



First Draft of Report #62 – Impersonation of a District Official

SUBMITTED FOR ADVISORY GROUP REVIEW
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DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION
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This Draft Report contains recommended reforms to District of Columbia criminal statutes for review by the D.C. Criminal Code Reform Commission's statutorily designated Advisory Group. A copy of this document and a list of the current Advisory Group members may be viewed on the website of the D.C. Criminal Code Reform Commission at www.ccrdc.dc.gov.

This Draft Report has two parts: (1) draft statutory text for a new Title 22E of the D.C. Code; and (2) commentary on the draft statutory text. The commentary explains the meaning of each provision and considers whether existing District law would be changed by the provision (and if so, why this change is being recommended).

Any Advisory Group member may submit written comments on any aspect of this Draft Report to the D.C. Criminal Code Reform Commission. The Commission will consider all written comments that are timely received from Advisory Group members. Additional versions of this Draft Report may be issued for Advisory Group review, depending on the nature and extent of the Advisory Group's written comments. The D.C. Criminal Code Reform Commission's final recommendations to the Council and Mayor for comprehensive criminal code reform will be based on the Advisory Group's timely written comments and approved by a majority of the Advisory Group's voting members.

The deadline for the Advisory Group's written comments on this First Draft of Report #62 – Impersonation of a District Official is July 20, 2020. Oral comments and written comments received after this date may not be reflected in the next draft or final recommendations. All written comments received from Advisory Group members will be made publicly available and provided to the Council on an annual basis.

RCC § 22E-3201. Impersonation of a District Official.

- (a) *First degree.* An actor commits first degree impersonation of a District official when that actor:
- (1) With intent to:
 - (A) Deceive any other person as to the actor's lawful authority; and
 - (B) Receive a personal benefit of any kind, or to cause harm to another;
 - (2) Knowingly and falsely represents themselves to currently hold lawful authority as a:
 - (A) Judge of a federal or local court in the District of Columbia;
 - (B) Prosecutor for the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia;
 - (C) Notary public;
 - (D) Law enforcement officer;
 - (E) Public safety employee;
 - (F) District official;
 - (G) District employee with power to enforce District laws or regulations; or
 - (H) Person authorized to solemnize marriage; and
 - (3) Performs the duty, exercises the authority, or attempts to perform the duty or exercise the authority pertaining to a person listed in paragraph (a)(2).
- (b) *Second degree.* An actor commits second degree impersonation of a District official when that actor:
- (1) With intent to:
 - (A) Deceive any other person as to the actor's lawful authority; and
 - (B) Receive a personal benefit of any kind, or to cause harm to another;
 - (2) Knowingly and falsely represents themselves to currently hold lawful authority as a:
 - (A) Judge of a federal or local court in the District of Columbia;
 - (B) Prosecutor for the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia;
 - (C) Notary public;
 - (D) Law enforcement officer;
 - (E) Public safety employee;
 - (F) District official;
 - (G) District employee with power to enforce District laws or regulations; or
 - (H) Person authorized to solemnize marriage.
- (c) *Civil provision regarding use of official uniform insignia.* The Metropolitan Police Department and the Fire and Emergency Medical Services Department shall have the sole and exclusive rights to have and use, in carrying out their respective missions, the official badges, patches, emblems, copyrights, descriptive or designating marks, and other official insignia displayed upon their current and future uniforms.
- (d) *Penalty.*
- (1) First degree impersonation of a District official is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.
 - (2) Second degree impersonation of a District official is a Class [X] crime, subject to a maximum term of imprisonment of [X], a maximum fine of [X], or both.

- (e) *Definitions.* The terms “intent” and “knowingly” have the meaning specified in RCC § 22E-206; the terms “actor,” “deceive,” “District official,” “law enforcement officer,” and “public safety officer” have the meaning specified in RCC § 22E-701.

COMMENTARY

Explanatory Note. *This section establishes the impersonation of a District official offense for the Revised Criminal Code (RCC). The revised statute replaces D.C. Code § 22-1404-1406 (Falsely impersonating public officer or minister, false personation of inspector of departments of District, and false personation of police officer, respectively). The revised statute also replaces D.C. Code § 22-1409 (Use of official insignia; penalty for unauthorized use) decriminalizing under District law conduct associated with the misuse of official insignia that does not satisfy the requirements for impersonation of a District official or a more general property crime.*

Paragraph (a)(1) specifies that the actor must engage in conduct with intent to deceive another as to the actor’s lawful authority and with intent to either receive a personal benefit or to cause harm to another.

