Yes
<i>Nebraska</i>	16-22	Unspecified	Yes	No	No	Yes	Yes	Yes
<i>New York</i>	Under 19	Yes	Yes	No	Yes	Yes	Unspecified	Yes
<i>Rhode Isl.</i>	Unspecified	No	Yes	Unspecified	Unspecified	Yes	Unspecified	Yes
<i>S.C.</i>	17-25	No	Yes	Yes	Unspecified	No	Yes	Yes

\*In some states there are lower ages of juvenile court jurisdiction, ending at 15 or 16 years old.

## Appendix F

### Outline of State Statutes (As of January 2017)

#### Alabama: Title 15, 15-19 – 1-7 (since 1975)

- Can be used for ANY offense (violent with victim notification), there are separate sentence allowances for felonies and misdemeanors, and records can be sealed but not expunged. There is no mention of limiting its application, and applies to anyone under 21 when the offense occurred (McCann). Trials for youth offenders are conducted at court sessions separate from those for adults.

#### California: SB261 (1/1/2016) – “Parole Review for Young Adults with Lengthy or Life Sentences”

- This expands parole eligibility, including for violent offenses, for those who were under 23 when the crime was committed (NIJ).

#### Colorado: Senate Bill 13-216 Rev. Stat 18-1.3-407 (2013)

- They can send anyone 18-21 through the youthful offender program in a separate facility, including education, case management, cognitive behavioral therapy, etc. (NIJ). Young adult offenders are not eligible for sentencing to the youthful offender program if convicted of Class 1 (e.g. first degree murder) or Class 2 (e.g. second conviction for selling schedule I or II drugs) felonies, sexual offenses, or if the young adult has previously received a sentence to the youthful offender system.

#### Florida: Title XLVII, Ch 958, Section 4 (1978)

- The “Youthful Offender” law can be applied only once to anyone from 18-21 with a non-capital or non-life felony. The conviction can be sealed, and certain sentencing provisions are laid out. Particularly it allows a Judge to terminate supervision or incarceration early when successful (McCann, NIJ).

#### Georgia: Section 42-7-1 through 42-7-9 Georgia Youthful Offender Act of 1972

- If you are convicted between 17 and 25, the Court can recommend to DOC youthful treatment. For felonies, the DOC can then treat them at a DOC facility; and for misdemeanors, they can have the record sealed after 5 years clean. They also have a “first offender” act, in which a first time offender on a non-serious offense can have deferred adjudication and eventual sealing, and can only applied if they have never had a felony conviction (McCann). Young adults who are convicted of any crime punishable by death or life imprisonment are not eligible to youthful offender sentencing.

#### Hawaii: Title 37: Code 706-667

- Any 18-21 year old who has never been convicted or adjudicated for a felony can have a term that includes rehabilitative treatment and an indeterminate sentence, as well as separate housing from “career criminals.” There is no mention of sealing or setting aside (McCann).

#### Massachusetts: General Law, Part 1, Title XVII, Chapter 119, Sections 52 and 58

- Their law applies to those charged with a waive-able offense from 14-17, and allows the person to be subject to juvenile, adult, or a combination sentence – frequently referred to as a blended sentence. NIJ references Massachusetts as well, but for programming (McCann). Youthful offenders sentenced to state prison who have not yet reached 18 years of age are held in a youthful offender unit separate from the general population of adult prisoners.

Maine:

- The NIJ highlights their program, which operates a facility separate from the prisons, and offer treatment and skill development. However, there is no reference to legislation for Maine (NIJ). For the most part, those efforts appear to be at the policy level within the Department of Corrections.

Michigan: Admin. Code 762.11 (2015) – Holmes Youthful Trainee Act

- Excluding only life-eligible felonies and major drug offenses, the law allows anyone 17-24 to be placed in prison or on probation for up to 3 years without a conviction. Imprisonment or probation cannot exceed 3 years. It allows for expungement upon completion as well (NIJ). Felonies carrying a maximum punishment of life imprisonment or offenses involving major controlled substances are excluded from the program.

Nebraska:

- First-time, non-violent felons 16-22 years old can be treated through Young Adult Court for all theft and non-trafficking drug charges. This requires them to plead guilty, and at completion their convicted charge is reduced to a class 1 misdemeanor (McCann). Offenders in Young Adult Court are placed in a stabilization and transition program involving treatment, job readiness, rehabilitation and furthering of education/employment.

New York: NYCLS 720.35 (2016)

- Mandatory for first time misdemeanants, and for any other offender not yet 19, after a full conviction the record may be sealed, though separate treatment or sentence options are not presented (McCann, NIJ). NIJ’s also highlights include a discussion of separate practices for pretrial supervision of young adult offenders, which keeps them out of jail. According to the research this group is more likely to recidivate if they spend even one day in jail pretrial, so this is definitely a research-based practice (cited in CSG, JPI). “Young adults who are jailed face more serious consequences in terms of increased likelihood to reoffend and sentencing” (p.7, JPI).

