**Fact Sheet: The Youth Rehabilitation Act**

**and Depictions of Its Use in D.C.’s Justice System**

This fact sheet is designed to provide information on the Youth Rehabilitation Act (“Youth Act,” D.C. Code section 24-901), to place recent depictions of the use of the law, and the workings of D.C.’s justice system in their appropriate context.

**Who is eligible for the Youth Rehabilitation Act and why have it as a D.C. sentencing option?**

Youth who are between 15 and 22 years old at the time of their conviction are eligible to be considered for a sentence under the Youth Act.  A young person is not eligible if they are convicted of the most serious crimes.[[1]](#endnote-1)

The overall purpose of the Youth Act is to allow individuals who are successful to have their records expunged so they can be a contributing member of society without the stigma of a conviction—something that can prevent someone from getting a job, and moving past their brush with the justice system. Young people eligible for the Youth Act are also eligible for a shorter sentence, and the original intent was to have extra rehabilitative services provided.

**What is the benefit of the Youth Act as a sentencing option?**

The principal benefit of the Youth Act is that it provides the courts ***more sentencing options***, including the ability to afford someone ***more confidentiality*** related to their conviction if they fully complete their sentence.

1)     **The Youth Act allows for *more confidentiality* (“set asides”)** – Upon full completion of a Youth Act sentence, the record of conviction can be “set aside,” and a certificate sent to the person would indicate as such. Under the Youth Act, a conviction is “set aside” and not “expunged” because the conviction record still exists and can be used in limited circumstances.[[2]](#endnote-2)

**2)     The Youth Act allows for *more sentencing options*** – A person sentenced under the Youth Act *can* get a sentence below the mandatory minimum for some offenses.[[3]](#endnote-3) Judges are *not* required by the Youth Act to sentence below the mandatory minimum sentences, but it is an option, depending on the individual case. Many judges follow D.C.’s guidelines when they tailor a Youth Act sentence.

**How may a person become eligible for a Youth Act sentence?**

Before a young person is sentenced under the Youth Act, the court can order a Youth Act Study.  The purpose of the Youth Act Study is to assist the court in making an informed decision regarding whether a youth could benefit from the Youth Act.  A Youth Act Study usually includes a psychiatric evaluation of the young person, as well as information about the person’s educational and employment needs, and their social history.

**Who gets the Youth Act?**

Based on the data from the DC Sentencing Commission, fewer than half (45%) of those receiving felony sentences issued between 2010 and 2015 and eligible for the Youth Act actually received sentences under the Youth Act.  As a result, it cannot be said that Youth Act sentences are given out as a matter of course.  Additionally, even though the law provides for shorter sentencing than the guidelines in certain instances, many judges follow D.C.’s sentencing guidelines even when they issue a Youth Act sentence (*meaning,* *any person would receive a similar sentence under the guidelines regardless of whether they received a Youth Act designation*).

When a judge is sentencing an individual eligible for the Youth Act, the sentencing judge must state on the record his or her reasons for the decision to either sentence under the Youth Act or to reject the Youth Act.

**What was missing from recent depictions of how the “Youth Act” is used in D.C.’s justice system?**

The recent articles in *The* *Washington Post* on the Youth Act did not provide complete information on the purpose and function of the Youth Act, and did not present the Youth Act in the context of public safety and developmental outcomes.

Perhaps most importantly, the recent series suggests that harsher sentencing would have prevented the individuals in the anecdotes they highlight from reoffending. However, research regarding the effectiveness of mandatory minimums and longer sentences does not show that longer sentences result in reduced recidivism, reoffending or crime.  There is ample evidence to suggest that prison actually increase recidivism, and makes us less safe.[[4]](#endnote-4)

The Youth Act was passed in 1985.  Crime rates in the District of Columbia today are significantly lower than they were in 1985. This doesn’t mean that conclusions can be drawn that the Youth Act on its own is responsible for the decline in crime, just as one can’t conclude that the Youth Act is causally linked to the crimes referenced in the articles.   The articles also do not mention the other factors that contribute to and better explain the reasons that individuals reoffend – poverty, lack of education, lack of housing, lack of employment, and a history of trauma.