In subparagraph (a)(1)(A), “deceive” is a defined term that means: “[c]reating or reinforcing a false impression as to a material fact, including false impressions as to intention to perform future actions; [p]reventing another person from acquiring material information; [and], failing to correct a false impression as to a material fact, including false impressions as to intention, which the person previously created or reinforced, or which the deceiver knows to be influencing another to whom he or she stands in a fiduciary or confidential relationship.”¹ “Intent” is a defined term in RCC § 22E-206 that here means the actor is practically certain that another person would be deceived as to the actor’s authority. Per RCC § 22E-205, the object of the phrase “with intent to” is not an objective element that requires separate proof—only the actor’s culpable mental state must be proven regarding the object of this phrase. It is not necessary to prove that the actor successfully deceives another person, only that the actor believes to a practical certainty that another person will be deceived as to the actor’s lawful authority.

In subparagraph (a)(1)(B), per the rules of interpretation in RCC § 22E-207, the culpable mental state “with intent” also applies to whether the actor will receive a personal benefit or cause harm to another. It is not necessary to prove that the actor actually receives a benefit or causes harm to another, only that the actor believes to a practical certainty that they will receive such a personal benefit or harm another person. The personal benefit need not be monetary or material in nature.²

Paragraph (a)(2) specifies that to be criminally liable for impersonation of a District official, the actor must knowingly represent themselves to currently hold lawful authority as a person in a specialized role, and they must know that such a representation is false. The term “knowingly” is defined in RCC § 22E-206, and applied here means that the actor must be

¹ RCC § 22E-701.

² *Gary v. United States*, 955 A.2d 152, 155 (D.C. 2008).

practically certain that he or she is representing him- or herself to hold lawful authority as a person in one or more of the enumerated roles listed in subparagraphs (a)(2)(A)-(H) and must be practically certain that such a representation is false.

Subparagraphs (a)(2)(A)-(a)(2)(H) list eight roles that an actor may be liable for falsely claiming the lawful authority of under the revised offense. Subparagraph (a)(2)(A) refers to a judge of a federal or local court in the District of Columbia, subparagraph (a)(2)(B) refers to a prosecutor for the United States Attorney for the District of Columbia or the Attorney General for the District of Columbia, and subparagraph (a)(2)(C) refers to a notary public. Subparagraph (a)(2)(D) refers to a “law enforcement officer,”³ subparagraph (a)(2)(E) refers to a “public safety employee,”⁴ and subparagraph (a)(2)(F) refers to a “District official”⁵ Subparagraph (a)(2)(G) refers to a “District employee with power to enforce District laws or regulations.” This language includes the role of a District of Columbia inspector for any department of government.⁶ Subparagraph (a)(2)(H) refers to a “person authorized to solemnize marriage.”⁷

Paragraph (a)(3) specifies that, in addition to the requirements outlined in paragraphs (a)(1) and (a)(2), the actor must perform the duty, exercise the authority, or attempt to perform the duty or exercise the authority associated with the role listed in subparagraphs (a)(2)(A)-(H). Per the rules of interpretation in RCC § 22E-207, the culpable mental state of “knowingly” also applies to whether the actor performs the duty, exercises the authority, or attempts to do so related to a role listed in subparagraphs (a)(2)(A)-(H).

³ RCC § 22E-701 (“Law enforcement officer’ means:

- (A) A sworn member, officer, reserve officer, or designated civilian employee of the Metropolitan Police Department, including any reserve officer or designated civilian employee of the Metropolitan Police Department;
- (B) A sworn member or officer of the District of Columbia Protective Services;
- (C) A licensed special police officer;
- (D) The Director, deputy directors, officers, or employees of the District of Columbia Department of Corrections;
- (E) Any officer or employee of the government of the District of Columbia charged with supervision of juveniles being confined pursuant to law in any facility of the District of Columbia regardless of whether such institution or facility is located within the District;
- (F) Any probation, parole, supervised release, community supervision, or pretrial services officer or employee of the Department of Youth Rehabilitation Services, the Family Court Social Services Division of the Superior Court, the Court Services and Offender Supervision Agency, or the Pretrial Services Agency;
- (G) Metro Transit police officers; and
- (H) Any federal, state, county, or municipal officer performing functions comparable to those performed by the officers described in subparagraphs (A)-(G) of this paragraph, including state, county, or municipal police officers, sheriffs, correctional officers, parole officers, and probation and pretrial service officers.”).

