

**Fiscal Year 2022 Performance Oversight Questions (Part 2)**  
***Criminal Code Reform Commission***

45. The CCRC fulfilled its statutory mandate of issuing criminal code reform recommendations through its submission of a report on March 31, 2021. Please describe any further work the CCRC conducted related to that mandate in FY22 or FY23, to date.

Throughout FY22 and FY23, the CCRC performed significant tasks related to the Revised Criminal Code Act of 2022 (RCCA), the legislation that included the March 31, 2021 recommendations for criminal code reform.

First, the CCRC was highly involved in assisting the D.C. Council in transforming the March 31, 2021 recommendations into the formal RCCA bill. In the spring of 2021, CCRC Senior Attorney Advisor Rachel Redfern, and then Senior Attorney Advisor Jinwoo Park, were detailed to the Council's Committee on the Judiciary and Public Safety. Ms. Redfern and Mr. Park frequently consulted the Council's Office of the General Counsel on the correct drafting conventions and made a large number of non-substantive edits to the March 31, 2021 recommendations. Although these changes were non-substantive, they nonetheless were time consuming to implement. These changes included re-organizing and re-numbering each individual statute contained in the bill, as well as changes within individual statutes. This involved thousands of edits across the revised Title 22A.

Second, the CCRC drafted the conforming amendments contained in the RCCA. Every statute in the D.C. Code that cross-references any provision that the RCCA replaces, had to be updated with the new RCCA reference. Mr. Park and Ms. Redfern frequently consulted with the Council's Office of the General Counsel to learn the correct drafting conventions for these conforming amendments. Mr. Park and Ms. Redfern also worked with the Council's Office of the General Counsel to identify all the necessary amendments. CCRC staff individually amended every organic act that was being repealed and replaced by the RCCA, and every organic act for laws that cross-reference any provision in Title 22.

Third, the CCRC issued new recommendations for revised offenses and statutory provisions that were not included in the March 31 recommendations, and drafted accompanying commentary. These offenses and provisions include the terrorism offenses<sup>1</sup>; offenses related to obstruction of justice or other governmental functions<sup>2</sup>; perjury and other official falsification offenses<sup>3</sup>; bigamy; gambling offenses<sup>4</sup>; and resisting arrest.

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<sup>1</sup> Terrorism offenses included: Act of terrorism; Material support for an act of terrorism; Manufacture or possession of a weapon of mass destruction; and Use, dissemination, or detonation of a weapon of mass destruction.

<sup>2</sup> Obstruction of justice or other governmental function offenses include: Obstruction of justice; Tampering with a witness or informant; Tampering with a juror or court official; Retaliation against a witness, informant, juror, or court official; Tampering with evidence; Hindering apprehension or prosecution.

<sup>3</sup> Perjury and other official falsification offenses include: Impersonation of an official; Misrepresentation as a District of Columbia entity; Perjury; Perjury by false certification; Solicitation of perjury; False swearing; False statements; Impersonation of another before a tribunal, officer, or person.

<sup>4</sup> Gambling offenses and statutory provisions include: Promoting gambling; Rigging a publicly exhibited contest; and Permissible gambling activity

Fourth, the CCRC provided support for the Council’s consideration of the bill through both unanimous votes at first and second reading, as well as the vote overriding the Mayor’s veto. Ms. Redfern and Mr. Park assisted in preparing for the hearings on the RCCA and writing the Committee Report for the bill. The CCRC advised the D.C. Council in making substantive amendments to the RCCA and ensured all supporting documentation accurately reflected these amendments. The CRCC briefed Councilmembers and their staff on the contents of the bill, answered questions about the bill, and conducted interviews with media.

In FY 23, the CCRC has provided support as Congress considers resolutions of disapproval that would prevent the RCCA from going into effect. The CCRC has briefed Congressional staff, provided background research materials, and has conducted interviews with media.

Finally, § 22A-105 of the RCCA directs the CCRC to “transmit commentaries pertaining to the provisions of the Revised Criminal Code Reform Act of 2022” on or before the act’s effective date, currently projected to be in mid-May, barring further interference from the Federal government. When the agency first submitted its March 31, 2021 recommendations, it also submitted thousands of pages of commentaries that explained and discussed each statutory provision in the RCCA. These commentaries are intended to aid practitioners and judges in interpreting the statutory provisions. Due to numerous substantive and non-substantive changes made to the RCCA after it was introduced, the commentaries now require significant updates. For example, in accordance with recommendations from the Council’s Office of the General Counsel, nearly every statute was re-numbered. Therefore, every reference in the commentaries to a particular statute needs to be updated. In addition, the Council made several substantive changes to the introduced version of the bill, each of which necessitates drafting new commentary and updating existing commentary. A significant amount of staff time in FY22 and FY23 to date has been dedicated to making thousands of corrections and updates to the commentaries. The CCRC has made significant progress, but has not yet completed updates to the commentaries.

