

## Presentation – Youthful Offender Sentencing

Included in the Department of Corrections' (SCDC) May 24, 2019 letter to the House Legislative Oversight Committee (LOC). This information was provided in response to the following question in LOC's May 16, 2019 letter to the Department of Corrections, "7. Please provide a brief summary of the training provided to counties regarding data they provide SCDC, including, but not limited to, why the agency believed the training was needed, types of data the training discussed, entities invited to the training, entities that did not attend the training, number of times in the past in which the training has been held, and the agency's plans for future training, if any."

In addition to providing the information in this document, SCDC provided the following response:

- A four-hour county training is conducted on a yearly basis to update and train county detention center employees on paperwork needed and procedures for transporting inmates to the R&E centers. Training was conducted on January 29 and January 30, 2019. The training was offered on two (2) separate days to allow for shift coverage at the participating agencies. Areas covered included issues regarding bringing more or less inmates than scheduled, incorrect/missing paperwork, inmate property, missing/incomplete medical documentation. The next training will be held in January of 2020. Please see attachments Agenda and County Participant Roster.
- Also attached are PowerPoint presentations that are routinely presented by the SCDC General Counsel's Office at conferences and other gatherings several times throughout each year. The audiences for these presentations are generally solicitors, public defenders, judges, and private defense attorneys. The first Power Point deals with all types of sentences, while the second addresses Youthful Offender Act sentences.

# YOUTHFUL OFFENDER SENTENCING

---

Bryan P. Stirling, Director, SCDC

Christina C. Bigelow, Deputy General Counsel, SCDC

Ginny Barr, Division Director for Young Adult Services, SCDC



# MISSION OF SCDC'S YOUTHFUL OFFENDER PROGRAM

---

- To reduce recidivism of youthful offenders by utilizing evidence-based principles and practices that teach accountability, enhance skill development, and promote public safety.