⁴ RCC § 22E-701 (“Public safety employee’ means: (A) a District of Columbia firefighter, emergency medical technician/ paramedic, emergency medical technician/intermediate paramedic, or emergency medical technician; (B) any investigator, vehicle inspection officer as defined in D.C. Code § 50-301.03(30B), or code inspector, employed by the government of the District of Columbia; and, (C) any federal, state, county, or municipal officer performing functions comparable to those performed by the District of Columbia employees described in paragraph (A) and paragraph (B).”)

⁵ RCC § 22E-701 (“District official’ has the same meaning as ‘public official’ in D.C. Code § 1-1161.01(47)(A) - (H).”).

⁶ See D.C. Code § 22-1405 (referring to “an inspector of any department of the District government”).

⁷ See D.C. Code § 46-406.

Subsection (b) specifies the requirements of impersonation of a District official in the second degree. Paragraphs (b)(1) and (b)(2) are identical to paragraphs (a)(1) and (a)(2). The second degree differs from the first degree of the offense only in its omission of the requirements in paragraph (a)(3); to commit the offense in the second degree, the actor need not perform the duty, exercise the authority, or attempt to do so related to a role listed in subparagraph (b)(2)(A)-(H).

Subsection (c) specifies that the Metropolitan Police Department and the Fire and Emergency Medical Services Department have the sole ownership of their official uniform insignia. This subsection is a civil provision and does not itself specify a criminal offense, although a violation of these ownership rights may constitute another crime under District or federal law.⁸

Subsection (d) specifies the penalties for the revised offense.

Subsection (e) cross-references applicable definitions in the RCC and the D.C. Code.

Relation to Current District Law. *The revised impersonation of a District official statute clearly changes current District law in four main ways.*

First, the revised statute has two gradations distinguished by whether or not the actor performed the duty or exercised the authority of a specified official, or attempted to do so. Current D.C. Code § 22-1404 (falsely impersonating public officer or minister) requires that the actor “attempt[] to perform the duty or exercise the authority pertaining to any such office or character,” but the offense has no other gradation for when an actor does not make such an attempt. Other current false personation statutes (D.C. Code § 22-1405, § 22-1406) only require false representation as being an official, no actual or attempted use official powers, and have just one gradation. In contrast, the revised statute codifies a first degree gradation where there is actual or attempted performance or exercise of the duty or authority of the impersonated official, and a second degree gradation for false representation where there is merely impersonation but no attempt to perform or exercise the duty or authority of the impersonated official. This change improves the consistency and proportionality of the revised statute.

Second, the revised statute prohibits and penalizes impersonation of a District inspector the same as impersonation of other specified officials. Current D.C. Code § 22-1405 provides that falsely representing oneself as an “inspector of any department of the District government” is a crime punishable by a specified fine (with a first offense differing from the standard schedule of fines in the D.C. Code), 6 months imprisonment, or both.⁹ Current D.C. Code § 22-1404 provides in relevant part that falsely representing oneself as a “public officer” and attempting to perform the duty or exercise the authority of such a position is a crime punishable by a fine, one

⁸ For example, such a violation may constitute a federal crime for copyright or trademark infringement.

