



## D.C. Criminal Code Reform Commission

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

### **MINUTES OF PUBLIC MEETING WEDNESDAY, FEBRUARY 3, 2021, at 10:00 AM**

On Wednesday, February 3, 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: 180 506 0172). The meeting minutes are below. For further information, contact Richard Schmechel, Executive Director, at (202) 442-8715 or [ccrc@dc.gov](mailto:ccrc@dc.gov).

#### **Commission Staff in Attendance:**

Richard Schmechel (Executive Director)

Rachel Redfern (Senior Attorney Advisor)

Jinwoo Park (Senior Attorney Advisor)

Margarita Bronshteyn (Social Scientist)

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

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

Don Braman (Council appointee)

Katerina Semyonova (Visiting Attendee 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)

Elana Suttenger (Designee of the Acting United States Attorney's Office for the District Columbia)

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

Paul Butler (Council appointee)

Nishant Keerikkatte (Visiting Attendee of the Office of the Deputy Mayor for Public Safety and Justice)

**I. Welcome and Announcements.**

- a. The Executive Director noted that the CCRC has posted a vacancy announcement for a Senior Attorney Advisor position on the DC Human Resources website.
- b. The Executive Director reminded Advisory Group members that comments on First Draft of Report #69 - Cumulative Update to Class Imprisonment Terms and Classification of RCC Offenses, are due Monday, February 15, 2021.
- c. The Executive Director noted that CCRC staff has begun reviewing the last round of Advisory Group comments to First Draft of Report # 68, and are continuing to make edits accordingly.
- d. The Executive Director noted that Advisory Group Memorandum #40 includes an Appendix G, which does not include new information, but places Superior Court data alongside corresponding RCC offenses and penalty recommendations.
- e. The Executive Director noted that the next Advisory Group meeting is scheduled for March 3, 2021.
  - i. The agenda will include comments received on the First Draft of Report #69 but will also discuss procedural issues pertaining to the March 24 vote on the final package of materials. The Executive Director noted that at present he expects there to be one vote on recommending the package of reforms to the Council and Mayor for consideration and action. All voting members of the Advisory Group may vote to support, oppose, or abstain from the action and a majority approval of voting members is required by statute.
  - ii. The representative from the Office of the Attorney General (OAG) asked how far in advance of the March 24 vote the Advisory Group members will receive the final version. The Executive Director replied that CCRC is planning to provide the final version to the Advisory Group on or by March 10, 2021.
  - iii. The Executive Director noted that this final version will include a red-ink version of the statutes, as well as responses to Advisory Group member comments.

**II. The Advisory Group discussed First Draft of Report #68 – December 2020 RCC Cumulative Update.**

- a. The Executive Director noted that CCRC staff has reviewed Advisory Group comments, and currently does not have any questions for the group pertaining to any of the comments.
- b. The representative from the United States Attorney’s Office stated that it agreed with changing the effective consent defense for sexual assault to a defense instead of an affirmative defense, in agreement with PDS.
- c. The representative for OAG noted that it also agrees that the effective consent defense for sexual assault should be a defense instead of an affirmative defense.

**III. The Advisory Group discussed Advisory Group Memorandum #40 – Statistics on District Adult Criminal Charges and Convictions:**

- a. The Executive Director noted that the data provided in this memorandum is based on last in time records as opposed to first in time records, and reflects any quality

control changes that the court has made, as well as changes to sentences due to appellate rulings. The Executive Director stated that the CCRC will rely last-in-time statistics going forward. The Executive Director also stated that these updates to the data were relatively minor.

**IV. The Advisory Group Discussed First Draft of Report #69 - Cumulative Update to Class Imprisonment Terms and Classification of RCC Offenses.**

- a. The Executive Director noted that the First Draft of Report #69 includes an updated chart which shows the recommended maximum penalty for each RCC offense. The document notes where there are changes to classification of any given offense.
- b. The Executive Director stated that if Advisory Group members disagree with the classification of an offense, it would be helpful for members to recommend a specific alternate classification and provide a rationale for why the offense should be classified differently.
- c. The representative from OAG noted that the commentary for the penalty classification for robbery states that a two class increase applies when use or display of a dangerous weapon directly or indirectly causes bodily injury. However, the draft statutory language does not clearly specify that this causal nexus is required.
  - i. CCRC staff noted it will review the statutory language to ensure it clarifies that there is a causal nexus requirement between the bodily injury and the display or use of a dangerous weapon.

**V. Adjournment.**

- a. There being no more questions or concerns raised by the Advisory Group on agenda items, the meeting was adjourned at 10:45 a.m.