## Institutions Currently Serving Youthful Offenders

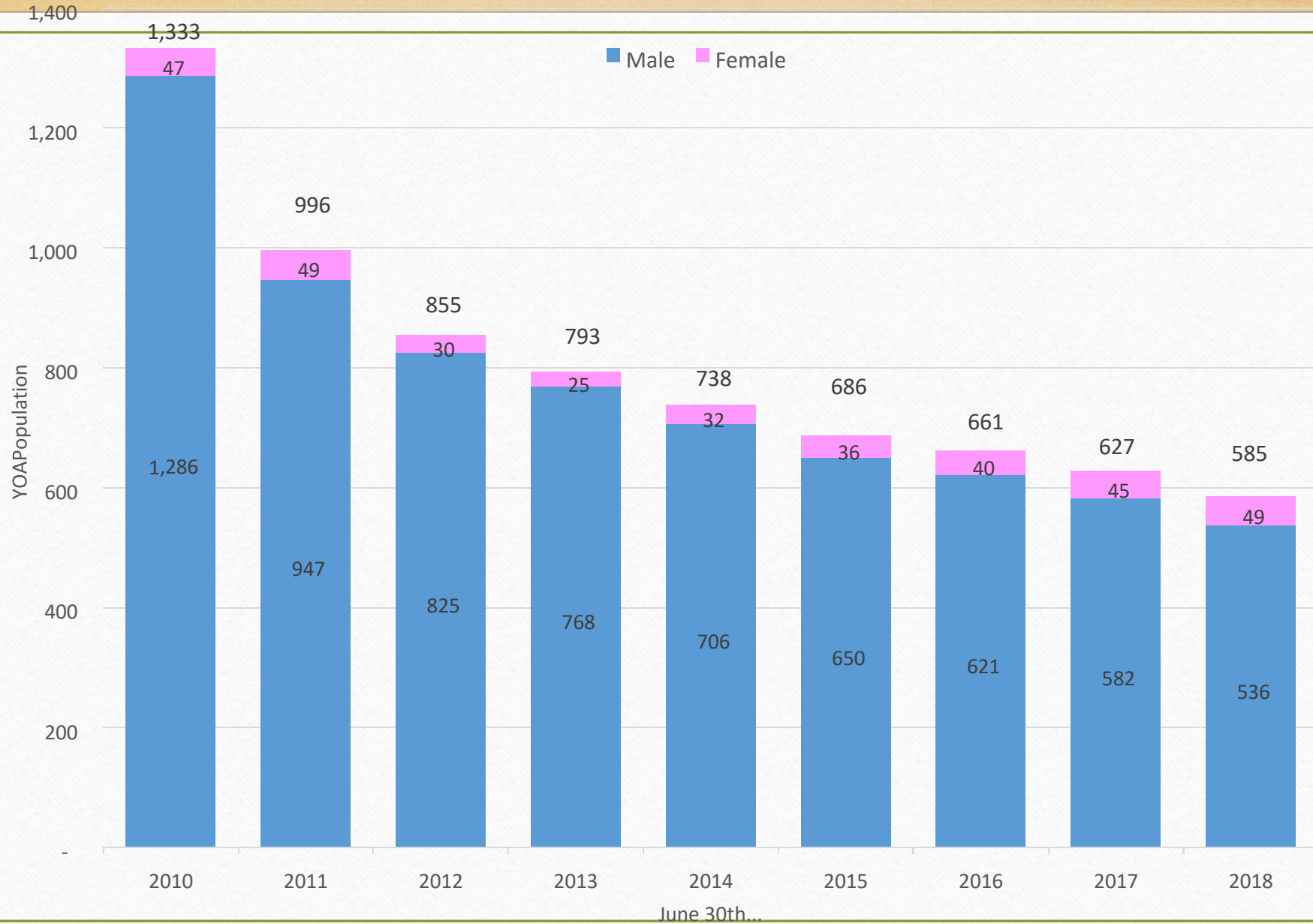
---

- Turbeville Correctional Institution (males)
- Trenton Correctional Institution (males)
- Allendale Correctional Institution (males)
- Camille Graham Correctional Institution (females)



# YOA Offenders in SCDC Jurisdiction on June 30th...

Included in SCDC's May 24, 2019 letter to LOC



## Strategies to Reduce Recidivism for YOAs; A Seamless System of Services

---

- Implement Intensive Supervision Services (ISS)
- Design/implement new release & revocation process
- Implement new Risk/Needs Assessment & Asset Inventory
- Enhance/develop programming for institutions serving Youthful Offenders based upon EBP
- Merge community supervision and institutional programming/counseling into unified, seamless system of services
- Implement Restoring Promise Initiative



## *Restoring Promise:* Young Adult Reform Initiative

---

- Supported by Vera Institute of Justice
- Aimed at transforming conditions of confinement for sentenced young adults 18-25 years-of-age
- Creates a normalized, community environment focused on achieving rehabilitation through accountability, skill building and community safety
- Incorporates a strong compliment of adult mentors and community volunteers

## Youthful Offender Institutional Programming Options

---

- Criminal Thinking
- Impact of Crime Classes
- Individual/Group Counseling
- Community Meetings
- Family Focus
- Parenting/Fatherhood
- Substance Abuse Education/Addictions Treatment
- GED Preparation/Testing
- Employability/Vocational Training
- “Gateway Character Dorm” Living Unit (Incentive-based)
- “Second Chance Program” Living Unit (incorporates adult mentors and community volunteers)



# ELIGIBILITY

S.C. Code 24-19-10, *et. seq.*

- 
- Generally for offenders age 17 **but less than** 25 at time of conviction (not at time of offense)
  - No violent crimes, with 2 exceptions:
    - burglary second degree violent
    - CSC with a minor in the 3<sup>rd</sup> degree (where the victim was over age 14 and the act was consensual)
  - No 85% offenses allowed
  - Youthful offenders only get one bite at the YOA apple