⁹ D.C. Code § 22-1405 (“It shall be unlawful for any person in the District of Columbia to falsely represent himself or herself as being an inspector of the Department of Human Services of said District, or an inspector of any department of the District government; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction in the Superior Court of the District of Columbia shall be punished by a fine of not less than \$10 nor more than \$50 for the 1st offense, and for each subsequent offense by a fine of not less than \$50 and not more than the amount set forth in § 22-3571.01, or imprisonment in the Jail of the District not exceeding 6 months, or both, in the discretion of the court.”).

to three years imprisonment, or both.¹⁰ There is no case law on the scope of the phrase “inspector of any department of the District government” under D.C. Code § 22–1405 or the scope of the phrase “public officer”¹¹ under D.C. Code § 22–1404. Per the current general attempt statute in D.C. Code § 22–1803, an attempt to commit a crime under D.C. Code § 22–1404 by impersonating a “public official” and attempting to exercise that authority is punishable by a maximum 180 days imprisonment. In contrast, the revised statute specifies that impersonation of a District employee with power to enforce District laws or regulations is punishable the same as other specified officials. First degree impersonation of a District official provides higher penalties where there is not only a false representation but an attempt to exercise the authority or duty to enforce District laws or regulations, consistent with an interpretation that the current D.C. Code § 22–1404 term “public officer” includes District inspectors.¹² Second degree impersonation of a District official punishes false representation as a District employee with power to enforce District laws or regulations the same as inchoate violations of D.C. Code § 22–1404 for impersonating other officials.¹³ This change clarifies and improves the consistency and proportionality of the revised statutes.

Third, the revised statute codifies as an element of the offense that the actor engaged in the conduct either with intent to gain a personal benefit or harm another person. Current D.C. Code § 22-1404, § 22-1405, and § 22-1409 make no mention of a personal benefit. D.C. Code § 22-1406 requires that an actor impersonating a police officer do so “with a fraudulent design,” and case law has construed this phrase to broadly mean gaining any advantage over another.¹⁴ In

¹⁰ D.C. Code § 22–1404 (“Whoever falsely represents himself or herself to be a judge of the Superior Court of the District of Columbia, notary public, police officer, or other public officer, or a minister qualified to celebrate marriage, and attempts to perform the duty or exercise the authority pertaining to any such office or character, or having been duly appointed to any of such offices shall knowingly attempt to act as any such officers after his or her appointment or commission has expired or he or she has been dismissed from such office, shall suffer imprisonment in the penitentiary for not less than 1 year nor more than 3 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.”).

¹¹ The reference to “public officer” appears in the 1901 codification of this offense. *See* An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321) (“SEC. 860. Whoever falsely represents himself to be a justice of the peace, notary public, police officer, constable, or other public officer, or a minister qualified to celebrate marriage, and attempts to perform the duty or exercise the authority pertaining to any such office or character, or having been duly appointed to any of such offices shall knowingly attempt to act as any of such officers after his appointment or commission has expired or he has been dismissed from such office, shall suffer imprisonment in the penitentiary for not less than one year nor more than three years.”).

¹² Notably federal law does not differentiate punishment for an “officer” and other employees attempting to exercise official authority. *See* 18 U.S. Code § 912 (“Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.”).

¹³ Compare the 180-day (non-jury demandable) penalty for an attempted violation of D.C. Code § 22–1404 (requiring not only a false representation but an attempt to exercise the authority of the false role) with the 6-month (jury demandable) penalty for a violation of D.C. Code § 22–1405.

¹⁴ *See Gary v. United States*, 955 A.2d 152, 155 (D.C. 2008) (“As to the second element, we have said that “‘fraud’ is a ‘generic term which embraces all the multifarious means ... resorted to by one individual to gain advantage over another by false suggestions or by suppression of the truth.’ ” Thus, to prove the defendant’s fraudulent design, there must be evidence that the defendant impersonated a police officer to deceive another in order to gain some advantage thereby. But the advantage need not be monetary or even material in nature.”).

contrast, the RCC provides liability for falsely impersonating an official for the purpose of personal gain or causing harm to another. Purposely harming another through the impersonation of a District official appears to be at least as blameworthy as purposely gaining a benefit, and captures instances of impersonation not within the scope of the current statutes. This change improves the clarity and consistency of the revised statutes and may reduce an unnecessary gap in liability.

