



D.C. Criminal Code Reform Commission

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(202) 442-8715 www.ccrdc.dc.gov

MINUTES OF PUBLIC MEETING

WEDNESDAY, FEBRUARY 1, 2017 at 2:00PM

CITYWIDE CONFERENCE CENTER, 11th Floor of 441 4th STREET NW
WASHINGTON, D.C. 20001

On Wednesday, February 01, 2017 at 2:00pm, the D.C. Criminal Code Reform Commission (CCRC) held a meeting of its Criminal Code Reform Advisory Group (Advisory Group). The meeting was held in Room 1107 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.

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:

Paul Butler (Council Appointee)

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)

Chanell Autrey (Council Representative) *via
telephone*

I. Welcome.

- a. The Executive Director called the meeting to order.
- b. The Executive Director gave the Advisory Group an update on the status of the Commission's data request to the D.C. Sentencing Commission. The Executive Director said that the Commission's October request had been fulfilled in part on Tuesday, January 31. He said that staff was still evaluating the data set that was provided; however, he said it was clear some major portions of the data are missing and no explanation for the omission was provided in the Sentencing Commission's transmittal letter. He said the Commission would continue to seek the missing data.

II. Discussion of the Second Draft of Report No. 1.

- a. The Executive Director said that the Office of the Attorney General (OAG) representative, Mr. Rosenthal, had, through the office's submitted comments and through personal communication, expressed a desire to codify in enacted Title 22 a short statement of legislative intent. In response to an Advisory Group member question, he said he could not speak to the Mr. Rosenthal's motivating concern; however, he did offer a sample provision in the staff memorandum that would seem to address the Mr. Rosenthal's request.
- b. The Executive Director noted, however, that such a codification would be against the Commission's preference, given the Council's Legislative Drafting Manual and its strong guidance against codifying statements of legislative intent. Commission staff also said that there was no precedent in past District enactment efforts for codifying such a statement of legislative intent.
- c. Professor Braman suggested that the matter should not hold up advancing the report and bill. He said that, by default, the codification language should go in the Commission's bill, but with an explanation in the report flagging the matter for the Council's Office of General Counsel to review.
- d. The Public Defender Service (PDS) representative, Ms. Hankins, suggested that codifying a statement of legislative intent may have some unintended consequences, such as confusion as to the meaning of past or future enacted titles of the D.C. Code lacking such a special codification of legislative intent. She suggested that, by default, the codification language should not go in the Commission's bill, but with an explanation in the report flagging the matter for the Council's Office of General Counsel to review.
- e. Professor Butler agreed with the Ms. Hankins' concerns and said it appeared the Council's Office of General Counsel should address the matter.
- f. The Advisory Group members present all agreed that it would be best to defer action on the Report until Mr. Rosenthal has been consulted and had an opportunity to explain the request further if he wished.

- g. The Executive Director said that he would speak with Mr. Rosenthal about whether he wished to address the group on the matter at the next meeting. He said that he would inquire, whether a new provision is or not added as requested by the OAG, if it would be acceptable to flag the matter in the report for further review by the Council's Office of General Counsel. He said that, if this matter can be speedily resolved, and there are no other comments, there can be a vote in the next month or two by the Advisory Group to move the recommendations on to the Council. He reminded the Advisory Group that written comments on the Second Draft of Report No. 1 are due February 27, 2017.

III. Discussion of the First Draft of Report No. 2.

- a. The Executive Director asked whether Advisory Group members had questions on any of the provisions contained in the first draft of Report No. 2, Recommendations for Chapter 2 of the Revised Criminal Code.
- b. None of the Advisory Group members had any questions or comments.
- c. The Executive Director reminded the Advisory Group that comments are due February 15th. The United States Attorney's Office (USAO) representative, Ms. Kendrick-Cooper, said that her agency needed an extension of the deadline for comments to February 22. The Executive Director said that delays in review of the general part provisions in Report No. 2 would have ripple effects in coming months because those topics must be addressed before work on specific offenses. However, he said he was in the process of reexamining the overall agency work schedule and would take the matter under advisement and update the Advisory Committee about the request.

IV. Adjournment.

- a. The meeting was adjourned at 3:00pm. Audio recording of the meeting will be made available online for the public.