# Powers of the Court Upon Conviction of a Youthful Offender – S.C. Code 24-19-50

---

- Suspend the sentence and place the offender on probation (regular adult probation under supervision of the Department of Probation, Pardon & Parole Services);
- Send the offender to SCDC for observation and evaluation for not more than 60 days, at which point the offender is returned to court with findings and recommendations for sentencing;
- Send the offender to SCDC for an indeterminate YOA sentence not to exceed 6 years; or
  - One exception to the 6 years: if adult maximum penalty for the underlying offense is less than 6 years (for example, possession of heroin carries a maximum of only 2 years), the maximum time the Youthful Offender Division would have jurisdiction over the offender would be 2 years. See Craft v. State, 281 S.C. 205, 314 S.E.2d 330 (1984).
  - Also, per the Craft v. State case, if the adult maximum sentence is 6 years or more, but a judge tries to limit the sentence to a period of less than 6 years, SCDC can consider it a non-binding recommendation.
- Decline to sentence the offender under the Youthful Offender Act and sentence the offender as an adult.



# Reception and Evaluation (“Intake”)

---

- SCDC staff are required to make a “complete study” of each youthful offender upon intake
- Intake should be completed in 30 days unless there are “exceptional circumstances”
- Males – go through intake at Kirkland R&E and then assigned to Trenton, Turbeville, or Allendale
- Females – go through intake at Camille Graham and then placed in the YOA population at Camille Graham

# Treatment of Youthful Offenders

---

- The law gives SCDC broad discretion regarding appropriate custody and treatment of youthful offenders. This includes the amount of time we keep these offenders in custody and the amount of time we supervise them in the community.
- While incarcerated, youthful offenders are generally required to be kept separate from adult offenders. Also, classes of youthful offenders are kept separated according to their particular needs. (Example: ATU)



## After Intake is Complete

---

- SCDC's youthful offender division uses internal mandatory minimum guidelines to assign a youthful offender to a term of programming.
- Generally 6 months, 9 months, 18 months, or 3-year mandatory minimum for certain burglary second degree offenses

# Burglary Second Degree and the April 21, 2016 Amendment

---

- Prior to April 21, 2016, both violent and non-violent second degree burglary offenses carried a three-year day-for-day sentence under the Youthful Offender Act.
- On April 21, 2016, S.C. Code 24-19-10 (d) was changed to state that only second degree burglary violent carries a three-year day-for-day sentence.
- Savings Clause in the Act: because there was a Savings Clause in the Act that amended the statute, SCDC is required to look at the offense date to determine whether the three-year day-for-day sentence applies to a non-violent burglary second degree YOA sentence.



# Conditional Release

---

- Conditional release refers to release of a youthful offender to intensive supervision (also called “YOA parole”) in the community.
- The offenders are supervised by SCDC’s own “Intensive Supervision Officers” (“ISOs”).
- The law gives SCDC the authority to conditionally release a youthful offender at any time, except for those offenders required to serve a three-year mandatory minimum for burglary second degree.
- However, we are required to conditionally release a youthful offender 4 years from the date of his or her conviction.
- Typically, for compliant offenders, SCDC’s conditional release is for a period of 1 year.

# Steps Required at Conditional Release

---

- Generally, offenders must agree in writing to warrantless searches and seizures (there is an exception for certain low-level misdemeanors).
  - If such a search became necessary, outside law enforcement would conduct it. SCDC's Intensive Supervision Officers are not law enforcement officers.
- Any victims must be notified that the offender is going to be conditionally released back into the community.



# Violations of Conditional Release

---

- An offender who violates the terms of conditional release (again, also called “YOA parole” or “intensive supervision”) can be returned to SCDC custody any time before expiration of the statutory period we have jurisdiction over the offender
- An offender accused of a violation of conditional release has a review with appropriate staff member(s). Staff then makes a recommendation to a panel. The panel makes the final determination regarding whether to revoke the conditional release and return the offender to custody or continue the offender on conditional release.
- First revocation: 6 months (if firearm involved, 9 months). Second revocation: 9 months. Third revocation: 18 months. If there is a fourth revocation, we may keep the offender in custody until our jurisdiction over him ends.

