

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Executive Office of Mayor Muriel Bowser



Public Hearing on  
**B22-451, the “Youth Rehabilitation Amendment Act of 2017”**

Testimony of  
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Committee on the Judiciary and Public Safety  
Charles Allen, Chairperson  
Council of the District of Columbia

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John A. Wilson Building

Good morning, Chairperson Allen, members, and staff of the Committee on the Judiciary and Public Safety. I am Kevin Donahue, Deputy Mayor for Public Safety and Justice. I am here to present the Executive's testimony on Bill 22-451, the "Youth Rehabilitation Amendment Act of 2017."

I would like to start my testimony by providing an overview of the events that brought us here today, the content of the bill, and the ongoing work the Executive is heavily engaged in to make our city safer and stronger.

### ***The Washington Post* series on the Youth Rehabilitation Act**

It is important, for this bill in particular, to recount how we got here. Last winter, *The Washington Post* wrote a multi-part series of articles focused on several criminal offenders in the District who had been sentenced under the Youth Rehabilitation Act (YRA), which applies only to persons between the ages of 18 and 21. Some of the individuals profiled in the stories had committed horrible crimes, including the brutal rape of a Hill East resident, after being sentenced under the YRA.

The *Washington Post* series questioned the effectiveness of the YRA and whether it was meeting the needs of our residents. As a result, both Mayor Muriel Bowser and Councilmember Allen requested the Criminal Justice Coordinating Council (CJCC) to conduct a detailed analysis of the YRA's effects. Before there was any movement to amend the law, we wanted to be sure that we understood its impact – both on individuals sentenced under the YRA and whether our communities were put at risk by those individuals re-offending.

In September, the CJCC released its analysis and it helped answer some of our questions. A working group, organized by Councilmember Allen and comprised of community members and criminal justice advocates, was formed to review the CJCC report's findings and provide feedback. The end result of that work is the bill before us today.

### **The CJCC Analysis of the YRA**

I want to spend some time going over the CJCC's analysis because it contains, to date, the most detailed information about how the YRA was applied over a three-year period. The CJCC's report has two main categories of findings. The first relates to how the YRA itself is applied and found the following:

- Between 2010 and 2012, the D.C. Superior Court Criminal Division disposed of 70,454 cases;
- Of those cases, 7.3 percent (3,960 individuals) were *eligible* to be sentenced under the YRA;
- Of those eligible individuals, 60 percent (2,384 individuals) were sentenced under the YRA;
- Of those sentenced under the YRA, about 41 percent (976 individuals) had their conviction set aside;

- Only 4.2 percent of individuals sentenced under the YRA (a total of 100 individuals) were sentenced more than once under the YRA;
- YRA sentences were slightly shorter, less likely to include incarceration, and more likely to include probation; and
- Individuals sentenced under the YRA tended to have lower criminal history scores.

These findings are illuminating because they didn't uncover anything that was immediately alarming. For example, only a small fraction of the Superior Court's cases are ultimately disposed of under the YRA. Only a small number of people received multiple sentences under the YRA. So the data suggests that the magnitude of the YRA's use is not that large relative to the many criminal cases adjudicated by the Superior Court.

The second category of findings from the CJCC report looks at the rate of recidivism among those who were sentenced under the YRA as compared to those who were not. The most important question is whether the YRA makes us safer. And by this I mean does giving someone a set aside, on average, reduce the likelihood of that person committing a crime in the future *more* than would giving that same person the regular sentence? The CJCC report compares the rate of recidivism of those who receive the set aside to those who do not. The analysis found:

- Of the individuals who had their conviction set aside, 37.3 percent were rearrested and 16.8 percent were reconvicted within two years.
- In contrast, of individuals who did not have their conviction set aside, 60.9 percent were rearrested and 38.3 percent were reconvicted within two years.

These findings show that individuals sentenced under the YRA and who received the set aside were less likely to commit crimes in the future.

However, I want to strongly emphasize that this does not necessarily mean that the set aside, *per se*, is reducing recidivism and making us safer. It might be, but the evidence does not prove a causal relationship. In other words, the difference in outcome might be based largely on an individual continuing a period of good behavior observed by a judge and rewarded with a set aside, or it could be that the set aside itself was the primary contributor to the difference in outcome. The judges aren't doing anything actually *wrong* – on the contrary, they are following the letter of the law.

The District's public policy is that our criminal justice system should rehabilitate people. And if giving someone a set aside helps to do that, we want to know. Beyond that, we want to know how best to target the set aside. This question is an important one, because the risk is that we're not giving the set aside to people who might actually need it and benefit from it, but also that we run the risk of overstating the impact of a set aside when in fact we need to better understand the full range of factors that impact someone's success.