Fourth, the revised statute eliminates as a separate criminal offense with a distinct penalty the misuse of official uniform insignia of the Metropolitan Police Department and the Fire and Emergency Medical Services Department. Current D.C. Code § 22-1409(b) criminalizes a person who “for any reason, makes or attempts to make unauthorized use of” an “official insignia” of the Metropolitan Police Department (MPD) or the Fire and Emergency Medical Services Department (FEMS).¹⁵ The term “official insignia” is not defined and there is no case law regarding that term or the scope of the phrase, “for any reason, makes or attempts to make unauthorized use of.” Legislative history, however, indicates that the offense was intended to proscribe people misrepresenting themselves (or being an accomplice to another person misrepresenting themselves) as an MPD or FEMS employee through the use of official badges.¹⁶ In contrast, the revised statute does not separately criminalize misuse of MPD and FEMS insignia. For misuses of insignia to impersonate MPD or FEMS, the revised statute provides liability, consistent with the apparent legislative intent for the offense.¹⁷ For other misuses of insignia that involve mere property crime rather than impersonation, federal copyright¹⁸ and trademark¹⁹ laws may preempt part or all of current D.C. Code § 22-1409(b) or other RCC provisions concerning theft²⁰ and unauthorized use of property²¹ may be applicable. This change improves the clarity, consistency, and possibly the constitutionality²² of the revised statutes.

¹⁵ D.C. Code § 22-1409(b) (“Any person who, for any reason, makes or attempts to make unauthorized use of, or aids or attempts to aid another person in the unauthorized use or attempted unauthorized use of the official badges, patches, emblems, copyrights, descriptive or designated marks, or other official insignia of the Metropolitan Police Department or the Fire and Emergency Medical Services Department shall, upon conviction, be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than one year, or both.”).

¹⁶ See Committee on the Judiciary Report on Bill 14-373, the “Omnibus Anti-Terrorism Act of 2002” (April 4, 2002) at 23-24 (“Title VII, the ‘Badge Protection Act of 2002,’ gives the MPD and FEMS Department the sole and exclusive rights to have and use, in carrying out their respective missions, their official badges, patches, emblems, copyrights, descriptive or designating marks, or other insignia and makes it a misdemeanor offense for persons to misuse such insignia in any way. This title is intended to deter and penalize individuals from misrepresenting themselves as an MPD or FEMS employee through the use of official badges. This language implicates, but is not limited to, potential uses to carry out terrorist acts, such as using insignia to gain access to an area or to avoid going through security screenings.”).

¹⁷ Unlike the current D.C. Code § 22-1404 and § 22-1406 which do not clearly cover FEMS, the revised statute broadly provides liability for any means of falsely representing oneself as possessing lawful authority as MPD or FEMS personnel, whether through use of insignia, oral communications, or other conduct.

¹⁸ See 17 U.S.C. § 301(c).

¹⁹ See 15 U.S.C. 1127.

²⁰ RCC § 22E-2101.

²¹ RCC § 22E-2102.

²² Federal preemption is ultimately based on the Supremacy Clause of the U.S. Constitution, Article VI, cl.2. In addition, however, broadly criminalizing “misuse” of insignia without time, place, and manner restrictions may violate First Amendment protections (and fair use exceptions to trademark and copyright based on the First Amendment). The legislative history indicates that potential First Amendment concerns with the legislation were

Beyond these four changes to current District law, two other aspects of the revised statute may constitute substantive changes to current District law.

First, the revised statute codifies a culpable mental state requirement of “with intent to” for the elements of deceiving and receiving a benefit or causing harm to another, and a culpable mental state requirement of “knowingly” as to the elements of falsely representing themselves to currently hold a specified type of lawful authority. Current D.C. Code § 22-1404 (falsely impersonating public officer or minister) specifies a “knowingly” element for one phrase in that offense about attempting to use official power after expiration of an appointment²³ and current D.C. Code § 22-1405 (false impersonation of a police officer) requires proof that the false representation be conducted “with a fraudulent design,” although case law²⁴ appears to treat this element as a kind of motive (personal gain) rather than a culpable mental state. However, the current D.C. Code false impersonation statutes are otherwise silent as to culpable mental state requirements, and no DCCA case law exists on point. Resolving this ambiguity, the revised impersonation of a District official statute requires “with intent to” for the elements of deceiving and receiving a benefit or causing harm to another, and a culpable mental state requirement of “knowingly” as to the elements of falsely representing themselves to currently hold a specified type of lawful authority. Applying a knowledge culpable mental state requirement to statutory elements that distinguish innocent from criminal behavior is a well-established practice in American jurisprudence.²⁵ The “with intent” requirement substantively matches a knowledge requirement except that the object of the phrase need not be separately proven.²⁶ This change improves the clarity and consistency of the revised statutes.