# Unconditional Discharge

---

- This means complete release from our custody and supervision in the community
- Usually occurs well before the 6-year statutory period for compliant offenders
- Just like with conditional discharge, any victims must be notified when a youthful offender is being unconditionally discharged.
  - A youthful offender **CAN** be unconditionally discharged one year after being conditionally released.
  - A youthful offender **MUST** be unconditionally discharged six years from the sentence start date.



# Expungement of YOA Sentences

---

- If a youthful offender has no other convictions in the five-year period following unconditional discharge, the offender can apply for expungement of the YOA sentence.
  - NOTE: S.C. Code § 22-5-920 (B)(2)(b) specifically prohibits violent offenses from being expunged, so it is unclear whether a YOA sentence for burglary second violent is eligible for expungement.

# The “Non-Conforming” YOA Sentence

---

- Non-conforming means the offender was not eligible for a YOA sentence pursuant to the YOA statutes.
- We typically keep nonconforming offenders for a minimum of 3 years.
- Non-conforming offenders are a great challenge for SCDC because these offenders are often violent and pose a threat the well-being of our conforming youthful offender population.



# The Shock Incarceration Program

---

- The Shock Incarceration Program is **not** just for youthful offenders, but is often used in conjunction with YOA sentences.
- Per S.C. Code 24-13-1310 *et seq.*, Shock is for any offender with a non-violent, non-85% sentence who is under the age of 30 at the time of admission to SCDC and is eligible for parole in two years or less. The offender cannot have any prior SCDC commitments.
- Shock is a 90-day program designed as an alternative to traditional incarceration. It has a focus on personal accountability, discipline, skill development, community service, and character development. Daily physical activity is required, and education is mandatory. Within a month of release, Shock inmates participate in programs designed to promote their reintegration into the community.
- Upon completion of the Shock program, offenders are released to parole supervision by PPP.

## Intensive Supervision Services (ISS)

---

An evidenced-based community supervision service provided by SCDC for Youthful Offenders designed to reduce recidivism using evidence-based principles/practices that teach accountability, enhance skill development, and promote public safety.



# Intensive Supervision Services Basics

---

- Intensive Supervision Officer (ISO) is a case manager/service provider – not law enforcement
- Services are cost free to offender
- ISO supervises case load of 20-25
- ISO meets with offender within 30 days of assignment to institution and begins reentry planning
- ISO meets with offender at least monthly throughout incarceration
- ISO maintains a 24/7 schedule

## Intensive Supervision Services Basics (cont.)

---

- ISO completes Risk/Needs Assessment and Asset Inventory (GRAD-90)
- ISO meets with offender's family as needed throughout incarceration
- Upon reentry, offenders are entered in NCIC
- Absconders are extradited when apprehended
- Upon reentry, ISO meets with offender at least weekly in the community
- Cases are staffed with community partners (Community Reentry Teams) monthly to develop resources and problem solve



# Intensive Supervision Administrative Release Authority (ISARA)

---

- Three-member panel of Corrections administrators
- Panel considers release recommendations from the institution, community and victim to approve/disapprove release
- Panel approves/disapproves parole revocations

## **Considerations for Release:**

- Severity of crime (offense category) as measured by SCDC Release Matrix
- Release Recommendations from community, victim(s) and institution
- Risk Assessment Score as measured by Global Risk Assessment Device (GRAD-90)

## Data/Outcome Sample on November 1, 2018

---

1,108 Youthful Offenders assigned to ISS

- 740 (67%) supervised in the community

- 368 (33%) in institution preparing for reentry

65% of Youthful Offenders gainfully employed

20% of Youthful Offenders enrolled in education program

(GED, higher ed., alternative ed.)

69% of Youthful Offenders passed random drug testing

13.7% of paroled Youthful Offenders returned to SCDC for technical violations (over life of program)

10.8% of paroled Youthful Offenders returned to SCDC for new convictions (over life of program)