Even using data available from the stories regarding to the Youth Act, only a fraction of the people charged with felonies who received the Youth Act went on to be arrested for murder, compared to the 3,188 sentences that were handed down under the Youth Act.[[5]](#endnote-5)

This portrayal does not account for the significant number of misdemeanor sentences that are handed down under the Youth Act, further demonstrating that the protections of the Youth Act should not be narrowed solely because of the actions of a very limited number of individuals.

Lastly, the Post article also fails to detail the number of individuals who were afforded the “set aside” provisions of the Youth Act as a result of their successes following sentencing.

**How Do We Best Improve Public Safety?**

While changing the Youth Act in the ways suggested by the Washington Post articles would not reduce crime, the District can and should do more to help prevent recidivism by system-involved young adults in the District of Columbia.

Young adults who are sentenced under the Youth Act often serve their sentences in prisons far away from the District where they receive little to no services.  Thus, despite the intent of the Youth Act, there is currently little if any meaningful rehabilitation being provided. The young adults then return home and are faced with a similar dearth of opportunity.  Longer sentences and limiting the eligibility for the set aside will not fix these deficits.  In order to reduce recidivism and improve public safety, the District would be more successful pursuing the following policy solutions:

1. For those young adults who are incarcerated, provide intensive rehabilitative treatment to during their period of confinement, and do so within the District so that family connections can be maintained;
2. Create a continuum of developmentally appropriate community-based services, supports and opportunities designed to meet the needs of system-involved young adults;
3. Help young returning citizens build successfully navigate the path to living wage employment and income stability. This includes not just job training and job placement, but also access to credit, access to capital, and support with building their own businesses; and
4. Fully incorporate the research and evidence regarding adolescent and young adult development into our policies and practices relating to system involved 18-24 year olds;
5. Fully fund the NEAR Act and implement the recommendations of the Mayor’s Safer, Stronger Advisory Committee, in order to effectively develop a robust public health approach to reduce violence in DC’s communities.
1. People convicted of murder and/or first and second-degree murder committed as an act of terrorism are not eligible for sentencing under the Youth Act. [↑](#endnote-ref-1)
2. The court must maintain records of those cases that are “set aside” pursuant to the Youth Act because they can be used against the offender if he or she is convicted for another offense for which there can be an enhancement for multiple offenses, and for impeachment purposes in a subsequent hearing or trial. [↑](#endnote-ref-2)
3. The Youth Act does not allow a judge to give below mandatory minimum time for second armed offenses and carjacking cases. [↑](#endnote-ref-3)
4. See, National Research Council. (2014). *The Growth of Incarceration in the United States: Exploring Causes and Consequences.* Committee on Causes and Consequences of High Rates of Incarceration, J. Travis, B. Western, and S. Redburn, Editors. Committee on Law and Justice, Division of Behavioral and

Social Sciences and Education. Washington, DC: The National Academies Press.  The Effects of Prison Sentences on Recidivism1: 1999-3 Paul Gendreau and Claire Goggin, Centre for Criminal Justice Studies, University of New Brunswick, and Francis T. Cullen, Department of Criminal Justice, University of Cincinnati and “Deterrence in Criminal Justice Evaluating Certainty vs. Severity of Punishment. (Washington, D.C.: The Sentencing Project, November 2010). [↑](#endnote-ref-4)
5. According to data The Washington Post used to depict D.C.’s public safety challenge, 51 people since 2010 of those charged with felonies who received the Youth Act went on to be arrested for murder, compared to the 3,188 sentences that were handed down under the Youth Act (which would be, 1.5 percent of all those sentenced.) See, “Homicide Charges for Youth Act Recipients Since 2010,” in, Second-chance law for young criminals puts violent offenders back on D.C. streets, *The Washington Post,* December 3rd, 2016. [↑](#endnote-ref-5)