



**D.C. Criminal Code Reform Commission**  
441 Fourth Street, NW, Suite 1C001S, Washington, DC 20001  
(202) 442-8715 [www.ccrc.dc.gov](http://www.ccrc.dc.gov)

**MINUTES OF PUBLIC MEETING**  
**WEDNESDAY, OCTOBER 7, 2020, at 10:00 AM**

On Wednesday, October 7, 2020, at 10:00 am, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held telephonically at (650) 479-3208 (access code: 172 159 9924.). 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)	Rachel Redfern (Senior Attorney Advisor)
Jinwoo Park (Senior Attorney Advisor)	Patrice Sulton (Senior Attorney Advisor)

**Advisory Group Members and Guests in Attendance:**

Laura Hankins (Designee of the Director of the Public Defender Service for the District of Columbia)	Kevin Whitfield (Representative of the D.C. Council Committee on the Judiciary and Public Safety)
Katerina Semyonova (Visiting Attendee of the Public Defender Service for the District of Columbia)	Dave Rosenthal (Designee of the Attorney General of the District of Columbia)
Elana Suttenger (Visiting Attendee of the United States Attorney's Office for the District Columbia)	Seema Gajwani (Visiting Attendee of the Office of the Attorney General of the District of Columbia)
Don Braman (Council appointee)	Paul Butler (Council appointee)

**I. Welcome and Announcements.**

- a. The deadline for written comments on outstanding draft reports is November 9.
- b. The Executive Director noted the CCRC is continuing to work on a comprehensive update to all recommendations that will address the comments we have received. We hope to issue that update in December.

- c. Tomorrow, the Executive Director will send out an updated compilation of revised statutes to correct an error in the September 28<sup>th</sup> version (which omitted the definition of “deadly force”).

**II. The group discussed the First Draft of Report #63, Misrepresentation as a District of Columbia Entity.**

- a. OAG asked whether the language “with intent to receive a personal or business benefit of any kind” includes benefits conferred to another person.
  - i. The Executive Director said that the phrase in question was to be construed broadly.
- b. PDS asked about the meaning of the phrase “lawful authority” and offered a hypothetical in which someone uses their personal initials “D.C.”
  - i. The Executive Director confirmed that the language is intended to include only authority as a District of Columbia representative and agreed that the drafting could be improved to clarify the link between the intent to deceive and the lawful authority.
- c. OAG asked about misrepresentations that include emblems but do not include “D.C.,” such as fake badges that say, “Metropolitan Police Department.”
  - i. The Executive Director explained that neither the current statute nor the revised statute will reach that conduct, however, there may be fraud liability.

**III. The group discussed the First Draft of Report #64, Allowing Dogs To Go At Large.**

- a. OAG stated that according to its records there have only been 12 arrests in 10 years and only one that went to trial. He said that seems to support that the provision is unnecessary and reliance on the DCMR provision may be sufficient.
- b. OAG noted that D.C. Code § 22-1311 also includes authority for the pound master to euthanize a dangerous animal and asked whether that is covered in the DCMR provision or needs to be kept.
  - i. The Executive Director stated that he believed, but CCRC will double-check, that the DCMR provisions or D.C. Code title 8 chapter 19 provide overlapping authority for destruction of a dangerous animal .

**IV. The group discussed the First Draft of Report #65, Contributing to the Delinquency of a Minor.**

- a. PDS asked about chronic truancy provision and when it would apply.
  - i. The Executive Director explained that the culpable mental state in the revised statute requires more awareness about the chronic nature of the truancy than the current statute.
  - ii. CCRC staff clarified that the language is not intended to include conduct that precedes the 10<sup>th</sup> day of truancy.
- b. USAO asked about the meaning of “act of civil disobedience.”

- i. The Executive Director said that the term is undefined in the RCC as it is in the current D.C. Code, but would appear to clearly include political speech.
- c. PDS asked whether religious objections to compulsory education are included.
  - i. CCRC staff noted that a parental discipline defense may apply, and that the definition of “chronic truancy” requires the lack of a legitimate excuse.
  - ii. OAG noted that there are provisions for home schooling under D.C. attendance laws.
- d. USAO asked whether civil disobedience includes conduct that also constitutes a crime, and why civil disobedience should be an exception only to this crime and not others.
  - i. PDS noted that many acts of civil disobedience are criminal and gave the example of a sit in at a segregated lunch counter or the mayor’s office (political speech).
  - ii. The Executive Director explained that the exception applies only to the contributing to delinquency offense and not to the other criminal charge.
- e. Professor Butler stated that this crime should not exist because it addresses a problem that is better addressed outside the criminal justice system. Women are more likely to be charged with this offense than men. There is no evidence that this kind of criminalization is an effective way of keeping kids in school.
- f. PDS asked why the offense shouldn’t merge with revised abuse and neglect statutes.
  - i. The Executive Director noted that the RCC abuse and neglect statutes, unlike other crimes like assault, require a duty of responsibility between the actor and the complainant and are penalized higher than comparable conduct by an actor who has no such duty to the complainant. In that sense, the abuse and neglect statutes do already take into account the special duty of care. He said that CCRC will examine merger as to those offenses further.
- g. USAO asked whether a person can contribute to the delinquency of a minor under 14 years of age, and relatedly, whether a person can contribute to delinquency even if the minor *cannot* be charged.
  - i. The Executive Director explained that the developmental maturity defense, which applies categorically to children under 12, is not a jurisdiction provision. While there may be a complete defense, the conduct of an under 12 person still facially may meet the elements of an offense. The revised statute subsection (d) also specifically also states that an actor may be prosecuted even though the minor has not been subjected to delinquency proceedings. The CCRC will review commentary to make sure it sufficiently notes person can be convicted of contributing to delinquency even if the minor is not charged under the developmental incapacity defense.

**V. The group did not have any comments at this time on the First Draft of Report #66, Defense of Self, Others, or Property or on the First Draft of Report #67, Entrapment, Duress, and Mental Disease or Defect Defenses.**

**VI. Adjournment.**

- a. There being no further questions or comments the meeting was adjourned at 11:02 a.m.
- b. The next meeting will be held on November 4, 2020, at 10:00 a.m. The CCRC welcomes any individual questions in the interim.