46. Please list any Council hearings at which the Commission offered testimony in FY22 or FY23, to date.

The CCRC provided testimony at the November 4, 2021 and December 16, 2021 hearings on B24-0416 “The Revised Criminal Code Act of 2022.”

The CCRC provided testimony for the February 28, 2022 Hearing on B24-0516, the “Female Genital Mutilation Prohibition Act of 2021” and B24-0560, the “Animal Care and Control Omnibus Amendment Act of 2021.

### The CCRC

47. Please describe any changes made to the CCRC’s operations in FY22 or FY23, to date.

The agency has not made major changes to its operations in FY22 or FY23, to date.

48. The Fiscal Year 2021 Budget Support Act of 2020 (D.C. Law 23-149; 67 DCR 14601) made the CCRC a permanent agency and expanded its mandate to include providing “a legal or policy analysis of proposed legislation or best practices concerning criminal offenses, procedures, or reforms, including information on existing District law, the laws of other jurisdictions, and model legislation.” What legal or policy analyses has the agency conducted under that authority in FY22 or FY23, to date?

The agency has begun a review and preliminary drafting of criminal offenses that were not revised under the RCCA. These offenses include animal cruelty offenses and public corruption offenses.

Although the agency submitted its final recommendations that are included in the RCCA, most of the agency’s work since has been directly related to the bill. As discussed above in the response to question #45, the agency has provided significant support to the bill’s passage, and efforts to prevent Congressional interference.

49. Please list any reports or analyses the CCRC released in FY22 or FY23, to date, and any reports or analyses the Commission plans to release in the remainder of FY23.

The agency released the following reports in FY22:

- Report #71 - Terrorism Offenses, May 2, 2022
- Report #72 - Obstruction of Justice Offenses, May 2, 2022
- Report #73 – Bigamy May 2, 2022
- Report #74 – Repeal of Throwing Stones or Other Missiles, Kindling Bonfires, and Redundant Pollution Statutes, May 2, 2022
- Report #75 - Resisting Arrest, May 2, 2022
- Report #76 - Perjury and Other Official Falsification Offenses, May 2, 2022
- Report #77 - Repeal of Miscellaneous Crimes and Statutes, May 2, 2022
- Report #78 – Gambling Offenses, July 29, 2022

The recommendations in these reports were included as amendments to the Revised Criminal Code Act of 2022.

In FY23, the agency plans to release reports pertaining to animal cruelty offenses, public corruption, and possibly traffic and environmental offenses. In addition, the agency submitted an updated data request to D.C. Superior Court during FY22, relating to adult charging and conviction data from 2020 and 2021. The Court has yet to produce the requested data, but when the Court provides the data the agency plans to produce a report analyzing charging and sentencing trends from during this time period.

50. Please provide an update on any issues related to maintaining the CCRC's office space at 441 4th Street, NW, as well as the Commission's anticipated future office space needs.

The CCRC occupies one room in the basement level of the District office building at 441 4<sup>th</sup> St. NW. The location was previously used by contractors to the D.C. Sentencing and Criminal Code Reform Commission and reassigned to the CCRC by the Department of General Services (DGS) at the start of its operation on October 1, 2016. The CCRC does not have an MOU controlling its use of the space and does not reimburse DGS for use of the space.

The agency continues to have concerns about the suitability of its current office space in 441 4<sup>th</sup> Street, NW. The current office space for the agency is a single, windowless room with poor ventilation. Due to the ongoing Covid-19 pandemic, this creates concerns about transmissibility of airborne infections.

In addition, the current lack of a second room or individual offices poses operational difficulties in a variety of ways—e.g., all meetings of the agency's Advisory Group, sensitive HR conversations, and needs for employee privacy (including breastfeeding) require relocation out of the agency's offices.

The agency has been in contact with DGS, and they have identified a possible alternate office space located within 441 4<sup>th</sup> Street. Director Park had been scheduled to tour the space to assess its suitability, but had to cancel the appointment due to a Covid close contact. The agency hopes to tour the space, and if it is suitable, may move offices later in FY23, or more likely to begin FY24.