

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
40 CENTRE STREET
NEW YORK, NEW YORK 10007-1312

October 17, 2022

By Email

United States Sentencing Commission
One Columbus Circle, NE
Washington, DC 20002-8002

Attn: Public Affairs – Priorities Comment

Dear Members of the United States Sentencing Commission:

We write in support of the Commission’s proposed policy priority #12 for the amendment cycle ending May 1, 2023. This proposal would commit the Commission to a multiyear study of court-sponsored diversion and alternatives-to-incarceration programs, and to consideration of related amendments to the Guidelines Manual. Having run such a program for more than seven years, we can attest first-hand to the transformative effect judicially supervised programs can have on young people involved in the criminal justice system, as well as the rationale for consideration of successful participation in such programs at sentencing.

Since 2015, we have served as the supervising judges of the Young Adult Opportunity Program (YAOP), a pretrial diversion program in the U.S. District Court for the Southern District of New York. YAOP accepts young adults, presumptively ages 18-25, who are charged with non-violent offenses and who have expressed an intention to work hard toward their rehabilitation and personal growth. Once accepted, our participants spend at least 12 months under our supervision and with significant support from a dedicated pretrial supervising officer. Participants meet weekly with the officer and monthly, as a group, with the judges. Most of our participants are working, or in school, or doing both. Participants set short-term and long-term goals and are held accountable to take steps to achieve those goals. Participants identify their own milestones for success, but many include completing their studies, securing stable employment, obtaining financial security, working on their sobriety, and restoring healthy personal relationships.

The U.S. Attorney for the Southern District of New York has been a key partner in YAOP. To date, 87% of our graduates have had their charges dismissed or deferred.* The majority of the remaining graduates have had their charges reduced; no graduate has served a term of incarceration. Some of our graduates work in the medical field, with Fortune 500 companies, and as entrepreneurs and small business owners. Many have overcome serious drug

* This number does not reflect the nine participants who have recently graduated from YAOP and for whom the Government has not yet made a final charging decision.

addiction and other mental health challenges. Critically, recidivism among our graduates has been gratifyingly low.

We believe diversion programs like the YAOP serve an essential role in our criminal justice system. Particularly for young adults, whose cognitive development is often neurologically incomplete until age 25, programs like ours provide support and structure to help them move to adulthood, with all the responsibilities and expectations that go with that. Significantly, while the outcomes, we believe, are nothing short of extraordinary, the costs of running such programs are modest. We manage the program as part of our criminal docket, and our Chief Pretrial Officer has permitted our supervising officer to carry a reduced caseload to allow him to provide the type of intensive supervision we expect. Otherwise, resources like counseling are available through traditional court contracts, and many community organizations and pro bono lawyers have volunteered their time to assist our YAOP participants. In short, successful programs can be instituted without significant funding or personnel.

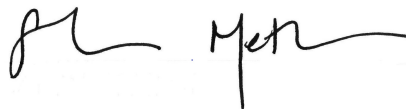
Many if not most young adult defendants outside of our district, however, do not have the benefit of a program such as ours, nor do they have U.S. Attorney's Offices willing to dismiss or reduce charges of participants in such programs in the interest of justice. It may be the case, moreover, that some judges will not be inclined to factor participation in such programs into their sentencing decisions without guidance to that effect from the Commission. We are thus of the view that if amendments were made to the Guidelines to allow for consideration of successful participation in such judge-involved intensive supervision programs, it would lead to more just sentences, as well as encourage other districts to create and run programs such as ours.

Accordingly, we urge the Commission to study court-sponsored diversion and alternatives-to-incarceration programs as a policy priority and consider related amendments to the Guidelines Manual. We are available at the Commission's convenience to provide further information as requested.

Respectfully submitted,



Ronnie Abrams, U.S. District Judge



Sarah Netburn, U.S. Magistrate Judge