Rhode Island: 2016

- Their young adult offender court resembles Hawaii’s HOPE model with no limitations on offenses, though it must be a first time offender. There is little available about this online (McCann).

South Carolina: Youthful Offender Act - Title 24 Section19; Title 22-5-920

Non-violent offenders between 17 and 25 allows for alternative sentencing not to exceed 6 years at a youthful offender act facility. Expungement occurs after 15 years, and this was found in 2009 by the Court to be retroactively applicable to any past offender that would have been eligible at the time of their offense (NIJ).

## Appendix G

### Roundtable on Sentencing in the District of Columbia: Agency Roles and Responsibilities

#### [February 9, 2017) – Witness List

The following witnesses testified at the roundtable or submitted written testimony to the Committee:

#### **i. Public Witnesses**

1. Josh Lopez, Public Witness
2. Daniel Okonkwo, Executive Director, D.C. Lawyers for Youth
3. Eddie Ellis, Founder/CEO, One by 1, Inc.
4. Josh Rovner, Juvenile Justice Advocacy Associate, The Sentencing Project
5. Tony Lewis, Member, Commission on Reentry and Returning Citizen Affairs
6. Ron Moten, Public Witness
7. Marc Schindler, Executive Director, Justice Policy Institute
8. Denise Krepp, Commissioner, ANC 6B10
9. "Mahdi" Leroy J. Thorpe, Jr., President, Shaw East Central Civic Association/Chairman, Shaw COPE Red Hats Patrol
10. Irvin Nathan, President, Council for Court Excellence
11. Emily Tatso, Policy Analyst, Council for Court Excellence
12. Mark Eckenwiler, Commissioner, ANC 6C04
13. Patrice Amandla Sulton, Chair, Legislation Committee, D.C. Association of Criminal Defense Lawyers
14. Jerrell Brown, Public Witness
15. Erica Briscoe, Public Witness
16. Roderick Starks, Public Witness
17. Tara Libert, Executive Director, Free Minds Book Club & Writing Workshop
18. Juan Peterson, Poet Ambassador, Free Minds Book Club & Writing Workshop
19. Carlos Tyler, Poet Ambassador, Free Minds Book Club & Writing Workshop
20. Leon Fields, III, Public Witness
21. Andrew Guthrie Ferguson, Professor of Law, University of the District of Columbia, David A. Clarke School of Law
22. Nassim Moshiree, Policy Director, American Civil Liberties Union of the District of Columbia
23. Daniel Clarke, Public Witness
24. Veda Rasheed, Public Witness
25. Wallace Mlyniec, Senior Counsel, Juvenile Justice Clinic/Lupo-Ricci Professor of Clinical Legal Studies, Georgetown University Law Center
26. Cheleta Tuckson, Public Witness
27. Marco Price-Bey, Public Witness
28. Brent Cohen, Managing Director, Public Service Consulting Group, LLC
29. Larry Janezich, Editor, Capitol Hill Corner
30. Kathleen Frydl, Public Witness
31. Brent Cohen, Public Witness
32. Jake Horowitz, Director of Research and Police, Public Safety Performance Project, The Pew Charitable Trusts
33. Alan Page, Public Witness
34. Kristin Van Goor, Public Witness



35. Deborah Shore, Executive Director, Sasha Bruce Youthwork

**ii. Government Witnesses**

1. Hon. Frederick Weisberg, Chair, District of Columbia Sentencing Commission
2. Barbara Tombs-Souvey, Executive Director, District of Columbia Sentencing Commission
3. Kevin Donahue, Deputy Mayor for Public Safety and Justice/Deputy City Administrator
4. Natalie Ludaway, Chief Deputy Attorney General, Attorney General for the District of Columbia
5. Renata Cooper, Assistant United States Attorney/Special Counsel to the United States Attorney for Policy & Legislative Affairs, U.S. Attorney's Office for the District of Columbia
6. Leslie Cooper, Deputy Director, Pretrial Services Agency
7. Nancy Ware, Director, Court Services and Offender Supervision Agency
8. Laura Hankins, General Counsel, Public Defender Service for the District of Columbia

**iii. Advisory Neighborhood Commission Comments**

1. ANC 2B Resolution
2. ANC 6A Letter
3. ANC 6B Resolution

## Appendix H

### Contributing Agencies

*Data was provided by the following agencies:*

- District of Columbia Superior Court Criminal Division
- Sentencing Commission of the District of Columbia
- Pretrial Services Agency for the District of Columbia
- District of Columbia Metropolitan Police Department
- District of Columbia Department of Corrections
- District of Columbia Superior Court Family Division
- Division of Youth Rehabilitative Services of the District of Columbia
- Federal Bureau of Prisons
- US Parole Commission

*Additional qualitative discussion:*

- US Attorney's Office for the District of Columbia
- District of Columbia Office of the Attorney General
- District of Columbia Public Defender Service
- Court Services and Offender Supervision Agency