I also raise this issue to more generally highlight the value and need for research, and for data sharing. The CJCC's report made a very positive contribution to a complex policy issue, but it should not be the end of our research into the issue.

We've found that the District actually has a wealth of data on criminal justice. Our agencies have been collecting data on crime for over a decade and that is a resource we can use to our advantage. We need to get beyond the usual silos – both within our District agencies and between our partner agencies – and ensure the data we all collect is shared and used as much as possible. Increased data tracking and sharing is how we provide transparency and ensure accountability.

### **Amending the YRA**

With these considerations in mind, let me now turn to the substance of Bill 22-451. The Executive supports the bill, which we see as making three general categories of changes to the YRA and how the District approaches criminal justice.

The first category of changes revolves around modifications to the core parameters of how the YRA works. This includes changing the YRA so that eligibility is determined by the date a crime was committed, rather than the date someone was sentenced; moving the decision on whether to issue a set aside until after the person has successfully completed their sentence; prohibiting individuals convicted of sexual abuse from being eligible for the YRA; and providing judges with guidance on the types of factors they should consider before granting a set aside.

A second major category revolves around updating how we handle data and report on the activities of our criminal justice agencies. This includes biannual CJCC reports on youth offenders and their victims, as well as requiring judges to provide written statements on YRA sentencing and decisions to grant a set aside. As I mentioned previously, the need for better data collection and sharing is essential to ensuring accountability through transparency. We have a few suggestions on tweaking language on data collected by the Metropolitan Police Department; I have asked MPD to work with the Committee on clarifying that language to ensure we are collecting the right information.

The final category revolves around improving the programming offered to the young adult and juvenile population involved in our criminal justice system. There is certainly a need for more, better, and, when appropriate, specialized programming for these young adults and juveniles. But we must continue to review these programs to see what works to benefit that population. And, we also need to acknowledge and try to influence the existence and quality of programming for District residents sentenced to U.S. Bureau of Prisons facilities.

The changes proposed by this legislation are well thought through, will have a positive impact on both public safety and the young adults impacted, and was the product of a collaborative approach to legislation.

Before I conclude, I want to spend a minute talking about programming in more detail. I believe that everyone, regardless of age, should receive high quality programs tailored to an individual's need. That is not unique to the young adult population. However, I also believe that the young adult population has unique qualities and would benefit from specialized programming. This age group generally is malleable and responsive to services in a manner similar to that of a juvenile. But simply applying programs for juveniles to a 21 or 22 year old would be inappropriate

without some adjustments. A young adult should have programming that has a stronger emphasis on workforce development and economic self-sufficiency than we would provide to a juvenile, but also have more programs that focus on emotional growth and maturity than we would give to a 35 year old.

As I have already said, there is not enough programming for this population right now. That is not new. It dates back years, if not decades. But there are reasons to be hopeful about the future. In the past two and a half years, Mayor Bowser and the Council have created or expanded several programs targeted for the young adult population:

- At the Department of Employment Services, we expanded the Summer Youth Employment Program, which now includes youth up the age of 24. We also created a job training program for justice-involved 20-24 year olds called Career Connections, which has enrolled about 460 young adults in job training as well as both subsidized and unsubsidized jobs.
- We have expanded several well-regarded programs at the Department of Youth Rehabilitation Services and the Department of Human Services, namely the Credible Messengers Program and restorative justice program at DYRS and the ACE and PASS programs at DHS. While those two agencies are assigned youth under the age of 18, they both work with and service those youth as they get older and stay in their system.
- Last year, the District was selected by Harvard University as one of six cities to receive technical assistance over a three-year period to reform how our justice system services 18-24 year olds.

That is not a comprehensive list, but they are examples of why I think we have begun to act on the recognition that there is room for improvement with regard to programming for this population.

If this legislation is enacted, one of the Executive's primary roles will be to explore additional programming opportunities. That is an effort we will approach in good faith and will carry out in an inclusive, collaborative manner.

I want to close by noting that yesterday, Mayor Bowser was joined by Councilmembers Allen, Kenyan McDuffie, and Trayon White to open the Office of Neighborhood Safety and Engagement and announce the selection of Del McFadden as its executive director. We have very high hopes and expectations for this office and look forward to working with Councilmembers, community members, and criminal justice advocates to make it a national model for treating violence prevention as a public health issue and not solely a law enforcement one.

Thank you for the opportunity to provide testimony on this bill. I welcome your questions.