



# D.C. Criminal Code Reform Commission

441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001

(202) 442-8715 [www.ccrdc.dc.gov](http://www.ccrdc.dc.gov)

## MINUTES OF PUBLIC MEETING

WEDNESDAY, JANUARY 11, 2017 AT 2:00 PM

CITYWIDE CONFERENCE CENTER, 11<sup>TH</sup> FLOOR OF 441 4<sup>TH</sup> STREET N.W.,  
WASHINGTON, D.C., 20001

On Wednesday, January 11, 2016 at 2:00 pm, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Revision Advisory Group (Advisory Group). The meeting was held in Room 1112 at 441 Fourth St., N.W., Washington, D.C. The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [richard.schmechel@dc.gov](mailto:richard.schmechel@dc.gov).

### Commission Staff in Attendance:

Richard Schmechel (Executive Director)

Bryson Nitta (Attorney Advisor)

Rachel Redfern (Chief Counsel for  
Management & Legislation)

Jinwoo Park (Attorney Advisor)

Michael Serota (Chief Counsel for Policy &  
Planning)

### Advisory Group Members in Attendance:

Dave Rosenthal (Designee of the Attorney  
General for the District of Columbia)

Donald Braman (Council Appointee)

Laura Hankins (Designee of the Director of  
The Public Defender Service for the District  
of Columbia)

Renata Kendrick Cooper (Designee of the  
United States Attorney for the District of  
Columbia)

## **I. Welcome**

- a. The Executive Director called the meeting to order at 2:00 PM.
- b. The Executive Director notified the Advisory Group of several matters:
  - i. The CCRC website is operational, and the meeting schedule and documents for each meeting are posted on the website. Advisory Group comments on draft recommendations will also be posted to the website.
  - ii. A training session for the Advisory Group will be scheduled with the Board of Ethics and Government Accountability during one of the scheduled 2017 meetings.
  - iii. The CCRC still has received no data in response to its request to the D.C. Sentencing Commission, now over two months old. The last response from the Sentencing Commission was from Chairman Weisberg in early December, stating that the Commission was seeking the views of the Superior Court on the CCRC request. The Executive Director recently discussed this matter with the Chief Judge of the Superior Court.
  - iv. Advisory Group written comments on the First Draft of Report No. 1 are due 1/13/17, and written comments on the First Draft of Report No. 2 are due 2/16/17. To date, no comments had been received.
  - v. The CCRC is available to discuss draft recommendations with individual Advisory Group members at any time, upon request.

## **II. Discussion of First Draft of Report No. 1, Recommendations for Enactment of D.C. Code Title 22 and Other Changes to Criminal Statutes; and Advisory Group Memorandum No. 1, Overview of CCRC and CRAG Draft Work Plan (with Appendices).**

- a. The Executive Director asked if there were questions or discussion from the Advisory Group about the First Draft of Report No. 1.
- b. Ms. Kendrick Cooper distributed a copy of written comments for the United States Attorney's Office for the District of Columbia (USAO) on the First Draft of Report No. 1 and highlighted the following:
  - i. She said that there remained the possibility that the draft enactment legislation could lead to litigation over the extent to which enactment constituted a legislative endorsement of case law at the time of enactment.
  - ii. She said that language in the report endorsing the use of legislative history in statutory interpretation reflected older case law, and that the current approach relies first on the plain text of statutes.
  - iii. She recommended that when the CCRC develops full offense definitions for common law (penalty only) offenses, it do so initially by using the District's jury instructions.
  - iv. She recommended care in the placement of evidentiary provisions removed from Title 22 and that that explicit cross references be used for any provisions that are moved out of the enacted Title 22.
- c. Mr. Rosenthal said that he expected the Office of the Attorney General for the District of Columbia (OAG) would submit comments by the end of the week and noted that

there would be a request to put in the enacted Title 22 statute, not just in the bill to enact, certain language regarding the effect of enactment.

**III. Discussion of First Draft of Report No. 2, Recommendations for Chapter 2 of the Revised Criminal Code: Basic Requirements of Offense Liability; and Advisory Group Memorandum No. 2, Adoption of a Comprehensive General Part in the Revised Criminal Code.**

- a. CCRC staff provided a brief overview of the content of the documents.
- b. The Executive Director asked if there were any questions or comments on the documents at this time.
- c. Ms. Kendrick Cooper and Mr. Rosenthal asked how the draft statutory language in Report No. 2 differed from language on similar topics that was considered by the D.C. Sentencing Commission's sub-committee on Criminal Code Revision. They said that it would facilitate their review of the new material to see the language developed by the Sentencing Commission.
  - i. The Executive Director said that staff would issue a memorandum for the Advisory Group that copies the draft statutory language in Report No. 2 alongside analogous draft provisions previously considered by the D.C. Sentencing Commission's Subcommittee on Criminal Code Revision. However, he noted that Report No. 2 is the document that has submitted for Advisory Group review, and it is self-sufficient in describing the bases for its recommendations.

**IV. Adjournment.**

- a. The meeting adjourned at 3:00 PM.