

Summary of Letter to Councilmember Rolark Commenting on
Proposed Emergency Legislation on the Youth
Corrections Act:

The majority of the committee believes that passage of emergency legislation reinstating the Youth Corrections Act in the District of Columbia is essential to the effective administration of criminal justice in this city. A void was created by the congressional enactment of P.L. 98-473. Re-enactment of a Youth Act in the District on an emergency basis would allow time for an in-depth study of the impact of the repeal of the Youth Act and would provide an opportunity for the Council to assess possible modifications in the pre-existing Act. We believe that emergency legislation is immediately needed so that a continuity of treatment of young offenders is maintained during this period of continued study.

November 26, 1984

Councilmember Wilhelmina J. Rolark
Chairperson, Committee on the
Judiciary
Council of the District of
Columbia
District Building
14th and E Streets, N.W.
Washington, D.C. 20004

Dear Councilmember Rolark,

We are writing to you to voice the support of the majority of our Committee for your efforts to enact emergency legislation in the Council of the District of Columbia to return the Youth Act to the criminal code of the District of Columbia.*/ We have seen a copy of the legislation that you proposed on October 22, 1984, in the form of the "Youth Rehabilitation Emergency Act of 1984." We urge that this proposed legislation be submitted to the Council at the next legislative session.**/

We believe that passage of this legislation is essential to the effective administration of criminal justice in the District of Columbia. It will fill the void that was created by the congressional enactment of Public Law 98-473. It would also allow time for an in-depth study of the impact of the repeal of the Youth Act and an opportunity for the Council to assess possible modifications in the pre-existing Act. We believe that emergency legislation is immediately needed so that a continuity of treatment of young offenders is maintained during this period of continued consideration and study.

The Youth Act originally provided for the special treatment of some young offenders involved in the criminal justice system. Its general application was to young offenders under the age of twenty-two. It also included many persons age sixteen to eighteen, however, who, although they were juveniles by age, were being processed in the adult system at the U.S. Attorney's behest and those fifteen years old who are being so processed at the U.S. Attorney's request. First, judges in the Superior Court of the District

*/ The views expressed herein represent only those of Division V (Criminal Law and Individual Rights) of the District of Columbia Bar and not those of the D.C. Bar or its Board of Governors.

**/ A minority of the Division V members believe that the Youth Act should not be reinstated because the goals of rehabilitation and special treatment of youth offenders can be attempted within the penal system without the problems associated with indeterminate sentencing, mandatory segregation of offenders in penal institutions, and expungement of criminal convictions.

of Columbia had the ability to order that a much more in-depth sentencing study be conducted for their consideration prior to the imposition of any sentence. It allowed judges to use the results of psychological assessments, educational and vocational evaluations, and more detailed social information prior to a sentencing hearing. Second, the Youth Act also provided these judges with additional sentencing options for persons before them who had been convicted before their twenty-second birthdays.

For such persons, the judge had the authority to give a sentence different from that of adult offenders, if the judge found that the defendant would benefit from such alternative treatment. Such youth offenders were segregated from the adult prison population. This segregation was intended to prevent the exposure of youth offenders to a more hardened, more experienced criminal element. The hope was that youth offenders would not have to become "institutionalized" in order to adjust. It also was intended to prevent youth offenders from exposure to "crime schools" taught by these more experienced offenders. These youth offenders also received more intensive guidance, counseling, and educational instruction. These services were intended to provide youth offenders with rehabilitation and training so that they would be able to free themselves from the criminal justice system in the future.

The Youth Act was not a loophole to allow young offenders to "get away" with or avoid punishment for crime. First, the judge, after considering the facts of the case and the defendant's individual background and circumstances, could decide that he should not be give a Youth Act sentence. In such cases, the judge could sentence the person as an adult. The judge would then have the option of sentencing alternatives from probation through incarceration.

Under the Youth Act, the sentences which judges can impose also range from probation to terms of incarceration up to -- and, in some cases, exceeding -- the maximum terms allowable if these defendants were sentenced "as adults." For those defendants who did not receive probation, their sentences were to serve terms of incarceration. They were housed in facilities as secure and restrictive as the adult facilities. Their freedoms and rights were curtailed to the same extent. The "feeling" of punishment was as great no matter where they were housed. The differences are found in the treatment given to them by the correctional staff and by the attitude that the system took to their term of incarceration. The message was clearly given to these defendants that they were not being merely warehoused, but were being given a chance to be rehabilitated while imprisoned.

During the terms of their incarceration, the youth offenders were under the constant supervision of the staff of the Department of Corrections. They were being constantly re-examined and re-evaluated as to their progress toward eventual release into the community. Once the youth offender was released from incarceration, he was still subject to parole supervision, as he would have been if sentenced "as an adult." If any difficulties in his community adjustment occurred, he could also be recommitted to the penal institution, just as he could be if he were sentenced "as an adult."

Finally, the Youth Act also provided for an expungement of a youth offender's criminal record, under certain circumstances. If the goals of the Youth Act sentence were achieved, and the person successfully completed his sentence, he was eligible for such expungement. This procedure facilitated his re-entry into the community as a productive and useful member. It also served to remove him from the potential of continued exposure to the criminal justice system. The Youth Act recognized that people may make mistakes in their young adult years which they would not make if they were more mature. The Act recognized that if the youthful offender apid for and learned from his mistakes, he should not be saddled with the stigma of a "criminal conviction" for the rest of his life. The prejudices of employers and others inthe community, upon hearing of a conviction, would be so great that the youthful offender would find it difficult (if not impossible) to re-enter the community as a productive member. Thus, expungement of the records of those who successfully completed their sentences was seen as properly serving the goals of the Youth Act. This expungement was, by no means, automatic, however. This opportunity for expungement provided an incentive for youthful offenders. It was an additional goal that youthful offenders strived to achive. Expungement was not an absolute result, but must be earned.

Congress repealed the Youth Act as part of its very comprehensive approach to crime in the federal system. In this comprehensive package, Congress moved from a sentencing system of indeterminate sentences to a system of determinate onces. The Youth Act was seen as being inconsistent with this general sentencing scheme. The District of Columbia's general sentencing structure continues to be that of indeterminate sentences. Thus, the Youth Act continues to fit comfortably within the criminal justice system in the District. The elimination of the Youth Act from the system of laws that govern criminal justice in the District was more a product of the hybrid nature of our criminal code -- being partially independent and partially still tied to the federal code -- than it was an independent judgment by Congress that the District of Columbia should not have a Youth Corrections Act. We believe that the Council should assert its independent legislative powers and "re-enact" this legislation into the criminal code of the District.

We understand that a full consideration of the scope of the Youth Act may take many months. In the meantime, there are many young offenders who have been arrested since October 12, 1984, and who, by a quirk of fate, are not eligible for the Youth Act during this interim period of study. So substantial a change in the sentencing options available in the District of Columbia should not be made without full consideration. In the meantime, we urge the Council to act with all due speed and resolve to enact emergency legislation to fill the breach and ensure that judges continue to have the sentencing options available under the Youth Act for offenders arrested after October 12, 1984.

We would be more than willing to provide any further information which you believe would be appropriate or helpful to the Council. We would also be more than willing to come forward to speak on behalf of this legislation at any hearings on this emergency legislation or for subsequent final legislation.

Respectfully submitted,

DIVISION V COMMITTEE ON CRIMINAL
RULES AND LEGISLATION

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