Second, the revised statute specifically includes within the scope of the offense impersonation of a judge in a federal or local court in the District, District prosecutors, a wide array of persons exercising law enforcement authority besides a “police officer,” fire fighters, and paramedics. Current D.C. Code §22-1404 specifically refers only to “a judge of the Superior Court of the District of Columbia, notary public, police officer, or other public officer, or a

known to the Council. See Committee on the Judiciary Report on Bill 14-373, the “Omnibus Anti-Terrorism Act of 2002” (April 4, 2002) at 24 (“The Committee inserted the word “official” into the language contained in Title VII to avoid encompassing the recreational use of the name or insignia of the agencies for the purpose of showing support for those agencies. For example, the intent of the law is not to penalize an individual wearing a tee shirt or baseball cap with the initials ‘MPDC’ emblazoned on them. The Committee believes that the language ‘Any person who makes unauthorized use of or attempts to make unauthorized use of or attempts to aid another person in the unauthorized use or attempted unauthorized use’ also insures that the law is only applicable to individuals who actively use the badges or insignia for an unauthorized purpose.”).

²³ D.C. Code 22-1404 (“...or having been duly appointed to any of such offices shall knowingly attempt to act as any such officers after his or her appointment or commission has expired or he or she has been dismissed from such office, shall suffer imprisonment...”).

²⁴ See *Gary v. United States*, 955 A.2d 152, 155 (D.C. 2008) (“As to the second element, we have said that “ ‘fraud’ is a ‘generic term which embraces all the multifarious means ... resorted to by one individual to gain advantage over another by false suggestions or by suppression of the truth.’” Thus, to prove the defendant’s fraudulent design, there must be evidence that the defendant impersonated a police officer to deceive another in order to gain some advantage thereby. But the advantage need not be monetary or even material in nature.”).

²⁵ See *Elonis v. United States*, 135 S. Ct. 2001, 2009 (2015) (“[O]ur cases have explained that a defendant generally must ‘know the facts that make his conduct fit the definition of the offense,’ even if he does not know that those facts give rise to a crime. (Internal citation omitted.)”).

²⁶ RCC § 22E-205.

minister qualified to celebrate marriage,” without definitions of these terms. There is no case law defining the scope of “public officer” or other terms in the statute. Current § 22-1405 refers only to an “inspector of the Department of Human Services of said District, or an inspector of any department of the District government,” and § 22-1406 specifically refers to a “member of the police force.” Again, none of these terms, including are defined in case law. Resolving this ambiguity around the scope of the terms “police officer,” “public officer,” and “inspector of any department of the District government,” the revised statute specifies that the covered roles include all local and federal judges in courts in the District, District prosecutors, an array of persons besides Metropolitan Police Department (MPD) officers who exercise law enforcement authority, fire fighters, and paramedics. There is no apparent reason for excluding impersonation of a sworn member or officer of the District of Columbia Protective Services or other law enforcement agency, or other persons such as firefighters and paramedics who exercise extraordinary powers under color of law from the scope of the statute. This change improves the clarity and consistency of the revised statutes and may reduce an unnecessary gap in liability.

Other changes to the revised statute are clarificatory in nature and are not intended to substantively change District law.

To clarify the applicability of the revised statute to persons who previously, but no longer, hold authority, the revised statute replaces the phrase in D.C. Code 22-1404 “or having been duly appointed to any of such offices shall knowingly attempt to act as any such officers after his or her appointment or commission has expired or he or she has been dismissed from such office,” with “currently hold lawful authority as.” It may not be necessary to specifically refer to a person who knowingly seeks to exercise lawful authority after the expiration of their authority, as that special instance appears to be already included in the plain language of both the current D.C. Code 22-1404 and the revised statute referring to false representation. However, for clarity, the revised statute continues to specify the requirement that the actor falsely represent themselves to *currently* hold lawful authority.

PENALTY RECOMMENDATION

The CCRC recommends classification of first degree impersonation of a District official as a Class 9 felony (36 months statutory maximum), and second degree impersonation of a District official as a Class B misdemeanor (180 days).