



D.C. Criminal Code Reform Commission

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

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

MINUTES OF PUBLIC MEETING

WEDNESDAY, MAY 1, 2019, at 10:00 AM

**CITYWIDE CONFERENCE CENTER, 11th FLOOR OF 441 4th STREET NW
WASHINGTON, D.C. 20001**

On Wednesday, May 1, 2019, 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 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.

Commission Staff in Attendance:

Richard Schmechel (Executive Director)

Michael Serota (Sr. Attorney Advisor)
(by phone)

Jinwoo Park (Attorney Advisor)

Patrice Sulton (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)

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

Elana Suttentberg (Visiting Attendee of United States Attorney for the District of Columbia)

Jason Park (Visiting Attendee of United States Attorney for the District of Columbia)

I. Welcome and Announcements.

- a. The Executive Director noted that attorneys Michael Serota and Rachel Redfern are on leave much of this spring and summer.
- b. The Executive Director noted that the scope and sequencing of the agency's future work depends in significant part on extension of the agency's authorization and funding. He said he is hopeful that the Council will fund agency work through September 30, 2020. However, the Mayor's initial budget includes only a six-month extension.

- c. The Executive Director said that written comments on Chapter 3 and Section 214 are due on May 13, 2019. Written comments on the remainder of the materials in the cumulative updates are due July 8, 2019.
- d. The Executive Director said that recommendations on weapons offenses and drug offenses will be issued next, in mid-July. Depending on the agency's extension and expectations of the Council, recommendations on a cluster of offenses involving invasions of privacy (e.g., lewdness, non-consensual pornography, sexual extortion) and obstruction of justice may be issued thereafter.
- e. USAO said that they anticipate submitting written comments on the cumulative updates and requested an extension of one or two weeks to the May deadline. The Executive Director explained that the deadlines were, in significant part, due to staff capacity, but will take this request under advisement and inform the Advisory Group of any changes.

II. The Advisory Group discussed the First Draft of Report No. 35, Cumulative Update to Sections 201-213 of the Revised Criminal Code.

- a. USAO recommended substituting "reasonably foreseeable" for "not too unforeseeable" in Section 204, Legal Cause Defined. USAO also recommended deleting the clause "not too dependent upon another's volitional conduct, to have a just bearing on the person's liability" in Section 204, Legal Cause Defined. USAO said that they believed these changes would not significantly shift the causation provisions but would be less confusing.
- b. There were no other comments or discussion on Report #35.

III. The Advisory Group discussed First Draft of Report #36, Cumulative Update to Chapters 3, 7 and the Special Part of the Revised Criminal Code and Advisory Group Memo #22 Supplemental Materials to the First Draft of Report # 36.

- a. The Executive Director noted one significant organizational change is that the National Legal Trends have been moved to an Appendix with a caveat that they have not been updated to reflect changes in law since the First Drafts of each report were issued.
- b. USAO asked whether the next draft of the offenses included in Report #36 will be the final draft.
 - i. The Executive Director said that the timing and development would depend significantly on the agency's extension and Council input on any particular timing requirements for issuing recommendations. However, he said that he expects there will be at least one more opportunity to review updated recommendations (after this round of written comments) before a final vote. He said that some offenses may be finalized, for example in early 2020, while work continues on other provisions. The Executive Director said that the extent and scope of further revisions also depends on possible changes in the law (e.g. court rulings) that require discrete updates to particular offenses.
- c. There were no comments from the group at this time on Chapter 3.
- d. There were no comments from the group at this time on Section 214, Merger.
- e. There were no comments from the group at this time on the cumulative updates to the Special Part.

IV. Adjournment.

- a. The meeting was adjourned at 10:40 a.m.